

Proposed Conditions of Consent

DA No. 5.2017.270.1

8 Sexton Road & 55 Dunoon Road NORTH LISMORE **North Lismore Plateau Subdivision**

A. Administrative

Development in Accordance with Plans

- 1 The development being carried out in accordance with following drawings:

Plans numbered	Title	Drawn by	Issue	Date
117312-30B	Ultimate Overall Proposal Plan	RPS	-	14 February 2018
117312-30D	Plan of Subdivision Precinct One Allotment Layout	RPS	C	31 May 2018
117312-30D	Plan of Subdivision Precinct Two Allotment Layout	RPS	C	31 May 2018
117312-30D	Plan of Subdivision <i>Concept</i> Precinct Three Allotment Layout	RPS	C	31 May 2018
117312-30B	Ultimate Overall Proposal Plan (Heritage Overlay)	RPS	-	14 February 2018
12188-01	North Lismore Plateau Concept Fire Access Track	TGM	00	22/11/2013

as endorsed with Council's approval stamp, and the supporting documents submitted with the application, except where amended by the following conditions.

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

Plans on Site

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

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

Matters Excluded from this Consent

- 3 No approval is granted under this consent for the concept plans as shown within the application documents for Precinct 3. A separate development application must be lodged seeking consent for the subdivision as proposed in Precinct 3.

Reason: *To confirm what has been considered and approved as part of this approval.*

Release of lots in sub-stages

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

The person acting on this consent/s written request for approval of each sub-stage is to include:

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

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

Subdivision Certificate

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

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

B. General

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

***Reason:** To protect Aboriginal and Archaeological significance.*

Damage to Adjoining Properties

- 7 All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

On completion of the works and **prior to the issue of any Subdivision Certificate**, a certificate is to be prepared to the effect that that no damage has resulted to adjoining premises, and is to be provided to Council and the Principal Certifying Authority.

Alternatively, if damage is identified which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and **prior to the issue of any Subdivision Certificate**.

***Reason:** To ensure adjoining owner's property rights are protected.*

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

***Reason:** To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 4.15(b))*

- 9 Development that involves asbestos removal building work or demolition work must comply with the following requirements:

- (a) work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the *Occupational Health and Safety Regulation 2001*;
- (b) the person having the benefit of the construction certificate must give at least 2 days' notice in writing of the intention to commence the works to the owner or occupier of each dwelling that is situated within 20m of the lot on which the works will be carried out. The notice must state that the works may include the removal of asbestos and, if it does, it will be carried out by a licensed person in accordance with the requirements of the *Occupational Health and Safety Regulation 2001*;
- (c) the person having the benefit of the construction certificate must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the complying development certificate commences;
- (d) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered;
- (e) if the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the construction certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

Notes:

- (1) A building constructed before 1987 may contain asbestos. Businesses are licensed to undertake asbestos removal work under the *Occupational Health and Safety Regulation 2001* (refer to *Working with Asbestos: Guide 2008* (ISBN 0 7310 5159 9) published by the WorkCover Authority). If the work is not undertaken by a licensed contractor it should still be undertaken in a manner that minimises risks (refer to *Fibro & Asbestos—A Renovator and Homeowner's Guide* at <http://more.nsw.gov.au>). Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Office of Environment & Heritage.
- (2) In this clause, "bonded asbestos material", "bonded asbestos removal work", "friable asbestos material" and "friable asbestos removal work" have the same meanings as in clause 317 of the *Occupational Health and Safety Regulation 2001*.
- (3) Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.
- (4) The effect of this condition is that the development will be a workplace to which the *Occupational Health and Safety Regulation 2001* applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.
- (5) Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Office of Environment & Heritage.

Reason: *To ensure statutory compliance and minimise potential harm to the environment consistent with the provisions of the EP & Regulation 2000.*

- 10 All waste materials generated from construction works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document 'Waste Classification Guidelines: Part 1 Classifying Waste 2008' or equivalent document. All contractors must be properly supervised and auditing procedures put into place to ensure compliance with this condition.

Reason: *To protect the environment and manage wastes appropriately. (EPA Act Sec 4.15(b))*

- 11 All dust emissions from the construction of the development must be confined within the development site.

Reason: *To protect the amenity of the neighbourhood.*

- 12 The demolition of any structures shall not be carried out prior to any further contamination investigation.

Reason: *To minimise the potential for recontamination of the site.*

- 13 All works, services, facilities and / or public utility alterations required by this approval or stated conditions whether carried out by Council or otherwise, shall be at the proponent/s expense and at no cost to Council.

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

- 14 The slope of the fill batters shall not exceed 1:4 unless certification from a practicing suitably qualified engineer experienced in soil mechanics is provided verifying the stability of the embankment. All batters shall be stabilised with planting and maintained in a neat state.

Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 4.15(c))*

Sediment and Erosion

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

Reason: *To minimise soil erosion and sedimentation.*

- 16 All fill imported onto the site must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act, 1997*, and be clean fill and free from any contamination, within the meaning of the *Managing Land Contamination – Planning Guidelines – SEPP55 – Remediation of Land* document published in 1998 by the NSW Government. Fill imported onto the site for use on the floodplain component of the development must be sourced from the floodplain.

Reason: *To protect human health and the environment.*

Maintenance of New Open Space Assets

- 17 A maintenance period of two (2) years is required for all Open Space assets provided as part of this development. Maintenance of all dedicated open space assets must be of a standard that ensures the land, assets and embellishments are in an operational, neat and tidy condition at all times. Weeds are to be continuously suppressed so they do not reproduce. Vandalism is to be repaired and graffiti removed immediately following it being reported. Mowing and edging of grassed areas is to be completed regularly to ensure no public complaints. Storm water detention ponds are to be cleared of debris, rubbish and silt following each rain event.

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

Asset Provision

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

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

C. Prior to Issue of a Civil Works Construction Certificate

Use of Council owned land for the purpose of asset protection zones and fire trails

- 19 Council may not accept the dedication of land for the purpose of asset protection zones and fire trails on the land that is the subject of this development consent. Council does not commit to any ongoing management of any asset protection zones and fire trails on the land that is the

subject of this development consent.

The details of any proposed agreement with Council relating to dedication of any land for the purpose of asset protection zones and fire trails along with the ongoing maintenance of this land must be lodged with Council on lodgement of the application for the relevant Civil Works Construction Certificate. This must include details such as (but not be limited to):

- Existing vegetation;
- Road design;
- Proposed maintenance schedule for management of the asset protection zones and fire trails.

Any asset protection zones or fire trails proposed on any public land, that is the subject of a Vegetation Management Plan (VMP), is required to be addressed within the VMP to ensure that there is no conflict between fire safety and achieving ecological outcomes.

Reason: *To clarify Council's position with regard to Council owned land and ensure that there is no conflict between providing asset protection zones and fire trails and achieving ecological outcomes*

Soil Erosion and Sedimentation Control Plan

- 20 A Soil Erosion and Sedimentation Control Plan (SECP) shall be submitted to the Certifying Authority for approval. **Within 7 days of approval** a copy of the submission and approval documentation must be provided to the Consent Authority (LCC) for record purposes.

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

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

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

Waste Management Plan

- 21 A waste management plan in accordance with the provisions of Chapter 15 - Waste Minimisation of the Lismore Development Control Plan, must be prepared and be submitted and be approved by the Certifying Authority with any Construction Certificate application.

A copy of the approved documentation must be submitted to the Consent Authority (LCC) for record purposes.

Reason: *To comply with the requirements of the Lismore Development Control Plan.*

Waste Materials

- 22 All waste materials generated from construction works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document 'Waste Classification

Guidelines: Part 1 Classifying Waste 2008'. All contractors must be properly supervised and auditing procedures put into place to ensure compliance with this condition.

Reason: *To protect the environment and manage wastes appropriately. (EPA Act Sec 4.15(b))*

Dust Management Plan

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

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

Obstacle limitation surface – Lismore Airport

- 24 Any proposed structures and cranes if used in construction shall be referred to the procedure design organisation/s responsible for the maintenance of instrument flight procedures at Lismore Aerodrome.

To check which organisations are responsible, you can view the procedures at <http://www.airservicesaustralia.com/aip/aip.asp> the Departure and Approach procedures. The logo on the bottom of each procedure plate indicates the design organisation responsible.

Reason: *To protect air safety.*

Stormwater Drainage

- 25 **A Section 68 application** to carry out stormwater drainage work comprising stormwater treatment measures must be submitted to and be approved by the Consent Authority (LCC). The application details must be prepared by an appropriately qualified professional and must comply with the requirements of Lismore Development Control Plan – Chapter 22 – Water Sensitive Design (DCP) and address all hard surfaces. The information submitted must include commentary that clearly demonstrates compliance with the DCP including predevelopment and post development calculations. A comprehensive Water Management Plan must be developed and include maintenance and auditing/accountability systems. Responsible persons and contact details must be provided.

The application must include a certification that the design proposal complies with the DCP.

Reason: *To protect the environment (EPA Act Sec 4.15(b)), to satisfy the requirements of the Local Government Act, 1993, and to ensure the environmental management of stormwater complies with contemporary standards.*

Open Space Provision Conditions

- 26 A "detailed" landscaping plan shall be submitted to the Principal Certifying Authority with the **Construction Certificate** application. The landscaping plan shall be in accordance with the relevant provisions of Council's Development Control Plan Part A Chapter 5A Urban Residential Subdivision and Landscape Guideline. The Landscaping plans shall indicate:

- Accurate details of the provision of parks and open spaces.
- Accurate specification detail of each proposed asset dedication such as seating, picnic settings, playground equipment and other structures. Specification to include, make, model, sizes, colour, materials, etc.
- Proposed street tree species.
- Proposed planting details.
- Crime Prevention through Environmental Design measures.
- Proposed location, planting numbers and pot sizes of plantings.

- Species name of shrubs and trees to be planted.
- Mature height of trees to be planted.
- Location of grassed areas.
- Location of formal and/or informal footpaths.
- Location of trees identified for retention in the development application plans.
- Address the provisions of Council's Policy for Community Sun Protection Strategy and Policy 5.2.10 Equity in Access and Provision of Facilities to Public Spaces.
- Remove *Agathis robusta* from the tree species list as this species does not adapt well to this area.
- Remove the following from Boulevard list due to root system issues being too large on shallow soils: *Araucaria cunninghamii*; *Elaeocarpus* sp.; *Ficus* sp.; and *Flindersia schottiana*.
- Add the following to Boulevard list: *Brachychyton acerifolius*; *Waterhousia floribunda* 'sweeper'.
- The Large fig tree within Local Park 2 must be significantly mulched and protected before site works begin.
- The large *Corymbia* tree at the base of Park 2 must also be significantly mulched and protected before works commence. This tree has a heavy lean, and therefore, landscaping features attracting users of the park should be focused away from the lean.

Reason: *To ensure the adequate and appropriate provision of parkland for the community and appropriate landscaping and park assets are provided to the development. (EPA Act Sec 4.15(c))*

Trees in community use areas

- 27 All trees that are proposed for retention in community use areas are to be assessed for structural integrity by a qualified consulting arborist with a minimum Certificate V in Arboriculture AQF. Community use areas include all trees adjacent to road infrastructure, residential boundaries and the proposed park. Any trees recommended for removal or pruning by the arborist, and agreed upon by Council's Open Space Assets Coordinator, shall be completed by the applicant.

Reason: *To ensure Council owned trees will be in a safe condition.*

Retained Trees

- 28 All retained trees on site must be protected from development impacts. Before site works commence, all retained trees must have protective fencing established under the dripline of each tree. A Tree Protection Plan shall be submitted to the Principal Certifying Authority with the **Construction Certificate**. This plan must be developed by a Certificate V arborist that details protection measures that comply with the Australian Standard - Protection of Trees on Development Sites (AS4970-2009) for the entirety of the development and in accordance with any relevant provisions of the Vegetation Management Plan.

Reason: *To ensure the protection of tree within the development.*

Retaining Wall on Council land

- 29 Where a retaining wall must be erected on Council land, the wall is to be fenced appropriately to ensure the safety of the public and for workers maintaining the wall and that appropriate access is provided. Detail of materials and the look of the fence is to be approved by Council's Open Space Coordinator.

Reason: *To ensure that the landscaped areas can be maintained in a safe and easily accessible manner.*

Section 68 Local Government Act 1993

- 30 The proponent shall obtain approval under Section 68 of the *Local Government Act, 1993* for the water supply and sewerage works required for this development. The proponent shall submit the appropriate Activity Application Forms accompanied by such relevant information including plans, details, specifications and supporting data as necessary to determine the application to a suitable standard for construction purposes. Note:

- a) The proponent shall not commence construction of any part of the water supply and sewerage works prior to receiving an Activity Approval specifically for the water supply and sewerage works and plans with Council's stamp of approval.
- b) A fee applies to the Activity Application. The fee is as adopted at the time of payment and is as set out in Council's Fees and Charges.
- c) Approval for construction and or issue of a Subdivision Certificate shall not be granted unless adequate infrastructure and capacity has been provided to the development and or any Lots proposed to be created.
- d) Must be in accordance with the requirements of **Condition No 100.**

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

Geotechnical Report

31 Certification from a practising qualified engineer experienced in soil mechanics is required verifying the following:

- proposed civil engineering works, including retaining walls, have been assessed as structurally adequate;
- proposed civil engineering works will not be affected by landslip either above or below the works;
- proposed civil engineering works will not be affected by subsidence either above or below the works; and
- adequate drainage has been proposed to ensure the stability of the proposed civil engineering works.

A certificate prepared and certified by an appropriately qualified person for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority for approval with the Construction Certificate.

Reason: To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 4.15(c))

Construction Certificate for Earthworks – Subdivision

32 Bulk earthworks shall not commence on site, until the Civil Works construction Certificate has been issued.

(Reason: To ensure protection from the effects of subsidence and/or slip and compliance with the definition of "subdivision works" and the need for a Construction Certificate (EPA Act Sec. 4.15(c))

Design and Survey for Public Infrastructure

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

Reason: To ensure the provision of public infrastructure of an appropriate standard, and record keeping purposes and the works will actually be within the said land.

Drainage

34 The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed in accordance with Australian Standard AS3500 Plumbing and Drainage Part 3: Stormwater Drainage. All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent. This condition is to be read in conjunction with Condition No 25.

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

- 35 The proponent shall also make satisfactory provision for existing lots adjoining the property and the proposed lots to dispose of stormwater without causing a nuisance to other lots. An adequate drainage system shall be constructed to ensure that all roof water and/or surface water from paved areas from any existing or proposed lots can be directed to a discharge point to prevent intensification of discharge runoff onto adjoining land. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All drainage lines are to be located within drainage easements. All costs shall be the responsibility of the proponent.

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

Public Transport

- 36 The proponent shall provide bus bays including the shelter structure and any associated roadworks in accordance with Council's standards. Such shelters shall be located so as 90% of the residential lots are within 400m of a bus bay. The works shall be completed at no cost to Council. A certificate prepared by an appropriately qualified and practising Civil Engineer, shall be provided with the design plans to the Certifying Authority to certify compliance with these requirements.

Reason: *To provide for adequate public transport infrastructure (EPA Sec 4.15(e)).*

Electrical Design

- 37 An electrical design approved by the electrical authority shall be submitted to Council to demonstrate that no conflicts arise with other services.

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

Public Utilities

- 38 Street lighting is to be designed and installed in accordance with Australian Standard AS1158.1.

Reason: *To ensure adequate and safer movement of pedestrians along a public road or pathway (EPA Act Sec 4.15(b)).*

- 39 Pedestrian pathways or bikeways in open space or in separate pathway reserves shall be provided with lighting in accordance with AS1158.3 if directed by Council.

Reason: *to ensure adequate and safer movement of pedestrians along a public road or pathway (EPA Act Sec 4.15(b)).*

Signage

- 40 A plan detailing all road signage to be used within the development including proposed street names shall be submitted to Council.

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

Precinct 1

Retaining Walls

- 41 A qualified practicing structural engineer shall provide the Certifying Authority with a design certification for any proposed retaining walls in the development. Any proposed retaining wall shall be constructed wholly within the lots. No retaining wall shall be constructed upon the road reserve.

Reason: *To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))*

Bulk Fill – Floodplain

- 42 Bulk fill to within 300mm of the finished surface level is to be sourced from on-site, from Lismore City Council's preferred floodway excavation or from another area within the floodplain. Details of the source and quality of all fill materials shall be approved by Council **prior to importation to the site**. Details demonstrating compliance with this requirement shall be submitted to the Certifying Authority.

Reason: *To minimise the impacts of filling on the capacity of the floodplain.*

On-Site Stormwater Detention

- 43 The stormwater detention basin located within private land must be fully contained within an appropriate drainage easement for access and maintenance to the satisfaction of Council. The easement shall include suitable access for maintenance vehicles from a public road to the detention basin area.

The landowner is to maintain and repair the detention basin and its associated works for a period of 2 years from acceptance of "on maintenance" to ensure ongoing effectiveness. The basin shall not be modified in any way without prior written approval from Council.

The design of the basin is to comply generally with the Northern Rivers Local Government Handbook of Stormwater Drainage design with particular attention to the Public Safety issues.

Engineering calculations, design and certification shall be provided by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority.

Reason: *To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded.*

Works in Road Reserve - Section 138 Approval

- 44 Approval under section 138 of the Roads Act for the all works upon the public road shall be obtained (or approval from RMS where required), and shall comply with the Northern Rivers Development & Design Manual and Council's Standard Drawings.

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

Details prepared by an appropriately qualified person demonstrating compliance with these requirements are to be submitted to Certifying Authority

Reason: *To ensure an adequate road network in accordance with adopted standards can be provided. (EPA Act Sec 79C(a)) and to specify requirements for approval under section 138 of the Roads Act.*

Road works on State Roads

- 45 As road works are required on a State road, **Dunoon Road**, the person acting on this consent will be required to enter into a Works Authorisation Deed (WAD) with RMS, which will exercise its powers under Section 87 of the Roads Act 1993 (the Act) and/or the functions of the roads authority, to undertake road works in accordance with Sections 64 and 71 of the Act, as applicable, for all works under the WAD.

- a) The developer shall enter into a WAD with RMS for all road works on Dunoon Road. **Prior to the issue of the subdivision certificate**, the developer shall complete all road works under the WAD to practical completion, as determined by RMS.
- b) All works shall be undertaken at full cost to the developer to the satisfaction of the RTA.

Notes:

- i. Conditions of development consent do not guarantee RMS consent to the specific road works, for which it is responsible. The Developer must obtain authorisation from RMS in

writing **prior to the commencement** of any road works on Dunoon Road, including traffic management, temporary or permanent road works associated with the proposed development.

- ii. The developer shall initiate the WAD process by contacting RMS following the issue of a development consent. Early discussion with the RMS Project Manager is recommended.
- iii. As the WAD process, including acceptance of design documentation and construction can take considerable time, you should allow sufficient lead time within the project development program to ensure that all documentation and works are completed in advance of occupation and/or commencement of the approved use. RMS will not consider granting concurrence to occupation and/or use until it is satisfied all documentation and works under the WAD have been completed.
- iv. Authorisation to commence construction will only be granted when RMS is satisfied that all requirements under the WAD have been met by the Developer, including, the applicable RMS fees and charges, an unconditional bank guarantee for the full value of the works, detailed design documentation, environmental assessment, road occupancy license, among other matters. RMS will issue a letter to the Developer advising of this authorisation.
- v. Any property acquisition /dedication required to accommodate the State road works associated with the proposed development shall be at full cost to the developer, including all legal and survey costs. This land shall be dedicated by the Developer as public road reserve in favour of the Council, as the owner.
- vi. Part of the Developers timeline should make provision for RMS to satisfy its obligations under the Environmental Planning and Assessment Act 1979 (EP&A Act) to assess the environmental impacts of the works within the road reserve. Further investigation and assessment to that undertaken for the development consent may be required to the satisfaction of the RMS, under Part 5 of the EP&A Act.
- vii. It is recommended that the developer use design consultants with the experience and knowledge of the RMS design requirements, in particular the Austroads Guide to Road Design (with RMS supplements) and relevant Australian Standards.
- viii. Construction on a State road requires the engagement of an RMS pre-qualified contractor. A list of pre-qualified contractors can be found on the RMS website below:

<http://www.rta.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.html>

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

Road Works

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

Required roadworks include:

Road Number	Classification	Pavement Width (m)	Reserve Width (m)	Concrete Pathway (m)
Road 2	Collector (Minor)	9.5	18.5	2.5
Road 3	Access Place	6	13.5	1.5
Road 4	Access Place	6	13	
Road 5	Access Place	6	13	

Road 6	Access Place	6	13	
Road 7	Access Place	6	13	
Road 8	Collector (Minor)	9.5	18.5	2.5
Road 9	Access Place	6	13	
Cul-de-sac (Road 9)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		
Road 10	Access Place	6	13	
Cul-de-sac (Road 10)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		
Road 11	Access Place	6	13	
Cul-de-sac (Road 11)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		

Intersection Works

- (1) Construction of an Auxiliary Left Turn (AUL) lane and Channelised Right Turn (CHR) lane at the Junction of Dunoon Road and Road 1 (Development Consent 5.2016.7.1) in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.
- (2) Construction of an intersection at the junction of Road 2 and Road 1 (Development Consent 5.2016.7.1) in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.
- (3) Construction of a roundabout at the junction of Road 2, Road 5, and Road 8 in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.

A certificate prepared by an appropriately qualified and practising Civil Engineer, shall be provided to the Certifying Authority to certify compliance with these requirements.

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

Precinct 2

Shared Access

47 4.0m wide asphaltic concrete (25mm depth) sealed or equivalent shared access shall be constructed commencing from the road pavement to service proposed lots 149, 150, 151, 326, 328, 339, and 358. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). Provision shall be made for the future supply of the following services within the shared access reserve:

- water supply
- sewer
- stormwater
- telephone
- power

Details demonstrating compliance with this requirement shall be submitted to the Certifying Authority for approval with the Construction Certificate.

Reason: To ensure adequate access to and from the development. (EPA Act Sec 79C(c))

On-Site Stormwater Detention

48 The stormwater detention basins located within private land must be fully contained within an appropriate drainage easement for access and maintenance to the satisfaction of Council. The

easement shall include suitable access for maintenance vehicles from a public road to the detention basin area.

The landowner is to maintain and repair the detention basin and its associated works for a period of 2 years from acceptance of "on maintenance" to ensure ongoing effectiveness. The basin shall not be modified in any way without prior written approval from Council.

The design of the basin is to comply generally with the Northern Rivers Local Government Handbook of Stormwater Drainage design with particular attention to the Public Safety issues.

Engineering calculations, design and certification shall be provided by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority.

Reason: *To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded.*

Works in Road Reserve - Section 138 Approval

49 Approval under section 138 of the Roads Act for the all works upon the public road shall be obtained (or approval from RMS where required), and shall comply with the Northern Rivers Development & Design Manual and Council's Standard Drawings.

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

Details prepared by an appropriately qualified person demonstrating compliance with these requirements are to be submitted to Certifying Authority

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

Road Works

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

Required roadworks include:

Road Name / Number	Classification	Pavement Width (m)	Reserve Width (m)	Concrete Pathway (m)
Road 12	Boulevard (Minor)	12	22	2.5 Both Sides
Road 12	Boulevard (Minor)	14	24	2.5 Both Sides
Cul-de-sac (Road 12)	Boulevard (Minor)	To comply with Council's Development, Design and Construction Manuals (as amended).		
Road 13	Local Street	7.5	14	1.5
Road 14	Access Place	6	13	
Cul-des-sac (Road 14)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		

Road 15	Access Place	6	13	
Road 15 (Lots 187 to 183)	Local Street	7.5	14	1.5
Road 16	Access Place	6	13	
Road 17	Access Place	6	13	
Road 18	Access Place	6	13	
Road 19 (Lots 210 to 217)	Access Place	6	13	
Road 19	Access Place	6	14.5	2.5
Road 19 (Lots 188 to 217)	Local Street	7.5	14	1.5
Road 20	Access Place	6	13	
Road 21	Access Place	6	13	
Road 21 (Lots 360 to 398)	Local Street	7.5	14	1.5
Road 22	Access Place	6	13	
Road 23	Access Place	6	13	
Road 24	Access Place	6	13	
Road 24 (Lots 303 to 304)	Local Street	7.5	14	1.5
Road 25	Access Place	6	13	
Road 25 (Lots 330 to 332)	Local Street	7.5	14	1.5

Intersection Works

- (1) Construction of a roundabout at the junction of Road 1 (Development Consent 5.2016.7.1), Road 12, and Road 13 in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.

A certificate prepared by an appropriately qualified and practising Civil Engineer, shall be provided to the Certifying Authority to certify compliance with these requirements.

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

Traffic Calming

- 51 Traffic calming shall be designed and installed along proposed Road 1 (Development Consent 5.2016.7.1) to maintain the signposted speed in accordance with the Austroads Guide to Traffic Management Part 8: Local Area Traffic Management.

Reason: To ensure road 1 maintains a safe speed environment.

Footpath and Cycleways

- 52 A 1.5m concrete footpath is to be constructed in accordance with Council's Development, Design and Construction Manuals (as amended) through proposed lot 9002 providing connection between Road 19 and Road 21 as shown in the stamped approved plans.

Reason: To ensure adequate and safe pedestrian movement through the development. (EPA Act Sec 4.15(b))

D. Prior to Commencement of Works

Aboriginal cultural Heritage site Induction

- 53 An Aboriginal Cultural 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 local Aboriginal community.

Reason: *To ensure that cultural respect is maintained and adherence to best practice.*

Licence Agreement for Fire Trail

- 54 The applicant shall enter into a Licence Agreement with Lismore City Council for the use of the land within Lot 1 DP 772627, Lot 12 DP 844585 and Lot 1 DP 367581 as a fire trail for Precinct 2 of the proposed development.

Reason: *To ensure the appropriate landowner's consent has been obtained for the construction and maintenance of the temporary fire trail for Precinct 2 and to meet the access requirements of Planning for Bushfire Protection*

Retention of trees

- 55 **All existing trees and areas of native vegetation not identified for removal on approved plans** of the proposed development shall be protected from damage during works. This protection shall consist of:

- Establishing a Tree Protection Zone in accordance with AS 4970-2009 Protection of trees on development sites around native trees and vegetation adjacent to the construction footprint that are to be retained on the site
- Erect temporary 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained
- Trees and vegetation may be fenced off in clusters where it is not practical to fence off individual trees
- There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.

Specific trees identified that must be retained are:

- *Ficus sp.* tree located directly to the south of the proposed new road and proposed Lot 1. Note, the location of this tree is not identified on 117312-30 (revised 14/02/2018).
- *Ficus sp.* tree located to the north east of the access road approved under DA 5.2016.7.1. Note, the location of this tree is not identified on 117312-30 (revised 14/02/2018).
- Hoop pine *Araucaria cunninghamii* located in the road reserve between proposed lots 168 and 180 and identified on 117312-30 (revised 14/02/2018).
- Hoop pine *A. cunninghamii* located in the road reserve between proposed lots 171 and 177 and identified on 117312-30 (revised 14/02/2018).
- Moreton Bay fig *F. macrophylla*, small-leaved fig *F. obliqua* and spotted gum *Corymbia variegata* located on proposed lot 9002 and identified on 117312-30 (revised 14/02/2018).
- Forest red gum *Eucalyptus tereticornis* located to the south of proposed lot 337.

Reason: *To protect retained landscape trees and native vegetation during construction works.*

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

Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec.4.15)*

Lismore Aerodrome Obstacle Limitation Surface

57 The land has a natural land elevation of 130m AHD at its closes point to the aerodrome, and this could infringe on the inner horizontal surface for the Lismore Aerodrome Obstacle Limitation Surfaces.

Should the development result in construction sites and cranes the applicant should refer to the procedure design organisation/s responsible for the maintenance of instrument flights procedures at Lismore Aerodrome.

As part of the application process consultation should also be undertaken with the Lismore Aerodrome operational management (OMT) to ensure that aviation issues have been considered.

Reason: *To ensure the safety of flights entering and exiting from Lismore Aerodrome.*

Construction Management Program

58 A Construction Management Program shall be submitted to, and approved in writing by the Council. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- (b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (d) A construction noise management plan (CNMP) in accordance with the *Interim Construction Noise Guideline*, DECC July, 2009 must be prepared and be implemented for the development. The CNMP must include auditing procedures. Site managers and all persons who carry out demolition or construction activities on and about the development site must be made properly aware of their responsibilities and to ensure the objectives of the guideline are complied with.
- (e) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- (f) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes shall be located wholly within the site;
- (g) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (h) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (i) The proposed method of support to any excavation adjacent to adjoining properties, or the existing road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer, or equivalent;
- (j) Proposed protection for Council assets and adjoining properties; and
- (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- (l) Traffic management plan prepared in accordance with the Austroads guidelines

All work and excavation, demolition or construction activities shall be undertaken in accordance

with the approved Construction Management Plan and any conditions attached to the approved plan. A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be kept on the site at all times and made available to any officer of Council upon request.

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

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

Pre Start Meeting – Civil Works

- 59 The principal contractor / consultant must contact Council's Development Engineering staff to arrange a pre-start meeting. The developer shall appoint a site manager and advise the Council of his/her name and after hours phone contact. The manager shall be the point of contact for Council and the public. The all hours contact number should be clearly displayed at the site access.

The following matters will be discussed at the pre start meeting:

- a) Confirmation that the engineering drawings for the development have been approved.
- b) Confirmation that pedestrian safety has been considered during construction – in this regard a plan showing signage in compliance with the MUTCD is to be prepared.
- c) Confirmation that an Erosion and Sediment Control Plan has been prepared for the site.
- d) Confirmation that appropriate arrangements have been made for the parking by employees and subcontractors.
- f) Confirmation that a Traffic management Plan has been approved by Council.
- g) Confirmation the pavement design has been approved by Council
- h) Notification to adjoining property owners

Reason: *To ensure construction of the development adequately addresses pedestrian's safety and is carried out in accordance with adopted standards.*

- 60 The proponent shall obtain a **Construction Certificate** for the proposed works as previously identified in Section C of the conditions of consent. The construction certificate application shall include full design details of the proposed engineering works to satisfy the relevant conditions. Such application shall be accompanied with the relevant fee, as adopted at the time of the payment, as indicated in Council's Fees and Charges.

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

(Reason: *To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 4.15(a)) and to comply with requirements of EPA Act Sec 81A(4).*

- 61 For precinct 2 the proponent shall complete all works associated with Development Consent 5.2016.7.1 to Council standards and satisfaction and obtain a certificate of practical completion.

Reason: *To ensure precinct 2 has adequate access to a public road.*

Damage to Public Infrastructure

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

Note: This documentation will be used to resolve any dispute over damage to infrastructure.

It is in the applicant's interest for it to be as full and detailed as possible.

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

- 63 **With the exception of demolition works**, additional soil sampling shall be conducted in the vicinity of the existing dairy bales and associated cattle yard, with the results included in an amended Preliminary Site Contamination Assessment. The assessment shall be carried out after demolition of subject structures and include under slab/house sampling for organochlorines where appropriate. The report shall be prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines), *SEPP 55 Remediation of Land* and *Lismore City Council Regional Policy for the Management of Contaminated Land*, June 2007 or other Guideline or Policy which is contemporary at the time.

Reason: *To determine the extent and degree of land contamination.*

- 64 **With the exception of demolition works**, following condition 61, detailed contaminated land assessment must be carried out in the vicinity of the existing dairy bales and associated cattle yard by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines) to determine the extent and degree (laterally and vertically) of all chemical contamination. The report shall be approved by council.

Reason: *To determine the extent and degree of land contamination.*

- 65 **With the exception of demolition works**, and following the detailed contaminated land assessment, a site Remedial Action Plan (RAP) must be prepared for the land in the vicinity of the existing dairy bales and associated cattle yard by a suitably qualified professional and must be approved by the Consent Authority (LCC). The RAP must address and manage all risks, including occupational health and safety matters, erosion and sediment control, dust management, waste management, and include appropriate validation and monitoring procedures. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. The RAP must be supervised by a suitably qualified professional who must be nominated to Council in writing together with full 24 hour per day contact details. The RAP must also address Schedule 2 of the *Lismore City Council Regional Policy for the Management of Contaminated Land*, June 2007.

Reason: *To ensure the proper management of land contamination.*

- 66 **With the exception of demolition works**, additional soil sampling shall be conducted in the vicinity of the existing dwelling, shed and garage/chicken pen, with the results included in an amended Preliminary Site Contamination Assessment. The assessment shall be carried out after demolition of subject structures and include under slab/house sampling for organochlorines where appropriate. The report shall be approved by council and prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines), *SEPP 55 Remediation of Land* and *Lismore City Council Regional Policy for the Management of Contaminated Land*, June 2007 or other Guideline or Policy which is contemporary at the time.

Reason: *To determine the extent and degree of land contamination.*

- 67 **With the exception of demolition works**, following condition 64m a detailed contaminated land assessment must be carried out in the vicinity of the existing dwelling, shed and garage/chicken pen by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines) to determine the extent and degree (laterally and vertically) of all chemical contamination. The report shall be approved by council prior to implementation.

Reason: *To determine the extent and degree of land contamination.*

- 68 **With the exception of demolition works**, and following the detailed assessment, a site Remedial Action Plan (RAP) must be prepared for the land in the vicinity of the existing dwelling, shed and garage/chicken pen by a suitably qualified professional and must be approved by the Consent Authority (LCC). The RAP must address and manage all risks, including occupational health and safety matters, erosion and sediment control, dust management, waste management, and include appropriate validation and monitoring procedures. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. The RAP must be supervised by a suitably qualified professional who must be nominated to Council in writing together with full 24 hour per day contact details. The RAP must also address Schedule 2 of the Lismore City Council Regional Policy for the Management of Contaminated Land, June 2007.

Reason: *To ensure the proper management of land contamination.*

E. During construction

Discovery of human remains

- 69 If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact the NSW Office of Environment and Heritage's Environment Line on 131 555 and representatives of the local Aboriginal community. No works are to continue until the NSW Office of Environment and Heritage provides written notification to the applicant.

Reason: *To comply with relevant guidelines.*

Protection of site 4-4-218

- 70 A 20-metre radius surrounding the Map Grid Australia (MGA) coordinates for site 4-4-216 must be protected by suitable construction fencing during construction. If vegetation removal is required only hand removal methods should be used with care to replace soil from root balls. No vehicle access to the protected area is allowed during construction. Following construction, a 100 mm thick layer of topsoil fill should be placed over the protected area and new grass grown.

Reason: *To protect the integrity of the area.*

Unexpected Aboriginal object finds

- 71 In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeological specialist and the representatives of the local Aboriginal community must be contacted to determine the significance of the object(s) and to develop an appropriate management strategy. The management strategy must comply with the provisions of the NPW Act. This may include avoiding impact, additional investigations and/or the submission of an Aboriginal Heritage Impact Permit application. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by the NSW Office of Environment and Heritage) and the management outcome for the site included in the information provided to the AHIMS.

Reason: *To meet NSW Office of Environment & Heritage Guidelines and policy.*

Vegetation clearing

- 72 **During tree clearing works** the Applicant is to ensure that:

- Tree removal and any pruning works is completed by a fully qualified and insured Arborist (AQF level 3 qualifications as a minimum);
- Any pruning work is undertaken in accordance with the AS 4373-2007 Pruning of amenity trees;
- Tree removal and any pruning works are to be conducted in such a way as to ensure surrounding native vegetation, structures and boundary fences on the same or adjoining lots are not damaged;
- The currency of all insurances is to be checked by the Applicant before work commences;
- The Applicant will receive two copies of the consent, one to be retained by the Applicant and one to be given to the contractor if engaged to carry out work.

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

73 **During vegetation clearing works**, a suitably qualified and experienced person shall be present as a fauna spotter-catcher to supervise the tree removal.

- On the day of clearing and prior to any clearing taking place, all trees within 30 metres of those trees to be cleared are to be inspected for the presence of koalas from at least two locations by an experienced fauna spotter-catcher
- The fauna spotter-catcher must not be involved in the vegetation clearing works whilst responsible for identifying koalas present on the site and will remain on site during any vegetation clearing works to ensure that any tree occupied by a koala is not accidentally cleared or interfered with
- Any uninjured native fauna detected during the tree removal shall be rescued and relocated into an area of appropriate habitat that is nearby, but outside of the development footprint.
- Any injured native fauna detected shall be rescued and transferred to a local veterinarian for treatment and/or WIRES for rehabilitation.

Reason: *To ensure the safety of any native fauna occupying trees and vegetation proposed for removal.*

74 **Should koalas be found on site** during vegetation clearing works and/or earthworks the Applicant must ensure that tree clearing works and/or earthworks are temporarily suspended within a range of 30 metres from any tree which is occupied by a koala.

- Works are to be avoided in any area between the koala and the nearest areas of habitat to allow the animal to move to adjacent undisturbed areas.
- Works must not resume until the koala has moved from the tree of its own volition.

Reason: *To ensure koala safety and protection.*

Re-use of native vegetation

75 **Cleared, weed free native vegetation** (timber, small branches and leaf litter) shall be reserved and stockpiled for re-use in rehabilitation works, such as mulching.

Reason: *To reduce green waste and re-use cleared trees.*

Disposal of mulch

76 **Mulch generated from exotic trees and/or other weed species** that have been cleared shall not be used on site. The mulch shall be removed from the site and disposed of in accordance with legislative requirements.

Reason: *To avoid the spread of the seed and propagules of weed species.*

Signage – Sedimentation and erosion control

- 77 A durable sign, shall be erected on site during building and subdivision works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

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

- 78 Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works (earthworks) shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only.

Notes: For the purposes of this condition:

“Building construction” means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.

“Demolition works” means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.

“Excavation work” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

Reason: *To ensure that works do not interfere with reasonable amenity expectations of residents and the community.*

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

Offensive noise means:

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

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 4.15(b))*

- 80 Vibration from works is to be undertaken in accordance with industry best practice, to ensure excessive levels of vibration do not occur to minimise adverse effects experienced on any adjoining land.

Reason: *To ensure residential amenity is maintained in the immediate vicinity.*

- 81 All noise generated by construction activities must be managed in accordance with the Interim Construction Noise Guideline, DECC July, 2009.

Reason: *To minimise the impact of demolition and construction noise on the neighbourhood.*

- 82 A durable sign, shall be erected on site during building and subdivision works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

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

- 83 All waste materials generated from construction works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document 'Waste Classification Guidelines: Part 1 Classifying Waste 2008'. All contractors must be properly supervised and auditing procedures put into place to ensure compliance with this condition.

Reason: *To protect the environment and manage wastes appropriately. (EPA Act Sec 4.15(b))*

F. Prior to issue of Subdivision Certificate

Land Acquisition

- 84 When the Applicant or any person with the benefit of this consent (for the purposes of this condition, the Applicant) **seeks a subdivision certificate** (from Council or an accredited certifier) for the creation of a residential lot on land adjacent to land zoned RE1 (as depicted on the plans as approved by Condition 1 of this consent) the Applicant and Council must observe the procedure set out in this condition.

The land zoned RE1 (RE1 Land) shall be dedicated to Council pursuant to any subdivision plan lodged with Land and Property Information (LPI). The purpose of the use of the RE1 Land as depicted on the subdivision plan will be nominated by Council.

Prior to the subdivision plan being lodged with LPI the Applicant and Lismore City Council (the Council) shall enter into a Deed, the terms of which will include the following:

- a) The amount of compensation to be paid by Council to the Applicant for the dedication of the RE1 Land in accordance with a valuation by an independent Valuer appointed by Council;
- b) The timing of the payment of the compensation and whether credits are sought to be applied to s.94 Contributions payable;
- c) The payment of the costs of preparing the Deed by the person with the benefit of this consent.

Reason: *To ensure that the land to be dedicated to Council is undertaken in accordance with all legislative requirements relating to land acquisition.*

Contamination – Dairy bales and Cattle Yard

- 85 A validation report and certification for the land in the vicinity of the existing dairy bales and associated cattle yard shall be prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* demonstrating that the objectives of the RAP have been complied with must be submitted to and be approved by the Consent Authority (LCC).

Reason: *To ensure the proper management of land contamination.*

Contamination – Existing dwelling, Shed and Garage / chicken pen

- 86 A validation report and certification for the land in the vicinity of the existing dwelling, shed and garage/chicken pen shall be prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* demonstrating that the objectives of the RAP have been complied with must be submitted to and be approved by the Consent Authority (LCC)

Reason: *To ensure the proper management of land contamination.*

Submission of Environmental Management Plan

87 **Following approval of the Biodiversity Certification Strategy of the site and prior to the issue of any Subdivision Certificate for Precinct 1**, the proponent must develop an Environmental Management Plan (EMP) for the subject site based on the approved subdivision plans:

- The EMP shall be consistent with the Biodiversity Certification Strategy for the site and be prepared in accordance with the performance criteria, acceptable solutions and guidelines detailed in the Lismore Development Control Plan Part B Chapter 10 North Lismore Plateau;
- The EMP shall be submitted to Council for approval;
- The EMP must be prepared and implemented by person(s) with appropriate knowledge, qualifications and experience in current best practices for native vegetation rehabilitation and management;
- Council must be satisfied that there are adequate funds and resources to implement both initial and ongoing environmental management works and that that these works are achievable within the proposed management period;
- A minimum five-year management period is required following completion of the initial works;
- The proponent must provide a monitoring report at the completion of initial environmental management works and then annually until the end of the term of the management period as evidence that implementation of the plan has progressed to agreed performance criteria.

All land subject to the EMP must be protected by a legally binding management agreement between Council, the proponent of the development, the lawful owner(s) of the subject site which the EMP applies. The legal agreement must:

- Clearly identify and include as an attachment to the Council approved EMP;
- Identify the performance criteria and schedule of works detailed in the approved EMP;
- Identify a bond and a bond return schedule linked to the successful completion of works as evidenced by the meeting of agreed performance criteria according to the schedule of works;
- Be enacted (i.e. signed and registered, or otherwise as per the legal requirements for the relevant agreement) prior to the issue of development consent and prior to the commencement of any works related to the DA within the study area.

It is the responsibility of the proponent to:

- Secure all funds and resources to implement the EMP;
- Pay all costs associated with enacting the legal management agreement;
- Pay all inspection and assessment fees associated with the EMP and subsequent monitoring reports at the time these are lodged with Council.

Reason: *To meet the requirements of Lismore Development Control Plan. To ensure compliance of initial environmental management works and associated ongoing management activities with the Environmental Management Plan are enforceable.*

Traffic calming

88 **Prior to the issue of the Subdivision Certificate for Precinct 2** the applicant shall apply the following traffic calming measures on the access road approved under DA 5.2016.7.1:

- Restrict motor vehicles to a maximum speed of 50 kilometres per hour;

- Install roadside street lighting in accordance with the conditions of this consent;
- On the uphill and downhill approaches to the road install:
 - Two 50 kilometre an hour speed limit signs and two wildlife warning signs (e.g. 'Wildlife Dawn to Dusk' sign or similar) or two signs that combine both messages;
 - Two permanent radar speed signs that display vehicle speed on approach or display a warning when the vehicle speed on approach is greater than the speed limit.

Reason: *To reduce the risk of vehicle strike on wildlife.*

Koala habitat compensation

- 89 **The applicant must replace the area of koala habitat located in Precinct 2 that is proposed to be cleared** with a minimum area of 3.48ha of habitat calculated in accordance with the compensation multiplier formula detailed in Appendix 5 of the Comprehensive Koala Plan of Management for south-east Lismore.

Reason: *To compensate for the loss of an area of preferred koala habitat.*

Voluntary Planning Agreement – Biodiversity Certification

- 90 Formal execution of the Voluntary Planning Agreement as adopted by Council at its meeting of 8 May 2018 must be undertaken by all parties to the Agreement.

