

COUNCIL ASSESSMENT REPORT

Panel Reference	2018NTH015
DA Number	0767/18DA
LGA	Coffs Harbour City Council
Proposed Development	Subdivision (220 Residential Lots, Roads, Landscaping, Civil Infrastructure, Public Reserves & Residual Lot), Lot 112, DP 1073791, Bambara Drive, Bonville
Street Address	Subdivision (220 Residential Lots, Roads, Landscaping, Civil Infrastructure, Public Reserves & Residual Lot), Lot 112, DP 1073791, Bambara Drive, Bonville
Applicant/Owner	Stephen Connolly – Planners North/ PACIFIC COAST DEVELOPMENTS 112 PTY LTD
Date of DA lodgement	28 March 2018
Number of Submissions	Ten
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Coastal Subdivision
List of all relevant s4.15(1)(a) matters	<p>i.e. any:</p> <ul style="list-style-type: none"> • relevant environmental planning instruments <ul style="list-style-type: none"> ○ State Environmental Planning Policy (State & Regional Development) 2011. ○ State Environmental Planning Policy No 55 - Remediation of Land. ○ State Environmental Planning Policy No 71 - Coastal Development. ○ State Environmental Planning Policy (Infrastructure) 2007. ○ Coffs Harbour Local Environmental Plan 2013. • proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority <ul style="list-style-type: none"> ○ Draft State Environmental Planning Policy (Coastal Management) 2018 • relevant development control plan <ul style="list-style-type: none"> ○ Coffs Harbour Development Control Plan 2015 • relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 <ul style="list-style-type: none"> ○ None of relevance • coastal zone management plan <ul style="list-style-type: none"> ○ None of relevance • relevant regulations e.g. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> ○ None of relevance
List all documents submitted with this report for the Panel's consideration	<p>Development Assessment Report that includes the following appended documents</p> <ul style="list-style-type: none"> • Appendix A - Plans of the Proposed Development. • Appendix B - Section 4.15 Evaluation Report. • Appendix C - Schedule of Conditions. • public submissions provided separately
Report prepared by	Gilbert Blackburn
Report date	27 September 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
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e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?	No
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Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?	Yes
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Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

DEVELOPMENT ASSESSMENT REPORT DEVELOPMENT APPLICATION 0767/18DA

SUBDIVISION (220 RESIDENTIAL LOTS, ROADS, LANDSCAPING, CIVIL INFRASTRUCTURE, PUBLIC RESERVES & RESIDUAL LOT) LOT 112, DP 1073791, BAMBARA DRIVE, BONVILLE

PURPOSE:

This report provides an assessment of Development Application 0767/18DA for Subdivision (220 Residential Lots, Roads, Landscaping, Civil Infrastructure, Public Reserves & Residual Lot).

Approval of the application subject to conditions is recommended.

This report includes the following appended documents:

- Appendix A - Plans of the Proposed Development.
- Appendix B - Section 4.15 Evaluation Report.
- Appendix C - Schedule of Conditions.

THE PROPOSAL

The proposed development is for the subdivision of Lot 112, DP 1073791, Bambara Drive into 220 residential lots. The development will also create four lots (Lots 500, 501, 600 and 601) which will become public reserve and a residual lot (Lot 700) which contains all parts of the site zoned E2 Environmental Conservation.

The watercourse on the site will be located within the public reserve. The North Bonville Developer Contributions Plan 2017 refers to a playground located within the proposed public reserve.

The road access into the subdivision will be formed as an extension of Bambara Drive. Twenty of the residential lots are located on the northern part of the site, adjoining existing residential development of the North Bonville area. The remaining 202 lots are located south of the existing watercourse on the site.

In addition to the construction of all roads and extension of all essential services to each residential lot, the subdivision also includes a number of bio-retention measures located in different locations in the subdivision. These will allow for treatment of all stormwater from the subdivision roads and lots before it leaves the site.

The development will involve significant earthworks to re-contour the site. All earthworks will be 'cut to fill', removing the need to either import or remove earthwork material.

The estimated cost of the overall development is \$19.4 million.

Plans of the proposed development are provided at Appendix A.

Other Approvals:

Development Consent MP08_0080, for subdivision of this site into 165 residential lots, was issued on 8 July 2013 by the Minister for Planning and Infrastructure. This was an application under former provisions of the Environmental Planning and Assessment Act (Section 75J of Part 3A). While there are strong similarities between the subdivision approved under MP08_0080 and the current application, there is no direct relationship between the two (other than being for the same site). Two construction certificates have been issued under MP08_0080.

Construction Certificate 0030/17CW was issued by Coffs Harbour City Council on 23 February 2018. This construction certificate related to Stage One - Archaeological Earthworks.

Construction Certificate 0031/18CW was issued by Coffs Harbour City Council on 16 October 2018. This construction certificate related to construction of eight residential lots and some modification to the earthworks approved under 0030/17CW.

Construction has commenced on site pursuant to these construction certificates.

A cultural heritage management plan has been approved by the NSW Office of Environment and Heritage.

THE SITE:

The site is Lot 112, DP 1073791, Bambara Drive, Bonville. It is located approximately 10 kilometres south of the Coffs Harbour City Centre and approximately four kilometres from Sawtell.

The site shares a property boundary with Bongil Bongil National Park to the south and the west. The northern part of the site adjoins the existing residential area of Bonville.

The majority of the site is clear and unconstrained but a substantial component of the site, on the eastern side, contains environmentally sensitive land.

Most of the unconstrained parts of the site fall to the north and east and naturally drain in this direction. The remaining unconstrained land drains to the south or east.

A small watercourse runs through the land from the north western point of the site, along the northern part of the site and into the environmentally sensitive land located on the east of the site.

The site is approximately 38.49 hectares in size.

The development site is shown on the following two pages.



Lot 112
DP 1073791

Bongil Bongil
National Park



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Lot 112 DP 1073791

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Coffs Harbour City Council
Creation Date: 25/09/2019



- Roads
- Land Boundaries
- Property Boundaries
- National Parks

SCALE m 1:4500
0 20 40 80 120 160
Metres
Coordinate System: GDA 1994 MGA Zone 56
Projection: Transverse Mercator
Datum: GDA 1994

GRID NTH





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CONSULTATION:

Advertising and Notification

The development was advertised and notified in accordance with the requirements of Coffs Harbour Development Control Plan 2015 with a submission period from 24 July 2019 to 21 August 2019. Ten submissions were received.

The matters raised in submissions are summarised in Appendix B - Section 4.15 Evaluation Report in the 'any submissions made in accordance with this Act or the regulations' section of that report.

State Government Referrals

The development requires a 'Bushfire Safety Authority' under the Rural Fires Act 1997 (NSW) and a 'Controlled Activities Approval' under the Water Management Act 2000 (NSW). The application was referred to the NSW Rural Fire Service and the NSW Natural Resources Access Regulator as integrated development for their general terms of approval. The general terms of approval have been incorporated in the recommended conditions of consent.

The application was also referred to the NSW Roads & Maritime Service for advice in relation to Clause 104 of State Environmental Planning Policy (Infrastructure) 2007 and to the NSW Office of Environment & Heritage (now NSW Department of Planning, Infrastructure & Environment) for advice in relation to the Coffs Harbour Koala Plan of Management 1999. Their advice has been incorporated into the evaluation process.

Council Departments

Council internal departments have provided comment on the development proposal and their recommended conditions/actions have been incorporated into the evaluation process. No comments were provided that prevent approval of the application.

STATUTORY MATTERS:

Section 4.15 - Evaluation - Environmental Planning and Assessment Act 1979

Section 4.15 of the Environmental Planning & Assessment Act 1979 (NSW) specifies the matters which a consent authority must consider when determining a development application. The consideration of matters is limited in so far as they must be of relevance to the particular application being examined. A Section 4.15 Evaluation Report is provided as Appendix B to this report.

Savings Provisions

This development application was lodged with Council prior to the full commencement of the following legislation:

- Biodiversity Conservation Act 2016 (NSW).
- State Environmental Planning Policy (Coastal Management) 2018.

Part 7 of the Biodiversity Conservation Act 2016 (NSW) commenced for the Coffs Harbour Local Government area on 24 November 2018. Relevant provisions of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 (NSW) mean that former planning provisions apply and this development application must be evaluated as if Part 7 of the Biodiversity Conservation Act 2016 (NSW) had not commenced.

State Environmental Planning Policy (Coastal Management) 2018 commenced on 3 April 2018. Savings provisions of State Environmental Planning Policy (Coastal Management) 2018 mean that this development application must be evaluated against the planning instruments that were in force at the time of lodgement. For this development application this means State Environmental Planning Policy 71 - Coastal Protection (rather than State Environmental Planning Policy (Coastal Management) 2018) must be considered.

While State Environmental Planning Policy (Coastal Management) 2018 is not a planning instrument that is 'in force' for this application, it must be considered as a 'proposed instrument that is or has been the subject of public consultation'.

Relevant Statutory Instruments

The following environmental planning instruments are relevant to assessment of this application.

- State Environmental Planning Policy (State & Regional Development) 2011.
- State Environmental Planning Policy No 55 - Remediation of Land.
- State Environmental Planning Policy No 71 - Coastal Development.
- State Environmental Planning Policy (Infrastructure) 2007.
- Coffs Harbour Local Environmental Plan 2013.
- Draft State Environmental Planning Policy (Coastal Management) 2018.

Coffs Harbour Development Control Plan 2015 is also relevant to assessment of this application.

The application is identified as 'Regional Development' under State Environmental Planning Policy (State and Regional Development) 2011 and as a consequence the application is to be determined by the Northern Regional Planning Panel.

ISSUES:

Traffic:

The proposed subdivision will result in additional traffic to the area. Potential impacts from the additional traffic has been examined in detail. This includes an examination of the traffic impact assessment that was provided with the application, consideration of existing traffic movements (particularly at critical intersections) and some allowance for likely background traffic growth.

On balance, with some upgrading to the Lyons Road/Bambara Drive intersection (as the primary access to the subdivision) it is considered that the likely additional traffic from the proposed subdivision will be within the capacity of the existing road network. The Lyons Road/Bambara Drive intersection is an item in the North

Bonville Developer Contributions Plan 2017. The works required for this intersection will be undertaken by Council.

Roads within the subdivision itself will maintain the area as a low speed traffic environment. Traffic calming measures are proposed at appropriate locations. Detailed design of these measures will be provided at development construction stage. The road design and road hierarchy within the subdivision allows for a bus route and opportunity for bus transport to and from the area.

The NSW Roads & Maritime Service has provided comment on the application and all of their comments have been taken into consideration in this evaluation. It is considered unlikely that the proposed subdivision will result in unacceptable traffic impacts.

Environmental Impacts:

The development site adjoins Bongil Bongil National Park and contains areas of environmentally sensitive land. Potential environmental impacts from the development are a significant assessment issue as a result.

