

PROPOSED CONDITIONS

NOTE: THESE ARE DRAFT ONLY

DA NO: 2021/1001

DATE: 7/06/2022

PRESCRIBED CONDITIONS

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the *Environmental Planning & Assessment Regulations* 2021.

A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Environmental Impact Statement	Beach to Beach - Shared User Path	Kellogg Brown & Root Pty Ltd	20 May 2022

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

- (2) (A002) No building shall commence until a Construction Certificate has been issued and the applicant has notified Council of:

- a. the appointment of a Principal Certifying Authority; and
- b. the date on which work will commence.

A Construction Certificate is only required for sections of the elevated boardwalk which are outside road reservations.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

- (3) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (4) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 2. Appropriate dust control measures;
 3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;

4. Building waste is to be managed via appropriate receptacles into separate waste streams;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. Building work being limited to the following hours, unless otherwise permitted by Council;

- Monday to Saturday from 7.00am to 6.00pm
- No work to be carried out on Sunday or public holidays

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.

- (5) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (6) (A197) Prior to commencement of harm to marine vegetation works a permit is to be obtained under Section 205 of the Fisheries Management Act 1994 from the NSW Department of Primary Industries - Fisheries.
- (7) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (9) (A195) The mitigation measures detailed on pages 116 - 119 of the Biodiversity Development Assessment Report, Rev 1, prepared by Accuplan, dated 19 May 2022, form part of this consent and shall be implemented at the respective stages throughout the development.
- (10) (A196) The mitigation measures detailed on pages 113-124 of the Environmental Impact Statement, Rev 1, prepared by Kellogg Brown & Root Pty Ltd, dated 20 May 2022, form part of this consent and shall be implemented at the respective stages throughout the development.
- (11) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council.

Such works include, but not be limited to:

- Civil works
- Traffic management
- Work zone areas
- Hoardings
- Concrete foot paving
- Footway and gutter crossing
- Functional vehicular access

Where works are proposed on an Transport for NSW (TFNSW) classified facility, the Road Authority shall obtain TFNSW concurrence prior to any approval.

B – PRIOR TO ANY WORK COMMENCING ON SITE/ISSUE OF CONSTRUCTION APPROVAL

- (1) (C195) Tree protection fencing, compliant with AS 4970/2009 Protection of trees on development sites must be provided to protect adjacent around the outside of tree protection zones wherever possible. The fencing shall be in

place prior to the commencement of any works or soil disturbance in each zone and maintained for the entirety of the works at each zone.

- (2) (C196) All required licenses from Crown Lands must be obtained and provided to Council for work areas in respective Crown Reserves prior to any works commencing on site.
- (3) (C197) All work areas are to be surveyed and pegged out prior to construction to ensure all works occur within lands that are approved and licensed.
- (4) Prior to commencement of any vegetation clearing or issue of a Construction Certificate, whichever occurs first, the class and number of ecosystems credits in the table below must be retired to offset the residual biodiversity impacts of the development. The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator¹.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any vegetation clearing or issue of a Construction Certificate.

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1747-Grey Mangrove low closed forest	2	Macleay Hastings, Carrai Plateau, Coffs Coast and Escarpment, Comboyne Plateau, Karuah Manning, Macleay Gorges, Mummel Escarpment and Upper Manning. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Mangrove Swamps This includes PCT's: 915, 916, 917, 918, 919, 920, 1747
1727-Swamp Oak - Sea Rush - Baumea juncea swamp forest on coastal lowlands of the Central Coast and Lower North Coast	3	Macleay Hastings, Carrai Plateau, Coffs Coast and Escarpment, Comboyne Plateau, Karuah Manning, Macleay Gorges, Mummel Escarpment and Upper Manning. or Any IBRA subregion that is	Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions This includes PCT's: 915, 916, 917, 918, 919, 1125, 1230, 1232, 1234, 1235, 1236, 1726,

		within 100 kilometers of the outer edge of the impacted site.	1727, 1728, 1729, 1731, 1800, 1808
1536-Tuckeroo - Lilly Pilly - Coast Banksia littoral rainforest	9	Macleay Hastings, Carrai Plateau, Coffs Coast and Escarpment, Comboyne Plateau, Karuah Manning, Macleay Gorges, Mummel Escarpment and Upper Manning. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Littoral Rainforest in the New South Wales North Coast, Sydney Basin and South East Corner Bioregions This includes PCT's: 670, 751, 910, 1275, 1534, 1536, 1537, 1832, 1833
771-Coastal sand Tea-tree - Banksia scrub	3	Macleay Hastings, Carrai Plateau, Coffs Coast and Escarpment, Comboyne Plateau, Karuah Manning, Macleay Gorges, Mummel Escarpment and Upper Manning. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Coastal Headland Heaths This includes PCT's: 721, 771, 1701, 1703, 1810
1724-Broad-leaved Paperbark - Swamp Oak - Saw Sedge swamp forest on coastal lowlands of the Central Coast and Lower North Coast	1	Macleay Hastings, Carrai Plateau, Coffs Coast and Escarpment, Comboyne Plateau, Karuah Manning, Macleay Gorges, Mummel Escarpment and Upper Manning. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions This includes PCT's: 837, 839, 926, 971, 1064, 1092, 1227, 1230, 1231, 1232, 1235, 1649, 1715, 1716, 1717, 1718, 1719, 1721, 1722, 1723, 1724, 1725, 1730, 1795, 1798