Reason: *To comply with Council policy and EP & A Act 1979.*

Voluntary Planning Agreement – Provision of Water and Wastewater Infrastructure

- 91 Formal execution of the Voluntary Planning Agreement as adopted by Council at its meeting of 8 May 2018 must be undertaken by all parties to the Agreement.

Reason: *To comply with Council policy and EP & A Act 1979.*

Civil Works

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

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

Public Utilities – Electricity (Urban)

- 93 A Certificate of Compliance from an accredited electricity infrastructure provider shall be required confirming that it has provided underground electrical power to each lot, adequate street lighting for the development as required by the Australian Standard and that charges for the extension of electricity supply have been paid.

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 4.15(b))*

Telecommunications Services - Subdivisions

- 94 Telecommunication infrastructure shall be installed to service each lot in the development to comply with the following:

- a) The requirements of the Telecommunications Act 1997 (Cth);
- b) For a fibre ready facility, the nbn co.'s TM standard specifications current at the time of the installation; and
- c) For a line that is to connect a lot to telecommunications infrastructure external to the premises, is located underground.

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

Reason: *Provision of adequate telecommunication facilities.*

Street Name Signage

- 95 Street signage in accordance with Council's adopted standard shall be erected at all new street intersections with street names approved with the Development Application.

Reason: *To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 4.15(a))*

Street Number Signage

- 96 The proponent shall place street number identification at the road frontage of the property to indicate the property address in accordance with Council Policy 1.8.22 Urban kerbside numbering system policy.

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

Subdivision only Works as Executed Drawings and Video – Stormwater

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

Reason: *Compliance with the Consent.*

- 98 A Registered Surveyor shall provide certification that all services (e.g. drainage, stormwater, water supply, gas, electricity, and telecommunication) as constructed are contained within each lot or within appropriate easements to accommodate such services to the satisfaction of the utility service provider. Alternatively, a letter from the relevant supply authority stating the same may be submitted to satisfy this condition.

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

Geotechnical Report – Fill Material

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

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

Subdivision

- 100 A suitably qualified person is required to furnish an overall statutory certificate confirming:
- all drainage lines have been located within the respective easements;
 - roadworks are in accordance with the approved design plan;
 - any other structures like retaining walls are located in accordance with the Construction Certificate;
 - all stormwater has been directed to a Council approved drainage system;
 - all conditions of consent/approval have been complied with.

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

Water Management Act 2000

- 101 A Certificate of Compliance issued by Lismore City Council (and on behalf of Rous Water) under s.305-307 of the Water Management Act 2000, must be obtained in relation to contributions payable.

Notes:

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

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

Water management works

- 102 At no cost to Council the proponent is required to construct the following water management works:

- An extension to the reticulated water supply system and a property water service connection to each newly created Lot. Precinct One will initially be serviced from the North Lismore water reticulation system generally in accordance with preliminary design plans submitted by Planit Consulting – Titled: Proposed Water Supply main. Planit Job No. J258, Drawing No's. 0001, 0600, 0601, 0602, Revision A, Dated 22.08.18.
- An extension to the reticulated sewerage system and a property sewerage service connection designed to maximise the building envelope to each newly created Lot.

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

Reason: *To comply with the provisions of Council's Development Control Plan – 4.15(a)(iii)EP&A Act 1979.*

Certificate of Compliance

- 103 The proponent is required to apply to Council for a separate **s307 Certificate of Compliance** for the water management works. The application shall be accompanied by:

- a) a set of "works-as-executed" plans;
- b) submission of CCTV video surveillance and hard copy report for all sewerage pipelines;
- c) complete asset record forms;
- d) evidence the (Section 64) developer levies have been paid;
- e) evidence all inspection fees have been paid;
- f) evidence the scheduled bond has been paid, being 5% of the value of the works; and
- g) the Consulting Engineer's Certificate of Compliance.

The Consulting Engineers Certificate of Compliance shall state that all water management works required by this development consent have been completed in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe work. Refer to the Northern Rivers Local Government Design and Construction Manual.

The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date Council issues the Certificate of Compliance.

Reason: *To comply with Section 307 of the Water Management Act 2000.*

Creation of easements over pipelines

- 104 The proponent is required to create an easement over pipelines on private lands in accordance with Council's current specifications for the Design and Construction of Water and Sewer Reticulation Pipe-work to Council's satisfaction.

Note: The width of an easement is determined by the depth and size of the pipeline.

The proponent shall obtain direction from Council confirming width of easements and terms for Section 88B Instruments prior to submitting an application for a Subdivision Certificate.

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

Section 7.11 Contributions

- 105 Payment of contributions levied under Section 7.11 of the Environmental Planning and Assessment Act and Lismore City Council Section 94 Contributions Plan North Lismore Plateau 2013 are required. Such levies shall contribute towards the provision of public services and/or amenities identified in the attached schedule. Such levies shall be calculated at the rate(s) in effect on the date the **Subdivision Certificate is released for each relevant stage**. The rates and amounts applying at the date of this notice, totalling **\$5,882,006.28**, are set out in the schedule for your information. Where the total contribution payable exceeds \$20,000 payment to Council must be by bank cheque or cash. Personal cheques are not acceptable. All contributions, bonds etc. shall be paid **prior to the release of the applicable Subdivision Certificate**.

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

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

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

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

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

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

General Terms of Approval

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

Reference Number:	IDAS1101942
Issue date of GTA:	26 September 2018
Type of Approval:	Controlled Activity
Description:	Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management
Location of work/activity:	8 Sexton Road North Lismore NSW 2480
DA Number:	DA5/2017/270/1
LGA:	The Council Of The City Of Lismore
Water Sharing Plan Area:	Richmond River Area Unregulated, Regulated and Alluvial Water Sources

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

Condition Number	Details
Design of works and structures	
GT0018-00003	Before constructing or carrying out any proposed controlled activity, an application must be submitted to Crown Lands and Water Division, and obtained, for a controlled activity approval under the Water Management Act 2000.
Erosion and sediment controls	
GT0006-00001	The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0021-00002	The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.

Plans, standards and guidelines

- GT0002-00047 A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 2017.270 provided by Council to Crown Lands and Water Division. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Crown Lands and Water Division, Grafton Office, must be notified in writing to determine if any variations to the GTA will be required.
- GT0003-00016 The application for a controlled activity approval must include the following document(s): - site plan, map and/or surveys; outlet structures; Erosion and Sediment Control Plan; Soil and Water Management Plan; detailed structural drawings; Storm Water Management Plan.
-
-

Reporting requirements

- GT0016-00002 The consent holder must inform Crown Lands and Water Division in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA5/2017/270/1 as provided by Council:

- Statement of Environmental Effects prepared by Planners North, August 2017
- Plan of Subdivision, Rev D, prepared by RPS Australia East Pty Ltd, 8/8/2018 (Ref: 117312-30)
- Civil Works Plans, Rev C, prepared by TGM Group Pty Ltd, 15/11/2017 (Drawing Nos 0001 to 0028)
- Balance Land Report (Engineering Report) prepared by TGM Group Pty Ltd, June 2017 – updated version provided to Lismore City Council on 21/9/2018
- Internal Access Road Plans, Rev C, prepared by WGM Consulting, 14/3/2016 (Drawing Nos J073-0001 to J073-0021)

GENERAL TERMS OF APPROVAL NSW RURAL FIRE SERVICE

1. The development proposal is to comply with the subdivision layout identified on the following drawings prepared by RPS Australia East Pty Ltd:
 - Plan of Subdivision - Precinct One Allotment Layout (Ref: 117312-30, Rev. D) dated 26 July 2018;
 - Plan of Subdivision - Precinct Two Allotment Layout (Ref: 117312-30, Rev. D) dated 26 July 2018;
 - Plan of Subdivision - Precinct Three Allotment Layout (Ref: 117312-30, Rev. D) dated 26 July 2018.

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:

2. At the issue of a subdivision certificate and in perpetuity, the entire area of the residential lots created shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
3. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act, 1919' shall be placed over the relevant open space lot(s) for the purpose of an asset protection zone in Precinct 1 and Precinct 2, as indicated on the plans prepared by RPS Australia East Pty Ltd (Ref: 117312-30, Rev. D), dated 26 July 2018 titled 'Plan of Subdivision - Precinct One Allotment Layout' and 'Plan of Subdivision - Precinct Two Allotment Layout'. The asset protection zone is to be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
4. Prior to the issue of a subdivision certificate, a vegetation management plan is to be prepared that includes:
 - the areas identified for vegetation restoration I conservation in Figure 10 of the Flora and Fauna Assessment report prepared by Peter Parker Environmental Consultants Pty Ltd (13 June 2018) are to be established and maintained with rainforest species;
 - details of the areas required to be managed as an asset protection zone;
 - the asset protection zones are required to be managed as an inner protection area as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and

the NSW Rural Fire Service's document 'Standards for asset protection zones';

- details of the person or authority responsible for ongoing management of vegetation restoration or conservation areas and asset protection zones; and
- a schedule of works for the ongoing management of asset protection zones.

5. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
6. Landscaping for a distance of 10 metres either side of the Road 1 formation between Precinct 1 and Precinct 2 is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Precinct 1:

7. Asset Protection Zones are to be provided as indicated on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct One Allotment Layout'(Ref: 117312-30, Rev. D), dated 26 July 2018.
8. A restriction to the land use pursuant to section 88B of the Conveyancing Act 1919 shall be placed over Lots 83, 84, 85, 94, 95, 7000 and Pt 7001 to prohibit the construction of a dwelling, or Class 10 building within 10m of a dwelling, in the area identified as 'Bushfire APZ' on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct One Allotment Layout'(Ref: 117312-30, Rev. D), dated 26 July 2018.

Precinct 2:

9. Asset Protection Zones are to be provided as indicated on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct Two Allotment Layout' (Ref: 117312-30, Rev. D), dated 26 July 2018, except that the entire width of Road No. 2 reserve along the western boundary of Precinct 2 is to be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
10. A restriction to the land use pursuant to section 88B of the Conveyancing Act 1919 shall be included over Lots 122 to 129, 339 and 358 to prohibit the construction of a dwelling, or Class 10 building within 10m of a dwelling, in the area identified as 'Bushfire APZ' on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct Two Allotment Layout' (Ref: 117312-30, Rev. D), dated 26 July 2018.

Access

The intent of measures for public roads 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:

11. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except that:
 - the cul-de-sac turning circles in Precinct 1 shall have an outer radius of not less than 10 metres; and
 - the perimeter roads in Precinct 1 adjacent to Lots 50 to 52, 62, 63, 73 and 76 to 81 and in Precinct 2 adjacent to Lots 303, 304 and 330 to 332 shall be not less than 6.8 metres wide with roll-top kerb.
12. A minimum 12 metre outer radius turning circle is to be provided at the southern end of Road 12 where it meets the 'fire access track'.

13. Prior to the issuing of a subdivision certificate for Precinct 2 the proposed temporary fire trail providing alternative emergency access from Precinct 2 to Nimbin Road, as indicated on the diagram prepared by TGM titled 'North Lismore Plateau - Concept Fire Access Track' (Ref: 12188-01) dated 22 November 2013, shall be constructed. The fire trail is to be constructed in accordance with Section 4.1.3(3) of 'Planning for Bush Fire Protection 2006' and is to be maintained until such time as alternative public road access is provided to Precinct 2.
14. The path adjacent to Lots 333, 337, 338, 339 and east of the park between Lots 217 and 398 shall be a minimum width of 2.5 metres and shall permit unobstructed emergency vehicle access.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

15. Property access shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

16. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed over Lot 7002 for the fire trails in Precinct 2 adjacent to Lots 104, 110, 111 and 117 to 121. The fire trails are to be constructed in accordance with Section 4.1.3(3) of 'Planning for Bush Fire Protection 2006' prior to the issue of a subdivision certificate for the subject lots. The fire trails are to be managed in perpetuity by Lismore City Council, or alternatively, are to be contained within a community title lot created in combination with the adjacent benefiting residential lots with an appropriate covenant requiring the community association to manage the fire trail in perpetuity

Water and Utilities

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:

17. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'

Landscaping

18. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

General Advice - Consent Authority to note

- This bush fire safety authority is issued on the basis that the asset protection zones located on open space lots are to be managed in perpetuity by Lismore City Council. If this not the case, an alternative management arrangement must be approved (e.g. community title subdivision).
- This Bush Fire Safety Authority does not provide approval or conditions for Precinct 3.
- Establishment of asset protection zones may require the clearing of vegetation. This bush fire safety authority does not authorise the clearing of any vegetation, nor does it include an assessment of potential ecological impacts of clearing vegetation for the purpose of establishing asset protection zones. Approvals necessary for the clearing of vegetation should be obtained prior to the establishment of any asset protection zones.

- Any future development application lodged within this subdivision under section 4.14 of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.
- Certain lots are located adjacent to grassland areas that may present a bushfire hazard. Where these lots are not mapped as bushfire prone land, Council should consider assessment of future development applications against the requirements of section 4.15 of the Environmental Planning and Assessment Act, 1979 and AS3959 Construction of building in bushfire prone areas.

END OF CONDITIONS

ADVISORY NOTES TO DA 5.2017.270.1

Land Budget					
Land Use	Precinct 1	Precinct 2	Precinct 3	Overall	
	(DA Layout)	(DA Layout)	(Concept Layout)		
	Area	Area	Area	Area	%
Area of Subject Site	17.547 ha	53.836 ha	9.366 ha	80.749 ha	100.0%
Saleable Area					
Residential Allotments	6.384 ha	16.949 ha	2.807 ha	26.140 ha	32.4%
Balance Allotments	0.694 ha	—	—	0.694 ha	0.9%
Local Centre	0.917 ha	—	—	0.917 ha	1.1%
Total Area of Allotments	7.995 ha	16.949 ha	2.807 ha	27.751 ha	34.4%
Road					
Collector Streets	1.564 ha	2.627 ha	—	4.191 ha	5.2%
Existing Road Reserve (Collector)	—	1.248 ha	—	1.248 ha	1.5%
Local Streets	2.063 ha	5.877 ha	0.950 ha	8.890 ha	11.0%
Existing Road Reserve (Local)	—	0.112 ha	—	0.112 ha	0.1%
Total Area of Road	3.627 ha	9.864 ha	0.950 ha	14.441 ha	17.9%
Open Space					
Local Park	3.409 ha	3.646 ha	—	7.055 ha	8.7%
Linear Open Space	2.516 ha	23.377 ha	5.609 ha	31.502 ha	39.0%
Total Open Space	5.925 ha	27.023 ha	5.609 ha	38.557 ha	47.7%

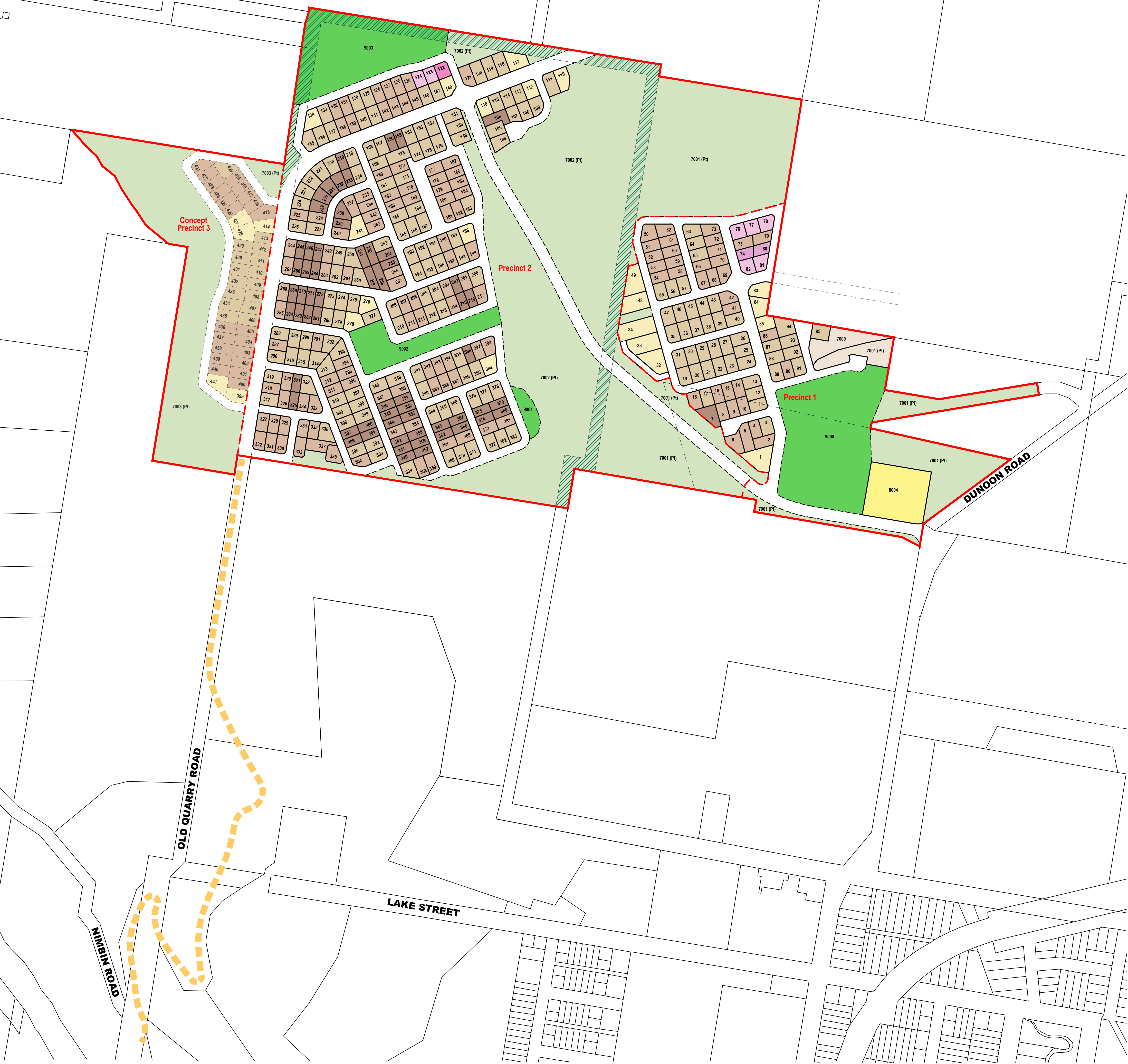
Product		Yield				
		Precinct 1	Precinct 2	Precinct 3	Overall Yield	
		(DA Layout)	(DA Layout)	(Concept Layout)		
Lots Less than 30m Deep						
Residential Allotment Type	Typical Lot Width	Lots	Lots	Lots	Overall	%
Premium Courtyard	18m	2	—	—	2	0.5%
Traditional	20m	5	2	—	7	1.6%
Premium Traditional	22m	—	1	—	1	0.2%
Sub-Total		7	3	—	10	2.3%
Lots 30m Deep and Greater						
Residential Allotment Type	Typical Lot Width	Lots	Lots	Lots	Overall	%
Courtyard	15m	1	61	—	62	14.3%
Premium Courtyard	18m	35	99	22	156	36.0%
Traditional	20m	43	121	16	180	41.6%
Premium Traditional	22m	9	11	5	25	5.8%
Sub-Total		88	292	43	423	97.7%
TOTAL		95	295	43	433	100.0%

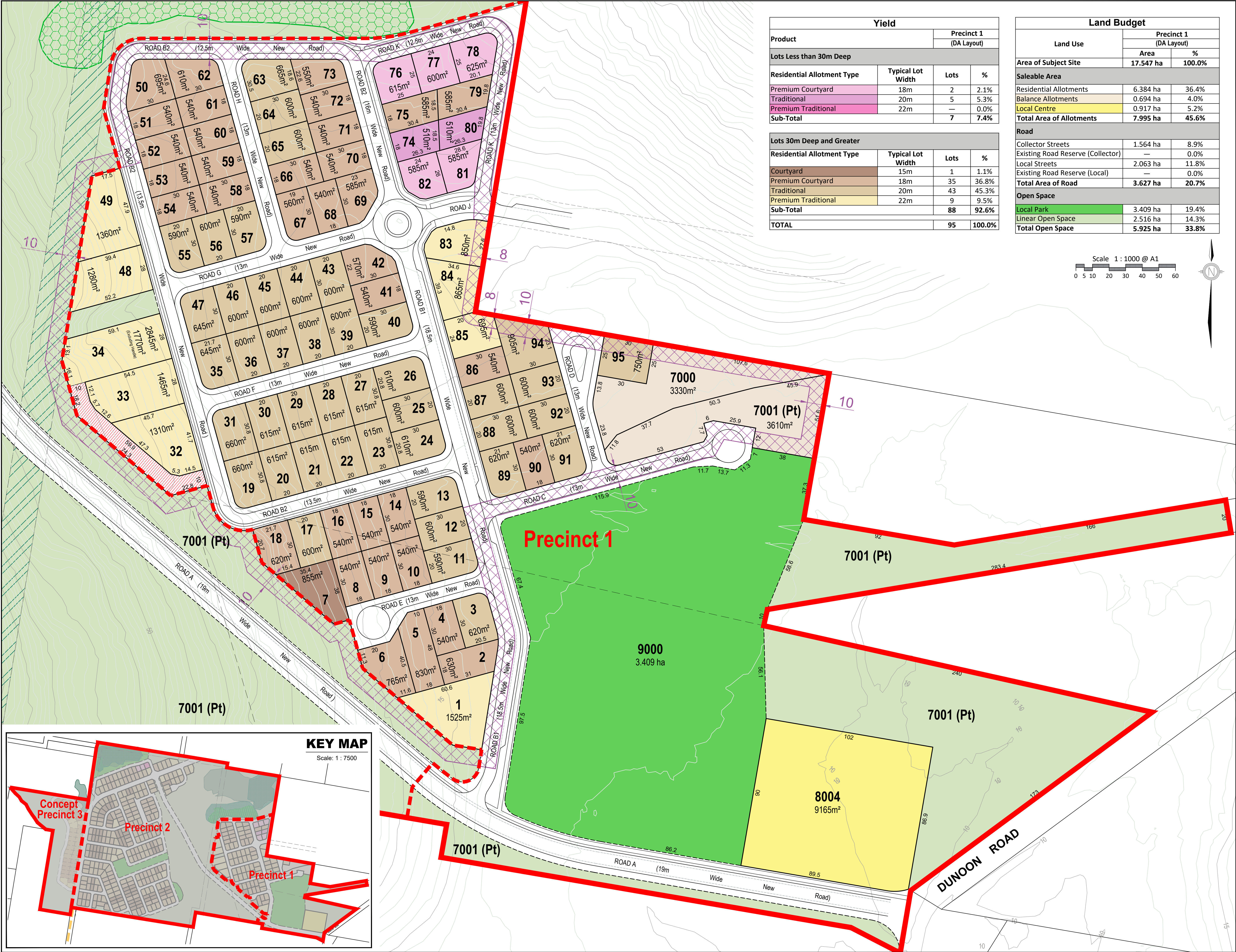
For detailed Precinct Proposal Plans, please refer to plans 117312-30A Precinct One, Two & Three

Legend

- Site Boundary
- Proposed Precinct Boundary
- Existing Road Reserve
- Zoning Line
- Proposed Fire Access Track

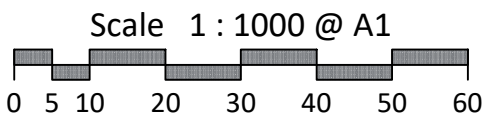
Note:
All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.
Dimensions have been rounded to the nearest 0.1 metres.
Areas have been rounded down to the nearest 5m².
The boundaries shown on this plan should not be used for final detailed engineers design.
Source Information:
Site boundaries: Registered Survey Plans.
Adjoining information: DCCDB.
Existing Contours: RPS Lidar Survey
Design Contours: Planit Engineering
Environment constraints: BCA Check Pty Ltd/Peter Parker





Yield			
Product		Precinct 1	
		(DA Layout)	
Lots Less than 30m Deep			
Residential Allotment Type	Typical Lot Width	Lots	%
Premium Courtyard	18m	2	2.1%
Traditional	20m	5	5.3%
Premium Traditional	22m	—	0.0%
Sub-Total		7	7.4%
Lots 30m Deep and Greater			
Residential Allotment Type	Typical Lot Width	Lots	%
Courtyard	15m	1	1.1%
Premium Courtyard	18m	35	36.8%
Traditional	20m	43	45.3%
Premium Traditional	22m	9	9.5%
Sub-Total		88	92.6%
TOTAL		95	100.0%

Land Budget		
Land Use	Precinct 1 (DA Layout)	
	Area	%
Area of Subject Site	17.547 ha	100.0%
Saleable Area		
Residential Allotments	6.384 ha	36.4%
Balance Allotments	0.694 ha	4.0%
Local Centre	0.917 ha	5.2%
Total Area of Allotments	7.995 ha	45.6%
Road		
Collector Streets	1.564 ha	8.9%
Existing Road Reserve (Collector)	—	0.0%
Local Streets	2.063 ha	11.8%
Existing Road Reserve (Local)	—	0.0%
Total Area of Road	3.627 ha	20.7%
Open Space		
Local Park	3.409 ha	19.4%
Linear Open Space	2.516 ha	14.3%
Total Open Space	5.925 ha	33.8%



REVISION

A: 14/02/18 Adjust APZs, add fire trail
B: 14/03/18 Add road numbering/letters
C: 31/05/18 Amend road numbering/letters

Note:
All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.
Dimensions have been rounded to the nearest 0.1 metres.
Areas have been rounded down to the nearest 5m².
The boundaries shown on this plan should not be used for final detailed engineers design.

Source Information:
Site boundaries: Registered Survey Plans.
Adjoining information: DCDB.
Existing Contours: RPS Lidar Survey
Design Contours: Plant Engineering
Environment constraints: BCA Check Pty Ltd/Peter Parker

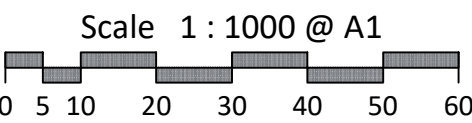
- Legend**
- Site Boundary
 - Proposed Precinct Boundary
 - Existing Road Reserve
 - Bushfire APZ
 - Hairy Joint Grass Biodiversity Certification Conservation Site
 - Existing Contours (5m)
 - Existing Contours (1m)
 - Zoning Line
 - Proposed Fire Access Track

CLIENT	WINTEN PROPERTY GROUP		
PROJECT	NORTH LISMORE PLATEAU		
PLAN OF SUBDIVISION PRECINCT ONE ALLOTMENT LAYOUT			
Date.	31 MAY 2018		
Comp By.	JLS		
Checked By.	PHE		
DWG Name.	117312-30D Proposal Plan		
Job Ref.	117312		
Local Authority.	LISMORE CITY COUNCIL		
Locality.	LISMORE		
Scale	1:1000	Sheet	A1
Plan Ref	117312-30	Rev	C



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REVISION
A: 14/02/18 Adjust APZs, add fire trail
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Note:
All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.
Dimensions have been rounded to the nearest 0.1 metres.
Areas have been rounded down to the nearest 5m².
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Source Information:
Site boundaries: Registered Survey Plans.
Adjoining Information: DCDB.
Existing Contours: RPS Lidar Survey
Design Contours: Planit Engineering
Environment constraints: BCA Check Pty Ltd/Peter Parker

- Legend**
- Site Boundary
 - Proposed Precinct Boundary
 - Existing Road Reserve
 - Bushfire APZ
 - BushFire APZ
 - Hairy Joint Grass Biodiversity Certification Conservation Site
 - Dry Rainforest
 - Design Contours (5m)
 - Design Contours (1m)
 - Existing Contours (5m)
 - Existing Contours (1m)
 - Significant Trees to be Retained
 - Heritage Site
 - Exclusion Zone
 - Proposed Fire Access Track

CLIENT
WINTEN PROPERTY GROUP

PROJECT
NORTH LISMORE PLATEAU

PLAN OF SUBDIVISION PRECINCT TWO ALLOTMENT LAYOUT

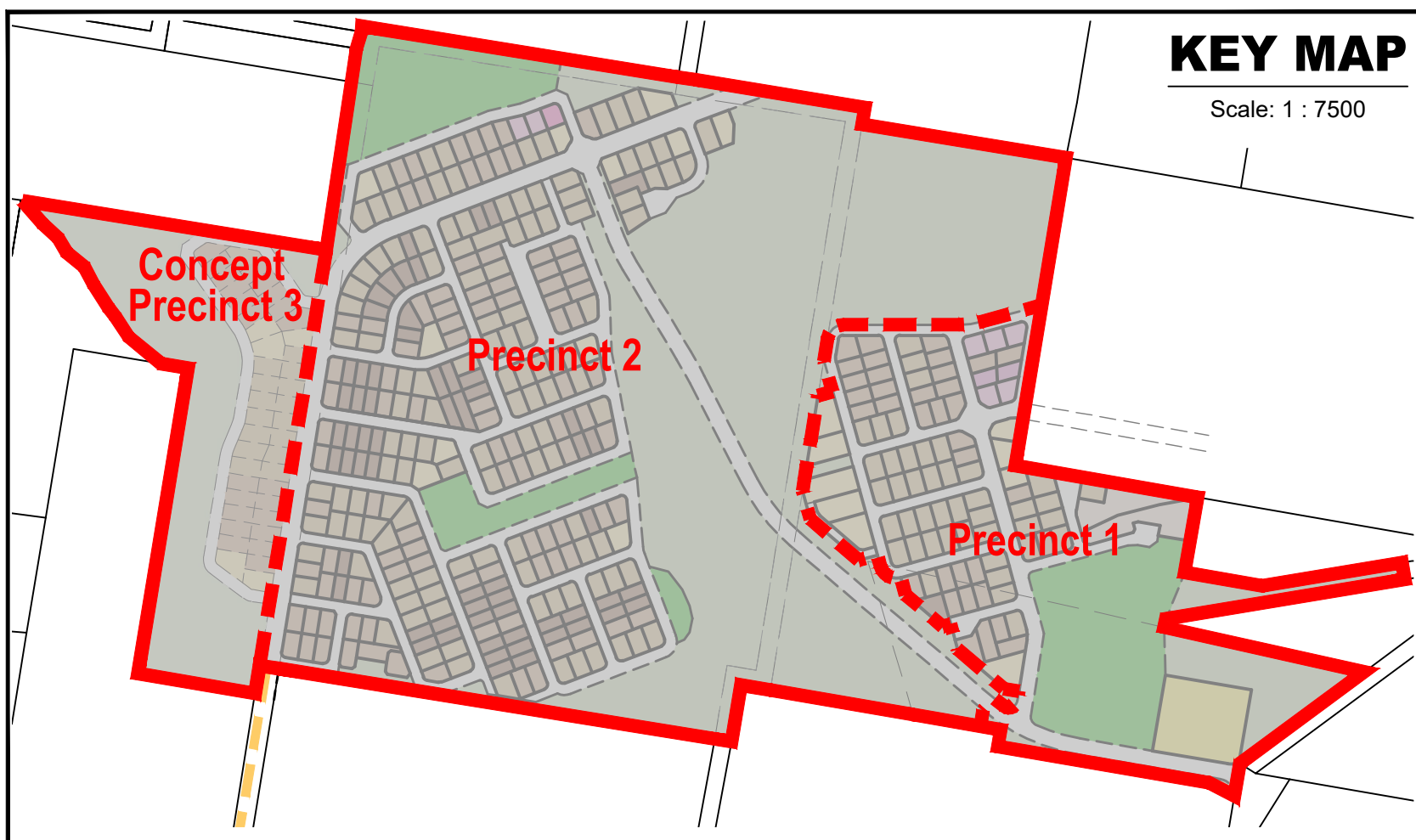
Date: 31 MAY 2018
Comp By: JLS
Checked By: PHE
DWG Name: 117312-30D Proposal Plan
Job Ref: 117312
Local Authority: LISMORE CITY COUNCIL
Locality: LISMORE
Scale: 1:1500
Sheet: A1
Plan Ref: 117312-30
Rev: C

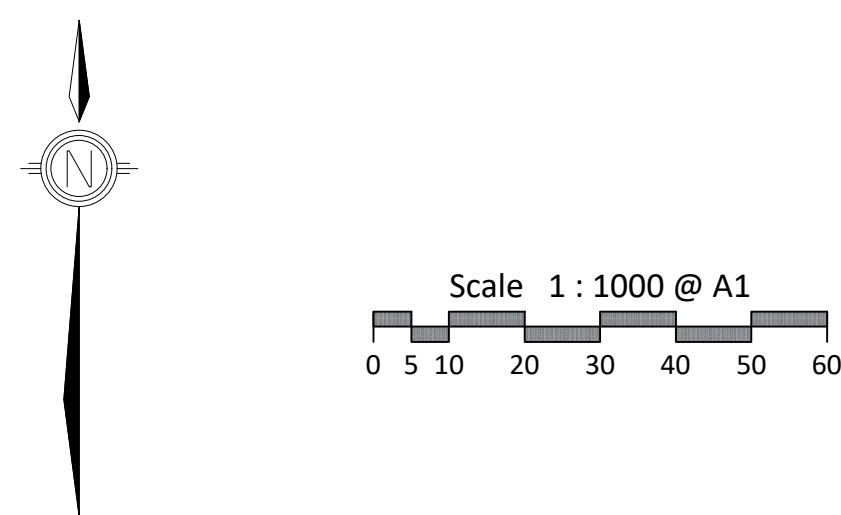
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ABN 44 140 292 762
Urban Design
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Land Budget		
Land Use	Precinct 2 (DA Layout)	
	Area	%
Area of Subject Site	53.836 ha	100.0%
Saleable Area		
Residential Allotments	16.949 ha	31.5%
Balance Allotments	—	0.0%
Local Centre	—	0.0%
Total Area of Allotments	16.949 ha	31.5%
Road		
Collector Streets	2.627 ha	4.9%
Existing Road Reserve (Collector)	1.248 ha	2.3%
Local Streets	5.877 ha	10.9%
Existing Road Reserve (Local)	0.112 ha	0.2%
Total Area of Road	9.752 ha	18.3%
Open Space		
Local Park	3.646 ha	6.8%
Linear Open Space	23.377 ha	43.4%
Total Open Space	27.023 ha	50.2%
Note: Local Park & Linear Open Space Area includes existing road reserve in the total area calculated.		

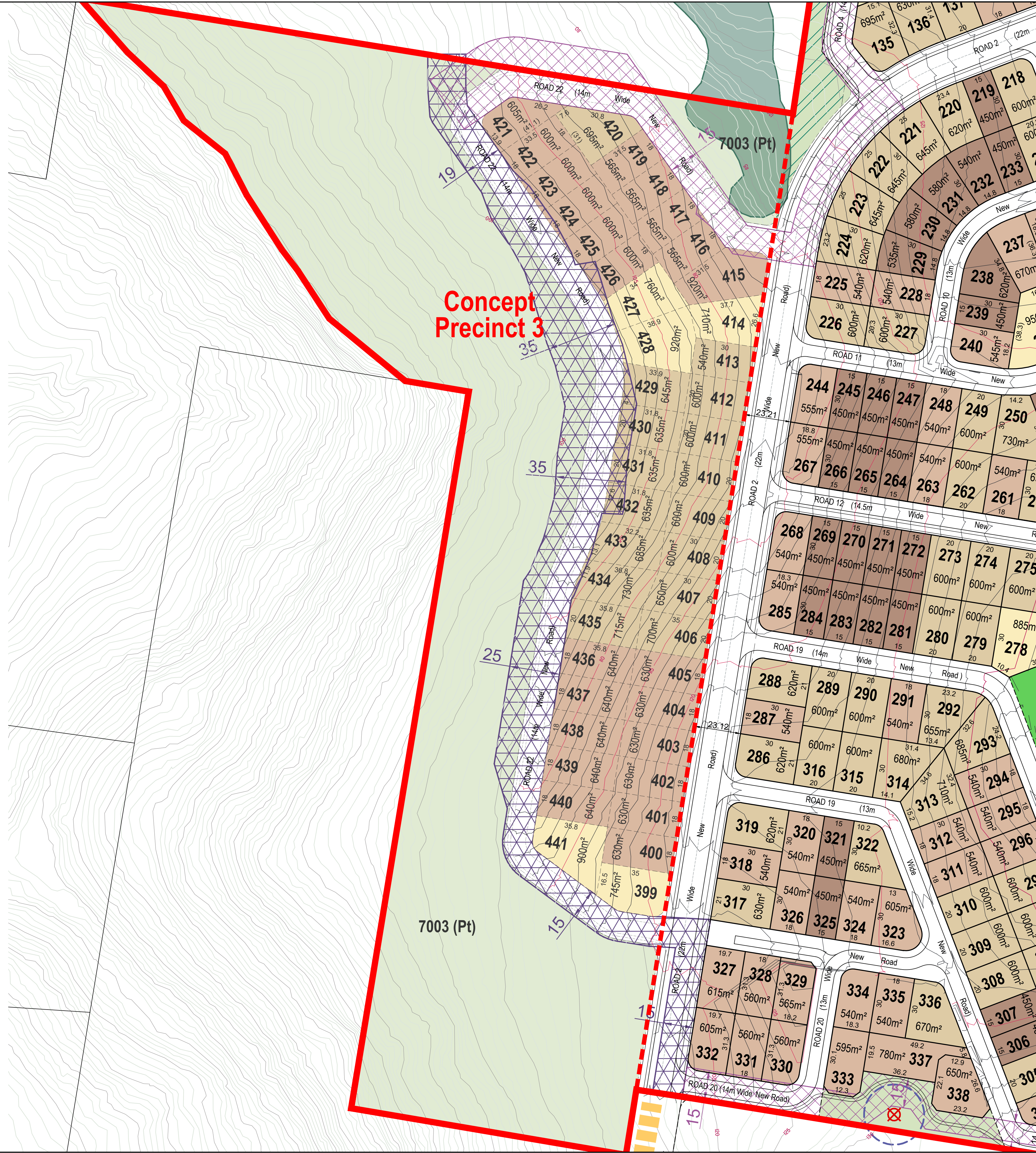
Yield			
Product		Precinct 2	
		(DA Layout)	
Lots Less than 30m Deep			
Residential Allotment Type	Typical Lot Width	Lots	%
Premium Courtyard	18m	—	0.0%
Traditional	20m	2	0.7%
Premium Traditional	22m	1	0.3%
Sub-Total		3	1.0%
Lots 30m Deep and Greater			
Residential Allotment Type	Typical Lot Width	Lots	%
Courtyard	15m	61	20.7%
Premium Courtyard	18m	99	33.6%
Traditional	20m	121	41.0%
Premium Traditional	22m	11	3.7%
Sub-Total		292	99.0%
TOTAL		295	100.0%





Land Budget		
Land Use	Precinct 3 (Concept Layout)	
	Area	%
Area of Subject Site	9.366 ha	100%
Saleable Area		
Residential Allotments	2.807 ha	30.0%
Balance Allotments	—	0.0%
Local Centre	—	0.0%
Total Area of Allotments	2.807 ha	30.0%
Road		
Collector Streets	—	0.0%
Existing Road Reserve (Collector)	—	0.0%
Local Streets	0.950 ha	10.1%
Existing Road Reserve (Local)	—	0.0%
Total Area of Road	0.950 ha	10.1%
Open Space		
Local Park	—	0.0%
Linear Open Space	5.609 ha	59.9%
Total Open Space	5.609 ha	59.9%

Yield			
Product		Precinct 3	
		(DA Layout)	
Lots Less than 30m Deep			
Residential Allotment Type	Typical Lot Width	Lots	%
Premium Courtyard	18m	—	0.0%
Traditional	20m	—	0.0%
Premium Traditional	22m	—	0.0%
Sub-Total		—	0.0%
Lots 30m Deep and Greater			
Residential Allotment Type	Typical Lot Width	Lots	%
Courtyard	15m	—	0.0%
Premium Courtyard	18m	22	51.2%
Traditional	20m	16	37.2%
Premium Traditional	22m	5	11.6%
Sub-Total		43	100.0%
TOTAL		43	100.0%



REVISION

A: 14/02/18 Adjust APZs, add fire trail
 B: 14/03/18 Add road numbering/letters
 C: 31/05/18 Amend road numbering/letters

Note:
 All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.

Dimensions have been rounded down to the nearest 0.1 metres.

Areas have been rounded down to the nearest 5m².

The boundaries shown on this plan should not be used for final detailed engineers design.

Source Information:
Site boundaries: Registered Survey Plans.
Adjoining information: DCDB
Existing Contours: RPS Lidar Survey
Design Contours: Plant Engineering
Environment constraints: BCA Check Pty Ltd/Peter Parker

Legend

-  Site Boundary
-  Proposed Precinct Boundary
-  Existing Road Reserve
-  Bushfire APZ
-  BushFire APZ
-  Hairy Joint Grass Biodiversity Certification Conservation Site
-  Dry Rainforest
-  Design Contours (5m)
-  Design Contours (1m)
-  Existing Contours (5m)
-  Existing Contours (1m)
-  Significant Trees to be Retained
-  Heritage Site
-  Exclusion Zone
-  Proposed Fire Access Track

CLIENT	
WINTEN PROPERTY GROUP	
PROJECT	
NORTH LISMORE PLATEAU	
PLAN OF SUBDIVISION <i>CONCEPT</i> PRECINCT THREE ALLOTMENT LAYOUT	
Date.	31 MAY 2018
Comp By.	JLS
Checked By.	PHE
DWG Name.	117312-30D Proposal Plan
Job Ref.	117312
Local Authority.	LISMORE CITY COUNCIL
Locality.	LISMORE
Scale	Sheet A1
Plan Ref	Rev
117312-30	C



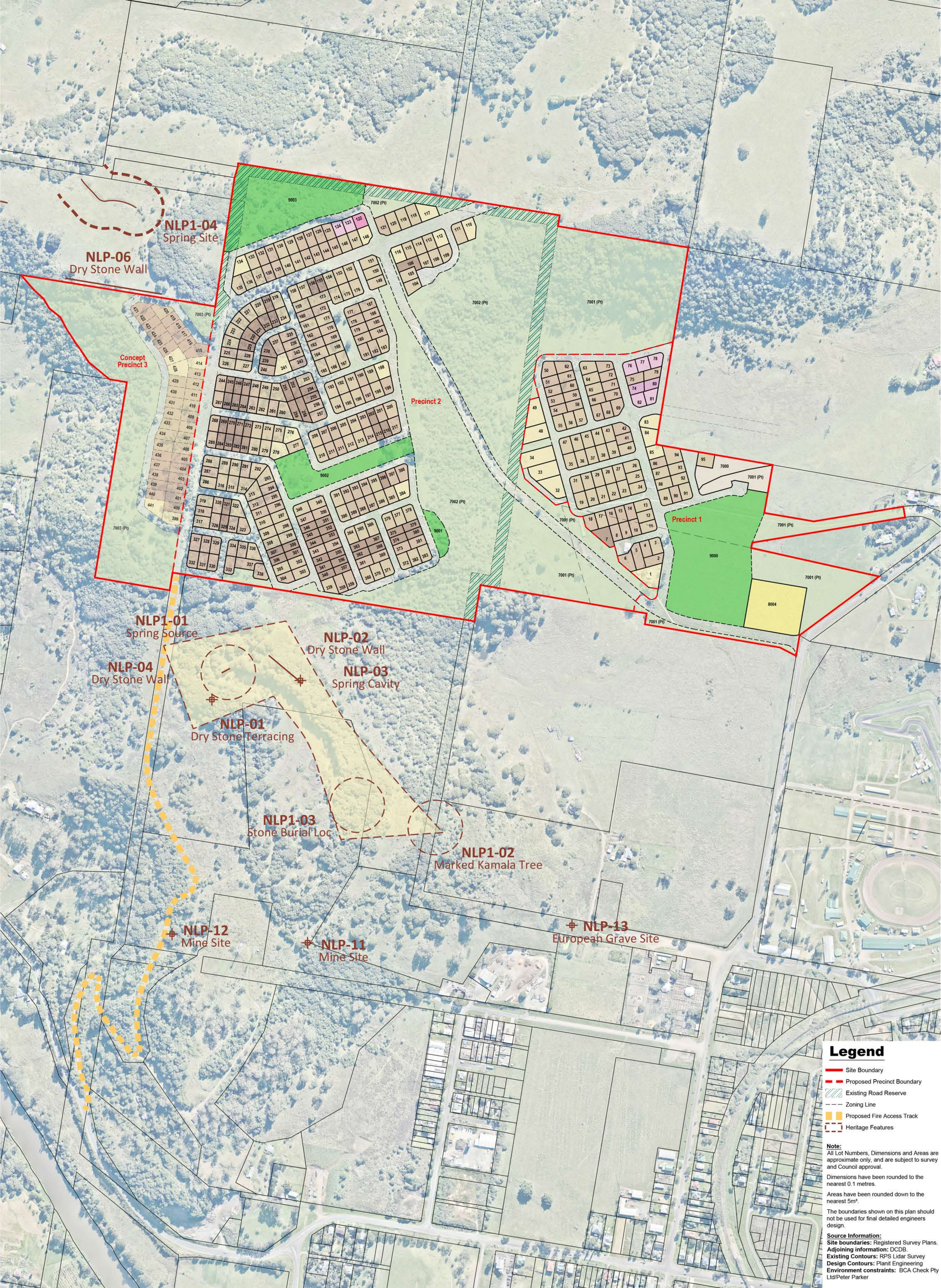
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Legend

- Site Boundary
- Proposed Precinct Boundary
- Existing Road Reserve
- Zoning Line
- Proposed Fire Access Track
- Heritage Features

Note:
All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.