This subdivision limits development to parts of the site that are clear and unconstrained. The majority of environmentally sensitive land on the site is contained to a residual lot (Lot 700). Any remaining environmentally sensitive areas of the site are contained to proposed public reserves. With this arrangement, direct impacts to the environmentally sensitive areas of the site are considered unlikely.

Potential impacts from changes in hydrology, including to surrounding vegetation and Bongil Bongil National Park, have been considered. On balance, with implementation of the proposed bio-retention measures, unacceptable impacts from changes in hydrology are considered unlikely.

An 'assessment of significance' has concluded that there should be no significant impact on endangered ecological communities or other threatened species.

Impacts during construction can be appropriately mitigated by fencing and implementation of appropriate sediment and erosion control.

The development is not expected to result in any unacceptable impacts on the built environment. Unacceptable social impacts from the development are considered unlikely.

Design of the Subdivision:

The layout and design of the subdivision is an issue that has been raised in a number of submissions. The matters raised include that there is an excessive number of lots, that lot sizes are too small, that the density of development is too great, that roads are too narrow and that there is a lack of traffic calming.

Lot sizes in the subdivision range from 450 m² to 840 m². More than 75% of lots are either 450 m² or 540 m². The depth of each lot is generally constant at 30 metres and the difference in lot sizes arise from variations in the width of each individual lot.

It is an appropriate planning principle to maximise development density while minimising environmental impacts. The NSW Mid North Coast Regional Strategy highlights that there are opportunities for increased housing densities in the Mid

North Coast Region. This proposal largely addresses environmental issues for the site by precluding development from environmentally sensitive areas and by providing appropriate buffers between these areas and development areas. The environmental impacts of the proposed development have been considered in detail. On balance it is considered unlikely that the proposed development will result in any unacceptable impacts on the environment.

The proposed development, including the lot sizes proposed, is consistent with a general trend towards smaller residential lots. All lots are above the minimum lot size of 400 m² that applies to that part of the site zoned R2 Low Density Residential.

All lots have dimensions that are appropriate for typical low density housing. The proposed finished topography for the subdivision will allow conventional dwelling construction; the need for cut and fill with dwelling proposals will be limited. It will be easy for private open space to be provided on each lot given the dimensions (for each lot) that are proposed and the finished topography for the site. Future dwelling proposals should comply with the requirements of Development Control Plan 2015. This includes requirements relating to front, side and rear setbacks, private open space, access and parking and general design requirements.

All roads will be constructed in accordance with relevant Australian Standards. The subdivision provides a road hierarchy and allows for a bus route through the subdivision. Road widths vary throughout the subdivision based on the amount and type of traffic likely for each road. The subdivision will be a low speed traffic environment. Traffic calming measures are proposed where there are long, straight lengths of road. On balance the roads in the subdivision are considered acceptable and appropriate.

SUMMARY:

The proposed development represents a significant development for the Coffs Harbour local government area. The proposed development is consistent with all current planning controls that apply to the site. The application is considered suitable for approval subject to conditions.

RECOMMENDATION:

- 1. That Development Application 0767/18DA for Subdivision (220 Residential Lots, Roads, Landscaping, Civil Infrastructure, Public Reserves & Residual Lot) be approved, subject to conditions as appended to this report.**
- 2. That persons who have made submissions on the application be informed of the determination.**

APPENDIX A

Plans of Proposed Development



APPENDIX B

Section 4.15 Evaluation Report

(a) the provisions of,

(i) any environmental planning instrument, and

- ***State Environmental Planning Policy No 55 - Remediation of Land***

This state policy stipulates that the consent authority must not consent to the carrying out of any development unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state or will be remediated, so that is suitable, before the land is used for that purpose.

The site has been used in the past for agriculture and horticulture. A contamination assessment, including soil sampling and testing for potential contamination, has been undertaken in accordance with the contaminated land planning guidelines. No areas of environmental or contamination concern were identified. The site is considered to have low potential for contamination. There are no further requirements of this state policy.

- ***State Environmental Planning Policy No 71 - Coastal Development***

Development Application 0767/18DA was lodged with Council on 28 March 2018. At this point in time State Environmental Planning Policy No 71 - Coastal Development applied to the land. This state policy was repealed on 3 April 2018 and replaced with State Environmental Planning Policy (Coastal Management) 2018.

Clause 21 of State Environmental Planning Policy (Coastal Management) 2018 provides transitional and savings provisions. These specify that the former planning provisions continue to apply (and State Environmental Planning Policy (Coastal Management) 2018 does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this Policy applies. As this development application was lodged prior to the commencement of the State Environmental Planning Policy (Coastal Management) 2018, the provisions of State Environmental Planning Policy No 71 - Coastal Development continue to apply.

The relevant provisions of State Environmental Planning Policy No 71 - Coastal Development are discussed below.

18 - Master plan required before certain consents may be granted

The subject land is located within the 'coastal zone' and the development site is located within a 'sensitive coastal location'.

Clause 18 specifies that a consent authority must not grant consent for a subdivision of land within a residential zone, if part or all of the land is in a sensitive coastal location, unless the Minister has adopted a master plan for the land or the Minister has waived the need for a master plan.

The applicant has referenced commentary from the Director-General's Environmental Assessment Report (for MP08_0080) and to former provisions of the Environmental Planning and Assessment Act. These both refer to a position that a master plan (within the meaning of clause 92A of the Environmental Planning and Assessment Regulation 2000 as in force before its amendment by the 2005 Amending Act) can be construed as requiring a development control plan under section 74D (as inserted by the 2005 Amending Act) with respect to the matters required to be included in a master plan.

Development Control Plan 2015 currently has detailed provisions that relate to the North Bonville area. These controls were largely carried over from the prior provisions for the area under the North Bonville Development Control Plan. The proposal is considered able to proceed without an adopted master plan

7 - Application of Clause 8 Matters

Clause 7 requires that the consent authority take matters as listed in Clause 8 into consideration when determining development applications.

Clause 8 matters have been taken into consideration in the assessment of the proposed development. In this regard, the development:

- Is considered to meet the aims of the Policy.
- Will not impede or diminish public access to and along the coastal foreshore.
- Is considered suitable given its type, location and design and its relationship with the surrounding area.
- Is considered unlikely to result in significant impacts to Aboriginal cultural heritage values.
- Is considered unlikely to result in significant impacts to the scenic quality of the surrounding locality.
- Is considered unlikely to result in significant impacts to flora and fauna present on the site.

16 - Stormwater

Clause 16 specifies that the consent authority must not grant consent to development where stormwater will, or is likely to, be discharged untreated into the sea, a beach, an estuary, a coastal lake, a coastal creek or other similar body of water.

The subdivision incorporates a number of bio-retention measures. All stormwater from residential lots and roads will be directed through these bio-retention measures. These measures will provide appropriate treatment before the stormwater will continue to natural drainage areas. This satisfies the requirements of this provision.

- **State Environmental Planning Policy (Infrastructure) 2007**

104 Traffic-generating development

This clause applies to development specified in Column 1 of the Table to Schedule 3 of this state policy. This table refers to subdivision of land in to 200 or more allotments. Subclause (3) stipulates that the consent authority must give written notice of the application to the NSW Roads & Maritime Service and must take into consideration any submission that they provide in response.

The consent authority must also take into consideration:

- (ii) the accessibility of the site concerned, including:
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- (iii) any potential traffic safety, road congestion or parking implications of the development.

The application was referred to the NSW Roads & Maritime Service who provided comments consisting of thirteen separate dot points to 'assist the consent authority in making a determination'. The points raised included references to the Lyons Road/Bambara Drive intersection and inadequacies with the submitted traffic impact assessment. All of the matters raised by the NSW Roads & Maritime Service have been considered in the application evaluation.

The Lyons Road/Bambara Drive intersection is the primary access to the subdivision. Some upgrading to this intersection is required for it be satisfactory for the likely additional traffic volumes from the subdivision. The Lyons Road/Bambara Drive intersection is an item in the North Bonville Developer Contributions Plan 2017. The works required for this intersection will be undertaken by Council.

The subdivision includes a potential bus route with bus stop locations at appropriate points along the subdivision collector road. This will allow opportunity for non-car travel.

The subdivision provides a hierarchy of roads that reflects the amount of traffic and likely vehicle types. Wider roads and carriageways are proposed for the collector road and bus route. Roads and carriageways with a reduced width are proposed where traffic volumes will be less and where residential vehicles only are anticipated. This is an appropriate response to provide a legible urban area, to allow efficient traffic movement, to minimise traffic safety and to minimise road congestion. There are no parking implications of the development.

- ***State Environmental Planning Policy (State & Regional Development) 2011***

Clauses 20 and 21 of State Environmental Planning Policy (State and Regional Development) 2011 specifies that Council consent functions are to be exercised by regional panels for developments of a class or description included in Schedule 7 of Policy. This includes the determination of applications where the development constitutes a 'coastal subdivision' for the purposes of Clause 8(1)(b)(ii) of the Policy.

In accordance with Clause 8 (1)(b)(ii) the subject land is considered a 'sensitive coastal location' because it meets part (f)(iii) of the definition, being land that is within 100 metres of land reserved under the National Parks and Wildlife Act 1974. Accordingly, the determination of this application must be carried out by the Northern Regional Planning Panel.

- ***Coffs Harbour Local Environmental Plan 2013***

2.2 Zoning of land to which Plan applies

Zoning of land for the purposes of this environmental planning instrument is stipulated in the Land Zoning Map. Under the Land Zoning Map, the site is zoned R2 Low Density Residential, E2 Environmental Conservation and RE1 Public Recreation.

All of the residential lots are within the area of the site zoned R2 Low Density Residential. All areas of the site zoned E2 Environmental Conservation is within the residual lot. All areas of the site zoned RE1 Public Recreation are within a lot to be dedicated to Council.

2.3 Zone objectives and Land Use Table

This provision provides the Land Use Table of Local Environmental Plan 2013 which specifies for each zone:

- (a) the objectives for development, and
- (b) development that may be carried out without development consent, and
- (c) development that may be carried out only with development consent, and
- (d) development that is prohibited.

Subdivision is permissible with consent.

This provision also provides that the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives of the R2 Low Density Residential zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.

- To provide for development that meets the social and cultural needs of the community.
- To encourage development that achieves the efficient use of resources such as energy and water.

The objectives of the E2 Environmental Conservation zone are:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

The objectives of the RE1 Public Recreation zone are:

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.

The proposed development is considered to be consistent with the objectives of each zone as they apply to that part of the development and that part of the site.

4.1 Minimum subdivision lot size

This provision stipulates that the size of any lot resulting from a subdivision of land is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

There are two minimum lot sizes of relevance to the site which accord with the zoning of the land. The area of the site zone R2 is mapped with a minimum lot size of 400m². The area zoned E2 is mapped with a minimum lot size of 40 hectares.