(5) (B089) *Biodiversity Conservation Act Offsets - Species*

Prior to commencement of any vegetation clearing or issue of a Construction Certificate, whichever occurs first, the class and species credits in the table below must be retired to offset the residual biodiversity impacts of the development. The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator¹.

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to commencement of any vegetation clearing or issue of a Construction Certificate.

Impacted species	Number of species credits	IBRA sub-region
Cercartetus nanus / Eastern Pygmy-possum	15	Any in NSW
Lathamus discolor / Swift Parrot	16	Any in NSW
Litoria brevipalmata / Green-thighed Frog	2	Any in NSW
Myotis macropus / Southern Myotis	18	Any in NSW
Planigale maculata / Common Planigale	16	Any in NSW
Pteropus poliocephalus / Grey-headed Flying-fox	2	Any in NSW
Numenius madagascariensis / Eastern Curlew	1	Any in NSW
Rhodomyrtus psidioides / Native Guava	1	Any in NSW

¹Note that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

- (6) Prior to works commencing, a Vegetation Management Plan (VMP) shall be submitted for Council's approval to ensure revegetation of impacted areas:
- The VMP shall provide detailed specifications with minimum requirements as set out in the guidelines for preparation of Vegetation Management Plans on Councils website. Vegetation Management Plans Port Macquarie Hastings Council (nsw.gov.au)
 - The VMP shall include a full list of flora species removed for the works, and provide for rehabilitation of all disturbed areas with the same native species that have been removed.

- All plants shall be from local provenance where all plants are grown from seed collected from healthy plants growing near to and in similar environmental conditions as the planting site.
 - The revegetation shall be completed to the satisfaction of Council's Ecologist and Environmental Projects Audit Officer in accordance with the approved VMP prior to the completion of stages of the development and/or Occupation Certificate (related to the elevated board walk sections).
 - Maintenance of the revegetation including weed management, monitoring and reporting annually to Council's Environmental Projects Audit Officer shall occur for 5 years after issue of the Occupation Certificate.
- (7) Prior to works commencing, a Construction Environmental Management Plan (CEMP) shall be submitted to Council and the Principal Certifying Authority (PCA). The CMP shall include the mitigation measures listed in the approved EIS, but not be limited to:
- Soil erosion and sediment control
 - Odour control
 - Dust suppression
 - Noise and vibration
 - Waste management, source separation, reuse and/or recycling
 - VENM Certification for all imported fill material
 - Vegetation and weed removal and disposal
 - ASS Management Plan
 - Surface and stormwater runoff
 - Waste transport and disposal records
- (8) (B003) Unless the proponent is the Roads Authority, submission to the Principal Certifying Authority prior to issue of a Construction Approval of detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
1. Road works along the frontage of the development.
 2. Earthworks, including filling of the land for flood protection.
 3. Retaining walls.
 4. Stormwater systems.
 5. Erosion & Sedimentation controls.
 6. Location of all existing and proposed utility services including:
 - a. Conduits for electricity supply and communication services (including fibre optic cable).
 - b. Water supply
 - c. Sewerage
 - d. Stormwater
 7. Open space facilities, pathways, cycleways and associated facilities.
 8. Landscaping/waste management facilities.
 9. Provision of a paved shareway sections in accordance with AUSTROADS Part 15 and Council's adopted AUSPEC Design and Construction Guidelines.

10. Provision of pedestrian access ways; such access ways to include a concrete pathway including kerb ramps where necessary.
- (9) (B090) Payment to Council, prior to works commencing of the Section 7.12 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:

- Port Macquarie-Hastings Council Section 94A Levy Contributions Plan 2007

The plan may be viewed on Council's website or during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plan. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

C – DURING WORK

- (1) (D001) Unless the proponent is the Roads Authority, works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
- a. prior to commencement of site clearing and installation of erosion control facilities;
 - b. at completion of installation of erosion control measures
 - c. prior to installing traffic management works
 - d. at completion of installation of traffic management works
 - e. at the commencement of earthworks;
 - f. before commencement of any filling works;
 - g. when the sub-grade is exposed and prior to placing of pavement materials;
 - h. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
 - i. at the completion of each pavement (sub base/base) layer;
 - j. before pouring of kerb and gutter;
 - k. prior to the pouring of concrete for sewerage works and/or works on public property;
 - l. on completion of road gravelling or pavement;
 - m. prior to sealing and laying of pavement surface course.