Dimensions have been rounded to the nearest 0.1 metres.

Areas have been rounded down to the nearest 5m².

The boundaries shown on this plan should not be used for final detailed engineers design.

Source Information:
Site boundaries: Registered Survey Plans.
Adjoining information: DCDB.
Existing Contours: RPS Lidar Survey
Design Contours: Planit Engineering
Environment constraints: BCA Check Pty Ltd/Peter Parker

Scale 1:3000 @ A1
0 15 30 60 90 120 150 180
Plan Ref **117312 - 34**

Date: 14 February 2018
Client: Winten
Dwg Name: 117312-30B
Drawn By: JLS
Checked By: PHE

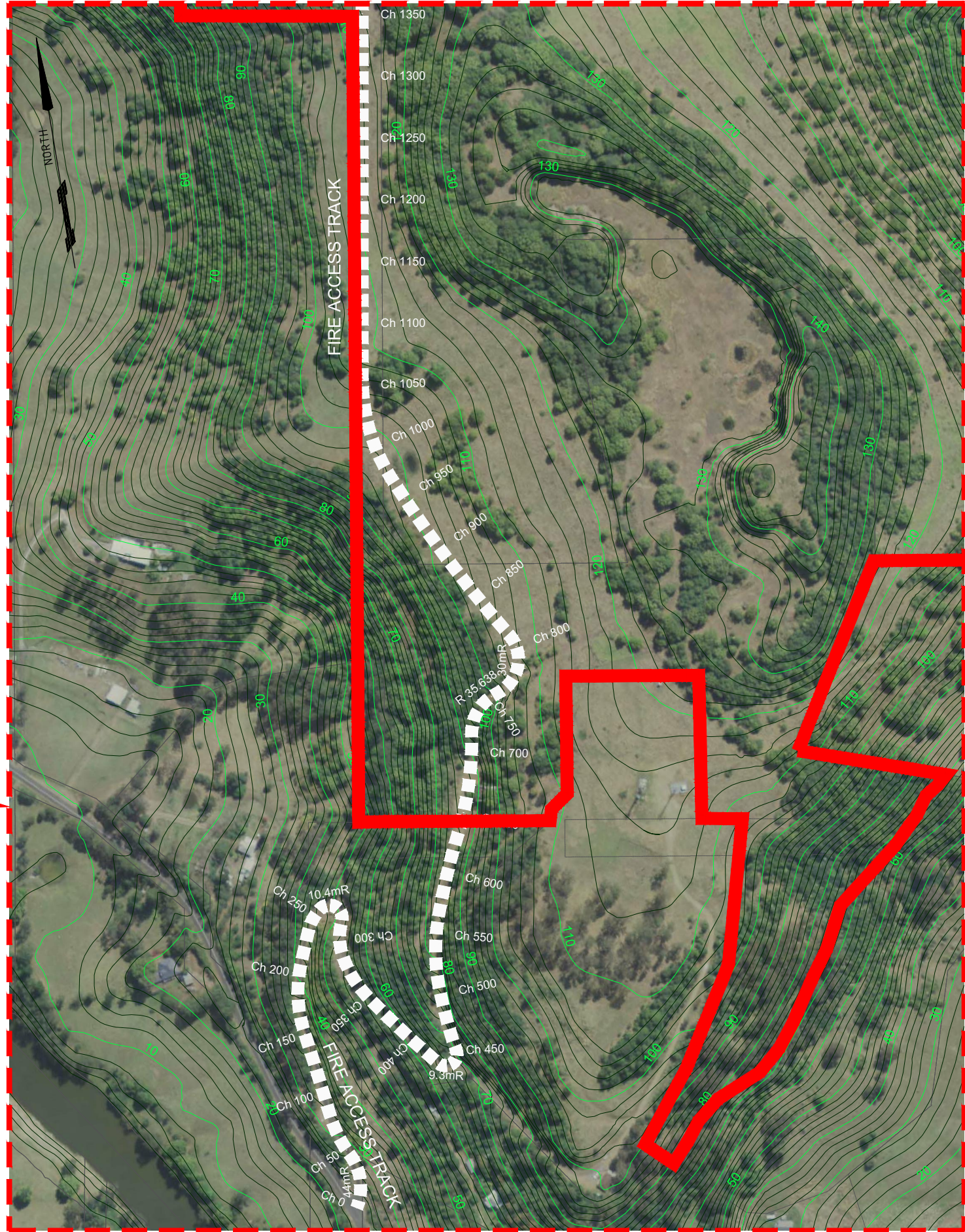
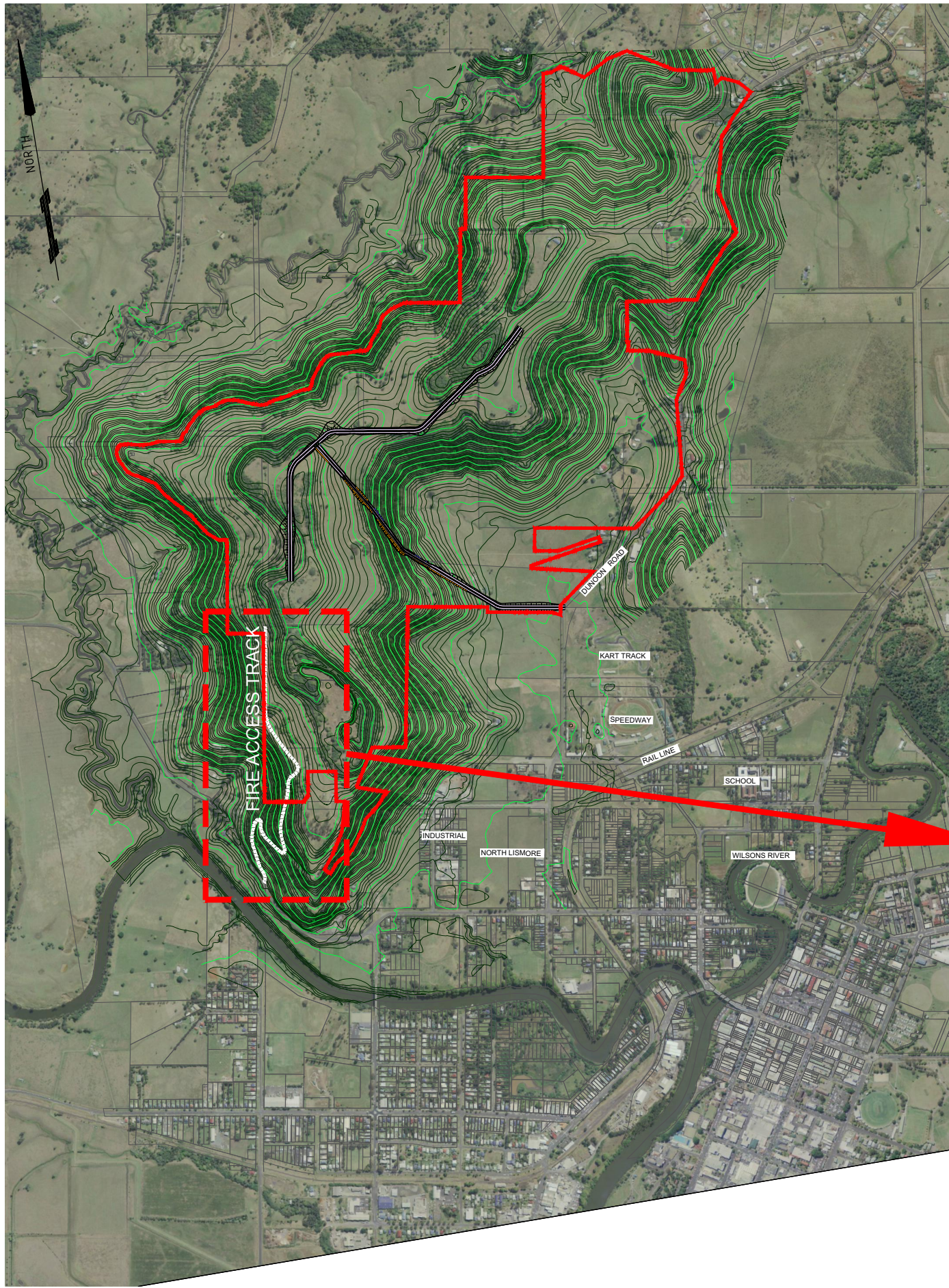
Ultimate Overall Proposal Plan (Heritage Overlay)

Winten - North Lismore Plateau



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ISSUE	ISSUED FOR	DATE	No.	AMENDMENT	DATE	DRAWN	APPROVED	DESIGNED	DATE
00	ISSUED FOR REVIEW	22/11/13						B. JOHNSON	22/11/2013
								B. JOHNSON	SCALE: 1:2,000
								TGM GEELONG	SHEET SIZE: A1
									APPROVED:
								POS NO: N/A	VERSION: N/A
									PERMIT NO:
									WORKS SHALL NOT COMMENCE UNTIL PLANS ARE SIGNED AND APPROVED FOR CONSTRUCTION.

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CLIENT:
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MILSONS POINT NSW 2061

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PROJECT:
NORTH LISMORE PLATEAU
CONCEPT FIRE ACCESS TRACK

LISMORE CITY COUNCIL

CIVIL DRAWING

DRAWING TITLE:
DETAILED LAYOUT PLAN

TGM REF. No: 12188-01

SHEET: 1 OF 2 REV: 00

12188-01

SHEET: 1 OF 2 REV: 00

DEVELOPMENT APPLICATION REPORT APPROVALS REGISTER REPORT BY

ARCHAEOLOGICAL/HERITAGE OFFICER

DA NO: 5.2017.270.1

Development: Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows: Precinct 1 Total of 95 residential allotments, local centre allotment, open space and provision for environmental management; Precinct 2 Total of 295 residential allotments, open space and areas for environmental management; Precinct 3 Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application. The proposed application also seeks approval for associated tree removal, earthworks and infrastructure. The proposal constitutes integrated development in accordance with S91 of the Environmental Planning and Assessment Act 1979. Approval from NSW Department of Primary Industries (Water) is required in accordance with Water Management Act 2000, approval from NSW Roads and Maritime in accordance with Roads Act 1993, and approval from NSW Rural Fire Service in accordance with Rural Fires Act 1997. The consent authority is Lismore City Council and the Northern Joint Regional Planning Panel has the function of determining the application

Property Number: P31913

Date Lodged: 24/08/2017

Date of Referral: 11/9/17

Mrs S J Thatcher

Senior Development Assessment Officer

(Planning)

Please complete comments by: 25/9/17

Premises: LOT: 2 DP: 1214953, DP 808657 lot 3, DP 367581 lot 1, LOT: 12 DP: 844585, LOT: 1 DP: 772627, 8 Sexton Road NORTH LISMORE, 55 Dunoon Road NORTH LISMORE, 3 Old Quarry Road NORTH LISMORE, 30 Old Quarry Road NORTH LISMORE, 48 Old Quarry Road NORTH LISMORE

ADDITIONAL INFORMATION: (if required please advise immediately)

Matters for Consideration:			
☐	Flora and Fauna	☐	Koala Plan of Management
☐	Landscape Plan	☐	Vegetation Management/Rehab Plan
☐	Threatened Species		

COMMENTS:

North Lismore Plateau
Review of Aboriginal Heritage Matters for DA5.2017.270.1

Report to Lismore City Council

26 September 2018



North Lismore Plateau

Review of Aboriginal Heritage Matters for DA5.2017.270.1

Report to Lismore City Council

26 September 2018

Prepared by Neville Baker, BA Hons MAACAI
Director - Archaeologist

Baker Archaeology Pty Ltd
ACN 162 289 321
Unit 6, 51 York Road, Jamisontown, NSW 2750

This report has been prepared in accordance with the scope of services described in the contract or agreement between Baker Archaeology and the Client. The report relies upon data, surveys, measurements and results taken at or under the particular times and conditions specified herein. Any findings, conclusions or recommendations only apply to the aforementioned circumstances and no greater reliance should be assumed or drawn by the Client. Furthermore, the report has been prepared solely for use by the Client and Baker Archaeology accepts no responsibility for its use by other parties

Table of Contents

1	Introduction.....	1
1.1	Scope of this report.....	1
1.2	Study Area.....	1
1.3	Structure of this review.....	4
2	Overview of the Aboriginal heritage assessment process	5
3	Aboriginal consultation	6
3.1	Summary	6
3.2	Process	6
3.3	Technical shortcomings.....	6
3.4	Site visit without RAPs.....	6
4	Aboriginal sites and archaeological assessment	7
4.1	Archaeological investigations.....	7
4.2	No Aboriginal sites will be impacted within the DA area.....	7
4.3	Stone walls or linear stone features	7
4.4	Everick ACHAR.....	7
4.5	Everick CHMP	7
4.6	Investigations of suspected grave.....	8
5	Public Submissions	9
6	Conclusions.....	12
6.1	Overview	12
6.2	Draft Conditions	12
6.2.1	Protection of site 4-4-218.....	12
6.2.2	Unexpected finds.....	12
6.2.3	Discovery of human remains.....	13
6.2.4	Induction	13

List of Figures

Figure 1. NLP Central Area showing Precincts 1, 2 & 3	2
Figure 2. NLP.....	3

1 Introduction

1.1 Scope of this report

Baker Archaeology was engaged by Lismore City Council to provide expert review of the Aboriginal assessment process for DA5.2017.270.1 (the DA), being the first stage of development on the North Lismore Plateau (NLP) by Winten Property Group.

The scope as set out in the letter of 15 November 2017 from Council to Baker Archaeology included

- peer review of the Aboriginal Cultural Heritage Assessment Report (ACHAR) and Cultural Heritage Management Plan (CHMP) by Everick Heritage Consultants (Everick);
- review and comment on public submissions to Council on the DA relating to Aboriginal heritage;
- comment on the Aboriginal consultation process; and
- appropriate DA conditions.

1.2 Study Area

I understand that the area covered by the DA includes the NLP central area “Precinct 1” and “Precinct 2” (Figure 1) with the exclusion of a small western “Precinct 3” for which planning has proceeded to concept only (RPS Plan 117312-30B “Ultimate Overall Proposal Plan: Winten – North Lismore Plateau” dated 14 February 2018).

I note that the areas covered by the Everick ACHAR and CHMP differ from the DA, differ from each other, and are larger than the DA. The ACHAR covers all of the central area including Precinct 3. The CHMP covers all of the NLP beyond the land subject to Winten’s proposed development (Figure 2).

This difference in areal coverage between the reports and the DA was a point of confusion throughout the review process.

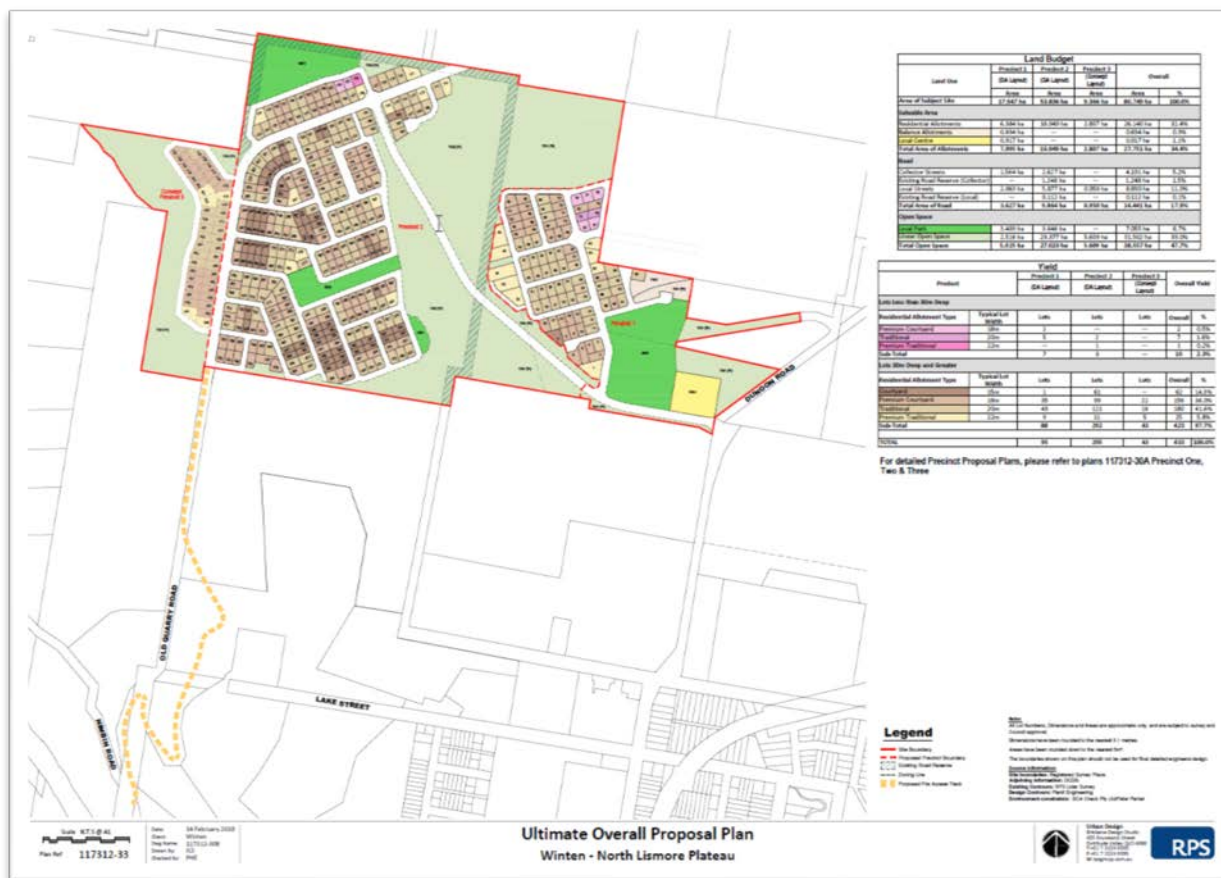


Figure 1. NLP Central Area showing Precincts 1, 2 & 3

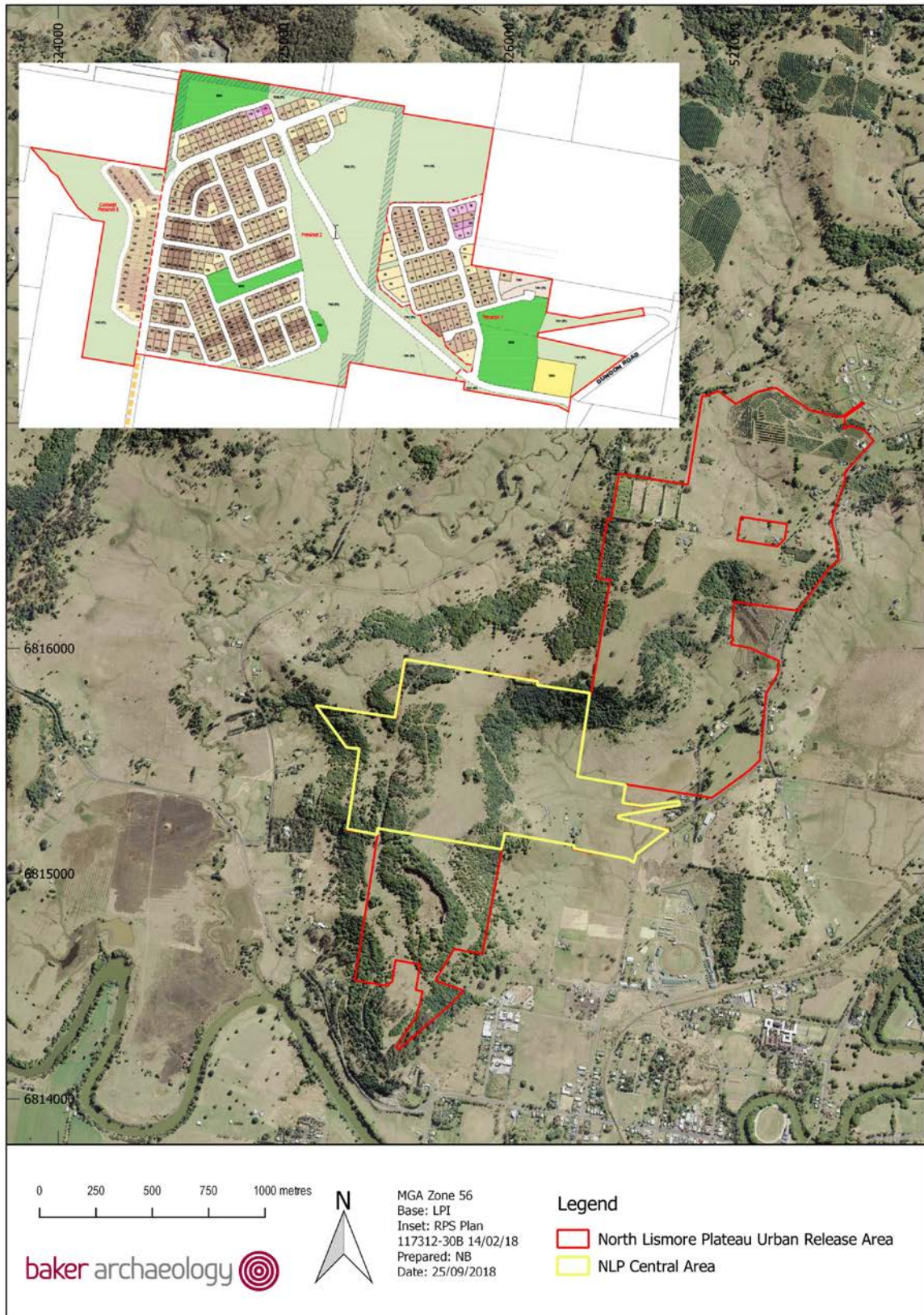


Figure 2. NLP

1.3 Structure of this review

I summarise the processes and findings of the Aboriginal heritage assessment process but refer the reader to the original reports for detail. The review provides opinion on whether the process meets best practice as set out in relevant government guidelines.

Section 2 provides an overview of the process noting the different consultants involved, differing study areas and varying methods.

Section 3 reviews the Aboriginal consultation process.

Section 4 considers the Aboriginal archaeological investigations, the various reports, and the Everick ACHAR for the DA and the Everick ACHMP.

Section 5 reviews the public submissions relating to Aboriginal heritage.

Section 6 summarises the findings of this review and provides draft conditions for the DA.

2 Overview of the Aboriginal heritage assessment process

My overview of the Aboriginal heritage assessment process is based on a reading of the relevant Aboriginal heritage reports for the NLP and discussions with Council officers.

The Aboriginal heritage assessment commenced with Aboriginal stakeholder consultation initiated by Ian Fox, then of Converge Heritage + Community consultants, in late 2011. Council has successfully facilitated the consultation process from the outset to the present. All aspects of the consultation are documented in a log and archaeological investigations have been subject to, and guided by, Aboriginal consultation.

Converge conducted an archaeological pedestrian surface survey across the entire NLP area in early 2012 as part of the rezoning process for the group of land owners including Council, Winten and Riordan's Consulting Surveyors. Four Aboriginal sites of high Aboriginal socio-cultural value were located outside of the DA area. Two of the sites were springs ascribed as having association with specific cultural practices by Aboriginal informants. One site was a carved tree, and another was comprised of a stone arrangement. A number of non-Aboriginal historic sites were also recorded, including features described as "dry stone walls". The Converge report of September 2012 recommended ongoing Aboriginal consultation, preparation of a Cultural Heritage Management Plan, protection of the four recorded Aboriginal sites and further archaeological investigation due to low surface visibility.

Ian Fox (formerly of Converge) coordinated subsequent Aboriginal heritage investigations from 2013 to 2015. A series of archaeological test pits were dug across the NLP land including areas beyond the DA. Aboriginal objects were found at three locations, including near the south boundary of the present DA, and in the western portion of central precinct which is not included in the DA. Archaeologists Jane Ainsworth (Ainsworth Heritage) and Graham Knuckey (Remnant Archaeology) were separately involved with Ian Fox in these investigations. I am satisfied that all investigations were carried out by experienced and competent specialists.

Everick was involved in compiling previously reported data into an ACHAR and CHMP. Apart from a brief reconnaissance, no new investigations were undertaken by Everick. The Everick reports were prepared from 2017 to 2018.

In the course of these developments there was a visit to the NLP southern precinct land owned by Council by archaeologist Jakub Czastka from Tocomwall Pty Ltd, an indigenous advocacy consultant, resulting in the recording of a linear stone feature as an Aboriginal site in September 2016.

As a result of the above investigations there are three Aboriginal site records registered in the Office of Environment & Heritage Aboriginal Heritage Information Management System (AHIMS) within the central area of NLP proposed for development by Winten. However, the location of one of the site records, AHIMS code 4-4-219, does not agree with that reported in the 2016 test excavation report by Knuckey. The location of the site in the report places it south of the central area, and west of the old quarry.

The three Aboriginal sites comprise stone artefacts in the topsoil. Site 4-4-218 encroaches on the southern boundary of Precinct 2 and site 4-4-216 is within Precinct 3.

I am satisfied that the development plans have been designed to avoid impact to the single stone artefact site in Precinct 2. Precinct 3 is not included in the DA.

3 Aboriginal consultation

3.1 Summary

Aboriginal consultation for the many stages of the assessment have been facilitated by Council. Initially Ian Fox coordinated the process. Council have had direct involvement through personal contact with Registered Aboriginal Parties (RAPs), provision of meeting facilities and ongoing coordination after Ian Fox ceased to be involved with the process.

3.2 Process

The process of consultation follows best practice as described in the guideline *Ask First: A guide to respecting Indigenous heritage places and values* (Australian Heritage Commission 2002). Based on my review of the records and personal involvement in one of the meetings in early 2018 I am confident that Aboriginal consultation has been conducted across all aspects of the proposed Winten development including an excellent master-planning process where the RPS urban planner directly worked with RAPs marking up proposed plans to address Aboriginal matters.

3.3 Technical shortcomings

I have identified technical shortcomings in the consultation process with regard to addressing the minutia of OEH consultation guidelines. For example, the wording of the initial advertisement in late 2011 omits some details and the distribution of a draft assessment methodology is not documented. These matters are not fatal flaws. In general, the effort to consult thoroughly is consistent with best practice and suited to the nature of the development project on land with identified socio-cultural value, including specific sites which RAPs have associated with specific Aboriginal cultural practices.

3.4 Site visit without RAPs

Concern was raised about in a submission visitation to the study area without RAPs by Everick archaeologists. My understanding was that their visit was for the purposes of familiarisation and was not for the purpose of archaeological survey. Furthermore, I was informed that, prior to proceeding, the visit by Everick was discussed in the RP meeting but the person nominated to accompany Everick did not show up on the day. Proceeding with a familiarisation inspection without an Aboriginal participant does not breach normal Aboriginal site assessment processes, given that the RAPs had prior awareness, attendance of a representative had been arranged, and all preceding Aboriginal site investigations had been conducted by teams of RAP representatives and archaeological specialists. It is normal practice for a person to familiarise themselves with an area before commencing work.

4 Aboriginal sites and archaeological assessment

4.1 Archaeological investigations

Archaeological investigations have included surface survey and test excavations with the involvement of qualified and experienced heritage practitioners and local Aboriginal community representatives. Surface survey is a method suited only to identifying Aboriginal objects visible on the surface and natural features with cultural value, as identified in the present assessment. The heavy grass cover rendered the method unsuited to identifying the extent of stone artefacts occurring across the area. A test excavation program was undertaken between 2013 and 2016 which covered the DA area and other parts of the NLP. The test excavations yielded few positive results, suggesting that the area is not of high archaeological sensitivity. Accordingly, there is no justification for further archaeological work or monitoring for Aboriginal objects in the course of development. The Knuckey report makes clear that all excavated artefacts were reburied in the test pits during the investigation.

4.2 No Aboriginal sites will be impacted within the DA area

One Aboriginal stone artefact site, site 4-4-218, occurs at the southern boundary of the DA area and plans indicate that the site will be avoided by development. Another stone artefact site, 4-4-216, occurs within Precinct 3, but outside of the DA area. No other areas of archaeological sensitivity were identified in the Aboriginal site reports. There is therefore no requirement for an Aboriginal Heritage Impact Permit from OEH under the *National Parks & Wildlife Act 1974*.

4.3 Stone walls or linear stone features

An issue of concern raised during the various investigations was the identification of linear stone features. The features are interpreted as historic stone walls by Converge, Ainsworth and Everick. An AHIMS site record lodged by Czastka exists with a recording of one of the linear stone features as of Aboriginal origin based on the amount of lichen growth. This is an unconvincing argument. The interpretation by several archaeologists of the linear stone features as historic features, namely stone walls, is preferred.

4.4 Everick ACHAR

The Everick ACHAR provides sufficient information to allow determining authorities to be satisfied that the DA development will not result in adverse impact to Aboriginal heritage values. The report includes Precinct 3 in its scope which is somewhat confusing, but a careful review of all documentation allows the informed reader to filter out this oversight. The report falls short on technical reporting of all previous archaeological investigations as required by OEH guidelines for an ACHAR, but this would only be a fatal flaw if OEH were to rely on it to approve an AHIP application. There is no need for an AHIP and so OEH may not be so concerned.

4.5 Everick CHMP

Everick prepared a Cultural Heritage Management Plan (the Plan) covering both Aboriginal and historic heritage matters. The plan covers all of the NLP. In the August 2018 version of the Plan there is no mention of Aboriginal consultation in regard to the plan, despite this consultation being documented in minutes of the RAP meeting on 13 July 2017. Apart from this oversight the Plan is consistent with best practice. There are presently no OEH guidelines for the preparation of Aboriginal Heritage Management Plans.

4.6 Investigations of suspected grave

An arrangement of stones was identified as a suspected grave site by Everick archaeologists in the course of their initial familiarisation visit to the NLP. The suspected grave is location in the southern area of the NLP. Remote sensing of the area also interpreted the area as a suspected grave, however subsequent excavation of the feature by archaeologist Tony Lowe who is experienced in the excavation of historic graves concluded that there was no grave present and that the circle of stones interpreted by Everick was more likely related to the recent illegal camping at the location.

5 Public Submissions

A series of public submissions responding to the DA public exhibition were reviewed. Where details were available, attempts were made to communicate with the submitters with partial success. Emails were sent, or phone calls made inviting submitters to meet with me on 16-17 March 2018 at Council offices. I received some responses, some phone calls and subsequently met with several of the submitters on those dates. Comment are made on those submissions reviewed by me with reference to phone calls and meetings. The names and dates of submission are listed in the sub headings below. While other environmental concerns are expressed in many submissions, only matters relating to Aboriginal heritage are commented on.

Viola and Uli Hoffman 10 October 2017

I met with Viola and Uli Hoffman and their son Leon Hoffman-Detenhoff on 16 March 2018 at Council offices. The Hoffmans are local people with a concern for Aboriginal cultural heritage. A consistent issue raised was that local Aboriginal man, Mickey Ryan had not been properly consulted.

On review of all records it is apparent that Mr Ryan has been consulted from the outset as a RAP, involved in fieldwork and attending RAP meetings.

Lean Hoffman-Detenhoff 12 October 2017

The submission expresses concern that Mickey Ryan has not been properly consulted. The same wording is used in two other submissions: from Hayes and Wright-Chea.

Elijah, Nadia & Peter Hayes 13 October 2017

The submission expresses concern that Mickey Ryan's opposition to the development has been ignored and that there is a need for proper consultation. I note that Mr Ryan has been consulted and involved throughout the project.

Zebedee Wright-Chea 13 October 2017

In an identical submission to that of the Hayes' concern is noted about Mickey Ryan's opposition to the development being ignored and that there is a need for proper consultation. I spoke to Paxi Zebedee Wright-Chea who also identifies as Paxi Wright on 15 March 2017. Paxi stated that she had been advised that Mickey Ryan had not been consulted at all and that he has brought up matters but has not been listened to by Council. I note that Mr Ryan has been consulted and involved throughout the project.

Bundjalung Elders Council Aboriginal Corporation (undated - ?13 October 2017)

The unsigned submission includes a signature plate for Mickey Ryan (Michael Ryan), who is described in the introductory paragraph as "a Traditional Aboriginal Owner; President of the Bundjalung Elders Council Aboriginal Corporation (BECAC); President of the North Lismore Plateau Protection Association Inc; and Native Title Applicant over the Land comprising the North Lismore Plateau (NLP)".

The submission

- strongly opposes the development;
- demands that the Elders Council's objection be respected through refusal of the DA;
- objects to the developers' use of crown lands outside of the development footprint which may be subject to Native Title constraints;
- asks for the unmarked burial site to be investigated (this took place and it was determined that no burial was present;

- objects to the use of indigenous names for streets, etc. in the masterplan which is termed cultural appropriation;
- objects to the destruction of Aboriginal sites and the NLP which is regarded as the most significant Aboriginal site in the Lismore district.
- notes that the Elders Council has not been consulted by any Council officer or consultant.

I note that Mickey Ryan is a Registered Aboriginal Party for consultation on project since 2011, has been involved in nearly all fieldwork and regularly attended RAP meetings where the above views were noted. These meetings were also attended by Council officers and, on occasion, by project consultants.

I met with Mickey Ryan on 17 March 2018 following my attendance at a RAP meeting and listened to his concerns. I note his close working relationship with Al Oshlack, a local advocate for Aboriginal issues who is strongly opposed to the development and who been instrumental in litigation against development impacting Aboriginal sites for more than 15 years.

Al Oshlack 13 October 2017

The submission notes that Mr Oshlack, using the name “Indigenous Justice Advocacy Network” (which ASIC lists as a deregistered association since March 2017), acts in a representative capacity for Michael Ryan, Reg King and other traditional owner families.

The submission opposes the development, listing the following:

- Incongruency between the DA stating that no Aboriginal sites will be harmed, and the ACHAR which states that an AHIP is required. The source of this confusion relates to different areal coverages between the ACHAR covering the entire central area, and the DA covering only Precincts 1 and 2 and excluding Precinct 3 where an Aboriginal site occurs.
- Shortcomings in the ACHAR and CHMP reports in regard to reporting Aboriginal consultation in accordance with OEH guidelines. These observations were correct in regard to the Everick reports. I have prepared detailed critical review of the Everick reports in separate correspondence.
- Lack of assessment of the unmarked grave. This matter was dealt with in subsequent investigation and the stone circle feature was demonstrated not to be a grave.
- Everick’s reliance on the Aboriginal heritage assessment work of Ian Fox who is not a qualified heritage consultant. In my understanding from reading the reports, Mr Fox acted primarily as a project manager and used qualified archaeologists in the course of his work.
- Concern over use of council land subject to Native title.
- Concern over artefacts that Mickey Ryan has reported missing. I note that Graham Knuckey specifically addressed Mickey Ryan’s concern over this matter and reported that all artefacts were recorded and reburied in test pits in the course of the test excavation fieldwork.

I received an email response from Mr Oshlack stating that he would be in India and unable to meet in March 2018.

Ann Jarman 13 October 2018

The submission expresses concern that there are 11 Aboriginal sites that the local Aboriginal people do not want removed. I note that there are no Aboriginal sites harmed by the DA, but several across the greater NLP area.

William Jarman 13 October 2017

The submission expresses concern that there are 11 Aboriginal sites that the local Aboriginal people do not want removed. I note that there are no Aboriginal sites harmed by the DA, but several across the greater NLP area. I spoke to Bill Jarman by telephone on 8 March 2018 who mentioned that Mickey Ryan had advised about Aboriginal heritage matters and that the NLP was not an area that he knew a lot about.

Daniel Peterson 12 October 2018

The submission expresses concern about the Aboriginal heritage assessing relying on a government database. I note that the assessment included a range of direct archaeological investigation methods beyond reference to the OE AHIMS database.

The submission expresses concern over inadequate consultation with Aboriginal traditional owners and lack of attention to the views of Tocomwall consultants. I note that Aboriginal consultation has been extensive and ongoing throughout the project and that no report has been seen from Tocomwall other than a single site card relating to stone features mentioned above. I spoke to Mr Peterson in a phone call on 6 March 2018 who talked of his contact with Mickey Ryan regarding these matters. He stated his concern that anthropological matters should be better stated in the reports in accordance with guidelines, in particular Mickey Ryan's views of the landscape.

North Lismore Plateau Protection Association Inc. 13 October 2017

The submission expresses concern that there are unmarked ancient and sacred sites ... there are unmarked graves scattered amongst the land" and protests against the development. The nature of the submission does not suggest precise knowledge of such matters. I note that local Aboriginal people have been consulted and afforded the opportunity to identify any other sacred site on the land. The Aboriginal heritage assessment has not identified such sites within the DA land.

Kate Collins 15 October 2017

The submission expresses concern about indigenous artefacts being found near the site and the opposition of "present indigenous people and their wishes for the development not to go ahead."

Leisa Webb 13 October 2017

The submission expresses concern that the NLP is said to be sacred to local Aboriginal people and they don't want it developed.

Martin Oliver 13 October 2017

The submission expresses the following concerns:

The development is opposed by Mickey Ryan and the Bunjulong Elders Council.

The grave site is yet to be investigated. I note that this has taken place and the feature in question is not a grave.

The firm Tocomwall has recommended the plateau be protected on the basis of its significance to Aboriginal people. I note that no report authored by Tocomwall to this effect is available.

"Ancient stone walls" have not been conclusively identified as European and that Tocomwall's archaeologist expresses doubt that they are European. I have addressed this matter above – all archaeologists with the exception of Czastka agree that the linear stone features are European in origin.

The CHMP included an inspection in the absence of the indigenous custodians. I note that the acceptable circumstances around the Everick site visit above.

6 Conclusions

6.1 Overview

I find that the archaeological investigations have been thorough and am of the opinion that, apart from the surface sites of contemporary Aboriginal cultural significance recorded by Converge, that Aboriginal stone artefact sites are rare, widely scattered and likely do not reflect a broad low-density distribution across the land. Matter of archaeological uncertainty identified early in the assessment process have been adequately resolved through test excavations across the NLP as well as a focussed exploratory excavated of a suspected grave site on Council land in the southern area. No grave was found to exist.

Aboriginal consultation has been thorough and consistent with best practice principles. I understand that there is firm opposition to the development by Mickey Ryan, but that other RAPs reluctantly agree and are actively involved in master-planning to have their views on planning integrated into the development layout.

On review of the submissions I see no new issues arising that have not been identified or addressed in the Aboriginal heritage assessment. A consistent theme in submissions was that Mickey Ryan had not been properly consulted, which appear at odds with the records of his involvement in RAP meetings and fieldwork from the outset of the project.

In my opinion the Everick reports could be improved in their structure and level of detail to meet OEH guidelines if they are to be used to support any AHIP application. However, given that the DA will not impact Aboriginal sites, the Everick reports provide sufficient documentation for an approval body.

6.2 Draft Conditions

The following draft conditions relate to the protection of site 4-4-218 and general provisions for and unexpected finds, unexpected discovery of human remains and Aboriginal heritage induction for construction workers. The latter three conditions are taken from the NLP DCP 2012.

6.2.1 Protection of site 4-4-218

A 20-metre radius surrounding the MGA coordinates for site 4-4-216 must be protected by suitable construction fencing during construction. If vegetation removal is required only hand removal methods should be used with care to replace soil from root balls. No vehicle access to the protected area is allowed during construction. Following construction, a 100 mm thick layer of topsoil fill should be placed over the protected area and new grass grown.

6.2.2 Unexpected finds

In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeological specialist and the representatives of the local Aboriginal community must be contacted to determine the significance of the object(s) and to develop an appropriate management strategy. The management strategy must comply with the provisions of the NPW Act. This may include avoiding impact, additional investigations and/or the submission of an Aboriginal Heritage Impact Permit application. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) (managed by the NSW Office of Environment and Heritage) and the management outcome for the site included in the information provided to the AHIMS.

6.2.3 Discovery of human remains

If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact the NSW Office of Environment and Heritage's Environment Line on 131 555 and representatives of the local Aboriginal community. No works are to continue until the NSW Office of Environment and Heritage provides written notification to the applicant.

6.2.4 Induction

An Aboriginal Cultural 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 local Aboriginal community.

DEVELOPMENT APPLICATION REPORT APPROVALS REGISTER REPORT BY

ECOLOGIST

DA NO: 5.2017.270.1

Development: Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows: Precinct 1 Total of 95 residential allotments, local centre allotment, open space and provision for environmental management; Precinct 2 Total of 295 residential allotments, open space and areas for environmental management; Precinct 3 Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application. The proposed application also seeks approval for associated tree removal, earthworks and infrastructure. The proposal constitutes integrated development in accordance with S91 of the Environmental Planning and Assessment Act 1979. Approval from NSW Department of Primary Industries (Water) is required in accordance with Water Management Act 2000, approval from NSW Roads and Maritime in accordance with Roads Act 1993, and approval from NSW Rural Fire Service in accordance with Rural Fires Act 1997. The consent authority is Lismore City Council and the Northern Joint Regional Planning Panel has the function of determining the application.

Property Number: P31913

Date Lodged: 24/08/2017

Date of Referral: 4/9/17

Mrs S J Thatcher

Senior Development Assessment Officer

(Planning)

Please complete comments by: 18/9/17

Premises: LOT: 2 DP: 1214953, DP 808657 lot 3, DP 367581 lot 1, LOT: 12 DP: 844585, LOT: 1 DP: 772627, 8 Sexton Road NORTH LISMORE, 55 Dunoon Road NORTH LISMORE, 3 Old Quarry Road NORTH LISMORE, 30 Old Quarry Road NORTH LISMORE, 48 Old Quarry Road NORTH LISMORE

ADDITIONAL INFORMATION: (if required please advise immediately)

Matters for Consideration:			
☒	Flora and Fauna	☒	Koala Plan of Management
☒	Landscape Plan	☒	Vegetation Management/Rehab Plan
☒	Threatened Species		

COMMENTS:

Ecology

Documentation Review

I have reviewed response to the request for additional information (8 March 2018), the staged development application (August 2017), flora and fauna assessment (18 January 2018) and supporting documents in the context of Council's request for additional information (18 September 2017).