All residential lots are 400m² or larger. The residual lot (Lot 700) is partly zoned R2 Low Density Residential (8,900m² mapped with a 400m² minimum) and partly zoned E2 Environmental Conservation (12.64 ha mapped with a minimum lot size of 40 hectares). This lot does not meet the minimum lot size of 40 hectares but is, in the circumstances, permitted by Clause 4.1A Minimum subdivision lot sizes for certain split zones (see below).

4.1A Minimum subdivision lot sizes for certain split zones

This provisions applies to the site as it is zoned both R2 Low Density Residential and E2 Environmental Conservation. Despite the minimum lot size provided under Clause 4.1 (minimum lot size of 40 hectares for that part of the site zoned E2 Environmental Conservation) provided the resulting lot is not less than the minimum size provided for the R2 Low Density Residential zoned land.

The consent authority must also be satisfied that the 'subdivision will not compromise the continued protection and long-term maintenance of any land in Zone E2'.

The residual lot (Lot 700) is zoned both R2 Low Density Residential and E2 Environmental Conservation. The part of this lot that is zone R2 is a 'sliver' of land where the lot adjoins Road 1 in the subdivision.

This residential sliver is described in the application statement of environmental effects as 'providing a buffer' to the part of Lot 700 that is zoned E2 Environmental Conservation and allowing 'future long term maintenance'.

This submission is accepted as an appropriate response in the circumstances. All of the area of the site zoned E2 Environmental Conservation is within Lot 700 and Lot 700 is greater than the minimum lot size of 400 m² specified for the R2 Low Density Residential zoned land. It is considered that the creation of Lot 700 will not compromise the continued protection and long-term maintenance of the land in Zone E2 on this site.

5.5 Development within the coastal zone

(Repealed)

7.1 Acid sulfate soils

An acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual. The report proposes a number of mitigation and management measures. A recommended condition of development consent requires that all measures of the report be carried out during construction.

7.2 Earthworks

This clause specifies a number of matters that must be considered for development proposals that involve earthworks including the following:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,
- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The development will involve significant earthworks. All earthworks are 'cut to fill'; there will be no material brought to, or removed from, the site. Approximately 132 000 m³ of 'cut to fill' is required with cut and fill depths typically below three metres.

Some of the existing site drains naturally to Bongil Bongil National Park while other parts drain to the watercourse on the northern part of the site. Earthworks for the subdivision will alter the existing drainage pattern of the land. The finished arrangement will result in more of the site draining to the north and less draining to Bongil Bongil National Park. All drainage from roads and residential lots will be directed to bio-retention measures which will be located within reserves. This arrangement is considered appropriate for the future residential use of the site.

There will also be some changes to the hydrology of the site and adjoining areas. These changes will be significantly mitigated by the effect of the bio-retention measures. The changes in hydrology that will result from the earthworks of this subdivision have been considered and are, on balance, considered unlikely to result in any unacceptable impacts on environmentally sensitive areas.

There is no evidence of existing contamination of the existing landform of the site. The fact that the earthworks are 'cut to fill' means that there is no risk of contaminated material being brought to the site.

A cultural heritage management plan has been approved by the NSW Office of Environment and Heritage. Works on the site have occurred consistent with that approval.

In addition to the completed development measures, the development will also incorporate appropriate sediment and erosion control measures during construction. It is considered unlikely that there will be any unacceptable impact on the amenity of adjoining properties

7.3 Flood planning

This provision applies to land at or below the flood planning level and stipulates that development consent must not be granted (to development on land to which this clause applies) unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
- (c) incorporates appropriate measures to manage risk to life from flood, and
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

With respect to all of these matters the following is provided.

The residential lots are to be filled above the flood planning level thus are compatible. The development will not significantly adversely affect flood behaviour. Escape by foot is available for a PMF event. The watercourse crossing will be provided to an appropriate level. Velocities in the area are not sufficient to cause erosion. The development is considered unlikely to result in unsustainable social and economic costs to the community as flooding levels are considered unlikely to increase.

7.4 Terrestrial biodiversity

This provision applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map. The site contains land identified as “Biodiversity” on the Terrestrial Biodiversity Map so this provision must be considered.

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

- (a) whether the development is likely to have:
 - (i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and
 - (ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (iv) any adverse impact on the habitat elements providing connectivity on the land, and
- (b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The consent authority must also be satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

All of the area that is mapped as “Biodiversity” is located in either the residual lot (Lot 700) or an area that will be dedicated to Council as public reserve. With this arrangement there will be no direct impacts of the kind referred to in this provision. There is potential for indirect impacts to occur. These include changes to hydrology for the site that may extend to the biodiversity area.

In addition to ‘placing’ the areas of biodiversity to ‘no develop areas’, the subdivision incorporates bio-retention measures over different, appropriate parts of the site. These have been designed appropriately and will mitigate potential adverse impacts on hydrology. On balance, the proposed development is considered unlikely to result in unacceptable impacts as referred to in this provision.

Placing all of the land that is mapped as “Biodiversity” into a public reserve or a lot that will not be subject to any development is considered to be an appropriate measure to avoid, minimise or mitigate the impacts of the development. In addition the residual lot (Lot 700) includes a buffer of residential zoned land.

Appropriate sediment and erosion controls will be carried out during construction of the development. This is reinforced by conditions of development consent.

7.8 Koala habitat

This provision stipulates that consent must not be granted to development on land to which this Plan applies unless the development is in accordance with Coffs Harbour City Koala Plan of Management, ISBN 0 7313 6050 8, published in November 1999. This site contains areas that are mapped as Primary Koala Habitat under this plan.

The plan specifies a number of matters that should be taken into consideration including;

- That there will be no net loss of Primary Koala Habitat,
- The significance of the trees proposed to be removed (to koalas),
- The number of trees proposed to be removed in relationship to the extent and quality of adjacent or nearby Primary and/or Secondary Koala Habitat,
- The threats to koalas which may result from the development,
- Whether the proposal will not result in significant barriers to koala movement,
- Whether boundary fencing does not prevent the free movement of koalas,
- Preferred koala trees are used in landscaping where suitable,
- Threats to koalas from domestic animals.

The area of primary Koala habitat is predominantly located within the residual lot (Lot 700). Very small sections of primary Koala habitat will be located in proposed public reserves. No vegetation that is primary Koala habitat will be removed for the subdivision.

The vegetation within the residual lot should be improved by vegetation management plan works. The application outlines an intention to obtain a ‘Stewardship Agreement’ under the Biodiversity Conservation Act 2016 (NSW) over the residual lot. These two measures will further mitigate impacts on Koala habitat. Indirect impacts on the areas of Koala habitat have been considered and are likely to be negligible.

Conditions of development consent are proposed which require the installation of appropriate fencing. A condition requires that cats be prohibited in the subdivision. Another condition requires the preparation of a vegetation management plan and carrying out of the works specified under that plan.

With avoidance of any development from areas of primary Koala habitat (as proposed in this application) and with imposition of these requirements the proposed development is considered to be consistent with the Coffs Harbour Koala Plan of Management.

7.11 Essential services

All services that are essential for the development are available and adequate as required by this provision.

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

- ***Draft State Environmental Planning Policy – (Coastal Management) 2018***

The Policy applies to land located within the 'Coastal Zone' and contains development controls that relate to the various lands that make up the 'Coastal Zone', being land identified on the following maps that accompanying the state policy: 'Coastal Wetlands and Littoral Rainforests Area Map'; 'Coastal Vulnerability Area Map'; 'Coastal Environment Area Map'; and the 'Coastal Use Area Map'.

The subject site is located within the 'Coastal Zone' and parts of the site appear on the 'Coastal Wetlands and Littoral Rainforests Area Map' and 'Coastal Environment Area Map'.

The relevant controls are discussed below:

Division 1 – Coastal wetlands and littoral rainforest areas:

Parts of the land are mapped as coastal wetlands and proximity to coastal wetlands. These areas are contained to the north-eastern, eastern, southern and south-western sections of the land.

10 – Development on certain land within coastal wetlands and littoral rainforests area:

The development does not constitute 'designated development', as the state policy had not commenced when the development application was lodged.

11 - Development on land in proximity to coastal wetlands or littoral rainforest:

The proposed development is not expected to result in significant impacts to the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

Division 3 – Coastal Environment Area

Parts of the land are mapped as coastal environment area under the Policy.

13 - Development on land within the coastal environment area

It is considered that the development is unlikely to cause adverse impacts on the following: the integrity and resilience of the biophysical, hydrological and ecological environment; the coastal environment and natural coastal processes; water quality of the marine state; marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms; existing public open space and safe access to an along the foreshore, beach, headland or rock platform for members of the public; and Aboriginal cultural heritage, practices and places; and use of the surf zone.

(iii) any development control plan, and

- **Coffs Harbour Development Control Plan 2015**

Part B Public Consultation

B1 - Public Consultation

The proposed development has been advertised and notified in accordance with the requirements of this component. Ten submissions were received.

Part C Subdivision Controls

C1.1 Subdivision General Design Requirements

There are ten requirements of this section which are as follows:

- (1) Lots are to be of regular shape and comprise a suitable frontage to depth ratio to enable future development that is responsive to the lands characteristics.
- (2) Subdivisions are not to comprise an access handle where more than two access handles will directly adjoin.
- (3) Road networks, subject to topographic constraints, are to be based on a grid pattern to encourage pedestrian connectivity.
- (4) Road hierarchy, layout and construction shall be designed in accordance with Council's Development Specifications.
- (5) Access points off major roads are to be rationalised where practical.
- (6) Pathways are to be provided as an accessible integrated network of walking and cycling routes for safe and convenient travel.
- (7) Subdivisions comprising steep lands shown on the Steep and Highly Erodible Land Map are to be designed so that smaller lots are located on north facing slopes and larger lots are located on south facing slopes.
- (8) Subdivisions are to be designed to integrate with existing or proposed development on adjacent sites.
- (9) Threshold and pavement treatments are to be designed to create an attractive streetscape.
- (10) The use of cul-de-sacs in the design of subdivisions should be minimised.

All lots are regular in shape and have direct street frontage; no access handles. The subdivision is based on a modified grid pattern. The subdivision has an appropriate road hierarchy. There is one access point into the subdivision. The subdivision provides appropriate pathways. No part of the land is shown on the Steep and Highly Erodible Land Map. The subdivision integrates with existing development to the extent appropriate. There is only a single road connection to adjoining subdivisions.

Threshold and pavement treatments are yet to be designed. Drawing DA02 shows possible locations for traffic calming structures of some form. There are no cul-de-sacs in the subdivision.