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (3) (D022) The proponent is responsible for ensuring that the existing stormwater pipe traversing/adjoining the land is not damaged while performing any works. If the existing stormwater pipe is damaged during the course of performing the works, the proponent will:
 - a. notify Council immediately when the breakage occurs, and
 - b. repair the damage at no cost to Council

- (4) (D023) During all phases of demolition, excavation and construction, it is the responsibility of the applicant and their contractors to:
 - a. Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works.
 - b. Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
 - c. Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease and the Certifying Authority and Council must be contacted immediately for advice.

Any damage caused to Council's stormwater drainage system must be immediately repaired in full and at no cost to Council.

- (5) (D046) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the *Heritage Act 1977*.
- (6) Individual or persons responsible for the management of onsite works will ensure that all site personnel are made aware of the statutory legislation protecting sites and places of significance including the National Parks and Wildlife Amendment (Aboriginal Objects and Aboriginal Places) Regulation 2010, under the National Parks and Wildlife Act 1974.
- (7) In the case of unexpected Aboriginal Heritage items being identified during any excavation works, an 'Unexpected Heritage Items Procedure' be created, adopted and provided to all workers, contractors, sub-contractors and employees at their time of their work induction to the site.
- (8) In the case of unexpected Aboriginal heritage items being identified during any excavation works, an 'Unexpected Heritage Items Procedure' should be created, in accordance with Aboriginal Community members expectations and be provided to all workers, contractors, sub-contractors and employees at their time of their work induction to the site. The 'Unexpected Heritage Items procedure' should:
 - i) Define a relic;
 - ii) Provide that, if a relic is discovered in the course of excavation, that is likely to be disturbed damaged or destroyed by works, then all works must

be suspended in that area and Bunyah LALC and a Senior Archaeologist contacted to assess the find; and

iii) Provide that if the proponent must notify the Heritage Branch, Office of Environment and Heritage, or its delegate and suspend work in the vicinity of the object that might have the effect of disturbing, damaging or destroying such relic until the requirements of the Heritage Branch have been satisfied and be developed in consultation with Registered Aboriginal Parties.

- (9) (D195) Construction work shall comply with the relevant sections of the Construction Environmental Management Plan (CEMP).
- (10) (D196) A fully equipped spill kit shall be kept onsite in a readily accessible area in case of spills, leaks, seepage or runoff. Staff shall be adequately trained in its use and the proper storage and disposal of wastes. Waste disposal receipts shall be kept in a secure location, in a readily accessible format and made available to an authorised officer upon request.
- (11) (D051) Prior to commencement of any pavement works a material quality report from the proposed supplier shall be submitted to Council. The pavement materials shall meet Council's current specifications at the time of construction.
- (12) (D052) Prior to laying of Asphaltic Concrete (AC) or wearing surface course, submission to Council of pavement and soil test results prepared by a NATA registered person for all road pavement construction, including:
 - a. CBR test results, and
 - b. Subgrade / select fill, sub-base and base pavement compaction reports in accordance with AS1289.5.1.1 & AS1289.5.2.1 as applicable.

D – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE FOR THE ELEVATED BOARDWALKS & AT COMPLETION OF WORKS FOR STAGES

- (1) (E001) The elevated boardwalks shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (3) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
 - a. The relocation of underground services where required by civil works being carried out.
 - b. The relocation of above ground power and telephone services
 - c. The relocation of street lighting
 - d. The matching of new infrastructure into existing or future design infrastructure
- (4) Evidence of satisfactory establishment/planting of the compensatory revegetation shall be provided to the satisfaction of Council's Environmental Projects Audit Officer as per the approved VMP.
- (5) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the

demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

Should asbestos be present, its removal shall be carried out in accordance with the National OH&S Committee – *Code of Practice for Safe Removal of Asbestos* and *Code of Practice for the Management and Control of Asbestos in Workplaces*.

E – OCCUPATION OF THE SITE

- (1) (F036) Any exterior lighting on the site shall be designed and installed so as not to cause a nuisance or adverse impact on the amenity of the surrounding area by light overspill. The lighting shall be the minimum level of illumination necessary for safe operation and must be designed, installed and used in accordance with AS 4282 control of the obtrusive effects of outdoor lighting. No flashing, moving or intermittent lighting is permitted on the site.