Multiple flora and fauna surveys were undertaken from 2011-2017 by James Warren and Associates Pty Ltd, Greenloaning Biostudies Pty Ltd and Peter Parker Environmental Consultants Pty Ltd. These studies identified that native vegetation on the subject site is in general highly degraded, reflecting a history of large scale vegetation clearing for agricultural purposes.

Most of the habitat on the site is low quality vegetation dominated by weedy stands of camphor laurel, broad leaved privet, small leaved privet and lantana with a minor component of native rainforest pioneer species such as blackwood, red kamala, foam bark and muttonwood. Although several large paddock trees including figs and a few large eucalypts were recorded on the subject site, there are few fauna habitat features such as hollow-bearing trees and fallen logs. A patch of 126 forest red gums (0.87 ha) located in Precinct 2 is classified as preferred koala habitat.

The initial flora and fauna surveys recorded a number of threatened fauna species on the site including koala, rose-crowned fruit dove and a species of microbat. Several threatened plant species were also recorded including rough-shelled bush nut, sweet myrtle, arrowhead vine, three patches of hairy-joint grass and a large population of thorny pea. Several targeted threatened species surveys were conducted from 2012 to 2016 to quantify and map the extent of thorny pea, map the extent of hairy-joint grass determine whether there was a resident koala population on the subject site. The targeted threatened species surveys found:

- The bulk of the thorny pea population is in the west of Precinct 3, although a few individuals of thorny pea were recorded in Precincts 1 and 2
- Two substantial patches of hairy-joint grass were recorded in Precinct 1 (1.72 ha) and Precinct 3 (1.28 ha) with a small, seasonally variable patch recorded in the north of Precinct 3.
- Koala scat surveys undertaken in March 2014, March 2015 and November 2016 recorded two old scats, three old scats, 30 scats and a koala skeleton respectively.
 - The flora and fauna assessment supporting the development application asserts that low koala activity in March 2014 and March 2015 is consistent with the general observations of scats under forest red gum trees each time that the site was visited.
 - The flora and fauna assessment also asserts that the scats recorded in 2016 were those of the deceased koala which remained on site for an extended period and browsed on multiple trees.

Avoiding and minimising ecological impacts

The subdivision design process commenced with a design charrette, a collaborative workshop during which members of the design team, Council officers and other stakeholders collaborated to produce a sketch design. Following on from the finding of the design charrette, the concept design focussed on avoiding and minimising impacts on the known areas of ecological constraint. The final subdivision design was the result of a collaborative and iterative process that heavily involved Council's Environmental Strategies team.

The design charrette was critical first step in the development of the Lismore Development Control Plan Chapter 10 (particularly s. 6.1-6.3). In terms of the final subdivision design, ecological impacts have been avoided and minimised in accordance with the principles, performance criteria and acceptable solutions identified in this planning document. The final subdivision design incorporates features including environmental zonings, retention of significant landscape trees in parks and road reserves, buffers to sensitive environmental areas.

Residual ecological impacts

The major residual impacts of the proposal that could not be avoided and minimised are clearing of:

- A 0.87ha patch preferred koala habitat (126 forest red gums) in Precinct 2
- A small number of thorny pea plants and a small patch of hairy-joint grass at the north of Precinct 2
- Native rainforest pioneer species (e.g. blackwood, red kamala, foam bark and muttonwood) associated with the patches of weedy camphor laurel, broad leaved privet, small leaved privet and lantana regrowth, substantially in Precinct 2
- Substantial numbers of thorny pea plants and a 1.28 ha area of hairy-joint grass in Precinct 3. However, note approval for the clearing of these areas will be sought under the Biodiversity Certification of Precinct 3 and associated lands proposed for conservation measures

Environmental Management Plan (EMP)

Council's request for additional information specified that the proposed content or draft version of the EMP be included and that this must provide Council with detail regarding proposed aims, management strategies and key outcomes of the EMP. The flora and fauna assessment s. 5.3 contains an indication of the proposed content of the EMP however this is largely restated from the DCP. Furthermore, there is inconsistent information regarding the areas proposed for conservation measures as part of the Biodiversity Certification of Precinct 3 (see Fig. 6 and 10) and no information on the proposed tenure of this land.

Following discussion with the proponent it is understood that at this stage it is unclear how much land will be required to be set aside for conservation measures under the Biodiversity Certification Strategy (BCS) that is required for the Biodiversity Certification of Precinct 3. Note, where Biodiversity Certification is established on land that is subject to existing conservation obligations (i.e. additionality), a discounted or reduced number of credits may be created for that land according to those conservation obligations. An unintended consequence of conditioning of an EMP under the Lismore Development Control Plan (Chapter 10) prior to Biodiversity Certification may give rise to additionality.

Consequently, the EMP has been conditioned to be developed by the proponent and approved by Council before most of direct ecological impacts take place (i.e. prior commencement of works on Precinct 2) with consideration of not imposing a conservation obligation prior to approval of the Biodiversity Certification Strategy for Precinct 3.

Conditions

Prior to the commencement of construction works

Retention of trees

1. **All existing trees and areas of native vegetation not identified for removal on approved plans** of the proposed development shall be protected from damage during works. This protection shall consist of:
 - Establishing a Tree Protection Zone in accordance with AS 4970-2009 Protection of trees on development sites around native trees and vegetation adjacent to the construction footprint that are to be retained on the site
 - Erect temporary 1800mm high protective fencing, securely installed beneath the outer canopy of any tree to be retained
 - Trees and vegetation may be fenced off in clusters where it is not practical to fence off individual trees
 - There shall be no storing materials, washing machinery or changes to existing soil levels within the fenced areas.

Specific trees identified that must be retained are:

- *Ficus sp.* tree located directly to the south of the proposed new road and proposed Lot 1. Note, the location of this tree is not identified on 117312-30 (revised 14/02/2018).
- *Ficus sp.* tree located to the north east of the access road approved under DA 5.2016.7.1. Note, the location of this tree is not identified on 117312-30 (revised 14/02/2018).
- Hoop pine *Araucaria cunninghamii* located in the road reserve between proposed lots 168 and 180 and identified on 117312-30 (revised 14/02/2018).
- Hoop pine *A. cunninghamii* located in the road reserve between proposed lots 171 and 177 and identified on 117312-30 (revised 14/02/2018).
- Moreton Bay fig *F. macrophylla*, small-leaved fig *F. obliqua* and spotted gum *Corymbia variegata* located on proposed lot 9002 and identified on 117312-30 (revised 14/02/2018).
- Forest red gum *Eucalyptus tereticornis* located to the south of proposed lot 337.

Reason: To protect retained landscape trees and native vegetation during construction works.

During Construction Works

Vegetation clearing

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

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

3. **During vegetation clearing works**, a suitably qualified and experienced person shall be present as a fauna spotter-catcher to supervise the tree removal.
- On the day of clearing and prior to any clearing taking place, all trees within 30 metres of those trees to be cleared are to be inspected for the presence of koalas from at least two locations by an experienced fauna spotter-catcher
 - The fauna spotter-catcher must not be involved in the vegetation clearing works whilst responsible for identifying koalas present on the site and will remain on site during any vegetation clearing works to ensure that any tree occupied by a koala is not accidentally cleared or interfered with
 - Any uninjured native fauna detected during the tree removal shall be rescued and relocated into an area of appropriate habitat that is nearby, but outside of the development footprint.
 - Any injured native fauna detected shall be rescued and transferred to a local veterinarian for treatment and/or WIRES for rehabilitation.

Reason: To ensure the safety of any native fauna occupying trees and vegetation proposed for removal.

4. **Should koalas be found on site** during vegetation clearing works and/or earthworks the Applicant must ensure that tree clearing works and/or earthworks are temporarily suspended within a range of 30 metres from any tree which is occupied by a koala.
- Works are to be avoided in any area between the koala and the nearest areas of habitat to allow the animal to move to adjacent undisturbed areas.
 - Works must not resume until the koala has moved from the tree of its own volition.

Reason: To ensure koala safety and protection.

Re-use of native vegetation

5. **Cleared, weed free native vegetation** (timber, small branches and leaf litter) shall be reserved and stockpiled for re-use in rehabilitation works, such as mulching.

Reason: To reduce green waste and re-use cleared trees.

Disposal of mulch

6. **Mulch generated from exotic trees and/or other weed species** that have been cleared shall not be used on site. The mulch shall be removed from the site and disposed of in accordance with legislative requirements.

Reason: To avoid the spread of the seed and propagules of weed species.

Prior to the issue of the Subdivision Certificate

Submission of Environmental Management Plan

7. **Following approval of the Biodiversity Certification Strategy of the site and prior to the issue of the Subdivision Certificate for Precinct 1**, the proponent must develop an Environmental Management Plan (EMP) for the subject site based on the approved subdivision plans:

- The EMP shall be consistent with the Biodiversity Certification Strategy for the site and be prepared in accordance with the performance criteria, acceptable solutions and guidelines detailed in the Lismore Development Control Plan Chapter 10 North Lismore Plateau
- The EMP shall be submitted to Council for approval
- The EMP must be prepared and implemented by person(s) with appropriate knowledge, qualifications and experience in current best practices for native vegetation rehabilitation and management
- Council must be satisfied that there are adequate funds and resources to implement both initial and ongoing environmental management works and that that these works are achievable within the proposed management period
- A minimum five-year management period is required following completion of the initial works
- The proponent must provide a monitoring report at the completion of initial environmental management works and then annually until the end of the term of the management period as evidence that implementation of the plan has progressed to agreed performance criteria

All land subject to the EMP must be protected by a legally binding management agreement between Council, the proponent of the development, the lawful owner(s) of the subject site which the EMP applies. The legal agreement must:

- Clearly identify and include as an attachment to the Council approved EMP
- Identify the performance criteria and schedule of works detailed in the approved EMP
- Identify a bond and a bond return schedule linked to the successful completion of works as evidenced by the meeting of agreed performance criteria according to the schedule of works
- Be enacted (i.e. signed and registered, or otherwise as per the legal requirements for the relevant agreement) prior to the issue of development consent and prior to the commencement of any works related to the DA within the study area;

It is the responsibility of the proponent to:

- Secure all funds and resources to implement the EMP
- Pay all costs associated with enacting the legal management agreement
- Pay all inspection and assessment fees associated with the EMP and subsequent monitoring reports at the time these are lodged with Council

Reason: To meet the requirements of Lismore Development Control Plan. To ensure compliance of initial environmental management works and associated ongoing management activities with the Environmental Management Plan are enforceable.

Traffic calming

8. **Prior to the issue of the Subdivision Certificate for Precinct 2** the applicant shall apply the following traffic calming measures on the access road approved under DA 5.2016.7.1:
 - Restrict motor vehicles to a maximum speed of 50 kilometres per hour
 - Install roadside street lighting in accordance with the design standards appropriate to a collector/sub-arterial road
 - On the uphill and downhill approaches to the road install:
 - Two 50 kilometre an hour speed limit signs and two wildlife warning signs (e.g. 'Wildlife Dawn to Dusk' sign or similar) or two signs that combine both messages

- Two permanent radar speed signs that display vehicle speed on approach or display a warning when the vehicle speed on approach is greater than the speed limit

Reason: To reduce the risk of vehicle strike on wildlife.

General Conditions

Koala habitat compensation

9. **The applicant must replace the area of koala habitat located in Precinct 2 that is proposed to be cleared** with a minimum area of 3.48ha of habitat that has been calculated in accordance with the compensation multiplier formula detailed in Appendix 5 of the Comprehensive Koala Plan of Management for south-east Lismore.

Reason: To compensate for the loss of an area of preferred koala habitat.

DEVELOPMENT APPLICATION REPORT APPROVALS REGISTER REPORT

BY

BCA/FIRE ASSESSMENT OFFICER

DA NO: 5.2017.270.1

Development: Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows: Precinct 1 Total of 95 residential allotments, local centre allotment, open space and provision for environmental management; Precinct 2 Total of 295 residential allotments, open space and areas for environmental management; Precinct 3 Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application. The proposed application also seeks approval for associated tree removal, earthworks and infrastructure. The proposal constitutes integrated development in accordance with S91 of the Environmental Planning and Assessment Act 1979. Approval from NSW Department of Primary Industries (Water) is required in accordance with Water Management Act 2000, approval from NSW Roads and Maritime in accordance with Roads Act 1993, and approval from NSW Rural Fire Service in accordance with Rural Fires Act 1997. The consent authority is Lismore City Council and the Northern Joint Regional Planning Panel has the function of determining the application.

Property Number: P31913

Date Lodged: 24/08/2017

Date of Referral: 4/9/17

Mrs S J Thatcher

Senior Development Assessment Officer

(Planning)

Please complete comments by: 18/9/17

Premises: LOT: 2 DP: 1214953, DP 808657 lot 3, DP 367581 lot 1, LOT: 12 DP: 844585, LOT: 1 DP: 772627, 8 Sexton Road NORTH LISMORE, 55 Dunoon Road NORTH LISMORE, 3 Old Quarry Road NORTH LISMORE, 30 Old Quarry Road NORTH LISMORE, 48 Old Quarry Road NORTH LISMORE

BCA Classification: NA

ADDITIONAL INFORMATION: (if required please advise immediately)

Matters for Consideration:			
☐	BCA Requirements	☐	Fire Safety/Essential Services Requirements
☐	Access Standards	☐	Historical Comments

Please ensure that you have checked TRIM to see if there are any submissions that need to be read in conjunction with your assessment.

COMMENTS:

BCA REQUIREMENTS

No Building works proposed

CONDITIONS:

No building conditions relating to the subdivision approval however it is requested that prior to release of the subdivision certificate councils engineer is to check that each lot has been provided with access to storm water and sewer drainage.

Reason: To ensure adequate infrastructure and storm water drainage.

FINALISATION OF REFFERAL - TO BE COMPLETED BY REFERRAL OFFICER

I have:

- (i) Completed my comments;
- (ii) Completed the referral and emailed link to Assessment Officer from TRIM; and
- (ii) Closed off the Authority Tracking for the referral

Signed: REFERRAL OFFICER Grant Rudwick 12/9/17

DEVELOPMENT APPLICATION REPORT APPROVALS REGISTER REPORT BY

ENVIRONMENTAL HEALTH

DA NO: 5.2017.270.1

Development: Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows: Precinct 1 Total of 95 residential allotments, local centre allotment, open space and provision for environmental management; Precinct 2 Total of 295 residential allotments, open space and areas for environmental management; Precinct 3 Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application. The proposed application also seeks approval for associated tree removal, earthworks and infrastructure. The proposal constitutes integrated development in accordance with S91 of the Environmental Planning and Assessment Act 1979. Approval from NSW Department of Primary Industries (Water) is required in accordance with Water Management Act 2000, approval from NSW Roads and Maritime in accordance with Roads Act 1993, and approval from NSW Rural Fire Service in accordance with Rural Fires Act 1997. The consent authority is Lismore City Council and the Northern Joint Regional Planning Panel has the function of determining the application

Property Number: P31913
Date Lodged: 24/08/2017

Date of Referral: 3rd August 2018 Mrs S J Thatcher
Senior Development Assessment Officer (Planning)

Please complete comments by: 14th August 2018

Premises: LOT: 2 DP: 1214953, DP 808657 lot 3, DP 367581 lot 1, LOT: 12 DP: 844585, LOT: 1 DP: 772627, 8 Sexton Road NORTH LISMORE, 55 Dunoon Road NORTH LISMORE, 3 Old Quarry Road NORTH LISMORE, 30 Old Quarry Road NORTH LISMORE, 48 Old Quarry Road NORTH LISMORE

ADDITIONAL INFORMATION: (if required please advise immediately)

Matters for Consideration:			
☐	Contaminated Land	☐	On-Site Sewage Management
☐	Noise Impacts	☐	Environmental Impacts (amenity)
☐	Stormwater / Treatment Devices	☐	Buffers
☐	Food Safety	☐	Public Health

Please ensure that you have checked TRIM to see if there are any submissions that need to be read in conjunction with your assessment.

COMMENTS:

CONTAMINATED LAND

Contaminated land assessments have been submitted as follows.

- A Preliminary Site Assessment (Report No: GEOTALST03488AA-AE) was prepared by Coffee Geotechnics dated 30 May 2012 for the entire Lismore Plateau rezoning area as part of North

Lismore Plateau Rezoning Project. Identified one area of concern (2 x former horticultural plantations AEC 4) in development site.

- A Site Contamination Assessment (Report No: GEOTALST03488AC-AB) was prepared by Coffee Geotechnics dated 15 February 2013 for the Lismore Plateau area as part of North Lismore Plateau Rezoning Project. Assessment of AEC 4 was conducted. Results of soil sampling of former horticultural plantations found concentrations of chemicals of concern (COC) below residential soil investigation levels (SIL).
- As Environmental Site Assessment (Report No: 754-COFH00122AA-AA) was prepared by Coffee Geotechnics dated 6 July 2018 for the Winton Group Development Area (Lot 2, DP1214953 and Lot 3 DP808657) on behalf of Winton (No12) Pty Ltd. Assessment of farm house and structures including hazmat assessment (SA25), possible clandestine drug laboratory (SA24b) and cattle grazing land (including SA26).

High lead levels around dairy bales. Drug lab assessment and soil results indicate no evidence of drug lab or buried remains. Soil sampling of cattle grazing land found COC below residential SIL.

Based on these findings, remediation of the dairy bales will be required. This should include detailed contamination assessment (additional soil sampling), RAP and Validation Report. General clean-up of farm waste material will be required. Once demolition of structures is carried out, additional contaminated land assessment required for possible asbestos/lead OC contamination. An Unexpected Finds Protocol should be prepared for site.

- A Hazardous Materials Survey (Report No: 754-COFH00122AA-AB) was undertaken for the structures within SA25. Asbestos Containing material was found in the farm house, garage/chicken pen and dairy bales. Lead paint was found in the farm house and garage/chicken pen. It is noted that high levels of lead in the soil around the dairy bales suggests that lead paint was used on the bales. Synthetic material fibre was suspected in water heater insulation and corrugated sheeting.

To conclude, the following was identified:

1. High lead levels around dairy bales.
2. Asbestos in farm house, garage/chicken pen.

It is noted that there was only one soil sample taken for the dwelling, including garage/chicken pen and shed. Additional sampling will be required around the structures (at least one sample per side). Where the sampling identifies high contaminant levels, additional reporting (RAP, Validation) will be required.

There was only three soil samples taken for the dairy bales, all located on the eastern side. Additional sampling will be required around the structures (at least one sample per side). Where the sampling identifies high contaminant levels, additional reporting (RAP, Validation) will be required.

As the dwelling, dairy bales and associate infrastructure are to be demolished, this should be carried out prior to any further contamination assessment. This will minimise any further contamination from the demolition process and allow access to under slab or structure for sampling organochlorines for termite control. The validation report should include an asbestos assessment to ensure any residual asbestos is not a public health risk.

NOISE IMPACTS

The potential noise impact of neighbouring land uses, including the speedway, cart track and stockyards was considered at the rezoning stage. An acoustic report was prepared at the rezoning stage to determine if noise from nearby land uses will impact on the subject site. The main land use conflict identified is Lismore Speedway. The speedway operates 16 times per year, from 10am – 10pm. The majority of the development site will be noise affected by the speedway.

Council's DCP Part B Chapter 10 "North Lismore Plateau Urban Release Area", identifies which areas in the subject site are noise affected by Lismore Speedway. To manage speedway noise, acoustic treatments have been recommended in the DCP for new dwellings in affected areas.

Given that the speedway noise will impact on the proposed allotments, I recommend the Speedway Noise Impact Range Map (as per DCP part B, Chapter 10)), and Chapter 7.3 Element – Recommended Noise Mitigation measures for New dwellings (P54) from the Lismore Development Control Plan Part B Chapter 10 – North Lismore Plateau Urban Release Area, be included in the 149 Certificate or similar planning instrument to advise prospective buyers of the noise impact upon the allotment.

A condition has been imposed to include the Speedway Noise Impact Range map and Chapter 7.3 Element – Recommended Noise Mitigation measures for New dwellings on the 149 Certificate for subject allotments.

Standard conditions have been nominated to protect the amenity of the area from constructional type noise.

ON-SITE SEWAGE MANAGEMENT

This development will be serviced by reticulated sewerage.

ENVIRONMENTAL IMPACTS (Amenity)

Standard conditions have been nominated to protect the amenity of the area.

STORMWATER / TREATMENT DEVICES

Council's DCP Part B Chapter 10 North Lismore Plateau Urban Release Area provides the objectives, performance criteria and some acceptable solutions for stormwater management for the subject site. Water sensitive urban design measures are required to comply with council's DCP Part A, Chapter 22 – "Water Sensitive Design".

A Stormwater Management Plan has been prepared by TGM Group Pty Ltd (Ref: 12188-02, Version RP001). MUSIC modelling was used to analyse stormwater quality for the three distinct catchments within the site, based on Chapter 22 pollutant reduction levels.

The technical report and associated modelling demonstrates a preliminary design that satisfies the performance standards nominated within Chapter 22. The design proposes soft engineering solutions, including the use of grassed swales, GPT's, bio-retention/detention basins, and detention basins for stormwater treatment. It is recognised that further on-line treatment systems may be incorporated at the detailed design stage, which could reduce wetland sizes, given conservative estimates have been used. A condition has been nominated to require a Section 68 Approval prior to the release of the Construction Certificate.

BUFFERS

This development is located in a rural setting. Neighbouring land is used predominately for cattle grazing, which requires a 30m buffer setback distance according to Council's DCP Chapter 11 Buffer Areas. Most of the development boundaries adjoin rural land specified for urban expansion, effectively negating the 30m buffer provision. The use of appropriate land use planning has generally enabled residential lots to be meet the required buffer setback.

Lismore Airport is located about 2.5 kilometres south of the development site. To ensure the safe operations of the airport, Chapter 11 – Buffer Areas provides height restrictions on nearby developments and limitations on noise sensitive developments.

The Civil Aviation Safety Authority (CASA) has been approached and has provided comment on the development including per the following.

The subject site has a natural land elevation of 130 AHD at its closest point to the aerodrome, which could infringe on the inner horizontal surface for the Lismore Aerodrome Obstacle Limitations Surfaces. Construction sites and cranes (if used), should be referred to the procedure design organisation responsible for the maintenance of instrument flight procedures at Lismore Airport. A condition has been offer to this effect.

Additional commentary has been provided by CASA on a number of related concerns which should be read by council's planning officer for further consideration.

CONDITIONS:

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

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*
(EPA Act Sec 79C(b))

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

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*
(EPA Act Sec 79C(b))

3. Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only.

Notes:

For the purposes of this condition:

“*Building construction*” means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.

“*Demolition works*” means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.

“*Excavation work*” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

Reason: *To ensure that works do not interfere with reasonable amenity expectations of residents and the community.*

Investigation into this subject matter is not required. The provisions of the Access to Neighbourhood Act 2019, which apply to the vicinity of the access to the subject matter, do not apply to the vicinity of the access to the subject matter. The proposed noise generating construction activity shall not result in the emission of offensive noise.

Offensive noise means:

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

Reason: *To preserve the environment and existing or likely future amenity of the neighbourhood.*
(EPA Act Sec 79C(b))

5. Vibration from works is to be undertaken in accordance with industry best practice, to ensure excessive levels of vibration do not occur to minimise adverse effects experienced on any adjoining land.

Reason: *To ensure residential amenity is maintained in the immediate vicinity.*

6. All noise generated by construction activities must be managed in accordance with the Interim Construction Noise Guideline, DECC July, 2009.

Reason: *To minimise the impact of demolition and construction noise on the neighbourhood.*

7. Development that involves asbestos removal building work or demolition work must comply with the following requirements:
- (a) work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the *Occupational Health and Safety Regulation 2001*;
 - (b) the person having the benefit of the construction certificate must give at least 2 days' notice in writing of the intention to commence the works to the owner or occupier of each dwelling that is situated within 20m of the lot on which the works will be carried out. The notice must state that the works may include the removal of asbestos and, if it does, it will be carried out by a licensed person in accordance with the requirements of the *Occupational Health and Safety Regulation 2001*;
 - (c) the person having the benefit of the construction certificate must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the complying development certificate commences;
 - (d) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered;
 - (e) if the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the construction certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.

Notes:

- (1) A building constructed before 1987 may contain asbestos. Businesses are licensed to undertake asbestos removal work under the *Occupational Health and Safety Regulation 2001* (refer to *Working with Asbestos: Guide 2008* (ISBN 0 7310 5159 9) published by the WorkCover Authority). If the work is not undertaken by a licensed contractor it should still be undertaken in a manner that minimises risks (refer to *Fibro & Asbestos—A Renovator and Homeowner's Guide* at <http://more.nsw.gov.au>). Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Office of Environment & Heritage.
- (2) In this clause, "bonded asbestos material", "bonded asbestos removal work", "friable asbestos material" and "friable asbestos removal work" have the same meanings as in clause 317 of the *Occupational Health and Safety Regulation 2001*.
- (3) Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.
- (4) The effect of this condition is that the development will be a workplace to which the *Occupational Health and Safety Regulation 2001* applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.
- (5) Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Office of Environment & Heritage.

Reason: *To ensure statutory compliance and minimise potential harm to the environment consistent with the provisions of the EP & Regulation 2000*

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

The SECP must detail what measures are proposed and the action that will be taken to manage the completion of the development to minimise any erosion or sedimentation from the site. The SECP

must be in accordance with the *Managing Urban Stormwater-Soils and Construction - 4th Edition* (blue book). It must have a summary sheet and be in plain English to ensure that it is capable of being readily understood and implemented by the site managers and operators and nominated responsible person/s. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. Responsible person/s must be nominated to Council in writing together with full 24 hour per day contact details for the purposes of the SECP.

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

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

9. **Prior to the issue of a Construction Certificate**, a waste management plan in accordance with the provisions of Chapter 15 - Waste Minimisation of the Lismore Development Control Plan, must be prepared and be submitted and be approved by the Certifying Authority with the Construction Certificate application.

A copy of the approved documentation must be submitted to the Consent Authority (LCC) for record purposes.

Reason: *To comply with the requirements of the Lismore Development Control Plan.*

10. A durable sign, shall be erected on site during building and subdivision works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

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

11. All waste materials generated from construction works shall only be disposed at licensed waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document 'Waste Classification Guidelines: Part 1 Classifying Waste 2008'. All contractors must be properly supervised and auditing procedures put into place to ensure compliance with this condition.

Reason: *To protect the environment and manage wastes appropriately. (EPA Act Sec 79C(b))*

12. **Prior to the issue of a Construction Certificate** a Dust Management Plan (DMP) must be prepared and be submitted to Council for approval. The DMP must detail what measures are proposed and the action that will be taken to manage dust emissions from the site. The DMP must be implemented and remain in place until all development activities have been completed and the site has been adequately stabilised, revegetated or landscaped to prevent the creation of dust on the development site.

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

13. All dust emissions from the construction of the development must be confined within the development site.

Reason: *To protect the amenity of the neighbourhood.*

14. The demolition of any structures shall be carried out prior to any further contamination investigation.

Reason: *To minimise the potential for recontamination of the site.*

15. **Prior to the commencement of any work on the development, with the exception of**

demolition works, additional soil sampling shall be conducted in the vicinity of the existing dairy bales and associated cattle yard, with the results included in an amended Preliminary Site Contamination Assessment. The assessment shall be carried out after demolition of subject structures and include under slab/house sampling for organochlorines where appropriate. The report shall be prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines), *SEPP 55 Remediation of Land* and *Lismore City Council Regional Policy for the Management of Contaminated Land*, June 2007 or other Guideline or Policy which is contemporary at the time.

Reason: *To determine the extent and degree of land contamination.*

16. Prior to the commencement of any work on the development with the exception of demolition works, a detailed contaminated land assessment must be carried out in the vicinity of the existing dairy bales and associated cattle yard by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines) to determine the extent and degree (laterally and vertically) of all chemical contamination. The report shall be approved by council.

Reason: *To determine the extent and degree of land contamination.*

17. Prior to the commencement of any work on the development with the exception of demolition works, and following the detailed contaminated land assessment, a site Remedial Action Plan (RAP) must be prepared for the land in the vicinity of the existing dairy bales and associated cattle yard by a suitably qualified professional and must be approved by the Consent Authority (LCC). The RAP must address and manage all risks, including occupational health and safety matters, erosion and sediment control, dust management, waste management, and include appropriate validation and monitoring procedures. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. The RAP must be supervised by a suitably qualified professional who must be nominated to Council in writing together with full 24 hour per day contact details. The RAP must also address Schedule 2 of the *Lismore City Council Regional Policy for the Management of Contaminated Land*, June 2007.

Reason: *To ensure the proper management of land contamination.*

18. Prior to the issue of a subdivision certificate a validation report and certification for the land in the vicinity of the existing dairy bales and associated cattle yard shall be prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* demonstrating that the objectives of the RAP have been complied with must be submitted to and be approved by the Consent Authority (LCC)

Reason: *To ensure the proper management of land contamination.*

19. Prior to the commencement of any work on the development with the exception of demolition works, additional soil sampling shall be conducted in the vicinity of the existing dwelling, shed and garage/chicken pen, with the results included in an amended Preliminary Site Contamination Assessment. The assessment shall be carried out after demolition of subject structures and include under slab/house sampling for organochlorines where appropriate. The report shall be approved by council and prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines), *SEPP 55 Remediation of Land* and *Lismore City Council Regional Policy for the Management of Contaminated Land*, June 2007 or other Guideline or Policy which is contemporary at the time.

Reason: *To determine the extent and degree of land contamination.*

20. Prior to the commencement of any work on the development with the exception of demolition works, a detailed contaminated land assessment must be carried out in the vicinity of the existing dwelling, shed and garage/chicken pen by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* (guidelines) to determine the extent and degree (laterally and vertically) of all chemical contamination. The report shall be approved by council prior

to implementation.

Reason: *To determine the extent and degree of land contamination.*

21. **Prior to the commencement of any work on the development with the exception of demolition works**, and following the detailed assessment, a site Remedial Action Plan (RAP) must be prepared for the land in the vicinity of the existing dwelling, shed and garage/chicken pen by a suitably qualified professional and must be approved by the Consent Authority (LCC). The RAP must address and manage all risks, including occupational health and safety matters, erosion and sediment control, dust management, waste management, and include appropriate validation and monitoring procedures. Induction procedures must be carried out for all appropriate personnel and this must be recognised in the plan. The RAP must be supervised by a suitably qualified professional who must be nominated to Council in writing together with full 24 hour per day contact details. The RAP must also address Schedule 2 of the Lismore City Council Regional Policy for the Management of Contaminated Land, June 2007.

Reason: *To ensure the proper management of land contamination.*

22. **Prior to the issue of a subdivision certificate** a validation report and certification for the land in the vicinity of the existing dwelling, shed and garage/chicken pen shall be prepared by a suitably qualified professional in accordance with the requirements of the *NSW Managing Land Contamination Planning Guidelines* demonstrating that the objectives of the RAP have been complied with must be submitted to and be approved by the Consent Authority (LCC)

Reason: *To ensure the proper management of land contamination.*

23. All fill imported onto the site must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act*, 1997, and be clean fill and free from any contamination, within the meaning of the *Managing Land Contamination – Planning Guidelines – SEPP55 – Remediation of Land* document published in 1998 by the NSW Government. Fill imported onto the site for use on the floodplain component of the development must be sourced from the floodplain.

Reason: *To protect human health and the environment.*

24. Prior to the issuing of a Construction Certificate, any proposed structures and cranes if used in construction shall be referred to the procedure design organisation/s responsible for the maintenance of instrument flight procedures at Lismore Aerodrome.

To check which organisations are responsible, you can view the procedures at <http://www.airservicesaustralia.com/aip/aip.asp> the Departure and Approach procedures. The logo on the bottom of each procedure plate indicates the design organisation responsible.

Reason: *To protect air safety.*

25. **A Section 68 application** to carry out stormwater drainage work comprising stormwater treatment measures must be submitted to and be approved by the Consent Authority (LCC). The application details must be prepared by an appropriately qualified professional and must comply with the requirements of Lismore Development Control Plan – Chapter 22 – Water Sensitive Design (DCP) and address all hard surfaces. The information submitted must include commentary that clearly demonstrates compliance with the DCP including predevelopment and post development calculations. A comprehensive Water Management Plan must be developed and include maintenance and auditing/accountability systems. Responsible persons and contact details must be provided.

The application must include a certification that the design proposal complies with the DCP.

Reason: To protect the environment (EPA Act Sec 79C(b)), to satisfy the requirements of the Local Government Act, 1993, and to ensure the environmental management of stormwater complies with contemporary standards.

26. Prior to the issuing of a Subdivision Certificate, the *North Lismore Plateau: Speedway Noise Impact Range* map (P97), and Chapter 7.3 Element – Recommended Noise Mitigation measures for New dwellings (P54) from the Lismore Development Control Plan Part B Chapter 10 – North Lismore Plateau urban release Area shall be attached to the 149 Certificate for each proposed allotment.

FINALISATION OF REFFERAL - TO BE COMPLETED BY REFERRAL OFFICER

I have:

- (i) Completed my comments;
- (ii) Completed the referral and emailed link to Assessment Officer from TRIM; and
- (ii) Closed off the Authority Tracking for the referral

REFERRAL OFFICER'S NAME: David Mundt

DATE: 26/9/18

DEVELOPMENT APPLICATION REPORT APPROVALS REGISTER REPORT

BY

DEVELOPMENT ENGINEER

DA NO: 5.2017.270.1

Development: Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows: Precinct 1 Total of 95 residential allotments, local centre allotment, open space and provision for environmental management; Precinct 2 Total of 295 residential allotments, open space and areas for environmental management; Precinct 3 Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application. The proposed application also seeks approval for associated tree removal, earthworks and infrastructure. The proposal constitutes integrated development in accordance with S91 of the Environmental Planning and Assessment Act 1979. Approval from NSW Department of Primary Industries (Water) is required in accordance with Water Management Act 2000, approval from NSW Roads and Maritime in accordance with Roads Act 1993, and approval from NSW Rural Fire Service in accordance with Rural Fires Act 1997. The consent authority is Lismore City Council and the Northern Joint Regional Planning Panel has the function of determining the application.

Property Number: P31913

Date Lodged: 24/08/2017

Date of Referral: 4/9/17

Mrs S J Thatcher

Senior Development Assessment

Officer (Planning)

Please complete comments by: 18/9/17

Premises: LOT: 2 DP: 1214953, DP 808657 lot 3, DP 367581 lot 1, LOT: 12 DP: 844585, LOT: 1 DP: 772627, 8 Sexton Road NORTH LISMORE, 55 Dunoon Road NORTH LISMORE, 3 Old Quarry Road NORTH LISMORE, 30 Old Quarry Road NORTH LISMORE, 48 Old Quarry Road NORTH LISMORE

ADDITIONAL INFORMATION: (if required please advise immediately)

Additional Information Required for Roads, Stormwater, Earthworks and DCP Inconsistencies

Matters for Consideration:			
☒	Vehicular Access	☒	Parking Manoeuvring (turning templates)
☒	Site Distance (visibility)	☒	Stormwater (quantity)
☒	Traffic Impact	☒	Levies - Section 94
☒	Pedestrian Safety	☒	Flooding (bulk earthworks, overland flow)

Please ensure that you have checked TRIM to see if there are any submissions that need to be read in conjunction with your assessment.

COMMENTS:

LISMORE DEVELOPMENT CONTROL PLAN		
	Complies Yes/No	Relevant Comments
North Lismore Plateau		
Urban Subdivision		
6.1 Stormwater Management	Yes	The development has ensured that through the use of detention ponds that the overall discharge from the site has been reduced from the pre development conditions
6.5 Pedestrian and cycle path network	Yes	The proposed pathways are generally in accordance with the NLP structure plan, furthermore the developer has proposed wider paths then required in Table 1, providing for a more accessible network.
6.6 Staging of infrastructure delivery	Yes	The proposal is in accordance with the NLP IDP
6.7 External road works	Yes	Contributions collected from the development will be put towards completing the upgrades required by the IDP
6.8 Internal street design	No	Justification for minor variances supplied by applicant and supported by development engineer
Table 1 – NLP Street Network Characteristics	No	Justification for minor variances supplied by applicant and supported by development engineer
Appendix C – Indicative Street Specifications		
Flood Prone Lands		
Residential	Yes	The developer has demonstrated that the effects of filling precinct 1 will not cause adverse impacts for the 1% AEP flood depth for the surrounding land.
Commercial	Yes	

TRAFFIC IMPACT

Dunoon Road is classed as an arterial road with capacity of 10,000 vehicles per day (vpd) the proposed 433 residential lots will generate approximately 2815 vpd (6.5vpd per lot). Currently Dunoon road is carrying approximately 3,000 vpd (2015 data) and therefore with the addition 2815 from the development Dunoon Road has the capacity to cater for the increase. The traffic report prepared by CRG in June 2012 and the revised Traffic Impact Assessment by Rytenskild dated August 2018 identified that Dunoon Road and the surrounding road network will be able to cater for the North Lismore Plateaus (NLP) development once the upgrades that are outlined in the adopted IDP are completed.

EXTERNAL ROAD NETWORK

The external road network will need significant upgrade to have the capacity to cater for the completed NLP. The work done by TGM in 2012 highlighted 6 intersections leading from the NLP development to the CBD which will need to be upgraded. This work has formed the basis for the NLP Infrastructure Delivery Plan (IDP) which has identified how the section 94 levies will be used to complete these upgrade works. The revised traffic impact assessment prepared by Rytenskild on the 4 July 2018 reveals that the network upgrades that were identified in the work done by TGM in 2012 will satisfactorily mitigate the impact of the traffic generated by the Winten development.

The only external works required by this proposal is the upgrade of Dunoon Road to provide an Auxiliary Left Turn (AUL) lane from the South and Channelised Right Turn (CHR) lane from the North. The design provided in the Roadworks and Drainage Plan Sheet 4 prepared by TGM dated 11/10/2016 is consistent with the upgrades required in the IDP and therefore will be adequate for the proposal.

A fire trail has been provided to give the development 2 access points to the wider road network in case of an emergency. The plans prepared by TGM show for an 8.0m wide access that has a grade of under 15%, given this to comply with RFS guidelines any areas steeper than 12% will need to be sealed.

INTERNAL ROAD NETWORK

DCP Requirements

Widths

The internal street network that has been provided in the RPS drawings show for inconsistencies with the NLP DCP, the proponent has provided the following justification:

- The perimeter roads were amended to comply with the RFS
- Access, local roads have been designed to comply with the reserve width, verge minimum and carriageway widths as listed in Table 1
- The collector road has an additional 1m in the footpath as it is adjoining a major open space and leads to the local centre
- The 22m boulevard collector (minor) was amended to provide additional width to the footpaths to increase pedestrian activity and connectivity as stipulated in the DCP
- The 24m boulevard collector (minor) is the same as above but with a 2m median.

The applicant has requested a variation from the DCP for the major and minor boulevards, to have a modified layout that has removed the on street cycleways and increased the footpath widths so as to be classified as a shared pathways. This variation is supported by the development engineer for the following reasons;

- Traffic capacity of the road will not be affected with the modification to the bike lanes
- Reduced overall carriageway width will in turn reduce whole of life maintenance costs (bike lanes and painted buffers would have been sealed)
- Removal of painted buffer will also reduce whole of life maintenance costs (renewal painting)
- Road profile will be a more recognisable design for motorists and cyclists
- Modification will not alter the aesthetic appeal being developed

The layout plan provided by the proponent has relied heavily on Local Streets and Access Places to maintain a low speed environment and provide direct access to residential allotments.

Intersection Spacing

The balance land report and CC drawings for precinct 1 reveal that the road layout does not comply with the NLP DCP Table 1 requirements for intersection spacing. Along the Boulevard Minor (Road 2) the spacing between Roads 16, 18, 19, and 24 are well under the 120m required by the DCP. However this reduction in intersection spacing provides a reduced speed environment along the relatively straight section of road 12 and therefore removes the need to install traffic calming devices. .

Property Access

The majority of lots within Precinct 1, 2 and 3 access directly onto Local Streets and Access Places. These lots are also generally provided with more than 1 route to access back onto the Boulevards and collectors. There are 8 lots that are accessed directly from Road 12 (Boulevard with 2m median) these lots will be limited to only turn left onto road 2 and will need to utilise the turnaround or intersection with road 3 to gain access onto the collector road. Whilst this is not a desirable solution, it will be acceptable given the adequate turnaround opportunities in close proximity to the lots.

Overall Road Layout

The overall street layout creates a lower speed environment and provides residents with multiple routes to access the Boulevards and collector road. Currently with this proposal the development only has 1 formal access point onto Dunoon Road, whilst this is not the ideal situation, the upgrades to the intersection at Dunoon Road will increase capacity to cater for the development. The fire trail that will be constructed to the south of the development will provide a secondary access point during times of emergency.

The road that connects Precinct 1 to Precinct 2 is the subject of another development application. Due to the significance of this road to provide access to Precinct 2 it will be conditioned that DA 05.2016.7.1 be completed to Councils satisfaction prior to work commencing on Precinct 2. Furthermore as this road is a major thoroughfare with limited intersections it will be conditioned that traffic calming be installed to ensure a safe speed is maintained along the road.

Vehicular Access

Additional plans numbered J112-0029 to J112-0078 prepared by Planit Engineering reveal that all residential lots will have the ability to construct a compliant driveway access at the dwelling stage.

The developer will be required to provide access to allotments 149, 150, 151, 326, 339, and 358. These properties will be serviced by a 4m wide shared access contained within a 10m reserve, where appropriate these accesses will require reciprocal rights of carriageway, refer to conditions.

PEDESTRIAN FACILITIES and PUBLIC TRANSPORT

The NLP DCP requires that a pedestrian network be constructed with the proposed development. The following pedestrian/ cycleway paths have been proposed;

- Road 2 – 2.5m shared pathway
- Road 3 – 1.5m pathways
- Road 8 – 2.5m shared pathway
- Road 12 – 2.5m shared pathway on both sides
- Road 13 – 1.5m pathway
- Road 15 – 1.5m pathway
- Road 19 – 2.5m shared pathway and 1.5m pathway (varies)

- Road 21 – 1.5m pathway
- Road 24 – 1.5m pathway
- Road 25 – 1.5m pathway
- Lot 9002 – 1.5m pathway

The IDP for the NLP requires that a 2.5m wide concrete shared use pathway be constructed along western side of Dunoon Road to Alexandra Parade at approximately 100ET to connect the development with the wider pathway network. At this same time a 2.5m wide concrete shared use pathway is to be constructed between Dunoon Road and Simes Bridge with the route to be confirmed. The pathways outlined above will provide connectivity throughout the development and connect to the wider pedestrian network outlined in the NLP IDP.

Bus shelters will need to be spaced at 400m to 800m spacing and be in positions where 90% of the residents are within 400m of a shelter. DCP chapter 10 prescribes that the only bus routes for the development will be along the Boulevard Collectors (Major and Minor) and the Collector Major that connects precinct 1 to precinct 2.

EARTHWORK

Bulk earthworks for the development will be significant and the following preliminary cut/fill volumes have been provided by the applicant:

Precinct	Total Cut/Fill (m³)
Precinct 1	47,500 Fill
Precinct 2	108,000 Cut
Precinct 3	74,000 Fill

This reveals that the development will require approximately 13,500 of fill material to be imported onto site. Whilst it is understood that the cut/fill volumes are preliminary at this stage, the applicant has identified that during detailed design the earthworks will be optimised to reduce to total fill required to be imported to site. Furthermore any required fill on site will be sourced from local quarries with haulage route management in place prior to start of works. It will be conditioned that any fill within the flood plain area of the development (precinct 1) will need to be sourced from elsewhere within the floodplain.