C1.2 Subdivision Design Requirements For Certain Residential Zones

There are eight requirements of this section which are as follows:

- (1) Subdivision proposals are to demonstrate that development can be accommodated on the resulting lots in accordance with the Density Map and relevant built form controls contained within this Plan.
- (2) Where a common driveway serves more than two resulting lots, the driveway is to be paved with a minimum width of 4.5 metres at the street frontage, continuing at this width to a depth of six metres, and thereafter at a minimum width of three metres. The driveway is to be constructed prior to the issue of a Subdivision Certificate.
- (3) Where a common driveway serves more than two resulting lots, an adequate area is to be provided at the public road frontage within common property for required services (postal, metering, etc.).
- (4) The width of any access handle for a battle-axe is not to be less than four metres, for the entire length of the access handle.
- (5) The public road frontage of any resulting lot is not to be less than four metres, except for where requirement (6) of this control applies.
- (6) The public road frontage of any lot fronting a cul-de-sac is not to be less than 10 metres, with a driveway being located to one side of the road frontage to provide for visitor car parking and to maintain streetscape integrity.
- (7) Resulting lots with a public road frontage to a lane are to incorporate a minimum two metre wide fenced and paved frontage to a primary road to provide access to visitor parking, postal services and utility services, unless the exception provided below is satisfied.
- (8) Unless site conditions dictate, streets should run in a north/south and east/west pattern with lots orientated to provide the long axis within the range N20°W to N30°E or E20°N to E30°S.

The subdivision is satisfactory with respect to all of these matters.

C1.7 Infrastructure Requirements for Certain Subdivisions

This control has the following requirements:

- (1) The following infrastructure is to be provided as part of subdivision proposals in accordance with Council's Development Specifications:
 - (a) Roads;
 - (b) Busbays;
 - (c) Cycleways;
 - (d) Footpaths;
 - (e) Kerb and gutter;
 - (f) Drainage;
 - (g) Lighting.
- (2) The following additional infrastructure is required to be provided in accordance with Council's Development Specifications as part of subdivision proposals comprising lane access:
 - (a) Full width lane construction extending from the nearest cross or from an existing constructed section of the lane, including kerb guttering and drainage.
- (3) The following services are to be extended to all resulting lots in accordance with Council's Development Specifications:
 - (a) Council's water main;
 - (b) Council's sewer main;
 - (c) Telecommunications;
 - (d) Electricity;
 - (e) National Broadband Network (where available).
- (4) Separate water meters are to be provided to all resulting lots subdivided under community and strata title schemes in accordance with Council's Development Specifications, including lots comprising existing development.
- (5) Underground reticulated services are to be provided to:
 - (a) Greenfield subdivisions; and
 - (b) Infill subdivisions with existing underground services in accordance with Council's Development Specifications.

The subdivision is satisfactory with respect to all of these matters. Where required infrastructure is not directly proposed in the development application, these have been required by a condition of development consent.

C1.9 Water Management Requirements

This control has the following requirements:

- (1) Stormwater drainage is to be provided in accordance with Council's Development Specifications.
- (2) Development applications for subdivision proposals are to be supported by concept stormwater drainage designs.
- (3) Stormwater is to be gravity drained to Council's drainage system (where available).
- (4) Where a subdivision proposal requires drainage works over adjoining properties, the respective development application is to be supported by land owners consent from the affected properties to the lodgement of the development application including written agreement to the creation of easements on title for inter allotment drainage purposes.
- (5) Stormwater drainage design is to reflect the pre-existing or natural situation of the land in terms of location, quantity, quality and velocity of water, and may require on-site stormwater detention.
- (6) Water sensitive urban design is to be incorporated into the design of subdivisions comprising more than two resulting lots in accordance with Council's Water Sensitive Urban Design Policy and Guidelines.

The subdivision is considered acceptable with respect to all of these requirements.

C1.10 Erosion and Sediment Control Requirements

The control has the following requirements:

- (1) Erosion and sediment control measures are to be provided in accordance with the document Managing Urban Stormwater-Soils & Construction Volume 1 (Landcom 2004) for subdivision proposals comprising earthworks.
- (2) Development applications for the subdivision of land comprising earthworks are to be accompanied by supplementary information in accordance with the following table.
- (3) Basic Erosion and Sediment Control Plans are to be prepared in accordance with the principles of Best Practice Management for Small Areas of Disturbance.
- (4) Erosion and Sediment Control Plans are to be prepared in accordance with the document Managing Urban Stormwater- Soils & Construction Volume 1 (Landcom 2004)).
- (5) Soil and Water Management Plans are to be of a scale 1:500 or larger and are to be prepared in accordance with the document Managing Urban Stormwater- Soils & Construction Volume 1 (Landcom 2004).

Standard conditions of consent will require appropriate sediment and erosion control to be implemented, prior to, and during construction of the subdivision.

C1.11 Environmental Requirements

This control has the following requirements:

- (1) Development applications for subdivision proposals comprising land with a final slope >20% shall provide for the following:
 - (a) building envelopes of functional proportions, not less than 250m, in size; and
 - (b) building envelopes that do not exceed a maximum grade of 20%; and
 - (c) a concrete driveway for each resulting lot of less than 20%.
- (2) Subdivision proposals are to comply with the relevant controls of this Plan.
- (3) Subdivision proposals on land comprising a riparian zone are to be designed to:
 - (a) ensure that the slope and orientation of resulting lots provide for the long term conservation of the riparian zone; and
 - (b) enable access for future management of the riparian zone; and
 - (c) avoid impacts on the riparian zone; and
 - (d) enable opportunities for future solar access; and
 - (e) enable adequate drainage and urban filtration through water sensitive urban design techniques; and
 - (f) ensure that associated infrastructure and services are located outside of the riparian zone.

The subdivision is considered acceptable with respect to all of these requirements.

C1.12 Flood Requirements

This control has the following requirement:

- (1) Subdivisions are to comply with the relevant controls of E4 Flooding of this Plan.

See Section E4 of this report.

C1.15 Street Tree Planting

Requirements

- (1) Development applications for subdivisions on greenfield sites comprising the provision of a public road (or certain community title schemes) are to be accompanied by a street tree masterplan in accordance with Council's requirements.

The application included a street tree master plan. Street tree planting in accordance with this plan is considered acceptable and is required by a condition of development consent.

Part E Environmental Controls

E4.1 Flood planning requirements generally

There are five requirements of this section which are as follows:

- (1) Development is to be designed and located so that it is free from any land that is at or below the 100-year Average Recurrence Interval flood level.
- (2) Development is to be designed and located so that it is free from any floodways.
- (3) Development is not to comprise the external storage of any materials below the 100-year Average Recurrence Interval flood level that are potentially hazardous or that may cause pollution.
- (4) Development is not to result in an increase in flood levels on adjoining or surround land.
- (5) Operational access to the development is to provide a level of service commensurate with the zoning and proposed use with consideration to both on site and off site access.

With respect to these matters the following is provided.

All residential lots are proposed to have a finished level that will be above the once in hundred year recurrence interval. The development area is flood storage and not classed as a floodway area. Residential lots will be filled to the flood planning level. Hazardous materials stored on residential lots will be above a once in hundred year flood level. The development is considered unlikely to result in increases in flood levels on adjoining or surround land. Access is provided to the predicted PMF level so matter five is considered satisfied.

E4.2 Flood planning requirements-residential and tourist development

There are five requirements of this section which are as follows:

- (1) Buildings are to be designed and located so that they are free from any high hazard flood area.
- (2) Development is to be designed and located with consideration to impacts from any high hazard flood area on access to the development and the operation of the development.
- (3) Development applications for development at or below the 100-year Average Recurrence Interval flood level are to be accompanied by a flood study prepared by a suitably experienced and qualified engineer to substantiate that the development will not increase upstream or downstream flood levels or change flood behaviour to the detriment to any other property.
- (4) The minimum finished floor level of all habitable room(s) is to be at the height of the 100-year Average Recurrence Interval flood level plus 0.5 metre freeboard.
- (5) The minimum finished floor level of all non-habitable room(s) is to be at the height of the 100-year Average Recurrence Interval flood level.

With respect to these matters the following is provided.

Given a minimum proposed floor level at RL 5.8 m AHD the residential lots are considered to be located so that they are free from any high hazard flood area. The access from Lyons road is shown at RL 6 (the PMP level in Bonville Creek) and thus access is not across high hazard flood areas. The development involves filling of land that would be classified as flood liable using the Bonville Creek Flood Study. This assessment concludes there is no significant impact caused by the development and thus the development complies. The proponent has estimated 1% AEP flood level plus climate change at RL4.7 m AHD. Minimum habitable floor levels are set at RL 5.8 m AHD, thus the development complies. Minimum fill levels are at RL 5.5 m AHD thus development complies.

E4.8 Flood Planning Requirements – Subdivisions

There are four requirements of this section which are as follows:

- (1) Development applications for the subdivision of land at or below the 100-year Average Recurrence Interval flood level are to be accompanied by a flood study prepared by a suitably experienced and qualified engineer to substantiate that the development will not increase upstream or downstream flood levels or change flood behaviour to the detriment to any other property.
- (2) An assessment of possible impacts of climate change including sea level rise and increased rainfall intensities is to be undertaken in accordance with prevailing guidelines.
- (3) Resulting lots zoned for residential purposes under Coffs Harbour LEP 2013 are to comprise a minimum building envelope of 400m² in area of functional proportions above the 100-year Average Recurrence Interval flood level.
- (4) Any portion of a resulting lot lower than the 100-year Average Recurrence Interval flood level is to be conditional upon a restriction being placed on the title of the lot restricting the use of this portion of the lot for any habitable building or structure.

The development complies, relying on the assessment provided. The flood assessment includes impacts with climate change and sea level rise. The development complies given minimum fill levels of RL 5.8 AHD. There will be no residential lots lower than the 100-year Average Recurrence Interval flood level.

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

The are no planning agreements of relevance.

(iv) the regulations (to the extent that may prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,

There are no matters as required by the regulations and that relate to the proposed development that require consideration under this provision.

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

Impacts on Environmentally Sensitive Areas

This subdivision proposes development over parts of the site that are clear and unconstrained. The majority of environmentally sensitive land on the site is contained to a residual lot (Lot 700). This lot includes all of the site zoned E2 Environmental Conservation and the majority of land identified as “Biodiversity” on the Terrestrial Biodiversity Map. Any remaining environmentally sensitive areas of the site are contained to proposed public reserves.

The residual lot (Lot 700) is separated from residential development areas by a perimeter road (Road 1). Lot 700 includes a ‘sliver’ of land (where the lot adjoins Road 1) that is zoned R2 Low Density Residential. This sliver provides a buffer to the environmentally sensitive parts of this lot.

With this arrangement there will be no direct impacts to the environmentally sensitive areas of the site.

Impacts during construction can be appropriately mitigated by fencing and implementation of appropriate sediment and erosion controls. These are reinforced by conditions of development consent.

