

Byron Shire Council - Memorandum

MEMO TO: Regional Planning Panel

COPY TO: Panel Secretariate

MEMO FROM: Christopher Soulsby

SUBJECT: Updated conditions of consent for DA 10.2021.575.1

DATE: 4 May 2021

RECORD NO: 10.2021.575.1

The purpose of this memorandum is to advise the panel on the changes to the draft conditions of consent. At the meeting of 18 April 2023 the panel deferred the determination of PPSNTH-134 – Byron – 10.2021.575.1 to enable the conditions of consent to be further negotiated between Council and the applicant.

An updated set of conditions has been prepared. The key difference in these conditions is the deletion of condition 3 and consequential amendments to other conditions resulting from this.

The original purpose of condition 3 was to have a 12 month monitoring period on the performance of road pavement, bioretention basin, biopods, north south drain, and the wallum froglet habitat restoration works aft the completion of each stage of the subdivision.

The regards to the road pavement, bioretention basin, biopods, and the north south drain Council's development engineers had concerns that the civil design was unconventional and untested. This posed a risk of failure of assets dedicated to Council and considerable cost to rectify.

Specifically the bio pods had no subsurface drainage and lacked an impervious membrane between the filtration material of the pod and the road pavement that would have allowed water to infiltrate into the road pavement causing a weakening of the pavement and early failure.

The high water table was of concern for the performance of the bioretention basin and the road pavement. The longitudinal grade of the bioretention basin was also felt to be an issue. A minim grade of the basin has now been set in condition 11.

Following meetings with the applicants consulting engineer an updated design of the bio pods that had a subsurface drain with flush points and an impervious membrane to protect the pavement was provided. This design was sufficiently similar to the Brisbane City Council WSUD standard to give Council a level of confidence that the bio pods would not fail and would not cause damage to the road pavement.

The issue of the bioretention basin has been dealt with by an extended defect liability period. The standard period for which a developer is responsible for rectification of failures of assets is six months. The developer has agreed to an extended liability period of 24 months. If rectification works are required in this period then the defect liability period recommences. These requirements are set out in condition 97.

The requirement to monitor the performance of road pavement, bioretention basin, biopods, and north south drain has been incorporated into the construction environmental management plan (CEMP) in condition 8.

Groundwater interaction with the road pavement has been dealt with in condition 29.

Condition 3 (now deleted) would not have allowed for the orderly and economic development of land. It imposed unreasonable delays in the developer and now that the issues

The wallum froglet habitat restoration works is dealt with in conditions 7 and 23. The Wallum Froglet Management Plan sets out the monitoring, and replacement of habitat requirements. With this plan in place there is no need to delay the commencement of construction of the civil stages.

Comment on the applicant's response to the draft conditions

I refer to the applicant's letter of 3 May provided to the Panel Secretariate.

Condition 12: This condition should remain. The current drain is not in an easement benefiting Council and is in poor condition. Whilst Council has powers under the roads act to enter the land and maintain the drain for emergency works the drain is not part of Council drainage network. The drain should be in a functional state and have a plan for the long term management when it is handed over to Council as an asset.

Condition 29: Agree. Condition amended.

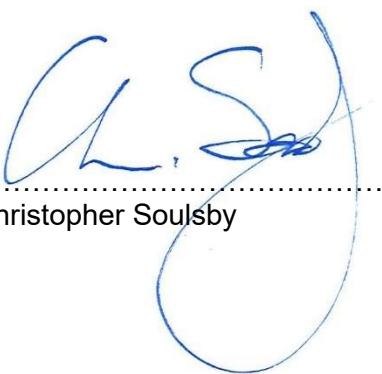
Condition 30 b): Do not agree. Standard requirement of the Northern Rivers Local Government Design and Construction Guidelines.

Condition 30 n): Do not agree. These are minimum standards imposed specifically to modify the proposed design. The non return devices are to prevent water infiltrating back up into the subsurface drains. This is required due to the very flat grades at which the system is designed on.

Condition 84 i): Not agreed. The purpose of requiring on site infiltration and biopods to lots on one way crossfall roads is to limit sheet flow across the road from the dwelling stormwater outlets.

Conclusion

Attached is as set of updated conditions with track changes and a clean set of conditions. It is recommended that the panel resolve to approve development application 10.2021.575.1 subject the conditions provided.



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Christopher Soulsby