The Planit Engineering Drawings J112-0001 to J1120028 reveal that the roads within precinct 2 have sections of cut and fill that are up to 10m in depth (See images below). A site inspection on the 14/09/2017 revealed that whilst the topography of precinct 2 will require earthworks, the extents of earthworks shown in the balance land report is quite significant. This was acknowledged by the applicant and as previously discussed once the detailed design phase is underway it is expected that the cut/fill depths will significantly reduce. All fill within the residential and commercial lots will be conditioned to be placed under level 1 certification in accordance with AS3798 to ensure the land is adequate for residential and commercial uses.



Given the earthworks required on site, the development will use 1 in 2 batters for land that is not designated as residential or commercial lots (Council land). This will be an acceptable outcome and will be conditioned that any batter steeper than 1 in 3 be certified by a suitable qualified geotechnical engineer.

Retaining Walls

The retaining walls proposed for precinct 1 have a maximum height of 1.5m, these walls will need to be certified by a qualified structural engineer and be contained entirely within the property boundaries.

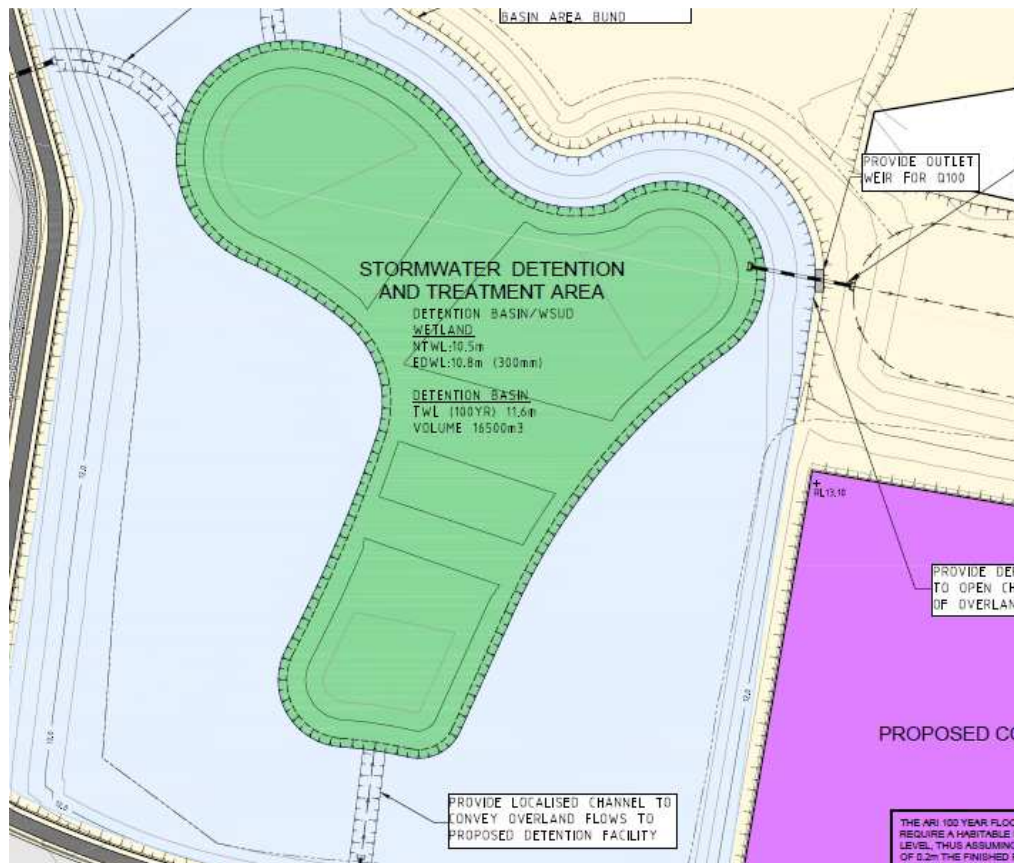
STORMWATER (Quantity)

The Stormwater Management Plan prepared by TGM in June 2017 reveals that once the Winten land is developed the post development discharge will be greater than the pre development. To ensure no adverse impacts from stormwater discharge, storage volumes have been calculated for the 1% AEP event and these have been used in the overall design for the end of line wetland detention basin. The detention basin solution ensures that compliance with Council standards for stormwater discharge is achieved from the site. The developer will be required to provide an access driveway to the stormwater detention devices to ensure Council can access for maintenance.

Table 5 – Detention Basin Summary

Developed Catchments	Pre-developed Discharge (100yr)	Developed Discharge (100yr)	Storage Required
Catchment 1A			
Plateau Detention	7.81 m³/s	9.12 m³/s	1,270 m³
End of Line Detention	35.13 m³/s	38.49 m³/s	16,500 m³
Catchment 7	7.43 m³/s	10.62 m³/s	2,510 m³
Catchment 9	2.99 m³/s	4.23 m³/s	1,090 m³

The overland flow paths throughout the development will be a mixture of grass swales and rock lined. The proponent has nominated that grass swales will be used on grades between 1% and 5 % whilst swales will be rock lined when grades exceed 5%. Rock filled gabion baskets and reno mattresses will be used where pipes outlet into grass swales. All open flow drainage channels will be required to maintain a depth x velocity ration less than 0.4 to ensure safety for anyone moving around them, this will be further assessed during the construction certificate stage for each precinct..



FLOODING (bulk earthworks, overland flow)

The North Lismore Plateau Flood Impact Assessment prepared by BMT WMB dated August 2017 used hydraulic modelling to reveal that the proposed NLP development is not predicted to cause and adverse flooding impacts on adjacent lands. The report also revealed that the dominant cause of flooding for the NLP is regional flooding opposed to flooding from rainfall within the local catchment. The following figure from the BMT WBM report reveals how the development of the site will alter the floodwater levels from the existing conditions. It can be seen that the overall change is minor for a development of this size incorporation large volumes of earthworks. The area that is now affected by the 1% AEP flood event is on the edge of the residential allotments and will only affect the larger blocks (greater than 1000m²). Given the topography precinct 1 will be affected by flood events and floor levels above the 1% AEP flood event will need to be conditioned at the dwelling application stage.

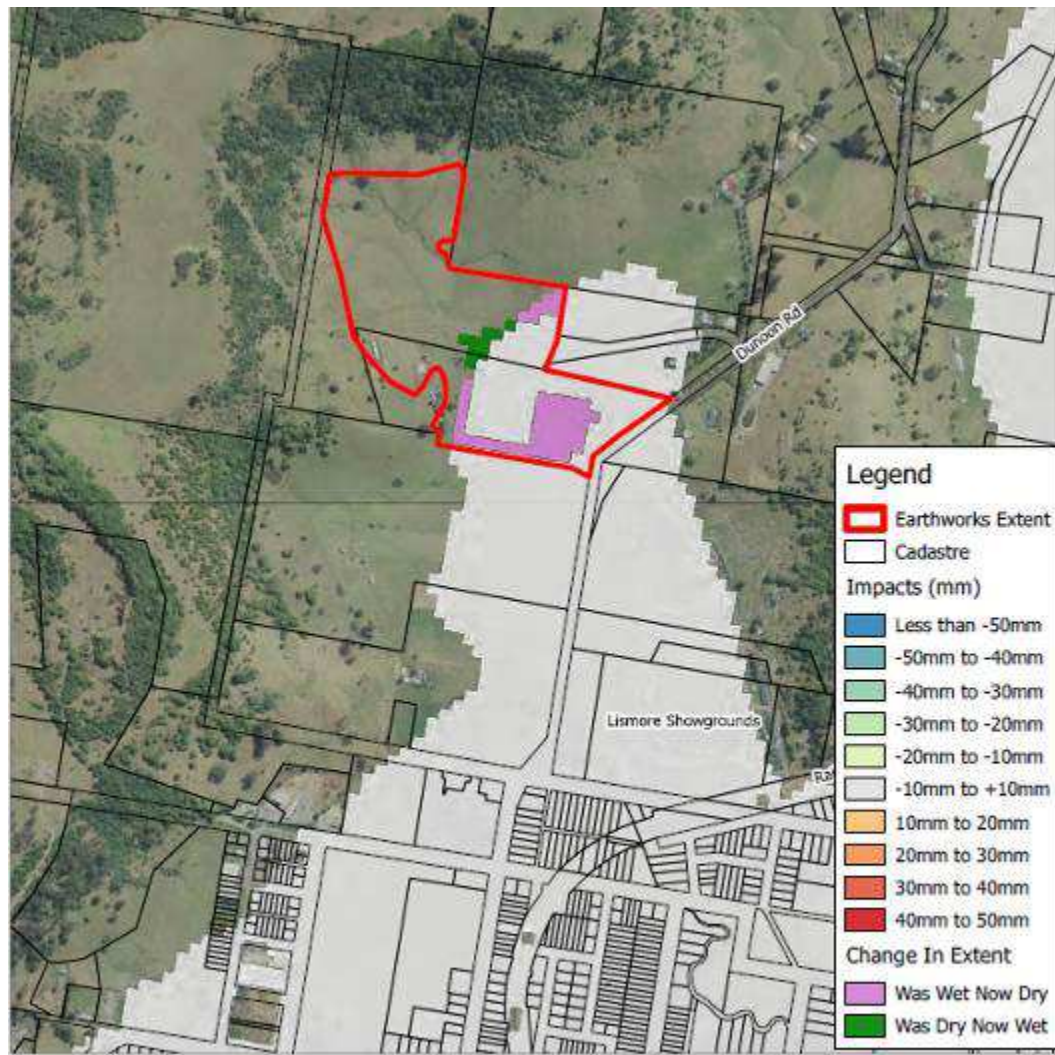


Figure:
Peak Flood Level Impacts – 100yr ARI Event

Figure:
4-3

Rev:
A

CONDITIONS:

Prior to Commencement of Works

Construction Management Program

- 1 A Construction Management Program shall be submitted to, and approved in writing by the Council. The program shall detail:
 - (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
 - (b) The proposed phases of construction works on the site, and the expected duration of each construction phase;
 - (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
 - (d) A construction noise management plan (CNMP) in accordance with the *Interim Construction Noise Guideline*, DECC July, 2009 must be prepared and be implemented for the development. The CNMP must include

auditing procedures. Site managers and all persons who carry out demolition or construction activities on and about the development site must be made properly aware of their responsibilities and to ensure the objectives of the guideline are complied with.

- (e) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- (f) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes shall be located wholly within the site;
- (g) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (h) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (i) The proposed method of support to any excavation adjacent to adjoining properties, or the existing road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer, or equivalent;
- (j) Proposed protection for Council assets and adjoining properties and;
- (k) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.
- (l) Traffic management plan prepared in accordance with the Austroads guidelines

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

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

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

Pre Start Meeting – Civil Works

- 2 The principal contractor / consultant must contact Council's Development Engineering staff to arrange a pre-start meeting. The developer shall appoint a site manager and advise the Council of his/her name and after hours phone contact. The manager shall be the point of contact for Council and the public. The all hours contact number should be clearly displayed at the site access.

The following matters will be discussed at the pre start meeting:

- a) Confirmation that the engineering drawings for the development have been approved.
- b) Confirmation that pedestrian safety has been considered during construction – in this regard a plan showing signage in compliance with the MUTCD is to be prepared.
- c) Confirmation that an Erosion and Sediment Control Plan has been prepared for the site.
- d) Confirmation that appropriate arrangements have been made for the parking by employees and subcontractors.
- f) Confirmation that a Traffic management Plan has been approved by Council.
- g) Confirmation the pavement design has been approved by Council
- h) Notification to adjoining property owners

(Reason: *To ensure construction of the development adequately addresses pedestrian's safety and is carried out in accordance with adopted standards.*)

- 3 The proponent shall obtain a **Construction Certificate** for the proposed works. The construction certificate application shall include full design details of the proposed engineering works to satisfy the relevant conditions. Such application shall be accompanied with the relevant fee, as adopted at the time of the payment, as indicated in Council's Fees and Charges.

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

(Reason: *To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a)) and to comply with requirements of EPA Act Sec 81A(4)*)

- 4 For precinct 2 the proponent shall complete Development Consent 5.2016.7.1 to Council standards and obtain a certificate of practical completion.

(Reason: *To ensure precinct 2 has adequate access to a public road.*)

Damage to Public Infrastructure

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

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

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

Prior to Issue of a Construction Certificate

Geotechnical Report

- 6 Certification from a practising qualified engineer experienced in soil mechanics is required verifying the following:
 - proposed civil engineering works, including retaining walls, have been assessed as structurally adequate;
 - proposed civil engineering works will not be affected by landslip either above or below the works;

- proposed civil engineering works will not be affected by subsidence either above or below the works; and
- adequate drainage has been proposed to ensure the stability of the proposed civil engineering works.

A certificate prepared and certified by an appropriately qualified person for the construction of these areas in accordance with this requirement shall be submitted to the Certifying Authority for approval with the Construction Certificate.

(Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*

Construction Certificate for Earthworks – Subdivision

7 Bulk earthworks shall not commence on site.

(Reason: *To ensure protection from the effects of subsidence and/or slip and compliance with the definition of “subdivision works” and the need for a Construction Certificate (EPA Act Sec. 79C(c))*

Design and Survey for Public Infrastructure

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

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

Drainage

9 The proponent shall make satisfactory provision for stormwater to be directed through piped drains that are constructed in accordance with Australian Standard AS3500 Plumbing and Drainage Part 3: Stormwater Drainage. All roof water from any proposed building and/or surface water from paved areas shall be directed to a Council approved drainage system. All piped drainage lines over adjoining land are to be located within drainage easements. All costs shall be the responsibility of the proponent.

Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 79C(b))*

10 The proponent shall make satisfactory provision for existing lots adjoining the property and the proposed lots to dispose of stormwater without causing a nuisance to other lots. An adequate drainage system shall be constructed to ensure that all roof water and/or surface water from paved areas from any existing or proposed lots can be directed to a discharge point to prevent intensification of discharge runoff onto adjoining land. All works are to be constructed according to Council's Development, Design and Construction Manual (as amended). All drainage lines are to be located within drainage easements. All costs shall be the responsibility of the proponent.

(Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 79C(b))*

Public Transport

- 11 The proponent shall provide bus bays including the shelter structure and any associated roadworks in accordance with Council's standards. Such shelters shall be located so as 90% of the residential lots are within 400m of a bus bay. The works shall be completed at no cost to Council. A certificate prepared by an appropriately qualified and practising Civil Engineer, shall be provided with the design plans to the Certifying Authority to certify compliance with these requirements.

(Reason: To provide for adequate public transport infrastructure (EPA Sec 79C(e)).)

Electrical Design

- 12 An electrical design approved by the electrical authority shall be submitted to Council to demonstrate that no conflicts arise with other services.

(Reason: To ensure the development is adequately serviced).

Public Utilities

- 13 Street lighting is to be designed and installed in accordance with Australian Standard AS1158.1.

(Reason: to ensure adequate and safer movement of pedestrians along a public road or pathway (EPA Act Sec 79C(b)).)

- 14 Pedestrian pathways or bikeways in open space or in separate pathway reserves shall be provided with lighting in accordance with AS1158.3 if directed by Council.

(Reason: to ensure adequate and safer movement of pedestrians along a public road or pathway (EPA Act Sec 79C(b)).)

Signage

- 15 A plan detailing all road signage to be used within the development including proposed street names shall be submitted to Council.

(Reason: to ensure the appropriate signage is used throughout the development)

Precinct 1

Retaining Walls

- 16 A qualified practicing structural engineer shall provide the Certifying Authority with a design certification for any proposed retaining walls in the development. Any proposed retaining wall shall be constructed wholly within the lots. No retaining wall shall be constructed upon the road reserve.

(Reason: To ensure the development is constructed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(b))

Bulk Fill – Floodplain

- 17 Bulk fill to within 300mm of the finished surface level is to be sourced from on-site, from Lismore City Council's preferred floodway excavation or from another area within the floodplain. Details of the source and quality of all fill materials shall be approved by Council **prior to importation to the site**. Details demonstrating compliance with this requirement shall be submitted to the Certifying Authority.

(Reason: To minimise the impacts of filling on the capacity of the floodplain.)

On-Site Stormwater Detention

- 18 The stormwater detention basin located within private land must be fully contained within an appropriate drainage easement for access and maintenance to the satisfaction of Council. The easement shall include suitable access for maintenance vehicles from a public road to the detention basin area.

The landowner is to maintain and repair the detention basin and its associated works for a period of 2 years from acceptance of "on maintenance" to ensure ongoing effectiveness. The basin shall not be modified in any way without prior written approval from Council.

The design of the basin is to comply generally with the Northern Rivers Local Government Handbook of Stormwater Drainage design with particular attention to the Public Safety issues.

Engineering calculations, design and certification shall be provided by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded.)

Works in Road Reserve - Section 138 Approval

- 19 Approval under section 138 of the Roads Act for the all works upon the public road shall be obtained (or approval from RMS where required), and shall comply with the Northern Rivers Development & Design Manual and Council's Standard Drawings.

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

Details prepared by an appropriately qualified person demonstrating compliance with these requirements are to be submitted to Certifying Authority

(Reason: To ensure an adequate road network in accordance with adopted standards can be provided. (EPA Act Sec 79C(a)) and to specify requirements for approval under section 138 of the Roads Act.)

Road works on State Roads

- 20 As road works are required on a State road, **Dunoon Road**, the person acting on this consent will be required to enter into a Works Authorisation Deed (WAD) with RMS, which will exercise its powers under Section 87 of the Roads Act 1993 (the Act) and/or the functions of the roads authority, to undertake road works in accordance with Sections 64 and 71 of the Act, as applicable, for all works under the WAD.

- a) The developer shall enter into a WAD with RMS for all road works on Dunoon Road. **Prior to the issue of the subdivision certificate**, the developer shall complete all road works under the WAD to practical completion, as determined by RMS.
- b) All works shall be undertaken at full cost to the developer to the satisfaction of the RTA.

Notes:

- i. Conditions of development consent do not guarantee RMS consent to the specific road works, for which it is responsible. The Developer must obtain authorisation from RMS in writing **prior to the commencement** of any road works on Dunoon Road, including traffic management, temporary or permanent road works associated with the proposed development.
- ii. The developer shall initiate the WAD process by contacting RMS following the issue of a development consent. Early discussion with the RMS Project Manager is recommended.
- iii. As the WAD process, including acceptance of design documentation and construction can take considerable time, you should allow sufficient lead time within the project development program to ensure that all documentation and works are completed in advance of occupation and/or commencement of the approved use. RMS will not consider granting concurrence to occupation and/or use until it is satisfied all documentation and works under the WAD have been completed.
- iv. Authorisation to commence construction will only be granted when RMS is satisfied that all requirements under the WAD have been met by the Developer, including, the applicable RMS fees and charges, an unconditional bank guarantee for the full value of the works, detailed design documentation, environmental assessment, road occupancy license, among other matters. RMS will issue a letter to the Developer advising of this authorisation.
- v. Any property acquisition /dedication required to accommodate the State road works associated with the proposed development shall be at full cost to the developer, including all legal and survey costs. This land shall be dedicated by the Developer as public road reserve in favour of the Council, as the owner.
- vi. Part of the Developers timeline should make provision for RMS to satisfy its obligations under the Environmental Planning and Assessment Act 1979 (EP&A Act) to assess the environmental impacts of the works within the road reserve. Further investigation and assessment to that undertaken for the development consent may be required to the satisfaction of the RMS, under Part 5 of the EP&A Act.
- vii. It is recommended that the developer use design consultants with the experience and knowledge of the RMS design requirements, in particular the Austroads Guide to Road Design (with RMS supplements) and relevant Australian Standards.
- viii. Construction on a State road requires the engagement of an RMS pre-qualified contractor. A list of pre-qualified contractors can be found on the RMS website below:

<http://www.rta.nsw.gov.au/doingbusinesswithus/tenderscontracts/prequalifiedcontractors.html>.

(Reason: *To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a) and to specify requirements for approval under section 138 of the Roads Act.)*

Road Works – Precinct 1

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

Required roadworks include:

Road Number	Classification	Pavement Width (m)	Reserve Width (m)	Concrete Pathway (m)
Road 2	Collector (Minor)	9.5	18.5	2.5
Road 3	Access Place	6	13.5	1.5
Road 3 (Lots 73 to 69)	Access Place	6	16	2.5
Road 3 (Lots 50 to 73)	Access Place	6	12.5	1.5
Road 4	Access Place	6	13	
Road 5	Access Place	6	13	
Road 6	Access Place	6	13	
Road 7	Access Place	6	13	
Road 7 (Lots 76 to 78)	Access Place	6	12.5	
Road 8	Collector (Minor)	9.5	18.5	2.5
Road 9	Access Place	6	13	
Cul-de-sac (Road 9)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		
Road 10	Access Place	6	13	
Cul-de-sac (Road 10)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		
Road 11	Access Place	6	13	
Cul-de-sac (Road 11)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		

Intersection Works

1. Construction of an Auxiliary Left Turn (AUL) lane and Channelised Right Turn (CHR) lane at the Junction of Dunoon Road and Road 1 (Development Consent 5.2016.7.1) in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.
2. Construction of an intersection at the junction of Road 2 and Road 1 (Development Consent 5.2016.7.1) in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.
3. Construction of a roundabout at the junction of Road 2, Road 5, and Road 8 in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.

A certificate prepared by an appropriately qualified and practising Civil Engineer, shall be provided to the Certifying Authority to certify compliance with these requirements.

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

Precinct 2

Shared Access

22 4.0m wide asphaltic concrete (25mm depth) sealed or equivalent shared access shall be constructed commencing from the road pavement to service proposed lots 149, 150, 151, 326, 328, 339, and 358. All works shall be constructed in accordance with Council's Development, Design and Construction Manuals (as amended). Provision shall be made for the future supply of the following services within the shared access reserve:

- water supply
- sewer
- stormwater
- telephone
- power

Details demonstrating compliance with this requirement shall be submitted to the Certifying Authority for approval with the Construction Certificate, and must be constructed.

(Reason: To ensure adequate access to and from the development. (EPA Act Sec 79C(c))

On-Site Stormwater Detention

23 The stormwater detention basins located within private land must be fully contained within an appropriate drainage easement for access and maintenance to the satisfaction of Council. The easement shall include suitable access for maintenance vehicles from a public road to the detention basin area.

The landowner is to maintain and repair the detention basin and its associated works for a period of 2 years from acceptance of "on maintenance" to ensure ongoing effectiveness. The basin shall not be modified in any way without prior written approval from Council.

The design of the basin is to comply generally with the Northern Rivers Local Government Handbook of Stormwater Drainage design with particular attention to the Public Safety issues.

Engineering calculations, design and certification shall be provided by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded.)

Works in Road Reserve - Section 138 Approval

24 Approval under section 138 of the Roads Act for the all works upon the public road shall be obtained (or approval from RMS where required), and shall comply with the Northern Rivers Development & Design Manual and Council's Standard Drawings.

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

Details prepared by an appropriately qualified person demonstrating compliance with these requirements are to be submitted to Certifying Authority

(Reason: *To ensure an adequate road network in accordance with adopted standards can be provided. (EPA Act Sec 79C(a)) and to specify requirements for approval under section 138 of the Roads Act.)*

Road Works – Precinct 2

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

Required roadworks include:

Road Name / Number	Classification	Pavement Width (m)	Reserve Width (m)	Concrete Pathway (m)
Road 12	Boulevard (Minor)	12	22	2.5 Both Sides
Road 12	Boulevard (Minor)	14	24	2.5 Both Sides
Cul-de-sac (Road 12)	Boulevard (Minor)	To comply with Council's Development, Design and Construction Manuals (as amended).		
Road 13	Local Street	7.5	14	1.5
Road 14	Access Place	6	13	
Cul-des-sac (Road 14)	Access Place	To comply with Council's Development, Design and Construction Manuals (as amended).		
Road 15	Access Place	6	13	
Road 15 (Lots 187 to 183)	Local Street	7.5	14	1.5
Road 16	Access Place	6	13	
Road 17	Access Place	6	13	
Road 18	Access Place	6	13	
Road 19 (Lots 210 to 217)	Access Place	6	13	
Road 19	Access Place	6	14.5	2.5
Road 19 (Lots 188 to 217)	Local Street	7.5	14	1.5
Road 20	Access Place	6	13	
Road 21	Access Place	6	13	
Road 21 (Lots 360 to 398)	Local Street	7.5	14	1.5
Road 22	Access Place	6	13	
Road 23	Access Place	6	13	
Road 24	Access Place	6	13	

Road 24 (Lots 303 to 304)	Local Street	7.5	14	1.5
Road 25	Access Place	6	13	
Road 25 (Lots 330 to 332)	Local Street	7.5	14	1.5

Intersection Works

1. Construction of a roundabout at the junction of Road 1 (Development Consent 5.2016.7.1), Road 12, and Road 13 in accordance with AUSTROADS Part 5 "Intersections at Grade" giving particular attention to sight distance.

A certificate prepared by an appropriately qualified and practising Civil Engineer, shall be provided to the Certifying Authority to certify compliance with these requirements.

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

Traffic Calming

- 26 Traffic calming shall be designed and installed along proposed Road 1 (Development Consent 5.2016.7.1) to maintain the signposted speed in accordance with the Austroads Guide to Traffic Management Part 8: Local Area Traffic Management.

(Reason: To ensure road 1 maintains a safe speed environment.).

Footpath and Cycleways

- 27 A 1.5m concrete footpath is to be constructed in accordance with Council's Development, Design and Construction Manuals (as amended) through proposed lot 9002 providing connection between Road 19 and Road 21 as shown in the stamped approved plans.

(Reason: To ensure adequate and safe pedestrian movement through the development. (EPA Act Sec 79C(b))

Prior to Subdivision Certificate for Each Precinct

Civil Works

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

(Reason: To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a) & and to specify requirements for approval under section 138 of the Roads Act.)

Public Utilities – Electricity (Urban)

- 29 A Certificate of Compliance from an accredited electricity infrastructure provider shall be required confirming that it has provided underground electrical power to each lot, adequate street lighting for the development as required by the Australian Standard and that charges for the extension of electricity supply have been paid.

(Reason: To preserve the environment and existing or likely future amenity of the neighbourhood. (EPA Act Sec 79C(b))

Telecommunications Services - Subdivisions

30 Telecommunication infrastructure shall be installed to service each lot in the development to comply with the following:

- a) The requirements of the Telecommunications Act 1997 (Cth);
- b) For a fibre ready facility, the nbn co.'s TM standard specifications current at the time of the installation; and
- c) For a line that is to connect a lot to telecommunications infrastructure external to the premises, is located underground.

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

(Reason: Provision of adequate telecommunication facilities.)

Street Name Signage

31 Street signage in accordance with Council's adopted standard shall be erected at all new street intersections with street names approved with the Development Application.

(Reason: To ensure an adequate road network in accordance with adopted standards. (EPA Act Sec 79C(a))

Street Number Signage

32 The proponent shall place street number identification at the road frontage of the property to indicate the property address.

(Reason: To identify the property correctly (EPA Act Sec 79C(e)).

Subdivision only Works as Executed Drawings and Video – Stormwater

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

(Reason: Compliance with the Consent.)

34 A Registered Surveyor shall provide certification that all services (e.g. drainage, stormwater, water supply, gas, electricity, telecommunication) as constructed are contained within each lot or within appropriate easements to accommodate such services to the satisfaction of the utility service provider. Alternatively, a letter from the relevant supply authority stating the same may be submitted to satisfy this condition.

(Reason: To ensure adequate servicing of the development.)

Geotechnical Report – Fill Material

35 A NATA registered geotechnical testing authority shall submit documentary evidence in the form of level 1 certification, certifying that any lot fill material has been placed in accordance with Australian Standard 3798 "Guidelines on

earthworks for commercial and residential developments". In this regard all allotments must have a minimum fall of 1 in 150 to prevent ponding.

(Reason: *To ensure the development is completed in accordance with the conditions and approved construction design plans. (EPA Act Sec 79C(b))*

Subdivision

36 A suitably qualified person is required to furnish a statutory certificate confirming:

- all drainage lines have been located within the respective easements,
- roadworks are in accordance with the approved design plan,
- any other structures like retaining walls are located in accordance with the Construction Certificate,
- all stormwater has been directed to a Council approved drainage system.
- all conditions of consent/approval have been complied with.

(Reason: *To ensure the development is completed in accordance with the conditions and approved engineering construction design plans. (EPA Act Sec 79C(a))*

Conditions to be complied with at all times

General

37 All works, services, facilities and / or public utility alterations required by this approval or stated conditions whether carried out by Council or otherwise, shall be at the proponents expense and at no cost to Council.

(Reason: *To provide adequate services for the development (EPA Act Sec 79C(c))*

38 The slope of the fill batters shall not exceed 1:4 unless certification from a practicing suitably qualified engineer experienced in soil mechanics is provided verifying the stability of the embankment. All batters shall be stabilised with planting and maintained in a neat state.

(Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))*

Sediment and Erosion

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

(Reason: *To minimise soil erosion and sedimentation).*

Drainage

40 All stormwater from the site shall be disposed of without causing nuisance to adjoining properties.

(Reason: *To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of concentrated runoff from any buildings and paved areas that may be constructed on the land. (EPA Act Sec 79C(b)).*

41 Any area of seepage identified on site including at the base of filling or behind filling shall be brought to the attention of the supervising geotechnical engineer and treated by the provision of a suitable drainage mechanism. Seepage issues are to be treated as a hold point. Details of proposed rectification works are to be provided to Council for approval prior to work recommencing. All road

works constructed in cut or natural subgrade shall have sub soil drainage located immediately behind the kerb.

(Reason: *To ensure protection from the effects of subsidence and/or slip. (EPA Act Sec. 79C(c))***).**

FINALISATION OF REFFERAL - TO BE COMPLETED BY REFERRAL OFFICER

I have:

- (i) Completed my comments;
- (ii) Completed the referral and emailed link to Assessment Officer from TRIM; and
- (ii) Closed off the Authority Tracking for the referral

REFERRAL OFFICER'S NAME: Lucas Myers

DATE: 17/09/2018

DEVELOPMENT APPLICATION REPORT APPROVALS REGISTER REPORT

BY

WATER & SEWER

DA NO: 5.2017.270.1

Development: Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows: Precinct 1 Total of 95 residential allotments, local centre allotment, open space and provision for environmental management; Precinct 2 Total of 295 residential allotments, open space and areas for environmental management; Precinct 3 Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application. The proposed application also seeks approval for associated tree removal, earthworks and infrastructure. The proposal constitutes integrated development in accordance with S91 of the Environmental Planning and Assessment Act 1979. Approval from NSW Department of Primary Industries (Water) is required in accordance with Water Management Act 2000, approval from NSW Roads and Maritime in accordance with Roads Act 1993, and approval from NSW Rural Fire Service in accordance with Rural Fires Act 1997. The consent authority is Lismore City Council and the Northern Joint Regional Planning Panel has the function of determining the application.

Property Number: P31913

Date Lodged: 24/08/2017

Date of Referral: 4/9/17

Mrs S J Thatcher

Senior Development Assessment Officer

(Planning)

Please complete comments by: 18/9/17

Premises: LOT: 2 DP: 1214953, DP 808657 lot 3, DP 367581 lot 1, LOT: 12 DP: 844585, LOT: 1 DP: 772627, 8 Sexton Road NORTH LISMORE, 55 Dunoon Road NORTH LISMORE, 3 Old Quarry Road NORTH LISMORE, 30 Old Quarry Road NORTH LISMORE, 48 Old Quarry Road NORTH LISMORE

ADDITIONAL INFORMATION: (if required please advise immediately)

Matters for Consideration:			
☒	Sewer Requirements	☒	Water Requirements
☒	Section 64 Levies	☒	Trade Waste
☒	Fire Services		

Please ensure that you have checked TRIM to see if there are any submissions that need to be read in conjunction with your assessment.

COMMENTS:

Application seeks consent for a large residential development with a total proposed Lot yield of 390 parcels, Precinct 1 & 2 with scope in the concept plan for Precinct 3. Precinct 3 being subject to further development consent. The development includes a Local Centre Lot, residual parcels and open spaces.

The size of the development creates some challenges for the provision of water supply and sewerage services. However, the development is subject to the creation of an Infrastructure Delivery Plan, NLP specific Development Servicing Plan and a Voluntary Planning Agreement (VPA) in relation to the provision of service to the locality. Council is a party to and partially responsible for the delivery of critical infrastructure. Furthermore, the two primary developers of groups will have a VPA for the cost, responsibility and roll out of infrastructure to service lands from the south to the north with sewerage and vice versa for water supply.

WATER REQUIREMENTS

The Infrastructure is able to service the proposed development with a variety of solutions and incremental augmentation as required pending delivery of Lots to market. The initial Stage / Precinct 1 will be serviced from North Lismore reticulation system. Initial investigation suggests that the whole precinct can be serviced with adequate pressure.

The North Lismore supply connection is limited to Precinct 1 only and following this the supply will originate from Tullera Reservoir for a maximum of 300 Lots. The Tullera supply line is pending cooperation and or acquisition of easements from the neighbouring land to the north.

Release of Lots further than 300 parcels will be subject to critical infrastructure including a new Reservoir to be constructed for the NLP in total, located at an elevated site to the north.

Finer detail of water supply design and approval to be issued pending an application under s68 of the LG Act and development consent prior to the issue of a Civil Construction Certificate.

SEWER REQUIREMENTS

Sewerage services for a large development also create the need for augmentation of existing infrastructure and construction of reticulation mains. The site is currently serviced with a 300mm sewer main in readiness for development of the site and the whole NLP residential zone.

As the demand develops for sewage management, the augmentation of SPS 2 and a new Sewer Rising Main will be constructed to the South Lismore STP.

For the development itself finer details of design for construction by the developer will be assessed pending development consent and s68 application for approval prior to the issue of a Civil Construction Certificate.

LEVIES

Section 64 levies do apply to this development.

The creation of any new lots will be subject levies. The levies applied will be based on the area (m²) of land. Where the Land is less than 2000m² the rate applied will be 1ET water and sewer.

The Local Centre Lot will be allocated 1 ET as a commercial site with the built form unknown. Any additional demands for that site will be extracted at the time a DA is lodged for building works.

All Levies for newly created Lots will be required prior to issue of a Subdivision Certificate.

Credits:- The existing dwelling on the land has a water supply connection and will provide a credit of 1 ET water supply only. No existing sewer services provided to the land.

Demands

Precinct 1 Water, Lot yield is 95. Plus the Local Centre of 1 ET = 96 ET. Less credit of 1 ET water only, existing = 95 in Total. Sewer = 95 Lots plus the Local Centre = 96 ET in total.

Precinct 2 Lot yield is 295.

Total Demands:- 391 Lots (390 ET water and 391 ET sewer)

TRADE WASTE

N / A

FIRE SERVICES

N / A

CONDITIONS

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

Notes:

- a) The Certificate of Compliance confirms that all contributions levied under s.64 of the Local Government Act have been paid and existing infrastructure has the capacity to service the proposed development. In this regard, Lismore City Council also acts as an agent for Rous Water for the collection of contributions and the issue of the Certificate.
- b) There is a schedule, Table A, attached to the end of this notice that details the Water and Sewer Contributions applicable to this development that must be paid prior to the issue of the Compliance Certificate.
- c) The development is also subject to the provisions of the **Draft** Development Servicing Plans for Water Supply and Wastewater – North Lismore Plateau Internal Infrastructure. There is a schedule, Table B, attached to the end of this notice which provides the indicative Levies to be applied specific to the infrastructure constructed by Council to this development.
- d) If the proposed development requires public water/sewer infrastructure works, those requirements will need to have been completed in accordance with conditions of this consent or under a separate approval under s.68 of the Local Government Act 1993.
- e) An application under s.305 of the Water Management Act 2000 must be made (the form is available on Council's website) and the applicable application fee paid in order for a Compliance Certificate to be issued.

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

2. **Prior to the issue of any Civil Construction Certificate** the proponent shall obtain approval under Section 68 of the Local Government Act, 1993 for the water supply and sewerage works required for this development. The proponent shall submit the appropriate Activity Application Forms accompanied by such relevant information including plans, details, specifications and supporting data as necessary to determine the application to a suitable standard for construction purposes. Note:

- a) The proponent shall not commence construction of any part of the water supply and sewerage works prior to receiving an Activity Approval specifically for the water supply and sewerage works and plans with Council's stamp of approval.
- b) A fee applies to the Activity Application. The fee is as adopted at the time of payment and is as set out in Council's Fees and Charges.
- c) Approval for construction and or issue of a Subdivision Certificate shall not be granted unless adequate infrastructure and capacity has been provided to the development and or any Lots proposed to be created.

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

3. At no cost to Council the proponent is required to construct the following water management works:

- An extension to the reticulated water supply system and a property water service connection to each newly created Lot. Precinct One will initially be serviced from the North

Lismore water reticulation system generally in accordance with preliminary design plans submitted by Planit Consulting – Titled: Proposed Water Supply main. Planit Job No. J258, Drawing No's. 0001, 0600, 0601, 0602, Revision A, Dated 22.08.18.

- An extension to the reticulated sewerage system and a property sewerage service connection designed to maximise the building envelope to each newly created Lot.

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

Reason: *To comply with the provisions of Council's Development Control Plan – 79C(a)(iii)EP&A Act 1979.*

4. **Prior to the release of any Subdivision Certificate** the proponent is required to apply to Council for a **s307 Certificate of Compliance** for the water management works. The application shall be accompanied by:
- a) a set of "works-as-executed" plans;
 - b) submission of CCTV video surveillance and hard copy report for all sewerage pipelines;
 - c) complete asset record forms;
 - d) evidence the (Section 64) developer levies have been paid;
 - e) evidence all inspection fees have been paid;
 - f) evidence the scheduled bond has been paid, being 5% of the value of the works and
 - g) the Consulting Engineer's Certificate of Compliance.

The Consulting Engineers Certificate of Compliance shall state that all water management works required by this development consent have been completed in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe work. Refer to the Northern Rivers Local Government Design and Construction Manual.

The proponent shall be responsible for any costs, including maintenance, for a period of six months from the date Council issues the Certificate of Compliance.

Reason: *To comply with Section 307 of the Water Management Act 2000.*

5. The proponent is required to create an easement over pipelines on private lands in accordance with Council's current specifications for the Design & Construction of Water and Sewer Reticulation Pipe-work to Council's satisfaction.

Note: The width of an easement is determined by the depth and size of the pipeline.

The proponent shall obtain direction from Council confirming width of easements and terms for Section 88B Instruments prior to submitting an application for a Subdivision Certificate.

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

Table A – Lismore City Council Development Servicing Plans (March 2016)**Local Government Act - Section 64 Contributions**

The developer shall pay to Council all Water and Sewerage levies deemed necessary by Council and in accordance with Section 64 of the Local Government Act 1993. The rates and amounts applying at the date of this notice, totalling **\$10,901,180** are set out below for your information. Such levies shall be paid, as required by Council, prior to being issued with a Section 307 - Certificate of Compliance.

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

Levy Area	Account No.	No. of ET's	Cost Per ET	Amount Payable
Water and Sewerage Development Servicing charges are levied under Section 306 of the Water Management Act 2000 and amounts payable are set out below.				
Precinct One				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	95	\$7,734	\$734,730
Rous County Council (Except Nimbin)	509	95	\$8,588	\$815,860
Sewerage Services				
Lismore Sewer	507	96	\$11,600	\$1,113,600
Sub Total				\$2,664,190
Precinct Two				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	295	\$7,734	\$2,281,530
Rous County Council (Except Nimbin)	509	295	\$8,588	\$2,533,460
Sewerage Services				
Lismore Sewer	507	295	\$11,600	\$3,422,000
Sub Total				\$8,236,990
Total				\$10,901,180

IMPORTANT TO NOTE

The rates and amounts shown against the various items above are those applicable as at date of this Notice. Development Servicing Plans are reviewed every 3-5 years. The charges nominated in the Development Servicing Plans increase by CPI each year for the life of the plan.

Lismore Council and Rous Water Development charges are the adopted Development Servicing Charges per Equivalent Tenement (ET) current at the time of payment multiplied by the assessed number of ET's for the development - not the charge current at the time of consent adjusted by CPI to the time of payment.

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

Levies Correct - Financial Services Officer **date**/...../.....

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

A COPY OF THIS ADVICE MUST BE PRESENTED WHEN MAKING PAYMENT

DATE:

CASHIER:

RECEIPT NO:

Table B – Indicative Levies in accordance with the Draft Development Servicing Plans for Water Supply and Wastewater – North Lismore Plateau Internal Infrastructure

Local Government Act - Section 64 Contributions

The developer shall pay to Council all Water and Sewerage levies deemed necessary by Council and in accordance with Section 64 of the Local Government Act 1993. The rates and amounts applying at the date of this notice, totalling **\$3,184,865**, are set out below for your information. Such levies shall be paid, as required by Council, prior to being issued with a Section 307 - Certificate of Compliance.

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

Levy Area	Account No.	No. of ET's	Cost Per ET	Amount Payable
Water and Sewerage Development Servicing charges are levied under Section 306 of the Water Management Act 2000 and amounts payable are set out below.				
Precinct One				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	95	\$2,176	\$206,720
Sewerage Services				
Lismore Sewer	507	96	\$5,975	\$573,600
Sub Total				\$780,320
Precinct Two				
Water Supply				
Urban Reservoir Zone – Lismore Water	503	295	\$2,176	\$641,920
Sewerage Services				
Lismore Sewer	507	295	\$5,975	\$1,762,625
Sub Total				\$2,404,545
Total				\$3,184,865

IMPORTANT TO NOTE

The rates and amounts shown against the various items above are those applicable in accordance with the Final Draft of the Plan - December 2015 with the charges adjusted by CPI applicable at June 2018. The charges nominated in the Development Servicing Plans are reviewed every 3-5 years. The charges nominated in the Development Servicing Plans increase by CPI each year for the life of the plan.

Lismore City Council Development charges are the adopted Development Servicing Charges per Equivalent Tenement (ET) current at the time of payment multiplied by the assessed number of ET's for the development. Not the charge current at the time of consent adjusted by CPI to the time of payment.

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

Levies Correct - Financial Services Officer **date**

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

A COPY OF THIS ADVICE MUST BE PRESENTED WHEN MAKING PAYMENT

DATE:

CASHIER:

RECEIPT NO:

FINALISATION OF REFERRAL - TO BE COMPLETED BY REFERRAL OFFICER

I have:

- (i) Completed my comments;
- (ii) Completed the referral and emailed link to Assessment Officer from TRIM; and
- (ii) Closed off the Authority Tracking for the referral

REFERRAL OFFICER'S NAME:- Mick Lacey

DATE:- Amended 28 Sep. 18

S64 LEVIES YES

DEVELOPMENT APPLICATION REPORT APPROVALS REGISTER REPORT

BY

PARKS & RESERVES

DA NO: 5.2017.270.1

Development: Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows: Precinct 1 Total of 95 residential allotments, local centre allotment, open space and provision for environmental management; Precinct 2 Total of 295 residential allotments, open space and areas for environmental management; Precinct 3 Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application. The proposed application also seeks approval for associated tree removal, earthworks and infrastructure. The proposal constitutes integrated development in accordance with S91 of the Environmental Planning and Assessment Act 1979. Approval from NSW Department of Primary Industries (Water) is required in accordance with Water Management Act 2000, approval from NSW Roads and Maritime in accordance with Roads Act 1993, and approval from NSW Rural Fire Service in accordance with Rural Fires Act 1997. The consent authority is Lismore City Council and the Northern Joint Regional Planning Panel has the function of determining the application

Property Number: P31913

Date Lodged: 24/08/2017

Date of Referral: 11/9/17

Mrs S J Thatcher

Senior Development Assessment

Officer (Planning)

Please complete comments by: 25/9/17

Premises: LOT: 2 DP: 1214953, DP 808657 lot 3, DP 367581 lot 1, LOT: 12 DP: 844585, LOT: 1 DP: 772627, 8 Sexton Road NORTH LISMORE, 55 Dunoon Road NORTH LISMORE, 3 Old Quarry Road NORTH LISMORE, 30 Old Quarry Road NORTH LISMORE, 48 Old Quarry Road NORTH LISMORE

Matters for Consideration:			
☐	Tree Assessment	☐	Asset dedication
☒	Subdivision land dedication		

Regarding TRIM document CI18/24475, “Updated Landscape Package”, I am happy with the concept designs and they can move forward with the following comments and conditions:

Comments:

1. Tree Species:
 - Remove *Agathis robusta* from species list (never done well in Lismore)
 - Remove the following from Boulevard list due to root system issues being too large on shallow soils: *Araucaria cunninghamii*; *Elaeocarpus sp.*; *Ficus sp.*; and *Flindersia schottiana*.
 - Add the following to Boulevard list: *Brachychyton acerifolius*; *Waterhousia floribunda* ‘sweeper’;
2. Large fig tree within Local Park 2 must be significantly mulched and protected before site works begin.
3. Large *Corymbia* tree at the base of Park 2 must also be significantly mulched and protected before works commence. This tree has a heavy lean, and therefore, landscaping features attracting users of the park should be focused away from the lean.