Impacts on the Natural Environment from Changes in Hydrology

Potential impacts from changes in hydrology to surrounding vegetation, including adjoining Bongil Bongil National Park, have been considered. The applicant has provided an ‘application for consent to discharge stormwater’ into the Bongil Bongil National Park. This document includes an assessment (by Peter Parker Environmental Consultants) of the ecological impacts of the stormwater discharge. It provides:

In summary, the NP vegetation is characterised floodplain species which are adapted to a high water table. The forested environment in the NP is an ideal site to discharge high quality stormwater as species such as swamp mahogany and broad-leaved paperbark thrive under moist conditions. I note from the engineering report that the stormwater treatment proposed will result in a high water quality discharge. It is unlikely that the proposed discharge would have a measurable effect on vegetation given the adaptation of the respective species to natural perturbation. Under conditions of climate change uncertainty, the proposed discharge is likely increase the resilience of the vegetation in the national park rather than result in any measurable impact.’

With implementation of the proposed bio-retention measures and implementation of appropriate sediment and erosion control during construction, this statement about potential impacts is accepted with respect to the land zoned E2 Environmental Conservation, Bongil Bongil National Park and areas of endangered ecological communities (including Hairy Joint Grass).

The NSW Natural Resources Access Regulator was requested to provide comment on the development as integrated development. The department has provided their general terms of approval and these have been incorporated in the recommended conditions of consent.

Assessment of Significance

Due to the lodgement date of this application and savings provisions of the Biodiversity Conservation (Savings and Transitional) Regulation 2017, Part 7 of the Biodiversity Conservation Act 2016 (NSW) does not apply to this application. These savings provisions mean that former planning provision (Section 5AA of the Environmental Planning and Assessment Act) must be applied to determine the likely impacts of the proposed development on the natural environment.

The consent authority must consider whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats. The 'test' required for this consideration was commonly referred to as an 'assessment of significance'. Council staff has undertaken an assessment of significance which has considered the fauna and flora species known to occur, or considered likely to occur, on the site.

Council's assessment has concluded that there is no significant impact on the endangered ecological community - Freshwater Wetlands on Coastal Floodplains and Swamp Sclerophyll on coastal floodplains - mainly due to the areas being avoided. This was helped by the redesign that has avoided additional areas and provided a buffer to areas of Hairy Joint Grass.

With respect to other threatened species, i.e koala, brush-tailed phascogale, various microbats, grey-headed flying-fox, Glossy black cockatoo, Eastern osprey, black grass-dart butterfly, it is also concluded that there is no significant impact and that the development will not lead to an increase in threatening processes.

This is subject to implementation of the bio-retention measures as proposed and imposition of a number of conditions of development consent. A species impact statement is not required.

Built Environment

A number of submissions have expressed concern about built environment impacts. These submissions are considered in the 'any submissions made in accordance with this Act or the regulations' section of this report. A brief summary is provided below.

Some submissions have expressed concern about the design of the subdivision. On balance the design of the subdivision and the roads within the subdivision is considered acceptable and appropriate.

Some submissions have expressed concern about residential lots on the corner of Bambara Drive and Mimiwali Drive. These lots are considered acceptable for the location and are consistent with the surrounding existing residential area.

A submission has expressed concern about loss of privacy and danger from travelling vehicles, due to the finished height of Road 2 (and lots in this part of the subdivision). These concerns are largely addressed by conditions of development consent.

Social Impacts

The site has been subject to assessment for aboriginal cultural heritage. The NSW Office of Environment and Heritage have approved a cultural heritage management plan. Works consistent with this approval have been carried out on

the site. It is considered unlikely that the proposed development will result in unacceptable impacts on aboriginal cultural heritage values.

This determination does not alter the applicant's obligations under other legislation including those provided under the National Parks and Wildlife Act. This includes obligation to obtain approval prior to the disturbance of any item of significance. A proposed condition of development consent reinforces the applicant's obligation to satisfy the requirements of this legislation.

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

There are aspects of the development site that necessitate detailed consideration of particular matters. These include the fact that the site adjoins Bongil Bongil National Park and that the site includes areas of significant environmental and biodiversity value.

This means that the development must be of a design and must incorporate mitigation measures that are appropriate to these environmental aspects of the site.

On balance the site is considered suitable for the proposed development.

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

A total of ten submissions were received. The matters raised in the submissions can be summarised into the following:

Design of the Subdivision and Location of Lots

- Excessive number of lots; an increase in the number approved under the major project;
- The size of lots in the subdivision and density of development;
- Development is proposed on part of the site where it was not expected (on the corner of Bambara Drive and Mimiwali Drive).

Comment - Many submissions have drawn comparison between the current application and the development approved by the Minister for Planning and Infrastructure on 8 July 2013 under Development Consent MP08_0080. It must be accepted that this is a separate application and must be evaluated on its merits without direct reference to Development Consent MP08_0080.

This subdivision application seeks consent for a total of 220 residential lots. Development Consent MP08_0080 was issued on 8 July 2013 by the Minister for Planning and Infrastructure and approved a subdivision for 165 residential lots.

The lots sizes in the current proposal range from 450 m² to 840 m². More than 75% of the lots are either 450 m² or 540 m². The subdivision has been designed so that the depth of each lot is generally constant at 30 metres and the difference in lot sizes arise from variations in the width of each individual lot.

It is an appropriate planning principle to maximise development density while minimising environmental impacts. The NSW Mid North Coast Regional Strategy highlights that there are opportunities for increased housing densities in the Mid North Coast Region. This proposal largely addresses environmental issues for the site by precluding development from environmentally sensitive areas and by providing appropriate buffers between these areas and development areas. The environmental impacts of the proposed development have been considered in

detail. On balance it is considered unlikely that the proposed development will result in any unacceptable impacts on the environment.

The proposed development, including the lot sizes proposed, is consistent with a general trend towards smaller residential lots. This appears to reflect market preference. All lots are above the minimum lot size of 400 m² that applies to that part of the site zoned R2 Low Density Residential.

All lots have dimensions that are appropriate for typical low density housing. The proposed finished topography for the subdivision will allow conventional dwelling construction; the need for cut and fill with dwelling proposals will be limited. It will be easy for private open space to be provided on each lot given the dimensions that are proposed for each lot and the finished topography for the site.

Future dwelling proposals should comply with the requirements of Development Control Plan 2015. This includes requirements relating to front, side and rear setbacks, private open space, access and parking and general design.

Some submissions expressed concern that there are residential lots on the corner of Bambara Drive and Mimiwali Drive; there are no lots in this location under Development consent MP08_0080. Notwithstanding this difference to MP08_0080, these lots are acceptable for the location and are consistent with the surrounding existing residential area.

Roads in the Subdivision

- Width of roads in the subdivision; too narrow for traffic movement and on street car-parking;
- Lack of traffic calming;
- Tight road curves.

Comment - Roads will be constructed in accordance with relevant Australian Standards. The subdivision provides a road hierarchy and allows for a bus route through the subdivision. Road widths vary throughout the subdivision based on both the amount and type of traffic likely for each road. The subdivision will be a low speed traffic environment. Traffic calming measures are proposed where there are long, straight lengths of road. On balance the roads in the subdivision are considered acceptable and appropriate.

Impacts from Additional Traffic

- Additional traffic not within the capacity of the existing road network;
- Impacts on intersections on Lyons Road;
- Reduced road safety.

Comment - The additional traffic that is likely to result from the proposed development has been examined in detail. This includes an examination of the traffic impact assessment that was provided with the application, consideration of existing traffic movements (particularly at critical intersections) and some allowance for background traffic growth. While there is considered to be some inconsistencies in the traffic assessment that was provided with the application, it is considered that the likely additional traffic from the proposed development will be within the capacity of the existing road network subject to some upgrading to the intersection of Lyons Rd and Bambara Drive (as the primary access to the subdivision).

The Lyons Road/Bambara Drive intersection is an item in the North Bonville Developer Contributions Plan 2017. The works required for this intersection will be undertaken by Council.

The subdivision has been designed for low speed traffic movements. Traffic calming measures are proposed in the subdivision. Detailed design of these will be required prior to civil construction.

It is considered unlikely that the proposed subdivision will result in unacceptable traffic impacts.

Environmental Impacts

- Proposed bio-retention may be ineffective;
- Impacts from the development on riparian areas;
- Impact on Bongil Bongil National Park and suggestion that the land be a cat free zone.

Comment - Environmental impacts of the proposed development are addressed in the 'likely impacts of that development' section of this report. On balance it is considered that the proposed subdivision will not result in any unacceptable impacts on the environment. A restriction on the ownership of cats within residential lots in the subdivision is accepted as an appropriate response and environmental impact mitigation measure given the sensitive nature of the location and the existence of Bongil Bongil National Park on the southern and western boundaries of the site. This is required by a condition of development consent.

Amenity Impacts

- Potential Impacts during construction especially from noise and dust;
- Adverse impacts on privacy due to the finished road and lot heights relative to surrounding and existing development.

Comment - A submission has expressed concern about the finished height of road and lots in the subdivision where they adjoining existing residential development. This occurs in the vicinity of Lots 218 and 219 and where Road 2 is located.

The road and the lots in this location will be approximately 1.2 to 1.5 metres above the existing level of adjoining residential lots. The concern is about loss of privacy and danger from vehicles travelling on Road 2.

Loss of privacy can be addressed by fencing on the boundary of the existing residential lots and proposed Road 2 and this is required by a condition of development consent.

Danger from travelling vehicles can be partly addressed by chevron, directional road signage, but any danger from travelling vehicles is considered unlikely in the circumstances. This area is a low speed environment and Road 2 has a limited road length. It is considered unlikely that vehicles will achieve speeds to be a danger in this location. Road sign marking is required by a condition of development consent.

Conditions of development consent can address concerns about noise and dust during construction.

Bushfire Hazard Concerns

- Concern that there is only one road entry and exit to the subdivision.

Comment - The NSW Rural Fire Service has provided general terms of approval to the proposed development. They have accepted the development application as proposed with one road in and one road out. All of the conditions that they recommend being imposed on this subdivision are imposed as conditions of development consent.

References in Application Documentation

- References in application documentation to Major Project approval;
- Civil engineering report references old study and old detail.

Comment - Updated information has been request of the applicant as required so that it refers to the specifics of the current development proposal and the impacts of the current proposal. The current application documentation is satisfactory to enable the application to the determined.

Cultural Heritage Assessment

Comment - A submission has requested a cultural heritage assessment. The site has been subject to assessment for aboriginal cultural heritage. The NSW Office of Environment and Heritage have approved a cultural heritage management plan. Works consistent with this approval have been carried out on the site.

(e) the public interest:

Development Consent MP08_0080, for subdivision of this site into 165 residential lots, has been implemented.

Granting of approval to the current application does not operate to revoke Development Consent MP08_0080. Approval of the current application will result in two development consents for subdivision over the same land.

While there is nothing unlawful about multiple consents on one parcel of land, this situation may result in uncertainty about which consent is being implemented and, as a result, the subsequent obligations to comply with conditions of development consent. This situation is considered contrary to the public interest.

Section 4.17 of the Environmental Planning and Assessment Act provides that a condition of development consent may be imposed to require modification of a development consent. It is recommended that a condition of consent be imposed that requires a modification to Development Consent MP08_0080 that removes all development south of the watercourse on the land. With implementation of this condition, all development under Development Consent MP08_0080 that has been implemented can remain with a lawful determination (and conditions of consent) The remaining part of the site must be implemented under an approval of the current application.