Conditions of Consent:

Open Space Provision Conditions

A “detailed” landscaping plan shall be submitted to the Principal Certifying Authority with the **Construction Certificate**. The landscaping plan shall be in accordance with the relevant provisions of Council’s Development Control Plan Part A Chapter 5A Urban Residential Subdivision and Landscape Guideline. The Landscaping plans shall indicate:

- Accurate details of the provision of parks and open spaces
- Accurate specification detail of each proposed asset dedication such as seating, picnic settings, playground equipment and other structures. Specification to include, make, model, sizes, colour, materials, etc.
- Proposed street tree species
- Proposed planting details
- Crime Prevention through Environmental Design measures
- Proposed location, planting numbers and pot sizes of plantings
- Species name of shrubs and trees to be planted
- Mature height of trees to be planted
- Location of grassed areas
- Location of formal and/or informal footpaths
- Location of trees identified for retention in the development application plans.

Reason: To ensure the adequate and appropriate provision of parkland for the community and appropriate landscaping and park assets are provided to the development. (EPA Act Sec 79C(c))

Tree Conditions

All trees that are proposed for retention in community use areas are to be assessed for structural integrity by a qualified consulting arborist with a minimum Certificate V in Arboriculture AQF. Community use areas include all trees adjacent to road infrastructure, residential boundaries and the proposed park. Any trees recommended for removal or pruning by the arborist, and agreed upon by Council's Open Space Assets Coordinator, shall be completed by the applicant.

Reason: *To ensure Council owned trees will be in a safe condition.*

All retained trees on site must be protected from development impacts. Before site works commence, all retained trees must have protective fencing established under the dripline of each tree. A Tree Protection Plan shall be submitted to the Principal Certifying Authority with the **Construction Certificate**. This plan must be developed by a Certificate V arborist that details protection measures that comply with the Australian Standard - Protection of Trees on Development Sites (AS4970-2009) for the entirety of the development and in accordance with any relevant provisions of the Vegetation Management Plan.

Reason: *To ensure the protection of tree within the development.*

Maintenance of New Open Space Assets

A maintenance period of 2 years is required. Maintenance of all dedicated open space assets must be of a standard that ensures the land, assets and embellishments are in an operational, neat and tidy condition at all times. Weeds are to be continuously suppressed so they do not reproduce. Vandalism is to be repaired and graffiti removed immediately following it being reported. Mowing and edging of grassed areas is to be completed regularly to ensure no public complaints. Storm water detention ponds are to be cleared of debris, rubbish and silt following each rain event.

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

Asset Provision Conditions

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

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

Where a retaining wall must be erected on Council land, the wall is to be fenced appropriately to ensure the safety of the public and for workers maintaining the wall and that appropriate access is provided. Detail of materials and the look of the fence is to be approved by Council's Open Space Coordinator.

Reason: *To ensure that the landscaped areas can be maintained in a safe and easily accessible manner.*

Combined External Referral Letters for JRPP

RMS Response - DA17.270 Stage 1 North Lismore Plateau

File No: NTH12/00120/04
Your Ref: ST:SS:DA5.2017.270.1

General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Attention: Sue Thatcher

Dear Sue,

Dunoon Road [MR306]: DA No. 5.2017.270.1 - Proposed 433 Lot Subdivision, North Lismore Plateau

I refer to your email of 22 August 2018 requesting comment from Roads and Maritime Services in relation to the updated Traffic Impact Assessment (TIA) for the abovementioned development application.

Roles and Responsibilities

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure and the integration of land use and transport.

Dunoon Road and Terania Street are classified (Regional) roads. Lismore City Council is the roads authority for all public roads (other than freeways or Crown roads) in the local government area pursuant to Section 7 of the *Roads Act 1993* (Roads Act). Roads and Maritime is the roads authority for freeways and can exercise roads authority functions for classified roads in accordance with the Roads Act. Council is responsible for setting standards, determining priorities and carrying out works on Local and Regional roads, however Roads and Maritime's concurrence is required prior to Council's approval of works on classified (Regional) roads under Section 138 of the *Roads Act 1993*.

In accordance with Clause 101 of the *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP), the Consent Authority is to have consideration for the safety, efficiency and ongoing operation of the classified road, as the development has frontage to a classified road.

In accordance with Clause 104 of the *State Environmental Planning Policy Infrastructure 2007* (ISEPP), Roads and Maritime is given the opportunity to review and provide comment on the subject development application, as it meets the requirements under Schedule 3.

Roads and Maritime Response

Roads and Maritime has reviewed the referred information and provides the following comments to assist the consent authority in making a determination;

- Road infrastructure works to be completed prior to Stage 1 (as identified in the TIA dated 8 August 2018) include:
 - Alexandra Parade / Winterton Parade – Upgrade to include Type CHR(s) right turn lane in southbound approach
 - Tweed Street / Dunoon Road / Alexandra Parade – Type AUL left turn treatment in southbound approach
 - Dunoon Road / Southern NLP access road – Type AUL left turn lane and Type BAR right turn treatment

- Turning lanes (BAR and AUL) are proposed at the NLP southern access for Stage 1, with a roundabout proposed prior to 750 ET. TIA states BAR and AUL are satisfactory for the NLP southern access for the proposed 433 lots. This is based on Sidra capacity analysis. Any design would need to be based on the prevailing 80km/h speed limit.
- Capacity analysis does not address safety risk. Previous Roads and Maritime correspondence identified a safety concern associated with the major traffic movement being the side road rather than the through road. It is recommended that Council consider the need to bring forward the installation of the roundabout, including its associated traffic calming measures, to mitigate this safety risk.
- It is unclear if widening on Dunoon Road and Alexander parade to 7m with 1m sealed shoulders (as recommended for installation prior to 300ET) and construction of a 2.5m shared user path (as recommended for installation prior to 100ET) will be provided with Stage 1. Roads and Maritime suggests these works are required with Stage 1 to mitigate safety risks, particularly associated with active transport modes (walking and cycling) between the development area and the Lismore CBD, including to and from Richmond River High School.

Advice to the Consent Authority

Upon determination of the application it would be appreciated if Council could forward a copy of the approval for our records. If you have any further enquiries regarding the above comments please do not hesitate to contact Liz Smith, Manager Land Use Assessment on (02) 6640 1362 or via email at: development.northern@rms.nsw.gov.au

Yours faithfully



For Monica Sirol
Network & Safety Manager, Northern Region
20 September 2018

Office of Environment & Heritage – Biodiversity



Office of
Environment
& Heritage

Our Ref: DOC18/424564
Your Ref: DA17/270

General Manager
Lismore City Council
PO Box 23A
Lismore NSW 2480

Dear Mr Murphy

Re: Development Application No. 5.2017.270.1 – Residential Subdivision North Lismore.

Thank you for your email dated 20 June 2018 regarding the above development application requesting comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

The OEH provided comment on an earlier proposal in a letter to Lismore Council on 31 October 2017. Further to this letter, the applicant has provided further information to address outstanding matters and clarify the proposal.

We have reviewed the further information provided. However, there remains a lack of clarity about how the impacts to biodiversity will be offset and what areas are proposed for conservation measures. The OEH would be happy to further assist council in clarifying this information to ensure all biodiversity matters are adequately addressed.

We have reviewed the documents supplied and advise that, a number of issues are apparent with respect to the assessments for biodiversity, and Aboriginal cultural heritage. The Biodiversity issues are discussed in detail in **Attachment 1** to this letter, and the Aboriginal cultural heritage matters will be addressed in a following letter from OEH in the near future.

In summary, the OEH recommends that:

- Council should satisfy itself that the biodiversity impacts have been adequately assessed and offset.

If you have any further questions about this issue, Mr Krister Waern, Senior Operations Officer, Regional Operations, OEH, can be contacted on 6640 2503 or at krister.waern@environment.nsw.gov.au.

Yours sincerely

 12 July 2018 -

RACHEL LONIE
A/Senior Team Leader Planning, North East Region
Regional Operations

Contact officer: KRISTER WAERN
6640 2503

Enclosure: Detailed OEH comments – DA No. 5.2017.270.1 – Residential Subdivision North Lismore

Attachment 1: Detailed OEH Comments – DA No. 5.2017.270.1 – Residential Subdivision North Lismore

Biodiversity matters

The OEH has reviewed the Peter Parker response to further information (13 June 2018) and the updated Flora and Fauna Assessment prepared by Peter Parker dated 13 June 2018. The following comments relate largely to the proposed Precinct 1 and 2 as Precinct 3 is proposed to be Biodiversity certified.

The same headings have been used below as in our previous letter of 31 October 2017.

Avoid and Minimise Impacts

The proposal has avoided most areas of biodiversity value, however the proposal will impact on Hairy Joint Grass, Thorny Pea, koala habitat, and other regrowth vegetation areas dominated by weed species. If Council considers that further avoid options of these biodiversity values are not achievable, then adequate offsets for these impacts should be sought.

Bushfire Protection

The proposal has incorporated areas of Asset Protection Zones (APZ) for bushfire protection. The updated proposal maps for the three precincts identifies the APZ. A detailed plan for the ongoing maintenance of these areas should be provided, including the provision of incorporating biodiversity value where appropriate. It is noted that, although Precinct 3 is not part of the current application, the APZ in the north of this precinct is mapped partly on the neighbouring property.

Vegetation Mapping

A large part of the vegetated area of the site has been mapped as Camphor laurel forest. The Flora and Fauna Assessment indicates that this vegetation was surveyed using the Biobanking methodology, however from Figure 8 of the Flora and Fauna Assessment, only two biobank plots were undertaken within Precinct 3, which is not part of the current development application. Council should satisfy itself that the vegetation mapping for the site, particularly the areas proposed for the development have been accurately mapped.

Biodiversity Offsets

The letter from Peter Parker addressing the further impacts (page 7) appears to indicate that impacts to biodiversity that are not significant do not need to be offset. The OEH does not agree with this position and recommends that council seeks appropriate offsets for all impacts to biodiversity. From the letter, it appears that the proposed offset package will include:

- An area of 1.4 ha rehabilitated koala habitat for the loss of 0.87ha of habitat. This offset has been calculated using the Comprehensive Koala Plan of Management (CKPoM) for south-east Lismore. The offset ratio based on area would appear low, however council should satisfy itself that an adequate offset has been calculated. Further council should ensure that the proposed replanting area is a suitable place for rehabilitating a vegetation community that has the potential to provide koala habitat.
- A potential biobank agreement site (page 9) for some of the retained areas on site. The exact location and size of this proposed offset has not been described which makes it difficult to assess whether an adequate offset is proposed. Page 3 of the letter indicates that '*43ha will ultimately be managed for conservation purposes*', however this area is not mapped. Figure 10 of the Flora and Fauna Assessment indicates that 6.3ha will be restored within Precinct 2. A further 14ha is proposed for '*conservation measures under Biodiversity Certification*'. This is a confusing overlap with the intent of Precinct 3 and makes it unclear what is proposed for the

- current proposal of Precincts 1 and 2. Further it is noted that the proposed 14ha overlaps with the mapped APZ within the south eastern part of Precinct 2.

The Flora and Fauna Assessment identifies that two threatened plants (Hairy Joint Grass and Thorny Pea) will be impacted by the proposed development relating to Precincts 1 and 2. Further information should be provided to identify how these impacts will be offset within the proposed development.

Currently it is not clear which areas will be protected and managed for conservation purposes that relate to Precinct 1 and 2. Further, it is not clear how these areas will be managed, either through a biobanking (stewardship) agreement site or dedication to council for ongoing management. Council should satisfy itself that the proposed conservation areas are adequately protected and managed for conservation.

Recommendation

The OEH recommends

- Council satisfy itself that the biodiversity impacts have been adequately assessed and offset.

OEH Response - NLP Winten Final ACH Comments



Office of
Environment
& Heritage

Our Ref: DOC18/626149
Your Ref: DA17/270

General Manager
Lismore City Council
PO Box 23A
Lismore NSW 2480

Attention: Sue Thatcher

Dear Mr Murphy

Re: Development Application No. 5.2017.270.1 – Residential Subdivision North Lismore

Thank you for your email dated 29 August 2018 about the proposed subdivision at North Lismore seeking comments from the Office of Environment and Heritage (OEH). I appreciate the opportunity to provide input.

The OEH provided comment on an earlier proposal in a letter to Lismore City Council on 31 October 2017. In response, the applicant has provided further information to address outstanding matters and clarify the proposal.

We have reviewed the further information supplied and consider that all our previous concerns have been adequately addressed in the final copy of the documents, received by OEH for review on 3 October 2018.

If you have any further questions about this issue, Mr Roger Mehr, Archaeologist North East Branch, Conservation and Regional Delivery, OEH, can be contacted on 6773 7005 or at Roger.Mehr@environment.nsw.gov.au.

Yours sincerely

 3 October 2018

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Conservation and Regional Delivery

No objection Essential Energy

Records

From: ConveyancingTeam <conveyancingteam@essentialenergy.com.au>
Sent: Friday, 6 October 2017 2:21 PM
To: LismoreCityCounciloutbox2
Cc: Planning NorthCoast
Subject: DA17/270 - North Lismore Plateau - subdivision of land to created 433 residential allotments, a commercial allotment, open space and areas for environmental management

Dear Sir/Madam

We refer to the above matter and to your correspondence seeking comment from Essential Energy in relation to the proposed development at the above property.

Strictly based on the documents submitted, Essential Energy has no objection to the development at this time, provided:

1. As part of the subdivision, easements are created for any existing electrical infrastructure. The easements are to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. An easement width of 20 metres is required. Currently reference should be made to Part A of Memorandum AG189384;
2. If the proposal changes Essential Energy would need to be informed for further comment:
3. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property are complied with; and
4. Council ensures that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions.

In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity to the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.

Prior to carrying out any works, a "Dial Before You Dig" enquiry must be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995 (NSW)*.

Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines and Underground Assets*.

Michelle Murray
Conveyancing Officer



From: LismoreCityCounciloutbox2 [mailto:LCCoutbox2@lismore.nsw.gov.au]
Sent: Thursday, 28 September 2017 10:28 AM
To: ConveyancingTeam <conveyancingteam@essentialenergy.com.au>
Subject: DA17/270 - North Lismore Plateau

Please find attached correspondence from Lismore City Council.

Sustainable Development | Lismore City Council

T: 1300 87 83 87 | F: 02 6625 0400 | PO Box 23A, Lismore NSW 2480 | www.lismore.nsw.gov.au

Lismore City Council acknowledges the people of the Bundjalung nation, traditional custodians of the land on which we work.



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CASA Response - Lismore City Council re DA 5.2017.270.1 North Lismore Plateau Subdivision



Australian Government
Civil Aviation Safety Authority

STAKEHOLDER ENGAGEMENT DIVISION

CASA Ref: GI18/412

6 June 2018

Mrs Sue Thatcher
Senior Development Assessment Officer (Planning)
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Email: Sue.Thatcher@lismore.nsw.gov.au

Dear Mrs Thatcher

I refer to your letter of 15 March 2018 request for comment from the Civil Aviation Safety Authority (CASA) on a development application (DA) for a subdivision of land in North Lismore. I apologise for the delay in responding.

CASA has reviewed the application and I am advised that the proposed development is approximately 5 NM north of the runway at Lismore Aerodrome, which is supported by published instrument flight procedures. The application also has a natural land elevation of approximately 130 metres Australian Height Datum at its closest point to the aerodrome, and this could be an infringement of the inner horizontal surface for the Lismore Aerodrome Obstacle Limitation Surfaces (OLS).

The proposal is for residential development and may require the use of construction cranes. Any crane activity should be referred to the procedure design organisation/s responsible for the maintenance of instrument flight procedures at Lismore Aerodrome.

CASA suggests that the proponent consults with the Lismore Aerodrome operational management team (OMT) to ensure that aviation issues have been appropriately considered. The OMT will undertake an assessment of the issues based on the information provided and then liaise with CASA and Airservices for further assessments if required.

The proponent should also consider.

- the Lismore aerodrome master plan to understand forecast growth and ensure that aviation growth can be supported;
- the planning requirements for developments that affect aviation operations set out through the National Airports Safeguarding Framework;
- the impact of developments and construction activity on the OLS;
- the Procedures for Air Navigation Services – Aircraft Operations which protect aircraft from obstacles during instrument flight procedures;
- lighting in the vicinity of an aerodrome; and
- potential for gaseous plumes;

The proponent should also consider the specific issues which are contained in the attachment as part of any planning and development.

For more information or to discuss this matter further, please email: anaa.corro@casa.gov.au.

I trust this information is of assistance.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'CHutton', written in a cursive style.

Carolyn Hutton
Branch Manager
Government and International Relations

ATTACHMENT – CASA Recommendations

Departure and Approach Procedures

Any proposed structures and cranes if used in construction should be referred to the procedure design organisation/s responsible for the maintenance of instrument flight procedures at the Aerodrome. Please be aware that there may be more than one organisation responsible for the procedures at the aerodrome.

To check which organisations are responsible you can view the procedures at: <http://www.airservicesaustralia.com/aip/aip.asp> then Departure and Approach Procedures. The logo on the bottom of each procedure plate indicates the design organisation responsible.

Compliance with standards

Any aerodrome developments to aviation facilities associated with the planning proposal need to be consistent with the requirements of Civil Aviation Safety Regulations 1998 Part 139 and the associated Manual of Standards. Further details are available on the CASA website:

<https://www.casa.gov.au/standard-page/casr-part-139-aerodromes>

The National Airports Safeguarding Framework provides guidance on planning requirements for development that affects aviation operations. This includes building activity around airports that might penetrate operational airspace and/or affect navigational procedures for aircraft. The Framework consists of a set of guiding principles with six guidelines relating to aircraft noise, windshear and turbulence, wildlife strikes, wind turbines, lighting distractions and protected airspace. Further information is available from the following link:

https://infrastructure.gov.au/aviation/environmental/airport_safeguarding/nasf/

Aerodrome operations

Consultation should also be undertaken with the aerodromes operational management team to manage the following issues with developments adjacent to any aerodromes:

- Airport master planning: Council should ensure that the proposal does not affect any future development or upgrades planned by the aerodrome's operational management.
- Obstacle limitation surfaces (OLS) and Procedures for Air Navigation Services – Aircraft Operations: Prior to construction, the development and crane activity should be reviewed by the aerodrome's management team for the protection of these surfaces.
- Wildlife hazard management plan: Consideration needs to be given to the final heights and bird attractions of landscaping provisions which potentially may cause a risk to aviation activities.
- Obstacle lighting: The building and any construction cranes would need to be marked to comply with CASR 139 and associated MOS, paying particular attention to the quantity, type, luminescence and whether day and/or night marking is required.
- Lighting in the vicinity of an aerodrome: Any proposed non-aeronautical ground light in the vicinity of an aerodrome may by reason of its intensity, configuration or colour, cause confusion or glare to pilots and therefore might endanger the safety of aircraft.
- Gaseous plume: Exhaust plumes can originate from a number of sources and aviation authorities have established that an exhaust plume with a vertical gust in excess of 4.3 metres/second may cause damage to an aircraft airframe, or upset an aircraft when flying at low levels.
- Control of dust: During any construction the emission of airborne particulate may be generated which could impair the visual conditions.

Response Department of Industry Crown Lands & Water Division

Our Ref: 18/00030

General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Dear Sir/Madam

Development Application 5.2017.270.1

I refer to your letter of 4 September 2018 informing the Department of Industry – Crown Lands & Water of Integrated Development Application 5.2017.270.1 proposed subdivision to create residential and commercial allotments and open/environmental space at below listed locations in North Lismore.

Development Application relating to:

- 3 Old Quarry Rd, North Lismore 2480 NSW (DP 367581 lot 1)
- 30 Old Quarry Rd, North Lismore 2480 NSW (LOT: 12 DP: 844585)
- 48 Old Quarry Rd, North Lismore 2480 NSW (LOT: 1 DP: 772627)
- 55 Dunoon Rd, North Lismore 2480 NSW (DP 808657 lot 3)
- 8 Sexton Rd, North Lismore 2480 NSW (LOT: 2 DP: 1214953)

Whilst the proposal does not directly impact on the Crown estate please ensure that the applicant does not undertake any activity on the Crown land or use the Crown land for any purpose associated with the development. The proponent may not:

- encroach on the Crown land,
- remove any vegetation from the Crown land,
- stockpile materials, equipment or machinery on the Crown land,
- use to Crown land for access purposes,
- direct storm water discharges to the Crown land, or
- use the Crown land as an Asset Protect Zone.

If you wish to discuss this matter please contact me on 66403942 or dean.egan@crownland.nsw.gov.au.

Yours sincerely



Dean Egan
Natural Resource Management Officer
Department of Industry – Crown Lands & Water
GRAFTON
13 September 2018

Response letter from Natural Resources Access Regulator



**Natural Resources
Access Regulator**

Contact: Nicole Power
Phone: 0266416592
Email: nicole.power@nrar.nsw.gov.au

General Manager
Lismore City Council
PO Box 23a
LISMORE NSW 2480

Our ref: IDAS1101942
Your Ref: DA5/2017/270/1

Attention: Mrs S J Thatcher

26 September 2018

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval
Development Application Ref: DA5/2017/270/1
Description: Subdivision of land to create a total of 433 residential
allotments, a commercial allotment, open space and areas for
environmental management
Location: 8 Sexton Road, 55 Dunoon Road, 3, 30, 48 Old Quarry Road
NORTH LISMORE

I refer to Council's email of 30 May 2018 advising of changes made by the proponent to the subject integrated development proposal since issue of NRAR's General Terms of Approval (GTA) on 6 November 2017 and prior to Council's determination of the application.

Based on a review of the information provided, NRAR has amended its GTA to include the revised plans and associated documentation in Schedule 1 of the GTA. A copy of the amended GTA is attached.

NRAR should be notified if any further amendments result in more than minimal change to the proposed development or if additional works or activities are proposed.

Please direct any questions regarding this correspondence to Nicole Power by email to nicole.power@nrar.nsw.gov.au.

Further information on approvals required under the Water Management Act 2000 is located at: www.industry.nsw.gov.au/water/licensing-trade/approvals

Yours sincerely

Nicole Power
Water Regulation Officer
Natural Resources Access Regulator

General Terms of Approval - Natural Resources Access Regulator

General Terms of Approval

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

Reference Number:	IDAS1101942
Issue date of GTA:	26 September 2018
Type of Approval:	Controlled Activity
Description:	Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management
Location of work/activity:	8 Sexton Road North Lismore NSW 2480
DA Number:	DA5/2017/270/1
LGA:	The Council Of The City Of Lismore
Water Sharing Plan Area:	Richmond River Area Unregulated, Regulated and Alluvial Water Sources

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

Condition Number	Details
Design of works and structures	
GT0018-00003	Before constructing or carrying out any proposed controlled activity, an application must be submitted to Crown Lands and Water Division, and obtained, for a controlled activity approval under the Water Management Act 2000.
Erosion and sediment controls	
GT0006-00001	The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.
GT0021-00002	The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.
Plans, standards and guidelines	
GT0002-00047	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 2017.270 provided by Council to Crown Lands and Water Division. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Crown Lands and Water Division, Grafton Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0003-00016	The application for a controlled activity approval must include the following document(s): - site plan, map and/or surveys; outlet structures; Erosion and Sediment Control Plan; Soil and Water Management Plan; detailed structural drawings; Storm Water Management Plan.
Reporting requirements	
GT0016-00002	The consent holder must inform Crown Lands and Water Division in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.



SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA5/2017/270/1 as provided by Council:

- Statement of Environmental Effects prepared by Planners North, August 2017
- Plan of Subdivision, Rev D, prepared by RPS Australia East Pty Ltd, 8/8/2018 (Ref: 117312-30)
- Civil Works Plans, Rev C, prepared by TGM Group Pty Ltd, 15/11/2017 (Drawing Nos 0001 to 0028)
- Balance Land Report (Engineering Report) prepared by TGM Group Pty Ltd, June 2017 – updated version provided to Lismore City Council on 21/9/2018
- Internal Access Road Plans, Rev C, prepared by WGM Consulting, 14/3/2016 (Drawing Nos J073-0001 to J073-0021)

Bush Fire Safety Authority Rural Fire Service



NSW RURAL FIRE SERVICE



The General Manager
Lismore City Council
PO Box 23A
LISMORE NSW 2480

Your Ref: DA17/270
Our Ref: D17/3283
DA17092109405 AB

ATTENTION: Sue Thatcher

4 October 2018

Dear Ms Thatcher,

Integrated Development Application – Lot 2 DP 1214953, Lot 3 DP 808657, Lot 1 DP 367581, Lot 12 DP 844585 & Lot 1 DP 772627 – 8 Sexton Road, 55 Dunoon Road and 3, 30 & 48 Old Quarry Road, North Lismore

I refer to your correspondence dated 23 May 2018 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, 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:

1. The development proposal is to comply with the subdivision layout identified on the following drawings prepared by RPS Australia East Pty Ltd:
 - Plan of Subdivision – Precinct One Allotment Layout (Ref: 117312-30, Rev. D) dated 26 July 2018
 - Plan of Subdivision – Precinct Two Allotment Layout (Ref: 117312-30, Rev. D) dated 26 July 2018
 - Plan of Subdivision – Precinct Three Allotment Layout (Ref: 117312-30, Rev. D) dated 26 July 2018

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:

2. At the issue of a subdivision certificate and in perpetuity, the entire area of the residential lots created shall be managed as an inner protection area (IPA) as outlined within section

Postal address

Records
NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
Planning and Environment Services (North)
Suite 1, 129 West High Street
COFFS HARBOUR NSW 2450

T (02) 6691 0400
F (02) 6691 0499
www.rfs.nsw.gov.au
Email: pes@rfs.nsw.gov.au

4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

3. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act, 1919' shall be placed over the relevant open space lot(s) for the purpose of an asset protection zone in Precinct 1 and Precinct 2, as indicated on the plans prepared by RPS Australia East Pty Ltd (Ref: 117312-30, Rev. D), dated 26 July 2018 titled 'Plan of Subdivision – Precinct One Allotment Layout' and 'Plan of Subdivision – Precinct Two Allotment Layout'. The asset protection zone is to be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
4. Prior to the issue of a subdivision certificate, a vegetation management plan is to be prepared that includes:
 - the areas identified for vegetation restoration / conservation in Figure 10 of the Flora and Fauna Assessment report prepared by Peter Parker Environmental Consultants Pty Ltd (13 June 2018) are to be established and maintained with rainforest species;
 - details of the areas required to be managed as an asset protection zone;
 - the asset protection zones are required to be managed as an inner protection area as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones';
 - details of the person / authority responsible for ongoing management of vegetation restoration / conservation areas and asset protection zones; and
 - a schedule of works for the ongoing management of asset protection zones.
5. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
6. Landscaping for a distance of 10 metres either side of the Road 1 formation between Precinct 1 and Precinct 2 is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Precinct 1:

7. Asset Protection Zones are to be provided as indicated on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct One Allotment Layout' (Ref: 117312-30, Rev. D), dated 26 July 2018 .
8. A restriction to the land use pursuant to section 88B of the Conveyancing Act 1919 shall be placed over Lots 83, 84, 85, 94, 95, 7000 and Pt 7001 to prohibit the construction of a dwelling, or Class 10 building within 10m of a dwelling, in the area identified as 'Bushfire APZ' on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct One Allotment Layout' (Ref: 117312-30, Rev. D), dated 26 July 2018.

Precinct 2:

9. Asset Protection Zones are to be provided as indicated on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct Two Allotment Layout' (Ref: 117312-30, Rev. D), dated 26 July 2018, except that the entire width of Road No. 2 reserve along the western boundary of Precinct 2 is to be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire

Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

10. A restriction to the land use pursuant to section 88B of the Conveyancing Act 1919 shall be included over Lots 122 to 129, 339 and 358 to prohibit the construction of a dwelling, or Class 10 building within 10m of a dwelling, in the area identified as 'Bushfire APZ' on the plan prepared by RPS Australia East Pty Ltd titled 'Plan of Subdivision - Precinct Two Allotment Layout' (Ref: 117312-30, Rev. D), dated 26 July 2018.

Access

The intent of measures for public roads 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:

11. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except that:
 - the cul-de-sac turning circles in Precinct 1 shall have an outer radius of not less than 10 metres; and
 - the perimeter roads in Precinct 1 adjacent to Lots 50 to 52, 62, 63, 73 and 76 to 81 and in Precinct 2 adjacent to Lots 303, 304 and 330 to 332 shall be not less than 6.8 metres wide with roll-top kerb.
12. A minimum 12 metre outer radius turning circle is to be provided at the southern end of Road 12 where it meets the 'fire access track'.
13. Prior to the issuing of a subdivision certificate for Precinct 2 the proposed temporary fire trail providing alternative emergency access from Precinct 2 to Nimbin Road, as indicated on the diagram prepared by TGM titled 'North Lismore Plateau – Concept Fire Access Track' (Ref: 12188-01) dated 22 November 2013, shall be constructed. The fire trail is to be constructed in accordance with Section 4.1.3(3) of 'Planning for Bush Fire Protection 2006' and is to be maintained until such time as alternative public road access is provided to Precinct 2.
14. The path adjacent to Lots 333, 337, 338, 339 and east of the park between Lots 217 and 398 shall be a minimum width of 2.5 metres and shall permit unobstructed emergency vehicle access.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

15. Property access shall comply with section 4.1.3(2) of 'Planning for Bush Fire Protection 2006'.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

16. A restriction to the land use pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed over Lot 7002 for the fire trails in Precinct 2 adjacent to Lots 104, 110, 111 and 117 to 121. The fire trails are to be constructed in accordance with Section 4.1.3(3) of 'Planning for Bush Fire Protection 2006' prior to the issue of a subdivision certificate for the subject lots. The fire trails are to be managed in perpetuity by Lismore City Council, or alternatively, are to be contained within a community title lot created in combination with

the adjacent benefiting residential lots with an appropriate covenant requiring the community association to manage the fire trail in perpetuity.

Water and Utilities

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:

17. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'

Landscaping

18. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

General Advice – Consent Authority to note

- This bush fire safety authority is issued on the basis that the asset protection zones located on open space lots are to be managed in perpetuity by Lismore City Council. If this not the case, an alternative management arrangement must be approved (e.g. community title subdivision).
- This Bush Fire Safety Authority does not provide approval or conditions for Precinct 3.
- Establishment of asset protection zones may require the clearing of vegetation. This bush fire safety authority does not authorise the clearing of any vegetation, nor does it include an assessment of potential ecological impacts of clearing vegetation for the purpose of establishing asset protection zones. Approvals necessary for the clearing of vegetation should be obtained prior to the establishment of any asset protection zones.
- Any future development application lodged within this subdivision under section 4.14 of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.
- Certain lots are located adjacent to grassland areas that may present a bushfire hazard. Where these lots are not mapped as bushfire prone land, Council should consider assessment of future development applications against the requirements of section 4.15 of the *Environmental Planning and Assessment Act, 1979* and *AS3959 Construction of building in bushfire prone areas*.

This letter is in response to additional information submitted and supersedes our previous correspondence dated 28 September 2018.

For any queries regarding this correspondence, please contact Alan Bawden on 6691 0400.

Yours sincerely,



Bradford Sellings

Acting Team Leader – Development assessment and Planning

Report

Subject	Draft Voluntary Planning Agreements - North Lismore Plateau
TRIM Record No	BP17/1687:DA17/270
Prepared by	Development Assessment Officer (Planning)
Reason	Sustainable development
Strategic Theme	Our built environment
Strategy	Our city and village services are well managed and maintained.
Action	Plan for infrastructure that meets the needs of the community.

Executive Summary

Council has been in discussions with the Winten Group and The Plateau Group (now known as The Plateau North Group) for the past two (2) years regarding the drafting of a Voluntary Planning Agreement (VPA) for the provision of water and wastewater infrastructure to service the recently rezoned land proposed for subdivision at North Lismore Plateau (NLP) and agreement has been reached with the Winten Group on the terms of this proposed VPA.

Council is in receipt of the Development Application for subdivision of the Winten land on the NLP and have also been in direct negotiation with the Winten Group regarding the biodiversity certification of the land in the concept plan for Precinct 3 of the proposed development. In accordance with Council Policy, the requirements of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000* the matter is reported to Council seeking a resolution to place two Voluntary Planning Agreements on public exhibition for twenty eight (28) days.

To ensure that the North Lismore Plateau land is effectively serviced by infrastructure and potential impacts on threatened species are properly addressed, it is critical to have the VPAs finalised so that they can be addressed in the assessment and determination of the development application by the Northern Joint Regional Planning Panel (JRPP). It is recommended that the draft VPAs be placed on public exhibition, and be reported back to the Council meeting in April 2018 to finalise Council's position in relation to the VPAs.

Recommendation

That:

1. The draft Voluntary Planning Agreement at Attachment 1 to this report for Biodiversity Certification between Lismore City Council and the Winten Group and relevant landowners be placed on public exhibition for a minimum period of twenty eight (28) days in accordance with the provisions of cl.25D of the *Environmental Planning & Assessment Regulation 2000*.
2. The draft Voluntary Planning Agreement at Attachment 2 to this report for Provision of Water and Wastewater Infrastructure between Lismore City Council and the Winten Group and relevant landowners be placed on public exhibition for a minimum period of twenty eight (28) days in

accordance with the provisions of cl.25D of the *Environmental Planning & Assessment Regulation 2000*.

3. The draft Voluntary Planning Agreements be reported back to Council following public exhibition.

Background

Over a number of years beginning in 2010 a comprehensive structure planning exercise, that included a number of charrettes, was conducted by Council with all of the landowners for the proposed re-zoning of land at the North Lismore Plateau.

There is a very long history regarding the re-zoning of the land at North Lismore Plateau, as presented to Council at a Briefing held on 25 October 2016. This history includes adoption of the site specific Development Control Plan (DCP) for North Lismore Plateau and the Section 94 Contributions Plan by Council in December 2013. On 15 April 2016 LEP Amendment No 13 for North Lismore Plateau was made, which re-zoned the land as shown in Figure 1 below. The land comprises R1 General Residential, B1 Neighbourhood Centre, RU1 Primary Production, E2 Environmental Conservation and E3 Environmental Management zones.

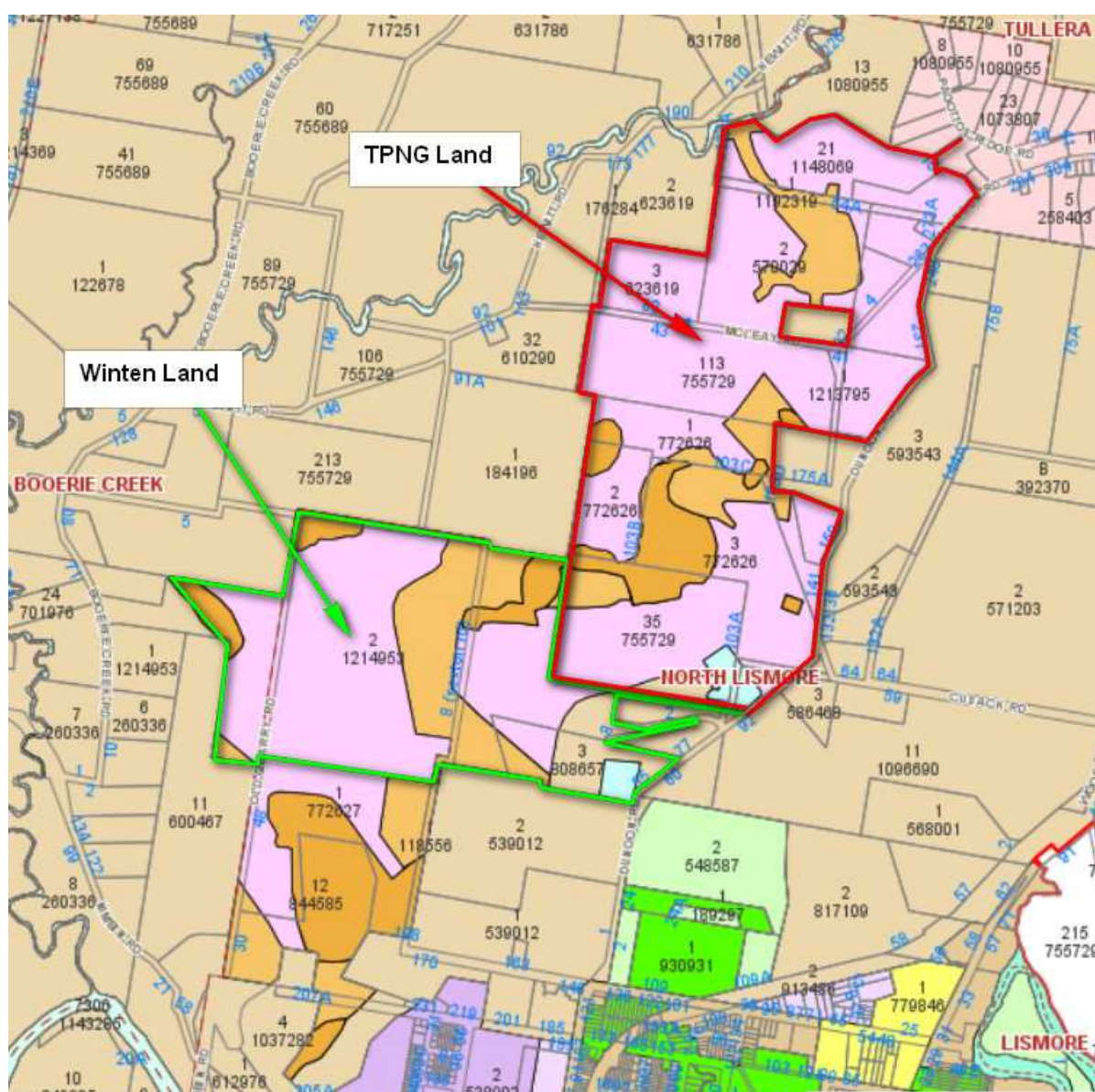


Figure 1: Extract of maps from Lismore Local Environmental Plan 2012 showing Winten and TPNG land

Further detail regarding the background of the North Lismore Plateau will be provided at the Councillor Briefing scheduled to be held on 6 February 2018.

Council at its meeting of 11 August 2015 considered a report on various options for servicing of the North Lismore Plateau development. Council resolved to become more actively involved in the delivery of internal water and wastewater infrastructure to the proposed development. Specific action initiated by Council's resolution included the revision of Council's *Development Servicing Plans for Water Supply and Wastewater (DSP)*, the *Strategic Business Plan for Water Supply and Wastewater Services*, and the *Infrastructure Delivery Plan for the North Lismore Plateau*.

On 15 December 2015, Council considered a further report and resolved to place related draft documents on public exhibition. The public exhibition of the documents was completed, with no submissions having been received during the exhibition period.

On 8 March 2016 a report was presented to Council seeking a resolution to adopt the strategic planning documents as prepared and exhibited, following the resolution of 15 December 2015.

The report also pointed out that, as outlined in the report to Council of August 2015, it was considered prudent that the adoption of the *Development Servicing Plan for Water and Wastewater – North Lismore Plateau Internal Infrastructure (DSP – Internal)* be dependent on the negotiation of suitable agreements between Council and the developers of the North Lismore Plateau. The agreements were considered necessary to define the roles and responsibilities of all parties with respect to the provision of water and wastewater infrastructure internal to the development. Of particular importance was the need to ensure that respective developers remain responsible for financing and constructing these assets within the developed land in a coordinated and efficient manner.

The report recommended adoption of this DSP document be deferred until such time as the required developer agreements have been executed. Council subsequently resolved to adopt the *Development Servicing Plans for Water Supply and Wastewater (DSP)*, *Development Servicing Plans for Water and Wastewater Background Documents*, the *Strategic Business Plan for Water Supply and Wastewater Services*, and the *Infrastructure Delivery Plan for the North Lismore Plateau*.

It was further resolved that:

- “2. *The Development Servicing Plan for Water and Wastewater – North Lismore Plateau Internal Infrastructure, as attached to Council's Business Paper of 15 December 2015, is deferred for consideration until such time as the agreements outlined in the report are executed.*
3. *Upon execution of such agreements, the matter is reported back to Council for further consideration.”*

All of the adopted documents and Council reports as referenced above are available for perusal on Council's Hub.

The matter is now reported to Council for consideration of the Draft Voluntary Planning Agreement for the Provision of Water and Wastewater Infrastructure as proposed by the Winten Group. This is consistent with the previous resolutions of Council and the obligations imposed on Council for the assessment of Development Application 2017/270 for the Winten land lodged with Council on 24 August 2017.

Development Application 2017/270 lodged on behalf of the Winten Group seeks development consent for the following:

Subdivision of land to create a total of 433 residential allotments, a commercial allotment, open space and areas for environmental management. The proposed development will be undertaken as follows -

Precinct 1 - Total of 95 residential allotments, local centre allotment, open space and provision for environmental management;

Precinct 2 - Total of 295 residential allotments, open space and areas for environmental management;

Precinct 3 - Staged development consent sought in accordance with Section 83B of the EP&A Act for the creation of 43 residential allotments. Concept approval is sought for Precinct 3 and this area will be subject of a further development application.

It should be noted that concept approval only is being sought for Precinct 3 by this Development Application. As detailed in the Flora and Fauna assessment submitted with the Development Application for the proposed subdivision of land the site contains ecologically constrained areas, including habitat of the vulnerable plant hairy joint grass and the endangered thorny pea. The proposal provides for a Voluntary Planning Agreement (VPA) to ensure that the Biodiversity Certification of Precinct 3 is undertaken as committed to prior to the rezoning as part of a separate future DA required for Precinct 3.

The two VPAs are discussed individually below.

Voluntary Planning Agreement for Biodiversity Certification of the land within proposed Precinct 3 (Concept Plan) – Winten land

Voluntary Planning Agreement Offer (VPA)

Biodiversity certification offers planning authorities a streamlined biodiversity assessment process for areas marked for development at the strategic planning stage. The process identifies areas of high conservation value at a landscape scale. These areas can be avoided and protected while identifying areas suitable for development. Biodiversity certification offers a range of secure options for offsetting impacts on biodiversity.

After biodiversity certification is conferred on an area of land, development may proceed without the usual requirement under the *Environmental Planning and Assessment Act 1979 (EP & A Act 1979)* for site-by-site threatened species assessment.

Legislation for biodiversity certification can be found in Part 7AA of the *Threatened Species Conservation Act 1995 (TSC Act)*.

The flora and fauna assessment submitted with DA17/270 identified areas of hairy joint grass within the proposed development footprint that is proposed for biodiversity certification with the provision of a Hairy joint grass BioBank area. These areas are mapped and shown below in the extract from the *Flora and Fauna Assessment* dated 18 January 2018 as prepared by Peter Parker Environmental Consultants Pty Ltd and designated as “Fig. 6” within that report.

The proposed VPA to ensure that Biodiversity Certification is undertaken is an approach that is also supported by the NSW Office of Environment and Heritage. This is to ensure that the appropriate process is undertaken for Biodiversity Certification of the land contained within Precinct 3 (Concept Plan only) prior to the assessment of any Development Application for subdivision of the land within this precinct as referred to in clause 4 of the VPA.



Fig. 6: Preliminary hairy joint grass survey results and identification of potential Biodiversity certification areas (June 2014)

In accordance with the provisions of s.25E of the *EP & A Act 1979* the following questions are required to be considered in the assessment of any VPAs:

1. *How does the proposed planning agreement promote the public interest and one or more of the objects of the Act?*

The proposed planning agreement is considered to be in the public interest because it will facilitate the proposed subdivision development at North Lismore Plateau and protect species that are threatened under the *TSC Act*.

2. *How does the proposed planning agreement, promote one or more of the elements of the Council's charter under section 8 of the Local Government Act 1993?*

In accordance with the above Charter, the proposed planning agreement will address long term and cumulative effects of actions on future generations by the preservation of a threatened species. The proposed planning agreement will also address the principles of ecologically sustainable development.

3. *Identifying a planning purpose or purposes served by the proposed planning agreement, and an assessment of whether the agreement, provides for a reasonable means of achieving that purpose.*

The planning purpose served by the proposed planning agreement is the opportunity for the orderly development of land and the protection of threatened species as noted by the *TSC Act*.

The Draft Voluntary Planning Agreement is attached to this report as **Attachment 1**.

Voluntary Planning Agreement (VPA) Considerations

Council's Planning Agreements Policy (5.3.2) requires that Council apply the following test in order to assess the desirability of a proposed planning agreement:

- (a) *is the proposed planning agreement directed towards a proper or legitimate planning purpose having regard to its statutory planning controls and other adopted planning policies and the circumstances of the case?* - **Yes**
- (b) *does the proposed planning agreement provide for a reasonable means of achieving the relevant purpose?* - **Yes**
- (c) *can the proposed planning agreement be taken into consideration in the assessment of the relevant rezoning application or development application?* - **Yes**
- (d) *will the planning agreement produce outcomes that meet the general values and expectations of the community and protect the overall public interest?* - **Yes**
- (e) *does the proposed planning agreement promote the Council's strategic objectives in relation to the use of planning agreements?* - **Yes**
- (f) *does the proposed planning agreement conform to the fundamental principles governing the Council's use of planning agreements?* - **Yes**
- (g) *are there any relevant circumstances that may operate to preclude the Council from entering into the proposed planning agreement?* – **No known reasons**

The provisions of the *Environmental Planning & Assessment Act 1979* and associated Regulations, guidelines and adopted Council Policy have all been considered and addressed in the consideration of this issue and are now presented for the concurrence of Council.

Voluntary Planning Agreement for Provision of Water and Wastewater Infrastructure – Winten land

Voluntary Planning Agreement Offer (VPA)

Lismore City Council is the local government authority responsible for the provision of water and wastewater services in the Lismore Local Government Area. At its Ordinary Council meeting of 11 August 2015 Council resolved to *“commence negotiations with the developers of the North Lismore Plateau to prepare a draft agreement, outlining the roles and responsibilities of both the Council and the developers with respect to the delivery of trunk infrastructure internal to the North Lismore Plateau development”*.

It was confirmed at that Council Meeting that Council would not be responsible for the provision of trunk water or sewer mains that were within the boundaries of the land being developed. On 24 August 2017 a development application was lodged by Planners North on behalf of the Winten Group for the subdivision of their land at North Lismore Plateau, which is to be determined by the Northern Joint Regional Planning Panel.

The Draft Voluntary Planning Agreement (Draft VPA) seeks to give effect to the Council resolution of 11 August 2015 relating to the provision of the offsite reticulated water trunk main to the northern property boundary of lot 20 in Deposited Plan 1148069 (the TPNG land). The developers (Winten and TPG) will be required to connect to this trunk main.

The Draft VPA also gives effect to the Council resolution relating to the provision of the offsite gravity sewage trunk main to the southern property boundary of Lot 3 in Deposited Plan 808677 (the Winten land). The developers (Winten and TPG) will be required to connect to this trunk main.

In accordance with the provisions of s.25E of the *EP & A Act 1979* the following questions are required to be considered in the assessment of any VPAs:

1. *How does the proposed planning agreement promote the public interest and one or more of the objects of the Act?*

The proposed planning agreement is considered to be in the public interest to facilitate the economic and orderly development of land because it will facilitate the proposed subdivision development at North Lismore Plateau and ensure the provision of water and wastewater infrastructure to effectively service the entire developable area.

2. *How does the proposed planning agreement, promote one or more of the elements of the Council’s charter under section 8 of the Local Government Act 1993?*

In accordance with the above Charter, the proposed planning agreement will address long term and cumulative effects of actions on future generations by the appropriate provision of water and wastewater infrastructure for the North Lismore Plateau.

3. *Identifying a planning purpose or purposes served by the proposed planning agreement, and an assessment of whether the agreement, provides for a reasonable means of achieving that purpose.*

The planning purpose served by the proposed planning agreement is the opportunity for the orderly development of land and the provision of the required infrastructure.

4. *Identifying whether the proposed planning agreement, conforms with the planning authority’s capital works program (if any).*

The works that are the subject of the proposed planning agreement are identified in the *Development Servicing Plans for Water Supply and Wastewater (DSP)*, *Development Servicing Plans for Water and Wastewater Background Documents*, the *Strategic Business Plan for Water Supply and Wastewater Services*, and the *Infrastructure Delivery Plan for the North Lismore Plateau*. The

proposed planning agreement will ensure that this critical infrastructure is provided to benefit all proposed development of land at North Lismore Plateau.

The Draft Voluntary Planning Agreement is attached to this report as **Attachment 2**.

Voluntary Planning Agreement (VPA) Considerations

Council's Planning Agreements Policy (5.3.2) requires that Council apply the following test in order to assess the desirability of a proposed planning agreement:

- (a) *is the proposed planning agreement directed towards a proper or legitimate planning purpose having regard to its statutory planning controls and other adopted planning policies and the circumstances of the case?* - **Yes**
- (b) *does the proposed planning agreement provide for a reasonable means of achieving the relevant purpose?* - **Yes**
- (c) *can the proposed planning agreement be taken into consideration in the assessment of the relevant rezoning application or development application?* - **Yes**
- (d) *will the planning agreement produce outcomes that meet the general values and expectations of the community and protect the overall public interest?* - **Yes**
- (e) *does the proposed planning agreement promote the Council's strategic objectives in relation to the use of planning agreements?* - **Yes**
- (f) *does the proposed planning agreement conform to the fundamental principles governing the Council's use of planning agreements?* - **Yes**
- (g) *are there any relevant circumstances that may operate to preclude the Council from entering into the proposed planning agreement?* – **No known reasons**

The provisions of the *Environmental Planning & Assessment Act 1979* and associated Regulations, guidelines and adopted Council Policy have all been considered and addressed in the consideration of this issue and are now presented for the concurrence of Council.

Voluntary Planning Agreement for Provision of Water and Wastewater Infrastructure – The Plateau Group (TPG) (now known as The Plateau North Group (TPNG)) land

Voluntary Planning Agreement Offer (VPA)

TPNG have been in discussion with Council and its legal representatives regarding the same version of the draft VPA presented to Council with this report. TPNG have not lodged a DA with Council for the subdivision development of their land at the NLP, and Council has not received a draft VPA from TPNG.

Progress in obtaining a commitment to the draft VPA has been slow, resulting in Council's solicitor forwarding a letter to representatives of the TPNG group on 22 December 2017. A copy of this letter is **attachment 3** to this report.

Although Council has not received a DA to date, TPNG's legal representative advised on 23 January 2018 in response to Council's letter that they *"....remain willing to work with Council with a view to forming a voluntary agreement addressing the proposed easements for trunk water main supply. Our clients are willing to meet further with Council in order to progress discussions.*

Further, as foreshadowed, our clients propose to lodge a comprehensive development application in the near future. The development application was intended to be lodged in late 2017. However, our clients have briefly deferred its lodgement in order to include more comprehensive ecological reporting. The ecological updates have indicated that it may be necessary to modify the proposed lot layout which was shown to Council at their meeting with our clients on 28 September 2017. The ecologists' recommendations in that regard are expected to be available in the next week. Accordingly it would be premature for our clients to provide the requested layouts at this stage.

Our clients have instructed us that they will provide Council with an update regarding the above (including their proposed development application lodgement date) once they receive the ecologists recommendations (expected in the next week). Whilst it is ultimately a matter for your clients to determine whether compulsory acquisition is necessary at this point, our clients respectfully request that any decision be deferred at least until our clients have provided the update referred to above."

Council's Solicitor responded with the following advice

*"Council are prepared to provide your client with additional time to both provide an update on your client's DA and a copy of your client's proposed VPA. Accordingly, your client has until **4pm on Thursday 1 February** to provide:*

- 1) Advice on the status of the lot layouts (whether your client's current layouts are to be amended or not, if no change then the layout is to be provided, if there is a change, reasons to be provided);*
- 2) A firm, proposed date for your client's DA lodgement; and*
- 3) Your client's amended proposed VPA to our office for our review and for the review of Council.*

We can see no legitimate reason for your client to delay providing a copy of its amended VPA in circumstances where we understand those amendments have been made. If your client is in fact willing to work with Council in relation to proposed easements for trunk water main supply, then your client will provide its preferred VPA to Council to review and respond.

The Winten Group have been open and willing to negotiate the terms of a VPA with Council and Council expects and invites your client to do the same. As previously advised, it is in the interests of TPNG, Winten Group and Council to progress a tripartite VPA that can be promptly exhibited in association with the DA approval process. Council will not entertain any alternative agreement or arrangement other than a VPA, properly exhibited in accordance with the EP&A Act.

For abundant clarity, if your client's VPA is not received by 4pm on Thursday 1 February, Council intend to instruct us to commence direct correspondence with TPNG land owners in relation to compulsory acquisitions of easements."

The response received by Council on 1 February 2018 was as follows:

"As indicated in my email of 23 January 2018, we are instructed to provide the below update as to the estimated schedule for the lodgement of our client's Development Application:

- 1. Receipt of Ecologists report with recommendations completed by 28 February 2018.*
- 2. Redesign of Lot Layout completed by 26 March 2018.*
- 3. Issue to all other consultants for report updating completed 9 April 2018.*
- 4. Submission of DA and VPA on 16 April 2018.*

Further to the estimated schedule, we are instructed that the ecologist's revised report with respect to the discovery of the Hairy Joint Grass colony is expected to be completed by the end of February. Whilst at this stage our client does not know what level of impact it will have on the lot layout, it is assumed that they will have to do some redesign. Once the redesign is completed, the revised lot layout will need to be issued to all the other consultants to revise their reports to include the revised lot layout. Our client will, of course, endeavour to streamline the process where possible.

Whilst we have amended the tripartite VPA you provided, the amended VPA is not yet in a completed form approved by our client. As you would appreciate, our client must ensure that any VPA they propose is not

prejudicial to their interests, and works in conjunction with their DA. Accordingly our client will not be providing an amended VPA for Council's review until it is finalised and approved.

As previously advised to Council, our client does not favour a tripartite VPA. It is envisaged that the amended VPA submitted by our client will not include Winten Group as a party. Council has previously advised that it has no issue with this approach in principle. Our client expects and requires the proper exhibition of the VPA in accordance with the EP&A Act.

In light of the pressure Council has endeavoured to place upon our client to urgently enter a tripartite VPA, our client has sought independent advice regarding its obligations in that regard. Attached is a copy of the advice our client has obtained.

Our client considers any move to rush through a compulsory acquisition of easements prior to the lodgement of our client's DA and VPA in accordance with the estimated schedule to be unnecessary and premature."

Councillors can see the advice referred to above on the Hub. The advice provided by TPNG does not provide Council with a high level of confidence that a VPA will be properly "negotiated" with Council by April 2018. It is possible that Council will be presented with a VPA that has terms that are unacceptable to Council, and only further delay the determination of any DA lodged for the NLP.

Voluntary Planning Agreement (VPA) Considerations

The provisions of the Environmental Planning & Assessment Act and associated Regulations, guidelines and adopted Council Policy for negotiation have been followed by Council in this matter. This is now presented for the consideration of Council to progress the likely terms of the VPA with TPNG (or otherwise) and to facilitate the assessment and determination of the Winten DA for the NLP.

It is therefore recommended that Council resolve to place the Winten Draft VPA documentation on public exhibition as required by the provisions of the Environmental Planning & Assessment Act and associated Regulations, with a view to reporting the matter back to Council in April 2018 to resolve the future provision of water and sewer infrastructure within the NLP subdivision developments.

In relation to TPNG, the following options are considered to be available to Council and TPNG:

- (a) TPNG confirms its position and is willing to enter in the Draft VPA as agreed to by Winten and follow due process in accordance with the provisions of the *Environmental Planning & Assessment Act 1979* and associated Regulations, guidelines and adopted Council Policy; or
- (b) TPNG puts forward an alternative form of Draft VPA for consideration / negotiation with Council.

In the interim period up to the April 2018 Council meeting, in the absence of any attempt at negotiation with Council or firm commitment from TPNG on the terms of their VPA, Council has initiated correspondence with affected property owners within the TPNG land advising of Council's actions to date, intention and process to compulsorily acquire easements for water supply in the absence of an agreement if necessary, and the potential financial consequences for future development if Council is required to pursue a compulsory acquisition process for easements across their land. Any actions by TPNG through February and March will be the subject of the report back to Council in April 2018 for Council to determine its position in relation to future infrastructure provision on the NLP.

Comments

Finance

Not required.

Other staff comments

Manager Assets

Development of the *Development Servicing Plan for Water and Wastewater – North Lismore Plateau Internal Infrastructure* and draft *Voluntary Planning Agreement for Provision of Water and Wastewater Infrastructure* between Lismore City Council and the parties proposing to develop land at the North Lismore Plateau was undertaken to clearly define responsibilities for the provision of infrastructure for the development within its boundaries.

Council has met its own obligations in terms of providing a sewer connection to the lower (southern) boundary of the site, and a water connection to the upper (northern) boundary. Work is also well advanced in securing a site for the required water reservoir to service future stages of the proposed development and the required upgrade of Pump Station No. 2 at North Lismore including a rising main to the new South Lismore Sewage Treatment Plant is shovel ready. This work can be tendered at any time now.

The recommendations in the report are supported.

Public consultation

The provisions of cl.25D of the *Environmental Planning & Assessment Regulation 2000* requires the public exhibition of any draft VPA for a minimum period of 28 days. This report seeks to initiate that process.

Conclusion

The arrangements for coordinated infrastructure provision between the two respective developers on the NLP have been the subject of considerable effort and commitment on the part of Council to minimise the cost to the rest of the Lismore community. These arrangements have all been the subject of discussions held in good faith between all parties to progress the development of the NLP rezoned land.

It would be disappointing to see any party not meet their commitments resulting from those previous agreements on the way forward.

The draft VPAs form part of the consideration for the DA's for development of the NLP, and Council has an obligation to progress the determination of DAs lodged.

It is therefore recommended that Council resolve to place the draft VPAs for the Winten DA on public exhibition to demonstrate a commitment to its previous resolutions regarding infrastructure provision for the NLP.

Attachment/s

- | | |
|---|----------------|
| 1. Draft Voluntary Planning Agreement Biodiversity Certification | (Over 7 pages) |
| 2. Draft Voluntary Planning Agreement NLP Infrastructure | (Over 7 pages) |
| 3. MY Lawyers - Electronic Letter to Mr B Kirby, McInnes Legal - 22 December 2017 | |

Matters Arising

Subject	Draft Voluntary Planning Agreements - North Lismore Plateau (Winten)
TRIM Record No	BP18/391:DA17/270
Prepared by	Development Assessment Officer (Planning)
Reason	For Council decision
Strategic Theme	Our built environment
Strategy	Our land-use planning caters for all sectors of the community.
Action	Ensure land is available and serviced to meet population growth in locations that are accessible, close to services and employment, and suitable for development

Executive Summary

Council considered a report at its Ordinary Meeting of 13 February 2018 regarding the Draft Voluntary Planning Agreements (Draft VPAs) for the Winten development on North Lismore Plateau. It was resolved at that meeting that the Draft VPAs be placed on public exhibition. The public exhibition period was from 28 February 2018 to 28 March 2018 and to date Council has received two (2) submissions. The issues raised in submissions are discussed within the body of this report.

Council will recall that discussions have been held with the Winten Group and The Plateau Group (formerly known as The Plateau North Group and now formally incorporated as Plateau North Property Group No. 1 Pty Ltd (PNPG)) for the past two (2) years regarding Voluntary Planning Agreements (VPAs) for the provision of water and wastewater infrastructure to service the recently rezoned land proposed for subdivision at North Lismore Plateau (NLP). It was always intended that separate VPAs would be negotiated between Council and the two developers, not a tripartite single VPA. Agreement has since been reached with the Winten Group regarding the VPA between themselves and Council. Negotiations still need to be finalised in respect to any VPA between PNPG and Council.

Council is in receipt of the Development Application for subdivision of the Winten land on the NLP and have also been in direct negotiation with the Winten Group regarding the biodiversity certification of the land in the concept plan for Precinct 3 of the proposed development.

In accordance with Council Policy, the requirements of the *Environmental Planning & Assessment Act 1979* and *Environmental Planning & Assessment Regulation 2000* the matter is reported to Council seeking a resolution to accept the two Voluntary Planning Agreements and authorise the General Manager to execute the Agreements.

To ensure that the North Lismore Plateau land is effectively serviced by infrastructure and potential impacts on threatened species are properly addressed, it is critical to have the VPA finalised so that they can be addressed in the assessment and determination of the development application by the Northern Joint Regional Planning Panel (JRPP).

1. Council accepts the draft Voluntary Planning Agreement at Attachment 1 to this report for Biodiversity Certification between Lismore City Council and the Winten Group and authorise the General Manager to execute the Agreement.
2. Council accepts the draft Voluntary Planning Agreement at Attachment 2 to this report for Provision of Water and Wastewater Infrastructure between Lismore City Council and the Winten Group and authorise the General Manager to execute the Agreement.

The report to Council at its meeting of 13 February 2018 provided a comprehensive background with regard to the proposed subdivision development at North Lismore Plateau, as well as the need for the Voluntary Planning Agreements.

This map displays land parcels in the Lismore area, with specific regions highlighted. A red outline delineates 'Other NLP Land', which includes several parcels with pink and orange shading. A green outline delineates 'Winten Land', which includes parcels with green and orange shading. The map also shows 'BOORIE CREEK' and 'LISMORE'.

Lismore City Council
Meeting held 8 May 2018 - Draft Voluntary Planning Agreements - North
Lismore Plateau (Winten)

Voluntary Planning Agreement for Biodiversity Certificate of the land within proposed Precinct 3 (Concept Plan) – Winten land

The flora and fauna assessment submitted with DA17/270 identified areas of hairy joint grass within the proposed development footprint that is proposed for biodiversity certification with the provision of a Hairy joint grass BioBank area. These areas are mapped and shown below in the extract from the *Flora and Fauna Assessment* dated 18 January 2018 as prepared by Peter Parker Environmental Consultants Pty Ltd and designated as “Fig. 6” within that report.

The proposed VPA to ensure that Biodiversity Certification is undertaken is an approach that is also supported by the NSW Office of Environment and Heritage. This is to ensure that the appropriate process is undertaken for Biodiversity Certification of the land contained within Precinct 3 (Concept Plan only) prior to the assessment of any Development Application for subdivision of the land within this precinct as referred to in clause 4 of the VPA.

Voluntary Planning Agreement for Provision of Water and Wastewater Infrastructure – Winten land

Lismore City Council is the local government authority responsible for the provision of water and wastewater services in the Lismore Local Government Area.

The Draft Voluntary Planning Agreement (Draft VPA) seeks to give effect to the Council resolution of 11 August 2015 relating to the provision of the offsite reticulated water trunk main to the northern property boundary of lot 20 in Deposited Plan 1148069 (the PNPG P/L land). The developers (Winten and PNPG P/L) will be required to connect to this trunk main.

The Draft VPA also gives effect to the Council resolution relating to the provision of the offsite gravity sewage trunk main to the southern property boundary of Lot 3 in Deposited Plan 808677 (the Winten land). The developers (Winten and PNPG P/L) will be required to connect to this trunk main.

It is to be noted that the VPAs relate to the provision of infrastructure within the development and are not specifically related to infrastructure provided by Council external to the development.

Submissions

The Draft VPAs were placed on public exhibition from 28 February 2018 to 28 March 2018 on Council’s web-site and in the *Local Matters* publication. A copy of all submission documents can be accessed on the Councillor Hub. As a result of the public exhibition, two (2) submissions were received which are summarised in the table below:

Name & Address	Concerns raised
Darren Williams	- Lismore City Council proposes to subsidise the developers by up to \$24 million over the next few years, at their request and concern is expressed about the size of this subsidy - It is highly unusual for a Council to pay developers' cost in this way. Council does not have a clear idea of how much the developers will contribute, and when this would occur. - This \$24 million sum will be borrowed. This represents a fiduciary liability, given that developers could go bankrupt before the project is completed. - Lismore City Council has approached this proposed project with 100% certainty that it will go ahead, despite the fact that it will not be making the final decision. Somewhere between \$1-2 million has already been invested in a sewerage trunk line.
Mickey Ryan Chairperson Bundjalung Elders Council Aboriginal Corporation	- My name is Mickey Ryan I am a Traditional Owner of the lands where we are today I am also the chairperson of the Bundjalung Elders Council Aboriginal Corporation (BECAC) - As an Elder of the Bundjalung Nation I have a responsibility to protect my Ancestral Lands. I am writing this submission on behalf of (BECAC) in protest of any proposed Land Development on the North Lismore Plateau also the Voluntary Planning Agreement (VPA). - Let me get this straight a VPA initiated by the developer is going to benefit the community of Lismore I would like to know which community will really benefit. - I am sure it is not the local Aboriginal people who will benefit from the destruction of the most significant Aboriginal site in the Lismore area (Banyam Baigham). We need to have access to our cultural sites to maintain protect and prevent the misuse of these sites which are so important to our history customs and practises - I am sure it is not the rate payers of Lismore who are going to benefit from a VPA or any other agreement between developer and planning authorities to who makes monetary contributions also dedicate land free of cost I believe the Lismore City Council have already contributed after borrowing over Twenty Million dollars for infrastructure on the NLP And LCC want to put the rates up again - How can a proper ACHMP be properly executed when The Plateau North Group (TPNG) wanted no part in the VPA now LCC considering compulsory acquisitions for easements for trunk water supply over TPNG. This will include a pipeline running the length of the NLP. Creating a bigger footprint of destruction with roadways heavy machinery tree clearing etc. - Previous studies have demonstrated that the NLP has important Aboriginal archaeological and heritage values, if any development goes ahead the impact on our registered sites and cultural heritage values as a result of pipelines construction clearing and ground disturbances will be devastating. - I believe the LCC are totally showing disrespect for the local Aboriginal community in their strategic planning and VPA negotiations. Evidence in strategic planning and VPA negotiations need to be shown this will show transparency clarity and certainty into the process of all parties.

Comments in response to the issues raised in Submissions

Lismore City Council borrowing of \$24 Million / Council expenditure to date on infrastructure

Council's undertakings with regard to the provision of infrastructure at North Lismore Plateau is quite similar to that which happens with any development that occurs throughout Lismore (and elsewhere in

NSW). That is, Council pays the cost of constructing infrastructure to service the development and recovers the cost through section 94 and section 64 charges as the development occurs.

In effect, when land is zoned for residential purposes, Council needs to make decisions around the timing of infrastructure. Previous resolutions of Council resulted in works commencing to provide the necessary trunk mains to the edge of the land zoned for residential development at North Lismore Plateau.

The estimated cost to Lismore City Council of servicing the North Lismore Plateau development with water and wastewater services is approximately \$19 million to \$22 million. This includes an allocation of \$5.5 million for part of the cost of constructing the new South Lismore Sewage Treatment Plant. This amount has been allocated based on the pro rata ratio of future loadings on this plant.

Of this amount, \$3 million has already been spent, with the remainder of estimated costs being planned to be spent over the next four years.

Whilst Council is responsible for bearing the up-front cost of providing this infrastructure; this amount can be recovered, over time, through the following sources of future income:

- Contributions paid by developers.
- Future charges paid by residents of the development.

When preparing its current Development Servicing Plan, Council chose to cap developer contributions for all development within the Lismore local government area. In the case of the North Lismore Plateau, this equaled an overall reduction of contributions payable of \$2,794 per lot. This figure includes reductions in both water and wastewater developer charges. Over the whole of the development, this amounts to an approximate figure of \$4 million.

Capping of contributions for the North Lismore Plateau required a cross-subsidy to be paid by existing customers. This subsidy is based on the typical residential bill paid by these customers. For customers connected to both water and sewer the typical cross-subsidy is \$9.77 per annum. For customers connected to Council's water supplies only this typical subsidy is \$6.04 per annum.

Council is currently reviewing its Development Servicing Plan. This may lead to different values of developer contributions being calculated. Changes in the value of developer contributions may result from changes in Council's capital works program, and the costs of construction of new infrastructure, since the plan was last reviewed in 2016. During preparation of this new Plan, Council has the opportunity to:

- determine if it wishes to cap contributions payable for development on the North Lismore Plateau;
- the amount of any capping of contributions; and
- the resulting cross-subsidy to be paid by existing customers.

Cross-over of issues raised with Development Application DA17/270 for NLP Subdivision

It is noted that a number of issues raised within the submissions also raise concerns with regard to the proposed North Lismore Plateau subdivision DA17/270 lodged by the Winten Group. These issues will be addressed separately in the assessment report for the Development Application.

Aboriginal Cultural Heritage Issues

This is a very sensitive issue that has been raised consistently throughout the re-zoning process of the land at North Lismore Plateau. To ensure this issue has been addressed in a respectful manner, Council has facilitated ongoing meetings with the North Lismore Plateau Registered Aboriginal Parties (NLP RAP).

These meetings were initiated on 31 July 2013 and have continued to be held in accordance with OEH Guidelines for this purpose.

The NLP RAP has been engaged with various Aboriginal Cultural Heritage professionals throughout this process and were presented a draft Aboriginal Cultural Heritage Assessment (draft ACHA) report and draft Aboriginal Cultural Heritage Management plan (draft ACHMP) during 2017. Further consultation was conducted on the draft documents with final comments and feedback discussed at the meeting held on 19 August 2017. Further negotiations resulted in the two documents being adopted for this purpose, which were lodged with the Development Application in August 2017.

LCC showing total Disrespect for the local Aboriginal community in strategic planning and negotiations for VPAs

Extensive consultation has been conducted by Council starting with the re-zoning process which included engagement with the local Aboriginal community. The DA process has continued consultation process and introduced specialist Aboriginal Heritage Consultants to liaise with the NLP RAP and work up plans for the development with their valued input. Council has also engaged an independent Aboriginal Heritage Consultant to review Council's actions and ensure proper respect for the local Aboriginal community in accordance with OEH guidelines.

The negotiations for VPAs have been conducted in accordance with Council's Policy and all legislative requirements.

Voluntary Planning Agreement for Provision of Water and Wastewater Infrastructure –Plateau North Property Group No 1 Pty Ltd (PNPG) land & other stakeholders

The February 2018 Council report also provided background with regard to the Voluntary Planning Agreement for Provision of Water and Wastewater Infrastructure with PNPG. The report to Council of 13 February 2018 outlined correspondence and negotiations that had occurred to date with PNPG to that date. Council was also advised that correspondence had been initiated with all potentially affected NLP property owners within the remaining NLP rezoned land area, advising of Council's actions to date, intention and process to compulsorily acquire easements for water supply in the absence of an agreement if necessary. The potential financial consequences for future development if Council is required to pursue compulsory acquisition process for easements across their land, were also put on the table, and in receiving responses, Council would be able to identify the position of all NLP stakeholders to move forward.

The land area is shown below in Figure 2 and the following Table 1 provides a summary of land holder properties and their responses to Council's correspondence.

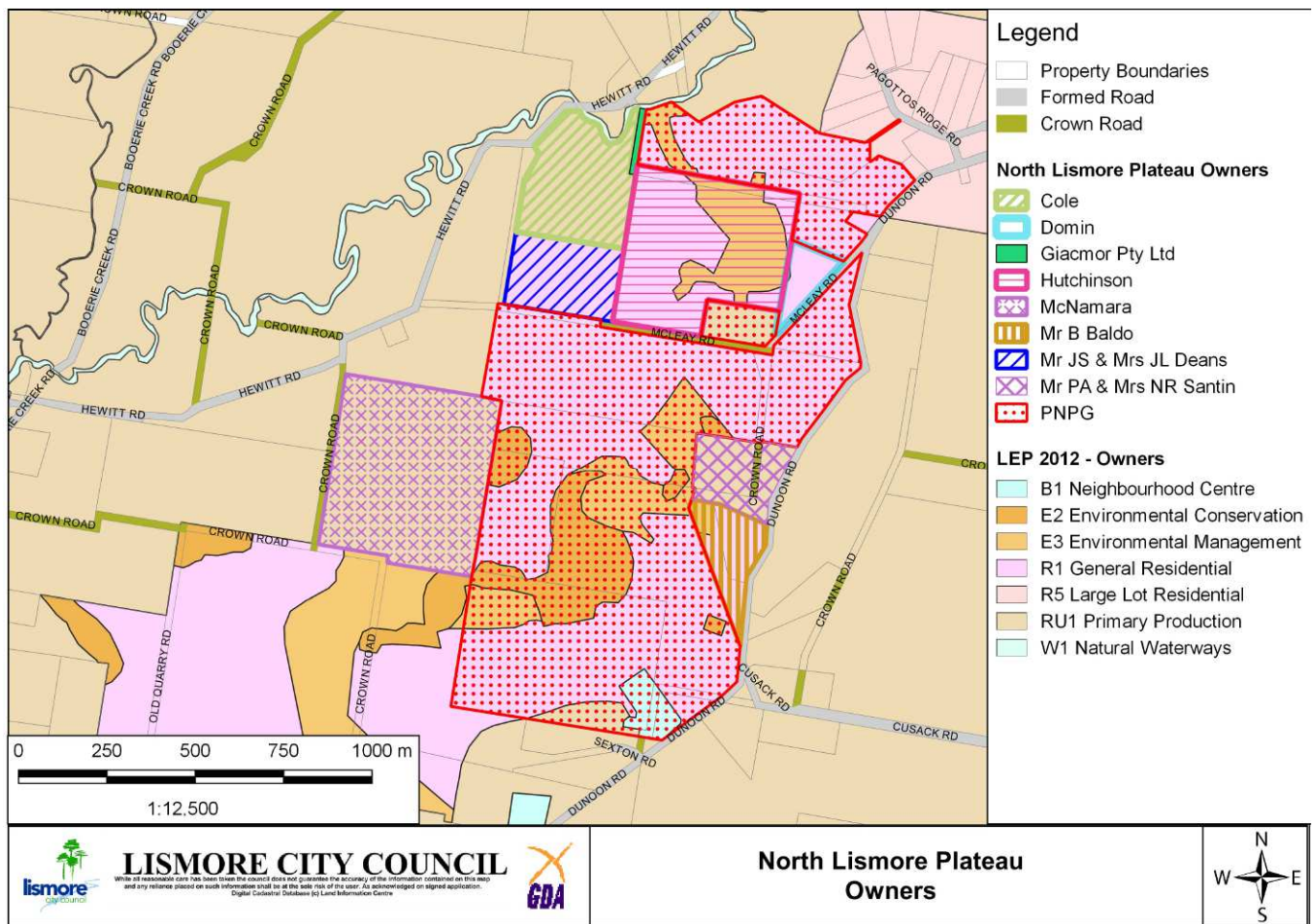


Figure 2: North Lismore Plateau land owners (excl. Winten DA land)

With respect to the responses listed in Table 1 below a response that shows 'yes' indicates that the relevant landowner/s are happy to gift easements if required and are happy with the proposed location that was provided. The other response 'happy to work with Council – subject to more detail' indicates that the landowner/s at the present time require further information prior to committing their full support, but are otherwise willing to work with Council. All property owners that form part of the Plateau North Property Group (PNPG) have a response that indicates 'PNPG'. Further detail regarding the response from PNPG is included separately below.

Owners	Parcel_title	Response
Mr A J & Mrs D L Purtle	DP 772626 lot 3	PNPG P/L
Mr A J & Mrs D L Purtle	DP 772626 lot 1	PNPG P/L
Mr A J & Mrs D L Purtle	DP 755729 lot 35	PNPG P/L
Mr A J & Mrs D L Purtle	DP 772626 lot 2	PNPG P/L
Mr B Baldo	DP 537418 lot 1	Yes
Mr B Baldo	DP 537418 lot 2	Yes
Mr A R & Mrs F M Riordan	DP 755729 lot 113	PNPG P/L
Mr J S & Mrs J L Deans	DP 623619 lot 3	Yes
Mr K Hutchinson	DP 570029 lot 2	Yes
Giacmor Pty Limited	LOT: 21 DP: 1148069	PNPG P/L

Owners	Parcel_title	Response
Mrs V Giacomini	LOT: 20 DP: 1148069	PNPG P/L
Mr F Basso & Ms S Novkovic	LOT: 1 DP: 596437	PNPG P/L
Mrs M A Cree	DP 176337 lot 1	Happy to work with council – subject to more detail
Mr A M Domin	DP 596437 lot 2	Yes
Estate of Late L E Mazzorana	DP 925006 lot 2	PNPG P/L
Mrs L Mazzorana	DP 582143 lot 11	PNPG P/L
Mrs K M McNamara	DP 184196 lot 1	Happy to work with council – subject to more detail
Mrs J S Cole	DP 623619 lot 2	Happy to work with council – subject to more detail
Mr P A & Mrs N R Santin	DP 303295 lot 1	Unaffected
Mr P A & Mrs N R Santin	DP 582143 lot 12	Unaffected
Mrs M L Mazzorana	DP 570029 lot 1 (RU1)	PNPG P/L

Table 1: Schedule of Landowners and response received to date

It is pointed out that the land shown as being in the ownership of Mrs M L Mazzorana did not form part of the planning proposal to re-zone the land for residential purposes and remains in the RU1 Primary Production zone. This land cannot be included in any proposed development application for subdivision of land until such time as the land has been re-zoned to R1 General Residential.

Response from PNPG P/L

Council received further correspondence (via solicitors acting on behalf of Council) from the Directors of PNPG that is attached to this report as Attachment 3.

In essence, the letter advises of the registration of the Plateau North Property Group No. 1 Pty Ltd and provides a schedule of land and owners that form this group. Further, it advises that they are currently finalising the Development Application for approximately 830 residential lots on their combined land holdings.

PNPG advised they were not satisfied with the easement sites as shown on the plans attached to the letter from Council's solicitor, and attached a plan showing an alternate Water Main Layout for the PNPG lands, which highlights the location of both the High Level and the Low Level Water Mains in relation to a future potential Lot Layout.

The letter also advised that PNPG intend to provide the necessary easements by way of agreement. Their current preference would be for this to occur by way of a Voluntary Planning Agreement which would be lodged with the DA documents upon finalisation of updated ecological reporting, and that Compulsory Acquisition of easements will not be required in relation to their lands. PNPG also advise that they *"do not propose to enter a tripartite VPA with Council and the Winten Property Group"*.

As stated in the Executive Summary of this report, it was always the case that separate VPAs would be negotiated between Council and the two developers, not a tripartite single VPA. Agreement has since been reached with the Winten Group regarding the VPA between themselves and Council. Negotiations will need to continue in respect to the VPA between PNPG and Council.

Response from other NLP landowners

As shown in Table 1 there has been a reasonably positive response to date from the remaining NLP landowners that are not part of PNPG, with negotiations/discussions continuing with those landowners that have expressed uncertainty to clarify future intentions following the receipt of PNPG's most recent

updated information on trunk water mains. Council will also continue to liaise with other NLP stakeholders to ensure they are kept informed of progress and any potential implications for their land.

Comments

Finance

The financial impact of the North Lismore Plateau development has previously been considered by the Council. The report recommendations do not change these considerations.

Other staff comments

Assets

Council has provided infrastructure, located externally to the North Lismore Plateau development, to allow initial stages of this development to proceed. Further external infrastructure is to be provided by Council, in the future, to service future stages of development. Developers contribute to the provision of this infrastructure through contributions paid in accordance with Council's *Development Servicing Plans (DSP) for Water Supply and Wastewater*.

Developers are responsible for the provision of infrastructure located within the area being developed. This requires developers to cooperate in ensuring compatibility of urban design and agreements relating to the provision of infrastructure. Following requests from developers; Council has agreed to facilitate development occurring by acting as a broker between developers. Under this arrangement, an additional developer contribution will be paid by developers to cover the cost of providing infrastructure within the development. Council will then be able to issue credits to developers who provide this infrastructure. When other development proceeds; Council will then transfer to this developer development contributions paid by other developers who connect their development to this infrastructure. In order for these arrangements to occur, Council prepared an additional Plan titled *Development Servicing Plan, for Water and Wastewater Services – North Lismore Plateau Internal Infrastructure*.

Whilst this latter DSP determines the amount of these additional contributions to be paid by developers; it does not establish the procedures by which this arrangement, and the transfer of contributions, will occur. These procedures were to be outlined within agreements entered into between Council and each developer. With this in mind, the DSP for infrastructure within the North Lismore Plateau has been agreed in principle by Council, but is yet to be adopted. The relevant resolution of Council required that suitable agreements be reached with developers before this DSP was adopted.

The draft VPA with the Winten Group is the necessary agreement between themselves and Council, which provides procedures relating to: the construction of infrastructure; the granting of associated easements; and the transfer of contributions between developers to occur. To give full effect to proposed arrangements, and the implementation of the DSP for internal infrastructure; it will be necessary to negotiate VPAs, or similar agreements, between Council and PNPG. Similar agreements would also need to be entered into between Council and any other future developers of this land. It is understood that PNPG has recently expressed willingness to enter into a similar arrangement with Council.

Public consultation

See the body of this report.

Conclusion

It is recommend that Council accept the draft VPAs as exhibited and that Council resolve to enable the General Manager to sign the documents on Council's behalf at the appropriate time.

Attachment/s

1. Draft Voluntary Planning Agreement - Biodiversity Certification
2. Draft Voluntary Planning Agreement - North Lismore Plateau Infrastructure
3. Plateau North Property Group P/L response to LCC

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

Name of submitter	Issues raised	Assessment staff comments
Viola & Uli Hoffmann (three submissions combined)	- Initial submission (9/10/17) raised a number of questions that were answered by a staff member in person at the front counter - Second submission (10/10/17) sought an extension of time to provide a submission - Third submission received on 13/10/17 raised the following - - Concerns about the commercial area in Precinct 1 including; traffic impact and safety of Dunoon Rd, impact of fill to raise the level of the site above 1 in 100 year flood level (especially flood impacts on North Lismore) - Does the planned basin/ wetland provide sufficient holding capacity for stormwater generated in the proposed upper precincts and compensate for the volume of fill added to the lower precinct? - Believes the commercial area is in the wrong location and would be more suitable amidst the development on the plateau where people could walk or ride to buy their goods. - Large trees (more than 70cm diameter) should be preserved for koala and other fauna habitat. - Concern regarding noise and vibration assessment / management plan - Concerned about the treatment of Mickey Ryan and him filing a human rights claim ('The Echo'). - Raised many questions about the process undertaken by Cultural Heritage Assessment consultants without the presence of an elder, the outcome of the burial site and whether the proposed management strategies are in accordance with the wishes of the Aboriginal community?	- Noted - Noted - Noted – land has been zoned for this purpose. The issues raised will be addressed in any subsequent development application for this parcel of land - This issue is addressed by Council's Development Engineer and it is advised that storm water concerns have been adequately addressed by the application documents or by conditions of consent - The land has been zoned in this location as being suitable for Neighbourhood Business - Most of native vegetation on the site is regrowth less than 30-40 years old. Consequently there are relatively few large trees on the site. - Several large trees were identified in the subdivision plan (117912-30, revision 14/2/2018) and have been conditioned to be retained in either recreational parks or road reserves. - Conditions of consent ensure that there will be no adverse impact from noise and vibration - Noted – assessing officer is unaware of the details of this matter - Council's Archaeologist has addressed the process undertaken for Cultural Heritage Assessment and is satisfied that this matter has been adequately addressed by the application documents or by conditions of consent.

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

David & Karen James	- Concerns about excess runoff water causing increased water problems on their property, including increased risk of landslides - Landslides occurred on steep land surrounding development site during 2017 Cyclone Debbie floods. (Map included of landslides).	- As stated above Council's Development Engineer has addressed this matter. It is also noted that their property is not in a position to be affected by the Winten development. - The landslips were not within the proposed development area and were located further north of the site. The submitters could address this matter to the attention of the landowners of the slip affected lands
Michael Qualmann	- Concerned about traffic impacts including the capacity of existing bridges and the volume increase on Winterton Parade (past Richmond River High School) - Before a development of this size is approved, Council needs a firm commitment to another bridge crossing north of the CBD. - If adequate infrastructure is not provided, total development should be restricted to a manageable yield of lots, not exceeding 300.	The strategic road review completed by TTM identified that an additional bridge crossing would be required by the year 2028 with the assumption that the majority of the NLP would be complete. It is understood that the final location of the crossing has not yet been determined.
Beth Shelly	- Concerned how the development may affect access to her property on Hewitt Road as flooding of the road occurs at regular intervals - Concern expressed as to how the development may impact on local wildlife - Runoff from the development would impact on the creek and Hewitt Road, which is a dirt road - Concern that Council is contributing to the costs of the developers	- The proposed development will have no impact on Hewitt Road Impacts on wildlife - Most of the habitat on the site is low quality vegetation dominated by camphor laurel/broad leaved privet/small leaved privet +/- native rainforest pioneer species with few habitat features such as hollow-bearing trees and fallen logs. - A condition to develop an Environmental Management Plan in accordance with Lismore Development Control Plan Chapter 10 has been <u>conditioned</u> included. Implementation of this plan will restore native vegetation in the land that has been zoned E2 and E3. - Compensation for the removal of preferred koala habitat has been conditioned to be undertaken in accordance with the Comprehensive Koala Plan of Management for south-east Lismore or a similar method.