With imposition of this condition, the proposed development is considered to be within the public interest.

APPENDIX C

Schedule of Conditions

ADMINISTRATIVE CONDITIONS

Development Description:

1. Development consent is granted only to carrying out the development described below:
 - *Subdivision (220 Residential Lots, Roads, Landscaping, Civil Infrastructure, Public Reserves & Residual Lot).*

Prescribed Conditions:

2. The proponent shall comply with the prescribed conditions of development approval under Clauses 97A, 98, 98A - E of Environmental Planning and Assessment Regulation 2000 as are of relevance to this development.

Development is to be in accordance with approved plans:

3. The development is to be implemented in accordance with the plans set out in the following table except where modified by any conditions of this consent.

Plan No.	Amendment	Prepared by	Dated
Plan of Subdivision - Overall Layout	F	RPS	18 SEP 2019
Bulk Earthworks Cut to Fill	G	de Groot & Benson	16 SEP 2019

In the event of any inconsistency between conditions of this development consent and the plans referred to above, the conditions of this development consent prevail.

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

Development in Accordance with Documents:

4. The development must be undertaken in accordance with the following documents:
 - (1) Statement of Environmental Effects (including amendments to), prepared by Planners North and dated March 2018;
 - (2) Arborist Report - Tree Protection Plan for proposed sub-division, prepared by Arbpro, dated December 2018;
 - (3) Heritage Assessment, prepared by Everick Heritage Consultants Pty Ltd, dated August 2017;
 - (3) Bushfire Threat Assessment Report, prepared by Peter Thorton, dated January 2018;
 - (4) Engineering Issues Report, prepared by de Groot & Benson, Rev B, dated July 2018;
 - (5) Flora and Fauna Assessment, prepared Peter Parker Environmental Consultants, dated August 2018;
 - (6) Traffic Impact Assessment, prepared by George Stulle and dated January 2018;
 - (7) Visual Analysis, prepared by Jackie Amos Landscape Architect, dated March 2018;
 - (8) Acid Sulfate Soils Management Plan, prepared by Planners North, dated August 2019.

Inconsistency between Documents:

5. In the event of any inconsistency between:
- (1) The conditions of this approval and the drawings/documents referred to in conditions 3 and 4, the conditions of this approval prevail; and
 - (2) Any drawing/document listed in conditions 3 and 4 and any other drawing/document listed in conditions 3 and 4, the most recent document shall prevail to the extent of inconsistency.

Design Modification:

6. The design of the subdivision must be amended as follows:
- (1) Roundabout modified to ensure compliance with Austroads – Guide to Road Design - Part 4B. This will modify the sizes of Lot 60, 96, 118 and the design of and reserve with Bio-basin 2.
 - (2) Shared path connecting this development to Bambara Drive shall run along Bambara Drive from Road 11 connecting to the exiting shared path north of Mimiwali Drive.

Design plans which include these modification are to be submitted to Council and approved prior to issue of a construction certificate and prior to any work commencing on site.

PRIOR TO ISSUE OF A CIVIL WORKS CONSTRUCTION CERTIFICATE**Construction Certificate:**

7. No subdivision work is to commence on site until a Civil Works Construction Certificate has been issued for the work and Council has been notified that a Principal Certifying Authority has been appointed.

Modification of Development Consent

8. Development Consent MP08_0080 must be modified such that all residential development including all roads and residential infrastructure south of the watercourse on the land, is no longer a development component of the development consent. Earthworks that has occurred south of the watercourse on the land can remain as a development component.

The notice of modification of Development Consent MP08_0080 must occur prior to issue of the first construction certificate and must occur in accordance with the regulations.

Street Tree Planting (Plan):

9. A plan is to be submitted to Council showing street tree planting, which has been prepared in accordance with the requirements of Council's "Street Tree Master Plan" and 'Street Tree Planting Detail'.

The Plan shall be prepared by a qualified landscape architect or professional landscape consultant. The Plan must show all services and planting detail in accordance with Council's minimum requirements; alternatively, a higher standard may be considered for tree protection.

The Plan is to be approved by Council prior to the issue of a Construction Certificate for the relevant stage.

Road Design and Services:

10. The following works:

- (1) Roads;
- (2) Footpaths and pathways;
- (3) Shared path;
- (4) Access tracks
- (5) Water supply;
- (6) Sewerage;
- (7) Sewer pumping station;
- (8) Stormwater drainage including WSUD requirements;
- (9) Interallotment drainage;
- (10) Stormwater management plan works;
- (11) Bus stops
- (12) Shall be provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction specifications and relevant policies (Water Sensitive Urban Design).

Note:

- (a) where batters are greater than 600mm height between properties retaining walls are required. Batters greater than 1V:4H on private property are to be stabilised. Detail provided with the construction certificate;
- (b) Maximum allowable batters within Council maintained land is to be 1V:4H and cut 1V:3H;
- (c) Footpaths are to be 1.5m wide;
- (d) Shared pathways are to be 2.5m wide;
- (e) Full details for stormwater infrastructure to be provided with first construction certificate for works within each catchment;
- (f) Bollards for protection of aboriginal artefacts to be located a minimum of 0.5m from the outside of any sewer main;
- (g) Sewer alignment is not to be within the vicinity of the neighbourhood park (in accordance with Council Policy), unless suitable arrangements are made with Council;
- (h) Liaise with Council for sewer pump station design requirements;
- (i) Water mains are to be PVC-O or PVC-M;
- (j) Service trail around SPS and WSUD infrastructure to have gates restricting

access to authorised vehicles;

- (k) A risk assessment in accordance with industry guidelines of the bio-retention and detention basins in public reserves is to accompany the design, considering depth of ponding, batter slopes, etc
- (l) Details for the neighbourhood park must be provided to ensure it can be located as proposed with clearance in accordance with Councils Protection of Underground Assets Policy prior to release of the Civil Works Construction Certificate for Road 2 adjacent to the park unless alternative arrangements suitable to Council are made;
- (m) Conceptual stormwater details for the entire site demonstrating feasibility of the stormwater management design must be submitted to Council and approved prior to release of the first construction certificate south of the culvert.

Plans and specifications are to be submitted to Council and approved prior to issue of a Civil Construction Certificate. Plan submissions are to be accompanied by payment of prescribed fee.

- A private certifier accredited for Civil Construction under the NSW Building Professionals Act 2005 (Categories B and/or C), may be engaged for all or part of civil works (subdivision and/or on private property) other than public infrastructure water and sewer reticulation works;
- Accreditation of private certifiers for public sewer and water reticulation works is not offered under the Building Professionals Act 2005;
- Connection to Council drainage, water and sewer systems require the approval of Council under the NSW Local Government Act;
- Works within public road reserves require the approval of the Road Authority as defined in the NSW Roads Act.

A private certifier who issues a Civil Works Construction Certificate must forward a copy of the Certificate along with a copy of the approved plans and ITP to Council two days before work commences on the development.

Council attendance at any required inspections will be charged in accordance with the adopted 'Fees & Charges' current at the time of the inspections. Payment is required prior to any inspections.

All work is to be at the developer's cost.

Bio-retention Adjoining National Park – Details:

11. The discharge zone between the western bund wall of Bio-retention Basin 4 and the property boundary with Bongil Bongil National Park, must be densely planted with the native flora species Swordgrass (*Ghania clarkeii*), Smamp Mahogany (*Eucalyptus robusta*), Paperbarks (*Melaleuca quinquenervia* & *Melaleuca stypheliodes*) and *Lomandra* sp. To help slow peak discharge velocity, capture sediment, absorb water and ingest nutrients prior to the treated stormwater entering the national park.

Details of work to comply with this condition must be submitted to Council and approved prior to release of the construction certificate for any residential lots or roads that will drain to Bio-retention Basin 4.

Buses:

12. A detailed design of proposed bus stop facility, including bus shelters and the proposed routes, are to be provided as part of the Civil Works Construction Certificate for the relevant stage. These designs are to include manoeuvring diagrams to show that the buses will be able to move safely through the subdivision in accordance Council Standards.

Comments of the bus company/s servicing the area containing the development must be obtained, and any reasonable requirements of the bus company are to be considered in the design for each stage involving these facilities. A copy of the comments is to be provided to Council. Council will consider these comments in assessing the Civil Works Construction Certificate.

Fencing and Access to Bongil Bongil National Park - Details:

13. Fencing including restricted access points to the boundary of the site where it adjoins Bongil Bongil National Park must be provided. Details of the fencing and access must be provided to Council and approved prior to issue of a construction certificate for any residential lots or roads that adjoin Bongil Bongil National Park. Details of consultation with, and approval of, the fence location, construction details and access points, with the National Parks and Wildlife Service Manager Coffs Coast Area, must be provided to Council with the fencing and access details.

Fencing to E2 Zoned Land - Details:

14. Fencing of the boundary of Lot 700, to exclude koalas from residential areas, and exclude cats and dogs from entering the land zoned E2 – Environmental Conservation, is to be provided. Details of the fencing must be provided to Council and approved prior to issue of a construction certificate for any residential lots or roads that adjoin Lot 700.

Manoeuvring Areas:

15. Adequate manoeuvring areas for service vehicles (including garbage trucks and temporary manoeuvring areas where the development is staged) complying with Council's Development Design and Construction Specification being provided in the development. Details of manoeuvring areas are to be submitted and approved prior to issue of the Construction Certificate.

Pathway:

16. A pathway 4m wide with a 2m wide concrete footway being provided between Road 9 and Road 3. The design is to comply with Council's Development Design and Construction Specifications.

The pathway location and design being submitted to and approved by Council prior to issue of the Construction Certificate for the relevant stage.

Street Names:

17. A street name application being submitted to Council prior to issue of the Construction Certificate.

Erosion and Sedimentation Control Measures:

18. A Soil and Water Management Plan must be prepared by a qualified environmental or engineering consultant in accordance with the document Managing Urban Stormwater – Soils & Construction Volume 1 (2004) by Landcom. Details being submitted and approved by the Certifying Authority prior to issue of a Construction Certificate for the relevant stage.

Fill:

19. Contour plans indicating the location of proposed fill areas in the subdivision being submitted and approved by Council prior to issue of the Construction Certificate for the relevant stage.

Contour plans are to include a clear description of impact of changes proposed on water movement both to and from the site on all adjacent land and to show stormwater discharge points.

Retaining Works:

20. A construction certificate is required for retaining walls exceeding 600mm in height. Timber retaining walls exceeding 600mm in height are not to be permitted within 1 metre of the boundary.

Landscape Plan Modifications:

21. In order to remove Koala feed trees from urban areas a revised landscape plan incorporating the following:
 - a) Compliance with Appendix 3 of the Coffs Harbour Development Control Plan 2015;
 - b) Exclusion of koala feed trees from within the urban area, including parks;

Details shall be submitted to and approved by Council **prior to the issue of a Construction Certificate** for the relevant stage.