ATTACHMENT 8

SUMMARY TABLE OF SUBMISSIONS RECEIVED

		- Traffic calming measures along the access road to Precinct 2 have also been conditioned to reduce the risk of vehicle strike on wildlife. - Council has not subsidised the development.
Christopher Colusso (Boral Property Group)	- The DA fails to achieve harmony with its surrounding land. - Residential encroachment threatens existing industrial uses. - Boral have a concrete batching operation 700m south of the proposed subdivision site and contends that the DA fails to adequately consider the impacts on surrounding land uses along Lake St, Macauley St and Terania St. Residential allotments would be within 1km of industrial uses. Noise, vibration and odour may be considered offensive. 700m from Boral plant to nearest residential lot is an insufficient buffer.	- The image below provides a visual illustration of a 700m buffer radius around the existing Boral concrete batching plant.  - Chapter 11 – Buffers Lismore Development Control Plan provides development standards in the form of physical buffers for encroaching development (residential) onto 'existing industrial land uses' to manage the risk of potential land use conflict. - A separation distance of 700m from the existing industrial precinct of Macaulay Street North Lismore to NLP residential development is comparison to contemporary buffers to extractive industries (and other similar industries) is considered to be an appropriate physical separation distance that will protect community amenity, environmental assets and the carry out of legitimate industrial activities.
Peter Hayes (on behalf of himself & neighbours Jennifer & Nigel Toovey, & Peter Szaak)	- Additional consultation with immediately affected neighbours should be undertaken. Not necessarily opposed, but many of those affected may not be aware of possible impacts on their properties. - The 'conceptual approval' sought for Precinct 3 is ambiguous about what the approval would entail and what further opportunities for consultation / comment	- Noted – Extensive consultation has been undertaken as outlined in the assessment report - The concept for Precinct 3 is not approved as part of this assessment. A further development application for this land will be lodged at some future time. Consultation will be conducted with affected property owners at that time.

ATTACHMENT 8

SUMMARY TABLE OF SUBMISSIONS RECEIVED

	would be provided. It has not to date been discussed with the community. - Concerned about potential for landslips. No information about how site erosion would be avoided during major storms. A major landslide occurred on the NW face of the plateau in 2017 and the potential for further slips in Precinct 3 is high and would impact watercourses and dams downstream. - Offsets for threatened species – generally strongly approve of the proposed scheme. But asks the question whether it would be better to dedicate the southern half of Conceptual Precinct 3 to new koala habitat and leave the existing areas of Hairy Joint Grass within Precinct 3 rather than need to offset it all? - Koala habitat and corridors - Sceptical that the proposed new vegetation will enable a viable koala population to exist and concerned that it will create further isolation and separation. Mr Hayes suggests a more koala-friendly approach may be planting the southern half of Conceptual Precinct 3 with koala-habitat trees to revegetate along the top of the escarpment. - Water impacts – Information sought regarding Catchment 7/C7 - Bushfire - suggests the slope in Precinct 3 requires boundaries to be pushed back substantially on the western perimeter - RFS letter in Appendix says they won't support lots on slope >180, yet table 3 (page 17) shows 21 of the lots exceed 180. - It is unclear if the report uses camphor laurel or re-vegetated rainforest for expanded APZ calculations, and whether these (Table 2 page 15) are acceptable to RFS? - Not clear if APZ can be achieved on developers land or if it relies on a Council-managed reserve. - The report refers to re-vegetation of rainforest along escarpment to minimise fuel loadings, but it's not	- The landslips were not within the proposed development area and were located further north of the site. The submitters could address this matter to the attention of the landowners of the slip affected lands Offsets for threatened species - In line with current best practice, as part of the subdivision design process the applicant has gone through a rigorous process to avoid and minimise impacts on biodiversity. - Impacts on areas of thorny pea and hairy-joint grass in Precinct 2 were unavoidable but have been assessed as acceptable as the statutory assessment concluded that the proposed development will not have a significant effect on threatened species, their habitats or endangered ecological communities. Koala habitat, corridors and revegetation - Comments on setbacks and buffers noted. - Koala have been identified as being itinerant users of the site over several surveys (i.e. there is no resident koala population). Consequently, controls on the keeping of domestic dogs are not proposed. Cats do not present a substantial risk to koalas. - Compensation for the removal of preferred koala habitat has been conditioned to be undertaken in accordance with the Comprehensive Koala Plan of Management for south-east Lismore or a similar method. - The development of an Environmental Management Plan in accordance with Lismore Development Control Plan Chapter 10 has been included as a condition of consent. Implementation of this plan will restore native vegetation in the land that has been zoned E2 and E3. It is expected that koala feed trees will be planted in these areas.
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ATTACHMENT 8

SUMMARY TABLE OF SUBMISSIONS RECEIVED

	clear by whom or when it will be done. - Concerns about a southern road being developed for an interim fire exit and whether this is the 'thin edge of the wedge' to the creation of a SW road. Would like clarification of the developer's intentions. - Setbacks / Buffers – the conceptual plan moves the houses as far as possible to the west. While this beneficial from a commercial perspective, the land abuts farming land and both lots have been subject to wild dog attacks. - Concerned about impact of new residential dogs on koalas. - They suggest a buffer between the Precinct 2 and the rural activities in Boorie Creek valley and that a suitable area in Conceptual Precinct 3 be considered, along with the suggested koala corridor and Hairy Joint Grass preservation area (instead of housing). - Sufficient buffer should be required as part of a long-term Big Scrub Regeneration mosaic for biodiversity and genetic diversity. - Would like to see a commitment to regional regeneration and believes it would enhance the ecological, residential and amenity value of the development.	- This plan will detail a range of management activities and a project plan that details timing and resources. - Council is not in a position to accept dedication and ongoing management of the asset protection zones and fire trails. This issue will be addressed by the imposition of conditions of consent. - Council cannot provide a response with regard to wild dog attacks as it is not aware of details in this regard - Lots 9003 and 7003, along with the perimeter roads form an appropriate buffer between the existing grazing lands and the proposed residential development. - Buffers that relate to Precinct 3 (concept only at this stage) will be addressed as part of any future development application for this land - Ecological issues are addressed in the points above.
Martin Oliver	- Initially requested an extension of public exhibition time due to difficulties finding information. - Concerned about traffic congestion at NLP and impact on roads generally for Lismore - Concerned about costs / liability to Council. Believes there are subsidies of up to \$24 million and that it highly unusual for Council to pay developers costs in this way. - Concerned about increased stormwater runoff - Views of Mickey Ryan and Bundjalung Elders Council that the site has a high level of significance should be respected. - Cultural Heritage consultancy firm Tocomwall have recommended the plateau be protected because of significance to Aboriginal people.	- Noted - Traffic issues have been addressed by Council's Development Engineer and traffic impact studies conducted for the proposed development. - Council has an Infrastructure Delivery Plan that addressed road network issues as the NLP is developed. - Council has not subsidised the development. - Storm water has previously been addressed. - Noted that the views of Mickey Ryan and the Bundjalung Elders Council have been respected - The grave site has been investigated - It is noted that the cultural heritage assessment

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

	• The grave site has not been investigated to determine whether the remains are Aboriginal or not. • Stone walls have not been conclusively determined as European and Tocomwall's archaeologist voiced strong doubts that they are of European construction. • CHMP did not include a site inspection carried out in the presence of the Indigenous custodians. • Protection of the threatened species, Thorny Pea (<i>Desmodium acanthocladum</i>), is unclear and 90% of specimens are found on NLP. • Concerned about other impacts on flora and fauna including Hairy Joint Grass and the lack of a Species Impact Statement	included a range of direct archaeological investigation methods beyond reference to the OEH AHIMS database • It is noted that Aboriginal consultation has been extensive and ongoing throughout the project and no report has been seen from Tocomwall other than a single site card relating to stone features. • In line with current best practice, as part of the subdivision design process the applicant has gone through a rigorous process to avoid and minimise impacts on biodiversity. • Impacts on areas of thorny pea and hairy-joint grass in Precinct 2 were unavoidable but have been assessed as acceptable as the statutory assessment concluded that the proposed development will not have a significant effect on threatened species, their habitats or endangered ecological communities.
Ann Jarman	• Native Grasses and Thorny Pea plants are present. Were studies done to determine how insects and animals that are dependent upon this vegetation can remain? • Koala habitat – questions the methodology of removing mature koala habitat and planting immature trees elsewhere. • Cats & Dogs – biggest killers of koalas. New housing will increase the risk of koala death and stress. • Aboriginal heritage sites – should be preserved. Artefacts should be left where they are. We would never build a highway through a museum.	Native Grasses and Thorny Pea • For Precinct 1 and 2 impact of the development on hairy-joint grass and thorny pea was addressed in seven-part tests under the <i>Threatened Species Conservation Act 1995</i> (TSC Act). • For Precinct 3 the impact of the development on hairy-joint grass and thorny pea will be addressed in a forthcoming application for Biodiversity Certification under the TSC Act. Koala habitat • Compensation for the removal of preferred koala habitat has been conditioned to be undertaken in accordance with the Comprehensive Koala Plan of Management for south-east Lismore or a similar method. • Noted - Cultural heritage has been addressed by Council's Archaeologist.

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

William Jarman	• Concern for Thorny Pea and other flora and fauna and the process to ensure their survival. • Concern about removal and replacement of koala food trees. Koalas need mature food trees and birds use their hollows to roost. • Cars and dogs are the biggest killers of koalas and a new estate near koala habitat will increase the risk of koala deaths and stress. • Believes there are 11 Aboriginal heritage sites which is an extraordinary number and something Lismore people should be proud of. Aboriginal people do not want them removed and in 2017 we should be respecting the wishes of the local Indigenous people.	Impact on flora and fauna and thorny pea • Most of the habitat on the site is low quality vegetation dominated by camphor laurel/broad leaved privet/small leaved privet +/- native rainforest pioneer species with few habitat features such as hollow-bearing trees and fallen logs. • Most of native vegetation on the site is regrowth less than 30-40 years old. Consequently there are relatively few large trees on the site. • Several large trees were identified in the subdivision plan (117912-30, revision 14/2/2018) and have been conditioned to be retained in either recreational parks or road reserves. • The development of an Environmental Management Plan in accordance with Lismore Development Control Plan Chapter 10 has been conditioned. Implementation of this plan will restore native vegetation in the land that has been zoned E2 and E3. • For Precinct 1 and 2 impact of the development on hairy-joint grass and thorny pea was addressed in seven-part tests under the <i>Threatened Species Conservation Act 1995</i> (TSC Act). • For Precinct 3 the impact of the development on hairy-joint grass and thorny pea will be addressed in a forthcoming application for Biodiversity Certification under the TSC Act. A Species Impact Statement is not required under this process. Koala • Compensation for the removal of preferred koala habitat has been conditioned to be undertaken in accordance with the Comprehensive Koala Plan of Management for south-east Lismore or a similar method. • Koala have been identified as being itinerant users of the site over several surveys (i.e. there is no resident koala population). Consequently, controls on the keeping of domestic dogs are not proposed. Cats do not present a substantial risk to koala.
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ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

Daniel-John Peterson	• Inadequate consultation has been undertaken to assess the site's endemic cultural heritage values. • Everick consultant's report is primarily based upon a desktop study of officially registered sacred sites. Cultural heritage is held and protected by the people themselves. The process is inadequate at best, and could be considered institutionalised racism. • Adequate consultation with appropriate traditional owners is still required. • Issues raised by Tocomwall consultants in the media (stone walls) have not been addressed and it would be irresponsible to proceed while they are unresolved.	• It is noted that Aboriginal consultation has been extensive and ongoing throughout the project • It is noted that the cultural heritage assessment included a range of direct archaeological investigation methods beyond reference to the OE AHIMS database • Ongoing consultation will be undertaken with NLP RAP with respect to landscape design / interpretation. • No report has been seen from Tocomwall other than a single site card relating to stone features • Mr Peterson advised Council's Archaeologist of his contact with Mickey Ryan regarding these matters
Kathleen & Gary Lord	• Indigenous artefacts found at the site and the spiritual connection of Indigenous people. Believes it is their wishes that development not proceed • Site is a habitat for echidnas • Potential for more landslides on steep slopes. • Lack of infrastructure for the number of people anticipated. • Concern about condition of the creek (potential for rubbish etc.) • Impact upon koala corridor • Negative impact on existing residents' amenity including extra noise, traffic, rubbish, crime, and loss of views.	• It is noted that the cultural heritage assessment included a range of direct archaeological investigation methods beyond reference to the OE AHIMS database Impacts on echidna and koala • Most of the habitat on the site is low quality vegetation dominated by camphor laurel/broad leaved privet/small leaved privet +/- native rainforest pioneer species with few habitat features such as hollow-bearing trees and fallen logs. • Conservation measures have been proposed on the E2 and E3 zoned land that is part of the site. • Compensation for the removal of preferred koala habitat has been conditioned to be undertaken in accordance with the Comprehensive Koala Plan of Management for south-east Lismore or a similar method. • Traffic calming measures along the access road to Precinct 2 have also been conditioned to reduce the risk of vehicle strike on wildlife.

ATTACHMENT 8

SUMMARY TABLE OF SUBMISSIONS RECEIVED

Bundjalung Elders Council Aboriginal Corporation (BECAC) / Mickey Ryan	• Consultation – BECAC have not been sufficiently consulted. There is a need to identify and speak to the right people. The Cultural Heritage Management Plan (CHMP) makes no reference of BECAC's position. • Heritage - all objects, sites and knowledge make up the heritage of the land. The underlying protocol is to recognise and respect Aboriginal people's right to their cultural heritage. • Consent – Traditional owners have a right to say 'no' to any proposal put to them and their decision should be respected. • Native Title – BECAC objects to any utilisation of land in Crown Reserve that is subject to a Native Title determination. This will leave a bigger footprint than the proposed development and impact on habitat and Big Scrub remnants. • Unmarked Grave - Would like to know why the discovery of the unmarked graves have not been appropriately investigated and whether the bodies are Aboriginal or non-Aboriginal? • Indigenisation – BECAC objects to the use of Aboriginal names for streets, place names (etc.) as this is cultural appropriation and offensive. • The significant sites on the North Lismore Plateau are identified to be of great historical and cultural importance and both Aboriginal and non-Aboriginal people should help to preserve Aboriginal heritage and history.	• It is noted that the submission is "signed" by Mickey Ryan • Mickey Ryan is a Registered Aboriginal Part for consultation on the project since 2011 and has been involved in nearly all field work and regularly attended RAP meetings where the views presented in this submission were noted. • Council's Archaeologist met with Mickey Ryan on 17 March 2018 following his attendance at a RAP meeting and listened to his concerns. • The unmarked grave was dealt with by NSW Police and the stone circle feature was demonstrated not to be a grave. • Council officers respect Aboriginal cultural heritage • The land proposed for use as a fire trail on Council owned land (some of which has been transferred from the Crown) will be subject to a Licence Agreement with Council • Any Licence Agreement with Council will include conditions that require consultation with NLP RAP • Noted that BECAC objects to the use of Aboriginal names for streets, place names and that this is subject to ongoing consultation with NLP RAP • Council officers note and respect the cultural importance of the North Lismore Plateau to both Aboriginal and non-Aboriginal people
Indigenous Justice Advocacy Network / Al Oshlack	• Cultural Heritage – North Lismore Plateau has been recognised by Traditional Owners as one of the most important sites on the North Coast. The Cultural Heritage Assessment submitted with the DA does not indicate or explain this cultural significance. • The CHMP is misleading, biased and factually inaccurate and fails to comply with the legislative requirements for Aboriginal Cultural Heritage Consultation Requirements. • Integrated development - Mr Oshlack believes that	• The submission notes that Mr Oshlack, using the name "Indigenous Justice Advocacy Network", acts in a representative capacity for Michael Ryan, Reg King and other traditional owner families • Incongruence between the DA stating that no Aboriginal sites will be harmed, and the ACHAR which states that an AHIP is required. The source of this confusion relates to different areal coverages between the ACHAR covering the entire central

ATTACHMENT 8

SUMMARY TABLE OF SUBMISSIONS RECEIVED

	under the National Parks and Wildlife Act 1974, the DA incorrectly answers 'no' to the question of whether the development will destroy, deface or damage any relic or object. The CHA says a s90 AHIP will be required and as such the application is integrated development under the EP&A Act 1979. • Breaches of Aboriginal Cultural Heritage Consultants Requirements – The CHMP and CHA rely on a myriad of previous reports, none of which are provided. Other reports were not made available to the RAP despite repeated requests. • CHA states (at p.19) that, "<i>A copy of this assessment was provided to the RAP for comment...</i>" Mr Oshlack claims this is a fabrication and there is no evidence that the RAP were given 28 days to provide submissions. • Unmarked Grave – not referenced in either the CHMP or the CHA despite communication directly with the consultants. The grave site was referred to the police and testimonial evidence suggests that the only way to determine whether the bodies are Aboriginal or non-Aboriginal is to exhume them and conduct DNA analysis, which has not occurred. • Reliance on Unqualified Heritage Consultant – The reliance by Everick on previous heritage assessment work undertaken by Ian Fox (Converge) is inappropriate. Claims made that Mr Fox is an archaeologist are false and Mr Fox has no qualifications in archaeology, ethnography, anthropology or Indigenous Cultural Heritage. • Site Inspection Without Aboriginal Monitors – A site inspection of identified Aboriginal Cultural Sites undertaken by Everick on November 30, 2016 was done without the presence or knowledge of any Aboriginal person. This does not meet consultation guidelines and shows a lack of respect to Traditional Owners and is considered deceptive and discriminatory. • the proposed footprint goes beyond the developed	area, and the DA covering only Precincts 1 and 2 and excluding Precinct 3 where an Aboriginal site occurs. • Shortcomings in the ACHAR and CHMP reports in regard to reporting Aboriginal consultation in accordance with OEH guidelines. These observations were correct in regard to the Everick reports. Detailed critical review of the Everick reports have been addressed by Council's Archaeologist in separate correspondence. • Lack of assessment of the unmarked grave. This matter was dealt with in subsequent investigation and the stone circle feature was demonstrated not to be a grave. • Everick's reliance on the Aboriginal heritage assessment work of Ian Fox who is not a qualified heritage consultant. Mr Fox acted primarily as a project manager and used qualified archaeologists in the course of his work. • Concern over use of council land subject to Native title. This has been addressed separately in the report by Council's Property Services team and the imposition of an appropriate condition of consent, that will require consultation with NLP RAP and native title claimants • Concern over artefacts that Mickey Ryan has reported missing. I note that Graham Knuckey specifically addressed Mickey Ryan's concern over this matter and reported that all artefacts were recorded and reburied in test pits in the course of the test excavation fieldwork. • Assessment in relation to asset protection zones has been conducted by NSW Rural Fire Service and is addressed separately as a condition of development consent • Council notes the views expressed by the Bundjalung Elders Council (addressed as a
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ATTACHMENT 8

SUMMARY TABLE OF SUBMISSIONS RECEIVED

	area and onto Council land subject to Native Title. • no assessment in relation to Asset Protection Zones • no reply to Mickey Ryan to identify artefacts that have gone missing or taken and not reported by Mr Fox or others • the theme that Aboriginal people are supportive is not representative of the views of the Bundjalung Elders Council • A reference (at 4.0 A1.2) in the Appendices of the Staged Development Application that a site meeting was organised with Council staff and the RAP to discuss the plan never occurred and is further evidence of a lack of diligence or deliberately misleading statements. • The voice of the Aboriginal people is silent. No one is quoted and the tone of the reporting is of an amorphous group without an opinion on matters where decisions are made for and about Aboriginal people. • the ecological report by Peter Parker is inadequate and fails to fulfil basic requirements • The methodology used by Parker to gauge to the number of koala food trees is questioned and Mr Oshlack believes SEPP 44 applies to this DA. • Endangered flora species surveys are 3-4 years old and there veracity is dubious. Thorny Pea, hairy Joint Grass and Arrow Head Vine are Commonwealth listed threatened species and need to be referred to the Minister under the EPBC Act. • Asset Protection Zones (APZs) were not included in the flora and fauna assessments, as required. • LCC should be transparent on the full costs including loans, staff time and infrastructure expenditure of their financial liability should the development not proceed. • Council or JRPP should provide a public forum where oral submissions can be given and questions answered.	separate submission) • Extensive consultation has been held with NLP RAP for a number of years • Noted Ecology • No evidence or standard is presented as to how the report 'is inadequate and fails to fulfil basic requirements'. • Koala have been identified as being itinerant users of the site over several surveys (i.e. there is no resident koala population). SEPP 44 has been appropriately applied in accordance with these survey results and a Koala Plan of Management is not required. • It is customary to use the Spot Assessment Technique to sub-sample koala food trees for the presence of koala scat. The koala surveys conducted by the ecological consultant sampled <u>every</u> tree for the presence of koala scat. This method would give a more accurate result than Spot Assessment Technique. • Multiple surveys for thorny pea, hairy-joint grass and arrowhead vine were conducted over a number years since 2011 by James Warren and Associates Pty Ltd, Greenloaning Biostudies Pty Ltd and Peter Parker Environmental Consultants Pty Ltd. Survey effort has been more than adequate. • Referrals to the Department of the Environment and Energy are at the discretion of the proponent and Council has no jurisdiction in this matter. • A site inspection of asset protection zones was conducted by Peter Parker Environmental Consultants Pty Ltd on 18 April 2017. • JRPP will contact all submitters and advise of the opportunity to speak during the public forum
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ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

Leisa Webb	• Ratepayers are not being told the total costs and liability to Council • Will become an eyesore for the town • Concerned about implications for koala population • Aboriginal people consider the NLP scared and do not want it developed	• This issue is dealt with in detail at Section 11.7.6 of the report to JRPP • The opinion expressed is noted • Issues relating to koala habitat have been addressed • Comments noted with regard to Aboriginal people
North Lismore Plateau Protection Association / Julie Allen	• Some places should never be disturbed. • There are a number of unmarked ancient and sacred sites, many still unknown, along the range where the First People roamed, hunted, fished, lived and died. • Increased roofs will lead to increased flood levels • Additional people will put additional strain on resources such as water, food, clothing, shelter and energy. • Concerned about the impact on flora and fauna.	• Comment noted • The issue of Aboriginal cultural heritage is addressed separately in this table and within the report to JRPP • The issue of stormwater runoff is addressed above • Comments noted with regard to resources Impacts on flora and fauna • Most of the habitat on the site is low quality vegetation dominated by camphor laurel/broad leaved privet/small leaved privet +/- native rainforest pioneer species with few habitat features such as hollow-bearing trees and fallen logs. • A condition to develop an Environmental Management Plan in accordance with Lismore Development Control Plan Chapter 10 has been included in the Draft Conditions of Development Consent. Implementation of this plan will restore native vegetation in the land that has been zoned E2 and E3.
Zeb Edee Wright-Cheah	• Objecting to all stages of the proposed North Lismore development. • Cultural heritage is important and proper consultation must be undertaken. Raised the issue of Mickey Ryan, an Indigenous elder of the land, has filed a human rights complaint against Council. • Insufficient documentation on display for public exhibition (on-line and at Council office). • Flora removed needs to be replaced to support local fauna. • Large areas of sealed surface would have impacts in times of flood, in particular Lake St and Dunoon Rd. • Further consultation with all elders is required on a	• Noted • Acknowledged that cultural heritage is important • It is noted that Mr Ryan has been consulted and involved throughout the project • Flora removal - Most of the habitat on the site is low quality vegetation dominated by camphor laurel/broad leaved privet/small leaved privet +/- native rainforest pioneer species. • An Environmental Management Plan that addresses rehabilitation of vegetation in land zoned E2 and D3 will be developed and implemented in accordance with Lismore Development Control Plan Chapter 10. • It is noted that the NLP RAP was regularly

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

	range of issues including wildlife corridors and solar generation for new residents.	convened and consultation was conducted over a number of years
Elijah Nadia & Peter Hayes	This is an identical submission to the submission above by Zeb Edee Wright-Cheah	The response is as above to the submission by Zeb Edee Wright-Cheah
Leon Hoffmann-Detenhoff	- It is important that Indigenous Cultural Heritage be respected - nature and the environment must be valued - Mickey Ryan, as an Elder of the land, should not be ignored and due process followed - Plans have not been sufficiently displayed (online or at Council building). - Concerned about impact on flora and fauna - Additional fill and hard surfaced areas will have impact other North Lismore residents in times of flood.	- It is acknowledged that Aboriginal cultural heritage is to be respected - Ecology / environmental issues have been addressed in detail by Council's Ecologist - It is noted that Mr Ryan has been consulted and involved throughout the project - Plans have been available through Council's online DA Tracking or online with assistance at Council's front counter - The issue of fill and flood impact have been addressed in detail by Council's Engineers and technical reports submitted with the application
Ross Honniball	- Supports developing the plateau for housing. - Would like to see residential land with lookout and public parks with views and would like to see the inclusion of a public lookout incorporated into the lot design.	- The support for the project is noted - The concept landscape plan includes parks and reserves with viewing opportunities and this will be developed further with the final document to be submitted at a later date

Second public exhibition

Name of submitter	Issues raised	Assessment staff comments
Paxi Wright Cheah	Strongly object to the development because it is proposed to be built on indigenous sacred ground	The objection is noted
Meaghan Vosz	- Concern expressed as it is not clear how the additional traffic and traffic noise will be ameliorated - There are many benefits to the proposal however traffic noise has increased over recent years with an impact on residents wellbeing - Raised questions around studies of traffic impact and safety and traffic noise - Questions whether Councillors or Council staff will	- This matter has been addressed within the Traffic Study submitted by the applicant. Additionally, Council has adopted the NLP IDP for upgrades of existing road network to cater for the changes in traffic generated by the development. Furthermore the pedestrian facilities proposed within the IDP will improve pedestrian safety - No Councillors or Council staff will benefit in any way from the proposed development in accordance

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

	- benefit from the proposed development - Has a social impact assessment been submitted and analysed	- with Council's adopted Code of conduct - Social impact was assessed at the rezoning stage and again with the development application
Darren Williams	- Proposal involves creation of a new suburb of 1500 houses and involves traffic issues, - LCC subsidised the developments by up to \$24 million - The present of concrete in the development will increase stormwater runoff - The development is opposed by Bundjalung elder Mickey Ryan - Grave site has not been investigated to determine whether the remains are Aboriginal - Aboriginal cultural heritage consultancy firm Tocomwall has recommended that the plateau be protected due to its significance to Aboriginal people - Ancient stone walls, site inspection not addressed in Cultural Heritage Management Plan - Concern regarding impact on threatened species	- The current development proposes 95 lots in Precinct 1 and 295 lots in Precinct 2 - This issue is dealt with in the report to JRPP at section 11.7.6 - Stormwater issues are dealt with elsewhere in the table and report - It is noted that the development is opposed by Mickey Ryan - The grave site has been investigated in accordance with the <i>Coroners Act 2009</i> - Council has not seen any documentation from the consultancy firm Tocomwall - These issues are dealt with in detail elsewhere in the table and report
Mickey Ryan Bundjalung Elders Council Aboriginal Corporation	- Council has borrowed over twenty million dollars for infrastructure and ratepayers of Lismore and North Lismore community are not going to benefit from any VPA - Questions ho a proper ACHMP can be properly executed when The Plateau North Group (TPNG) wanted no part in the VPA - LCC considering compulsory acquisitions for easements for trunk water supply over TPNG - Need to respect the integrity of Significant Aboriginal Cultural Heritage - Right across the Australian continent (Our respective Countries) lives a network of invisible pathways known as "Footprints" of our Ancestors also known as song lines and Dreaming Tracks. - LCC showing total disrespect for the local Aboriginal community in strategic planning and VPA negotiations - Long ago Aboriginal lands were taken through violence, poisoning, rape, epidemic diseases and	- The financial issues have been addressed in the report to JRPP at section 11.7.6 as well as flooding in accordance with section <i>LLEP 2012</i> clause 6.3 - The ACHMP relates to the land that is the subject of this application. TPNG (now known as PNPG) will be required to provide ACHMP with any future development application for their land - LCC is exploring compulsory acquisitions should agreement with PNPG not be reached - It is acknowledged that Aboriginal cultural heritage is to be respected. This issue is addressed comprehensively elsewhere in this table and the report to JRPP - Extensive consultation has been conducted by Council starting with the re-zoning process which included engagement with the local Aboriginal community. The DA process has continued consultation process and introduced specialist Aboriginal Heritage Consultants to liaise with the NLP RAP and work up plans for the development

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

	Government agencies.	with their valued input. Council has also engaged an independent Aboriginal Heritage Consultant to review Council's actions and ensure proper respect for the local Aboriginal community in accordance with OEH guidelines. • The negotiations for VPAs have been conducted in accordance with Council's Policy and all legislative requirements.
Uli & Viola Hoffmann (two submissions combined)	• Concern expressed regarding stormwater, drainage and flooding • It would be of public interest to assess the stormwater situation for the whole development of the North Lismore Plateau and its impact on the situation for the lower lying areas of Lismore • Extensive land filling is planned in the lower lying areas of precinct one • These issues need to be thoroughly assessed • Concerns expressed regarding flora and fauna • Concerns expressed regarding koala habitat • Concerns expressed regarding traffic noise and noise and vibration generated by construction • Easements cannot be allowed if they negatively impact on the environment and importance for the local indigenous community • VPAs involve money given to support a couple of investors • The Winten development cannot be approved without full knowledge of the TPNG plans • The TPNG group nor Council should be pressured into rushed applications or decisions.	• The proponent has demonstrated through the Stormwater Management Plan that there will be no adverse impacts to adjoining land • The flood modelling commissioned by the applicant showed minor changes to localised flooding (+/- 10mm). As the fill material for precinct 1 will be sourced from within the floodplain there will be no change to the existing flood characteristics for the wider Lismore area (including the CBD) • These issues have been addressed previously • These issues have been addressed previously • This issue has been addressed by the imposition of appropriate conditions of consent • Noted • These issues have been addressed previously • The application before Council meets all legislative requirements and is in line with the Structure Plan that forms part of LDCP Part A Chapter 10 – North Lismore Plateau. • This application can be assessed and determined prior to receipt of any application from other landholders • Council has not been provided with any PNPG plans to date • The current application was lodged with Council during August last year.

ATTACHMENT 8

SUMMARY TABLE OF SUBMISSIONS RECEIVED

RCS Group	• Concern is expressed regarding the change in widths of 2.5 metres to the Major and Minor Boulevard Collector Roads • The lot layout does not comply with the requirement for no direct access to residential lots off the major boulevard collector • In light of the considerable cost and time delays incurred by having to make layout amendments we feel that it is only reasonable for Council to insist on compliance with the adopted DCP • The ecological assessment indicates that there is a large community of Hairy Joint Grass on the site • A number of questions were raised as follows: 1. When and where will suitable access to the sewer main service our development 2. Details of design levels and pipe sizing are not disclosed 3. Agreement about the provision of the water main to service the development has not been addressed. Council categorically denied our development access to the existing town supply at the showground. Provide an explanation as to who the applicant has secured such access 4. Explanation required as to why they were not advised that an alternate water supply is available 5. Why are retaining walls to be built to common boundaries 6. Why is Road K where it is when our layout has been before both Council and the applicant for many years 7. A 1.5m high retaining wall will have a significant impact upon their land 8. No design details of footings for the retaining wall structures 9. What steps proposed to ameliorate the visual impact of the masonry retaining walls on their adjoining site 10. Inconsistencies with the depth of fill/earthworks 11. Plans depict proposed works on their land	• Advice was provided by e-mail to Mr Riordan in October 2015 and March 2017 on this matter as follows: <i>“any development of the North Lismore Plateau must address the principles of the LCC DCP Part B Chapter 10” “This DCP is a performance based” ... “Council may consider alternative solutions” ... “highly recommend a pre lodgement meeting as an excellent way to get comments from a full range of council staff on the broad range of development and DCP issues including lot layout, lot orientation road reserve widths, road widths, pedestrian connectivity, cycling and public transport stormwater, cultural heritage and planning issues.”</i> • The applicant has sought a variation for the street characteristics to accommodate safer pedestrian/cyclist facilities and RFS requirements. Council has supported the variation request. Any future developments will need to acknowledge these variations and design accordingly. • To date Council has not been issued with any draft lot layout plans for the PNPG land and no pre-lodgement meeting has been held with Council staff • The JRPP is responsible for determination of this development application • For Precinct 1 and 2 impact of the development on hairy-joint grass and thorny pea was addressed in seven-part tests under the Threatened Species Conservation Act 1995 (TSC Act). • For Precinct 3 the impact of the development on hairy-joint grass and thorny pea will be addressed in a forthcoming application for Biodiversity Certification under the TSC Act. A Species Impact Statement is not required under this process. 1. Sewerage services for a large development also create the need for augmentation of existing infrastructure and construction of
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ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

	comprising cut and fill batters, erosion and sedimentation control works, and the re-alignment of part of the watercourse through their land 12. Road D fill embankment encroachment onto their lands and it is noted that consent is not given 13. The extent of landfill has not been assessed within the application 14. No documentation relating to proposed upgrading of roadworks and footpath provisioning along the full frontage of the development within the Dunoon Road reserve north east of the main access point 15. The engineering design shows bulk earthworks however, the contours post works do not match back to the existing ground at the perimeter of the works 16. The preliminary engineering design plans show significant cut and fill for roadworks. Is it proposed to quarry on-site or run crushing plant and equipment 17. Please confirm whether SEPP (Vegetation in Non-Rural Areas) 2017 applies	reticulation mains. The site is currently serviced with a 300mm sewer main in readiness for development of the site and the whole NLP residential zone. 2. As the demand develops for sewage management, the augmentation of SPS 2 and a new Sewer Rising Main will be constructed to the South Lismore STP. For the development itself finer details of design for construction by the developer will be assessed pending development consent and s68 application for approval prior to the issue of a Civil Construction Certificate. 3. Development assessment staff are not aware of previous discussions regarding water supply. As a result of not having received details of a VPA for PNPG the alternative water supply option was canvassed with Council by the applicant and agreement was reached on the basis of a temporary solution. 4. To the best knowledge of Development assessment staff there have been no pre-lodgement (or other) discussions with Council to this effect. 5. The retaining walls on the boundaries have been used to develop precinct 1 above the 1% AEP flood level, these walls will have appropriate setbacks from the adjoining lands. 6. To date the assessing engineer has not seen a layout for the PNPG land and therefore cannot judge if the road is in the wrong position. If the development applications were being assessed concurrently this may have been possible. 7. The retaining walls on the boundaries have been used to develop precinct 1 above the 1% AEP flood level, these walls will have appropriate setbacks from the adjoining lands.
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ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

		8. Details of retaining wall footings will be submitted with the construction certificate, these walls will have appropriate setbacks from the adjoining lands. 9. These retaining walls will have appropriate setbacks from the adjoining lands. 10. Since this submission earthwork quantities have been more accurately calculated and this will be further refined during the CWCC phase of the development. 11. All earthworks will be contained within the property boundaries. The draft conditions of consent include the requirement that the proposed development not impact on adjoining properties 12. As above at point 11 13. The submitted Stormwater Management Plan has demonstrated that there will be no adverse impacts to adjoining lands 14. Reference should be made to the NLP IDP for upgrades of existing road network to cater for the development along with the PNPG land 15. All earthworks and any structures to achieve the earthworks will be contained within the property boundaries with appropriate setbacks. The draft conditions of consent include the requirement that the proposed development not impact on adjoining properties 16. The draft conditions of consent require the submission of a construction management plan to address how the earthworks and overall construction will be managed 17. The development application was lodged on 24 August 2017, which was prior to the commencement of the SEPP on 25 August 2017.
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ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

Dr Paul Recher	Former Mayor John Crowther and myself were told independently of each other by Council that NLP, supported by both Jack and me, could not be developed due to a study demonstrating unsuitable geology. Was this previous information imparted to Crowther and me wrong?	Council staff are unaware of any previous discussions or studies in this respect
Cr Vanessa Ekins	- Have staff taken into account the submissions from Booerie Creek landholders about retaining and enhancing the koala corridor along the wester ridge of the NLP development - How would the proposed koala planting, surrounded by roads, contribute to existing koala corridors - Would leaving the existing western koala vegetation contribute to environmental offsets required?	- All submissions have been taken into consideration and responded to in accordance with legislated requirements in this Summary Table - A condition to develop an Environmental Management Plan in accordance with Lismore Development Control Plan Chapter 10 has been included. Implementation of this plan will restore native vegetation (including koala habitat) in the land that has been zoned E2 and E3. - No, that is not the case
Friends of the Koala (FOK)	- The report states that 126 Forest Red gums do not satisfy the requirement under SEPP 44 for core koala habitat - The suggestion/conclusion that the scats are from a koala whose skull was recorded on the same date does not appear to have any scientific basis - Over the past five years FOK has rescued 31 koalas from the Modanville/Tullera/Booerie Creek area. Residents of the Booerie Creek valley to the west of the red gum core habitat area report regularly hearing Koala grunting - FOK do not support the replacing the existing Forest Redgums as the proposed KFT area is close to a significant road in the development - The report argues that the development will not cause a viable local population of koalas to be placed at risk of extinction - The report places the emphasis on landowners to deal with dogs as they will be retained in fenced yards. It is FOK's view that unless dogs are banned from the development there will inevitably be attaches by dogs on koalas	- Agreed. A Condition of Consent has been formulated such that the applicant must replace the area of koala habitat located in Precinct 2 that is proposed to be cleared with a minimum area of 3.48ha of habitat that has been calculated in accordance with the compensation multiplier formula detailed in Appendix 5 of the Comprehensive Koala Plan of Management for south-east Lismore. - Noted; however, the consultant report indicates that koala scat surveys were conducted at each site visit over a five-year period and that targeted scat surveys were conducted on at least three separate occasions (5 March 2014, 26 March 2015 and 6 November 2016) under each of the some 126 trees that is proposed for removal. The results suggest that there is no resident koala population on the site and the use of the site is transitory in nature. Consequently, the conclusion seems reasonable. - Noted. - Noted. It is expected that the habitat compensation will be undertaken throughout the area zoned as an Environmental Zone. Additionally, the provision of

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

	• The report notes that Council requires swimming pools to be fenced by fences that cannot be climbed by koalas. There are no fences that a determined koala cannot climb. Swimming pools on the site should be required as a condition of consent to have 'a thick, sturdy rope ...attached to a poolside fixture' • The report does not address koala issues adequately • It is noted the report uses FOK's name in relation to the sourcing of food trees, and would qualify that to correct any suggestion that we support planting food trees at that site, which infers support of compensatory planting and removal of at least 120 Forest Redgums	traffic calming measures have been conditioned, these include: ◦ Restrict motor vehicles to a maximum speed of 50 kilometres per hour ◦ Install roadside street lighting in accordance with the design standards appropriate to a collector/sub- arterial road ◦ On the uphill and downhill approaches to the road install: - Two 50 kilometre an hour speed limit signs and two wildlife warning signs (e.g. 'Wildlife Dawn to Dusk' sign or similar) or two signs that combine both messages - Two permanent radar speed signs that display vehicle speed on approach or display a warning when the vehicle speed on approach is greater than the speed limit • Noted; however, as detailed in bullet 2 above there is no resident koala population. • Noted; however, as detailed in bullet 2 above there is no resident koala population. • Noted, however, as detailed in bullet 2 above there is no resident koala population. • Noted. • Noted.
Peter Hayes	• Reiterates previous concerns raised in a submission detailed above at "First public exhibition" • Includes comments from Professor Ros Goldingay that pertains to the koala habitat issue on the plateau • Has begun logging the events when koala grunting may be heard	• Responses provided above • Comments from Professor Goldingay noted • Council's Ecologist advises that koala have been identified as being itinerant users of the site over several surveys (i.e. there is no resident koala population).

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

Third public exhibition

Name of submitter	Issues raised	Assessment staff comments
Kathleen and Garry Lord	• Reiterated previous submissions around the following points: - Indigenous artefacts - Landslides - Lack of infrastructure - Measures to keep the creek pristine - Koala habitats destroyed - Negative impact from noise, traffic, rubbish, views - Extinction of koalas - Stresses steepness and unsuitability of the hills and landslides	• Each of these points have previously been addressed in detail • It is noted that the property address of Kathleen and Garry Lord is far removed from the current development application and they are located a long way to the north of this land • It is possible that their submission may relate to the PNPG land
Mr Tony Riordan Plateau North Property Group	• References previous submission to Council • Requests urgent advice to questions raised in the previous submission • No communications have been received from Council since representations to Councillors at the May 2018 Council meeting. Are we correct in assuming that Council is progressing the Winten DA to the JRPP based on the presumption of compulsory acquisition of easement rights over our lands in order to accommodate the Winten development	• Comments noted and addressed in detail above under the heading 'Second public exhibition' • Mr Riordan has been advised that a response will be provided in due course • No further communications have been entered into by Council as Mr Riordan advised that within a few months after that meeting PNPG would be lodging a development application and draft VPA • Further advice received on 8 August advised that a pre-lodgement meeting would be booked in due course. To date no further advice has been received • It is noted that assessment / determination of the Winten DA (lodged in August 2017) cannot be delayed
Indigenous Justice Advocacy Network / Al Oshlack	• JRPP oral presentation • Destruction of grave referenced in original submission. Reference made to meeting with the Mayor and Council's Annie McWilliam • Original concerns relating to Cultural Heritage Management Plan • No assessment of access for construction • Reservoirs – lack of transparency	• As noted above this opportunity is available • It is noted that Everick archaeologists reported a possible grave site on the basis of a configuration of stones which was assumed to be a marking of a historic grave. NSW police had carriage of the investigation in accordance with the <i>Coroners Act 2009</i> and engaged experts with archaeological experience in the identification of graves and in the

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

	Public interest	identification of human skeletal remains. The findings conclusively overturned a suggestion by a ground penetrating radar investigation that burials of two individuals may be present. In fact the ground comprises heavy clay quite unsuited to digging graves in comparison to sandy alluvial soils along the river valley distant from the NLP. NSW Police have legal jurisdiction in the matters of investigating human remains and it is understood the Police arranged for the expert investigators, Tony Lowe and Denise Donlon, who are experienced in such matters. - See previous comments regarding the CHMP - This is dealt with in draft conditions of consent - This matter has been addressed previously within the report to JRPP and this Summary table - This matter is addressed within the report to JRPP
Mickey Ryan Bundjalung Elders Council Aboriginal Corporation	- Aboriginal cultural heritage and consultation - Concerns that the NLP is a burial ground and a place with a range of socio-cultural values to Aboriginal people - Lack of invitation to Mickey Ryan to attend investigation of "unmarked grave" - Areas of environmental concerns - Traffic concerns - Flooding concerns - Financial issues relating to the provision of infrastructure	- These issues have been addressed previously within this Summary table and the report to JRPP - Council's Archaeologist notes <i>"that the investigation of the stone arrangement feature purported to be a historic grave by Everick archaeologists was demonstrated not to be so through thorough archaeological investigation. I understand that at least one other Aboriginal site recorded by Converge archaeologists on Council land near the quarry may be regarded by Aboriginal parties as a burial site. I do not recall the term "burial ground" being used by the RAP group in consultation records. The term is usually reserved for areas where there is positive evidence for multiple interments. I am not aware of any such evidence for NLP. On this basis I question the justification for use of the term "burial ground" and consider its use unwarranted."</i> - Council's Archaeologist notes that <i>"Everick archaeologists reported a possible grave site on the basis of a configuration of stones which was assumed to be a marking of a historic grave. The</i>

ATTACHMENT 8
SUMMARY TABLE OF SUBMISSIONS RECEIVED

		<i>police had carriage of the investigation in accordance with the Coroners Act 2009 and engaged experts with archaeological experience in the identification of graves and in the identification of human skeletal remains. The findings conclusively overturned a suggestion by a ground penetrating radar investigation that burials of two individuals may be present. In fact the ground comprises heavy clay quite unsuited to digging graves in comparison to sandy alluvial soils along the river valley distant from the NLP. I note that Police have legal jurisdiction in the matters of investigating human remains and I believe the Police arranged for the expert investigators, Tony Lowe and Denise Donlon, who are experienced in such matters. I understand that Jim Punch footed the bill, but did not choose the consultants. I note that the lack of invitation to an Aboriginal person to attend is not unusual in the investigation of historic features."</i> • These issues have been addressed previously within this Summary table and the report to JRPP • These issues have been addressed previously within this Summary table and the report to JRPP • These issues have been addressed previously within this Summary table and the report to JRPP • These issues have been addressed previously within this Summary table and the report to JRPP
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