Vegetation Management Plan:

22. Prior to issue of the Construction Certificate, and prior to commencement of any works on the site, a detailed Vegetation Management Plan prepared in accordance with Council's 'Guideline for Preparing Vegetation Management Plans' (contained in Appendix 2 of the Coffs Harbour Development Control Plan 2015) must be submitted to Council and approved.

The vegetation management plan will relate to all areas of Hairy Joint Grass, lots 500, 501 and Lot 700. Specific actions to ensure the on-going viability of the Hairy Joint Grass are required to be described. The requirements of this condition shall lapse with respect to Lot 700 if a Biodiversity Stewardship Agreement is established over that land.

The vegetation management plan shall be prepared by persons with professional qualifications and/or knowledge and experience in bush regeneration/stream rehabilitation practices and who is eligible for membership to the Australian Association of Bush Regenerators.

PRIOR TO COMMENCEMENT OF WORKS

Site Notice:

23. Prior to commencement of works a site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of the development details including but not limited to:
- (1) Details of the Principal Contractor and Principal Certifying Authority for all stages of the development;
 - (2) The approved hours of work;
 - (3) The name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction noise complaints are to be displayed on the site notice; and
 - (4) To state that unauthorised entry to the site is not permitted.

Notice to be Given Prior to Commencement / Earthworks:

24. The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of earthworks on the site.

The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

Contact Telephone Number:

25. Prior to the commencement of the works for each stage of the development, the proponent shall forward to Council a 24 hour telephone number to be operated for the duration of the construction works.

Road Opening Permit:

26. Prior to the commencement of works within the road reserve a road opening permit must be obtained from Council Roads and Open Space Section in accordance with Section 138 of the Roads Act 1993.

Erosion and Sediment Control:

27. Prior to commencement of work on the site for each stage of the development, erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

DURING WORKS

Approved Plans to be On-Site:

28. A copy of the approved and certified plans, specifications and documents incorporating the conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Excavated Material:

29. Where excavated material is to leave the site it is to be disposed of at an approved landfill facility.

Alternatively, where it is proposed to dispose of the excavated material at another location no material is to leave the site until:

- (a) Council has been advised in writing of the destination site(s); and
- (b) Council has been advised of the quantity and makeup of the material; and
- (c) Council has issued written approval for disposal to the alternate location(s).

Note: The exportation of fill or soil from the site must be in accordance with the provisions of the Protection of the Environment Operations Act (POEO) 1997 and the Office of Environment and Heritage "Waste Classification Guidelines" and shall comply with the terms of any approval issued by Council.

Fill:

30. All fill is to be placed in accordance with the requirements of Council's Development Design and Construction Specifications and the approved Sediment and Erosion Control Plan.

Importation of Fill:

31. The only fill material that may be received at the development is:
 - (a) Virgin excavated natural material (within the meaning of the Protection of the Environment Operations (POEO) Act);
 - (b) Any other waste-derived material the subject of a resource recovery exemption under Clause 51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material, excluding waste tyre.

At least 14 days prior to the importation of any fill material, details shall be submitted to the Certifying Authority demonstrating the material complies with the above requirements.

Any waste-derived material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

Erosion and Sediment Control(1):

32. All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works for each stage of the project, and until such time as all ground disturbance by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

Tree Protection Plan:

33. Works shall be completed in accordance with the 'Tree Protection Plan' contained within the Arborist Report - Tree Protection Plan for proposed sub-division, Arbpro December 2018.

Protection of Drip Line:

34. The storage of any debris, materials or machinery is not to occur within the drip line of any protected vegetation.

Arborist Works:

35. Approved arborist works are to be conducted in accordance with Australian Standard AS 4373-2007 "Pruning of Amenity Trees" and the approved 'Arborist Plan (Arborist Report - Tree Protection Plan for proposed sub-division', prepared by Arbpro and dated December 2018).

Protection of Trees On-Site:

36. All trees on site that are to be retained are to be suitably protected in accordance with Australian Standard AS 4970-2009 'Protection of Trees on Development Sites' by way of tree guards, barriers or other measures as necessary to protect root system, trunk and branches, during construction of any stage of the project.

Fill:

37. All fill is to be placed in accordance with the requirements of Council's Development Design and Construction Specifications and the approved Sediment and Erosion Control Plan.

Dust Control Measures:

38. Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:
- (1) All materials shall be stored or stockpiled at the best locations;
 - (2) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that runoff occurs;
 - (3) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other materials;
 - (4) Cleaning of footpaths and roadways shall be carried out regularly;
 - (5) Rumble grids being installed at access points to the site.

Hours of Work:

39. Construction works are to be limited to the following hours:

Monday to Friday 7.00 a.m. - 6.00 p.m.

Saturday 7.00 a.m. - 1.00 p.m. if inaudible from adjoining residential properties, otherwise 8.00 a.m. - 1.00 p.m.

No construction work is to take place on Sunday and Public Holidays.

Cultural Heritage:

40. In the event that future works during any stage of the development disturb Aboriginal Cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the area and the material must be identified by an independent and appropriately qualified archaeological consultant. The Office of Environment and Heritage (OEH), Northern Aboriginal Heritage Unit and the Aboriginal Stakeholder groups must be informed. These groups are to advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the OEH and Northern Aboriginal Heritage Unit and the Aboriginal Stakeholder groups.

Acid Sulfate Soil Management Plan:

41. The Acid Sulfate Soil Management Plan, prepared by Planners North, dated August shall be implemented in full during subdivision works.

Public Way to be Unobstructed:

42. The road reserve must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances unless approved by Council's Road and Open Spaces section.

Stormwater:

43. No new paving, excavation, filling or other work on the site is to interfere with the existing drainage system so as to pond or divert water onto adjoining properties.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**Part 4A Certificate:**

44. Prior to the registration of the final subdivision plan at Land and Property Information NSW a Part 4A Certificate (Subdivision Certificate) shall be obtained from Council under section 109D(1)(d) of the Environmental Planning and Assessment Act 1979.

Dedication of Internal Roads:

45. All internal roads shall be constructed by the proponent and dedicated to Council as public roads following registration of the Plan of Subdivision. Upon dedication and at the end of the maintenance period Council will be responsible for the on-going maintenance of the roads.

Street Tree Planting:

46. The planting proposed in the approved Street Tree Planting Plan is to be carried out to satisfaction of Council, prior to issue of a Subdivision Certificate for the relevant stage unless other arrangements satisfactory to Council for completion at some other stage are made. This may include an agreement being reached with Council for the completion of work by Council.

The plantings are to be maintained for twelve (12) months in accordance with Council's Street Tree Master Plan to ensure successful establishment and development. A bond per tree is to be paid to Council prior to the issue of Subdivision Certificate for the relevant stage. The bond will be returned at the end of the twelve month maintenance period provided that plantings have been established successfully. At the end of the maintenance period Council will replace plantings that have failed with the cost of this work taken from the bond.

Works as executed plans must be provided to Council in Digital CAD or Arcview format for all street trees. The information shall be provided on disc prior to the issue of the Subdivision Certificate. Note, the current street tree bond as at 1 January 2019 is \$900.00 per tree and is subject to indexation at the CP/Sydney Index rate.

Road Design and Services:

47. The following works:

- (1) Roads;
- (2) Footpaths and pathways;
- (3) Shared path;
- (4) Access tracks;
- (5) Water;
- (6) Sewer;
- (7) Sewer pumping station;
- (8) Stormwater drainage including WSUD requirements;
- (9) Interallotment drainage;
- (10) Stormwater management plan works;
- (11) Bus stops
- (12) Being provided to serve the development with the works conforming with the standards and requirements set out in Council's Development Design and Construction specifications and relevant policies (WSUD).

These works are to be completed **prior to the issue of a Subdivision Certificate** for the relevant stage

All work is to be at the developer's cost.

Bio-retention Adjoining National Park – Planting:

48. All dense planting of the discharge zone between the western bund wall of Bio-retention Basin 4 and the property boundary with Bongil Bongil National Park, must be completed, in accordance with the approved detail, prior to issue of the subdivision certificate for any residential lots or roads that will drain to Bio-retention Basin 4.

Fencing and Access to Bongil Bongil National Park - Construction:

49. All fencing, including restricted access points, to the boundary of the site where it adjoins Bongil Bongil National Park, must be constructed in accordance with the approved details, prior to issue of a subdivision certificate for any residential lots or roads that adjoin Bongil Bongil National Park.

Fencing to E2 Zoned Land - Construction:

50. Fencing of the boundary of Lot 700, to exclude koalas from residential areas, and exclude cats and dogs from entering the land zoned E2 – Environmental Conservation, must be constructed in accordance with the approved details, prior to issue of a construction certificate for any residential lots or roads that adjoin Lot 700.

Maintenance Bond

51. Prior to issue of a Subdivision Certificate and acceptance of 'On Maintenance' period, a maintenance bond for the constructed civil engineering works required to be dedicated to Council must be paid to Council. The bond may be in cash or by financial institution guarantee.

The bond required is the larger sum of:

- 10% of the contract sum for works associated with water and sewer plus 5% of the contract sum for all other works where the total value is more than \$50,000 or;
- \$5,000.

All work to be dedicated to Council is subject to a maintenance period of six (6) months from the date of release of the Subdivision Certificate. The maintenance period may be extended by Council due to material or construction work compliance reasons. The maintenance period and bond amounts for WSUD systems must be in accordance with the Council or accredited private certifier approved stormwater management plan.

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or accredited private certifier to confirm the compliance and performance of the constructed works, in accordance with Councils Standards.

Note: If a financial institute guarantee is proposed to be used, please contact Council to determine whether this institute is acceptable to Council as well as to ascertain specific requirements of the guarantee.

Surveyor Certification:

52. Prior to the issue of a Subdivision Certificate, certification is to be provided to Council by a registered surveyor confirming that all infrastructure (including services, stormwater infrastructure and drainage paths, access) are contained within the respective lots or easements for the lands to be subdivided.

Section 7.11 Monetary Contributions:

53. Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities:

Note 1 - The contributions are to be paid **prior to release of any Subdivision Certificate** unless other arrangements acceptable to Council are made.

Note 2 - The rates will be adjusted in accordance with the procedures set out in Council's Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

Note 3 - If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

The current contribution rate is:	Per Lot
Co-ordination and Administration	245.51
Coffs Harbour Road Network	877.39
Surf Rescue Equipment	142.40
District Open Space	4,003.36
North Bonville Neighbourhood Open Space	195.16
Stormwater Management	1,494.54
Transport & Traffic	6,098.42
Urban Planning	68.24

The Part 7.11 contribution is currently \$2,874,379.88 for the 219 additional lots proposed in the subdivision.

Contributions have been imposed under the following plans:

- Coffs Harbour Open Space 2017.
- Coffs Harbour Road Network 2016.
- Surf Rescue Facilities 2016.
- Coffs Harbour Administration Levy 2016.
- North Bonville 2017.

The Contribution Plans may be inspected at the Council Administration Offices, 2 Castle Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au.

Water and Sewerage Services – Developer Services Charges:

54. The Subdivision Certificate not being released until a Certificate of Compliance pursuant to Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development is produced to Council.

Dedication of Internal Roads:

55. All internal roads shall be constructed by the proponent and dedicated to Council as public roads following registration of the Plan of Subdivision. Upon dedication and at the end of the maintenance period Council will be responsible for the on-going maintenance of the roads.

Dedication of Public Reserves to Council:

56. The proponent must make necessary arrangements for the dedication of proposed public reserves to Council, at the time of registration of any Subdivision Certificate for residential lots located on the southern side of the watercourse on the site.

The lands must be transferred or dedicated to the Council in fee simple free of encumbrances, other than those acceptable to Council at or prior to the registration of the plan.

Prior to issue of a Subdivision Certificate for the relevant stage of the subdivision, a deed of agreement must be prepared with Council to allow the proponent to carry out management and maintenance works on the public reserve after dedication. The deed of agreement must specify a time period that will allow for all management and maintenance works that are stipulated in the approved vegetation management plan to be carried out.

Land identified for acquisition within the North Bonville Developer Contributions Plan 2017 will be subject to compensation. The value is to be determined at the date of transfer or dedication in accordance with Section 54(1) of the Land Acquisition (Just Terms Compensation) Act 1991 with the relevant matters to be considered as set down by Section 55 of the Act.

Other land, not identified for acquisition, must be dedicated to Council at no cost to Council.

Services:

57. All lots in the Subdivision must be provided with underground reticulated electricity and telephone cables. The applicant shall provide a letter from the relevant electricity energy provider stating that satisfactory arrangements have been made for the supply of electricity and a letter from the telecommunications provider stating that satisfactory arrangements have been made for telecommunications infrastructure in the subdivision / development. These letters are to be provided to Council prior to release of the Subdivision Certificate.

Street lighting being provided to the requirements of the relevant electricity energy provider with all work being completed prior to release of the Subdivision Certificate.

Stormwater Asset Bond:

58. The bio-retention system cannot be planted out and utilised as a water sensitive urban design measure until 80% of dwellings in the catchment have been constructed.

Any bio-retention system contained within land being dedicated to Council that has not been planted out with satisfactory survival rate for 12 months is subject to a Stormwater Asset bond to be lodged with Council prior to the release of the Subdivision Certificate.

Where the bio-retention system is still operating as a sedimentation basin, the asset bond will be for a sum of 150% of the cost of construction, establishment and maintenance of the landscaping and 150% of the cost of construction of the uncompleted civil components. The bond will be retained by Council until 80% of allotment building phase is established or 4 years following practical completion of the subdivision, whichever occurs first.

At this stage, following the completion of the bio-retention by the developer or where the bio-retention basin has been operational for less than 12 months at time of

dedication, a bond for 100% of the cost of establishment and maintenance of the vegetation is to be available to Council. The bond will be retained by Council for at least one growing season of 6 to 12 months and vegetation has been established satisfactorily.

The Stormwater Asset bond will ensure that the stormwater treatment works are completed and that necessary maintenance works are undertaken within that period by Council in the event that the works are not undertaken by the developer.

Work as Executed Plan:

59. Prior to the issue of the Subdivision Certificate for the relevant stage, a work as executed plan endorsed by a registered surveyor or consulting engineer (hard or digital format) in accordance with Council specifications and standard drawings, being submitted to Council certifying that:

- (1) the approved civil works have been undertaken with any amendments shown in red on the approved plans;
- (2) All drainage lines, sewer lines, services, and structures are wholly contained within the relevant easement;
- (3) The plans accurately reflect the work as executed.

Fill - Certification:

60. Prior to the release of the Subdivision Certificate, a fill report along with a final contour plan is to be submitted to Council showing the location, depth, and type of fill located on the site. Alternatively, where no fill has been placed on the site, a written statement to that effect is to be submitted to Council.

Sediment and Erosion Control:

61. Prior to the issue of a Subdivision Certificate the site shall be stabilised to the Principal Certifying Authority's satisfaction which, as a minimum, shall be at least 50% grass cover or application of mulch or hydroseeding to all disturbed areas.

Geotechnical Engineering Report:

62. A Geotechnical Engineering Report being submitted to Council for approval prior to release of the Subdivision Certificate indicating the suitability of each lot for residential development and detailing any special building practices required for construction.

Landscaping Works:

63. Prior to the issue of a Subdivision Certificate a works-as-executed plan is to be submitted to the Principal Certifying Authority certifying that all landscape works have been carried out in accordance with the approved plan.

Vegetation Management Plan:

64. The works (other than maintenance works) prescribed in the approved Vegetation Management Plan must be completed prior to issue of the relevant Subdivision Certificate. A report from the consultant who prepared the Vegetation Management Plan or other suitably qualified consultant being submitted to Council with the Subdivision Certificate application to the effect that the initial works have been completed in accordance with the approved Vegetation Management Plan.

Restriction on Title:

65. A restriction on title under Section 88B of the Conveyancing Act 1919, being registered on the title of the applicable lot, to the effect that:
- (1) The registered proprietor of the land must enter into positive covenants with Council to maintain the works as effected on each lot in accordance with the Vegetation Management Plan as it affects that lot. The positive covenants shall be in, or to the effect of covenants approved by Council from time to time and be created pursuant to Section 88E of the Conveyancing Act 1919, generally in accordance with the attached draft covenant "A" and must be registered on the title to each lot. Registration must be effected in conjunction with the registration of the plan of subdivision;
 - (2) The registered proprietor of the land must enter into covenants to prohibit the ownership of cats within all lots of the subdivision. Council shall not be listed as benefiting from the covenant nor having responsibility for compliance, revoking, varying or modifying the covenant. Detail of the proposed restriction must be provided to Council with the application for subdivision certificate. Registration must be effected in conjunction with the registration of the plan of subdivision;
 - (3) A geotechnical assessment identifying necessary design measures to ensure the suitability of future structures is to accompany the relevant application for dwelling approval on each lot unless evidence from the Geotechnical consultant is produced to Council with the relevant Subdivision Certificate application to the effect that lot specific geotechnical assessment(s) is/are not required;
 - (4) Drainage lines installed in the development being maintained by the benefiting property owners.

Any section 88B instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of carriageway to be revoked, varied or modified only with the consent from Council.

Details of the Restriction(s) are to **accompany the application for Subdivision Certificate.**

Fill - Certification:

66. Prior to the release of the Subdivision Certificate, a fill report along with a final contour plan is to be submitted to Council showing the location, depth, and type of fill located on the site. Alternatively, where no fill has been placed on the site, a written statement to that effect is to be submitted to Council.

Bushfire Safety Authority Works – Certification:

67. Certification confirming that the bushfire safety works, required by Conditions 68 to 75 above, have been completed shall be provided to Council prior to the issue of a Subdivision Certificate.

GENERAL TERMS OF APPROVAL

Bushfire Safety Authority Rural Fires Act 1997 – NSW Rural Fire Service

Asset Protection Zones:

68. At the issue of subdivision certificate and in perpetuity all proposed residential lots 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'.
69. A 10 metre asset protection zone (APZ) is to be provided on any residual lot that is; created from the staging of the proposed subdivision, and where the residual lot is directly adjacent to residential lots created in the completed stage.
70. In accordance with section 88B of the 'Conveyancing Act 1919' a restriction to the land use shall be placed on these residual lots requiring the provision of the 10 metre APZ measured from the interface with the adjoining residential lots. The APZ shall be maintained 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'. This restriction can be extinguished upon commencement of any future proposed residential development on the adjacent residual lot, but only if the hazard is removed as part of the proposal.
71. A Vegetation Management Plan (VMP) is required to be provided to the Coffs Harbour City Council, prior to any subdivision works commencing, that identifies the mechanisms and responsibilities for the management of the asset protection zones (APZs) identified on the following plan;

The drawing prepared by RPS titled "North Bonville Ultimate Plan of Subdivision", noted as Plan Ref. 135949-14 and dated February 2018.

Asset protection zones are to be managed 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'.

72. The 20 metre restricted planting zones, located on both sides of the single access road, where it crosses the creeks riparian areas shall managed as per the undated landscape plan prepared by Jackie Amos, titled "1714-03 Landscape Masterplan – Issue F".

Water and Utilities:

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

Access:

74. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except that a single connecting road to the north is permitted.
75. Temporary vehicular turning heads, created by the staging of the subdivision, shall have a restriction to the land use created over the residual land upon which they exist. The restriction is to be pursuant to section 88B of the 'Conveyancing Act 1919'. A temporary turning head may be removed and the restriction extinguished if the residual land, upon which the temporary turning head exists, is developed and the road continues.

Controlled Activities Approval
Water Management Act 2000 – Natural Resources Access Regulator

Design works and structures:

76. Any proposed controlled activity carried out under a controlled activity approval must be directly supervised by a suitably qualified person.
77. A copy of this approval must be: i. kept at the site where the controlled activity is taking place, and ii. provided to all personnel working on the controlled activity.

Erosion and sediment controls:

78. 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.
79. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.

Plans, standards and guidelines:

80. The application for a controlled activity approval must include the following document(s): - Works Schedule; structural design and specifications; Erosion and Sediment Control Plan.
81. A. The application for a controlled activity approval must include the following plan(s): - Instream works; Vegetation Management and Wetland Rehabilitation Plan; Stormwater Management Design Plans. B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website - Guideline for instream works on waterfront land; Guidelines for riparian corridors on waterfront land; Guidelines for vegetation management plans on waterfront land.
82. All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.
83. Any proposed controlled activity must be carried out in accordance with plans

Reporting requirements:

84. When required: A. a suitably qualified person must provide a certificate of completion for any controlled activity carried out under a controlled activity approval, and B. the certificate must be sent to Natural Resources Access Regulator.

ADVISORY NOTES

No Development Lot 700.

85. Lot 700 contains environmentally sensitive land and no development will be approved on this land.

Public Road Reserves:

86. No work is to be undertaken within a public road reserve without prior written approval from Council. Applications for such approval are to be accompanied by the necessary security deposit and must satisfy Council that adequate Public Liability Insurance has been obtained, with Council being nominated as co-insured.

Works in Kind:

87. Council's written approval is required prior to the issue of a Construction Certificate for any Works in Kind or other works detailed in Council's Section 7.11 (Environmental Planning and Assessment Act 1979) Developer Contribution Plans and Section 64 (Local Government Act 1993) Developer Servicing Plans that are proposed to be undertaken as part of this development by a party entitled to act on the development consent.

Application for approval to undertake these works is to be accompanied by a schedule of works and a quantity surveyor's estimate of the cost of such works.

Please refer to Council's Works in Kind Policy and the relevant Developer Contribution and Developer Servicing Plans, available on Council's web site.
