

## ATTACHMENT A – MODIFIED CONDITIONS OF CONSENT

**Note.** Proposed changes are shown in **blue text** for the purposes of reporting this S4.56 to the Planning Panel. Once the determination is made blue text will be changed to black and blue strikethrough text will be deleted.

### 1. Development to be carried out in accordance with plans and documents

Development is to be carried out in accordance with the plans and documents listed below, as amended by any plan or document submitted to and approved by Council in accordance with this consent:

Plan No.	Description	Prepared by	Dated:
<b>Subdivision Plans</b>			
15024-9R Sheet 2 of 9	Plan Showing Proposed Subdivision of Land at West Byron - Ewingsdale Road	Abbott & Macro	21.10.2024
15024-27B	Subdivision Layout & Staging – Plan 2	Abbott & Macro	13.08.19
15024-28B	Subdivision Layout & Staging – Plan 3	Abbott & Macro	13.08.19
15024-29B	Proposed Community Title & Environmental Association Lots – Plan 4	Abbott & Macro	13.08.19
15024-10L Sheet 3 of 9	Plan Showing Proposed Subdivision	Abbott & Macro	15.08.19
15024-11L Sheet 4 of 9	Plan Showing Proposed Subdivision	Abbott & Macro	15.08.19
15024-12L Sheet 5 of 9	Plan Showing Proposed Subdivision	Abbott & Macro	15.08.19
15024-13L Sheet 6 of 9	Plan Showing Proposed Subdivision	Abbott & Macro	15.08.19
15024-14L Sheet 7 of 9	Plan Showing Proposed Subdivision	Abbott & Macro	15.08.19

15024-15L Sheet 8 of 9	Plan Showing Proposed Subdivision	Abbott & Macro	15.08.19
15024-16L Sheet 9 of 9	Plan Showing Proposed Subdivision	Abbott & Macro	15.08.19
<b>Engineering Plans</b>			
Fig 3.2, Rev G	Earthworks Surface Levels Concept Plan Sheet 2	ACOR	May 2019
Fig 3.3, Rev G	Earthworks Surface Levels Concept Plan Sheet 3	ACOR	May 2019
Fig 3.4, Rev C	Earthworks Sections	ACOR	May 2019
Fig 4.2, Rev F	Earthworks Filling Plan Sheet 2	ACOR	May 2019
Fig 4.3, Rev F	Earthworks Filling Plan Sheet 3	ACOR	May 2019
Fig 5.1, Rev B	Acoustic Mound and Utilities Allocations Section	ACOR	May 2019
Fig 5.2, Rev E	Acoustic Mound Returns	ACOR	Aug 2019
Fig 6, Rev D	Typical Footway Cross Sections	ACOR	Sep 2017
FIG 8.1 Issue M	Roads Plan Sheet 1	ACOR	9 Feb 2021
FIG 8.2 Issue F	Roads Plan Sheet 2	ACOR	07.08.19
FIG 8.3 Issue F	Roads Plan Sheet 3	ACOR	07.08.19
Fig 9.1, Rev E	Road No. 1 Longitudinal Section Sheet 1	ACOR	May 2019
Fig 9.2, Rev E	Road No. 1 Longitudinal Section Sheet 2	ACOR	May 2019
Fig 9.3, Rev F	Road No. 1 Longitudinal Section Sheet 3	ACOR	May 2019
Fig 9.4, Rev E	Road No. 2 Longitudinal Section	ACOR	May 2019

Fig 9.5, Rev E	Road No. 3 Longitudinal Section	ACOR	May 2019
Fig 9.6, Rev E	Road No. 4 Longitudinal Section	ACOR	May 2019
Fig 9.7, Rev E	Road No. 5 Longitudinal Section Sheet 1	ACOR	May 2019
Fig 9.8, Rev F	Road No.'s 5 & 6 Longitudinal Sections	ACOR	May 2019
Fig 9.9, Rev E	Road No. 7 Longitudinal Section Sheet 1	ACOR	May 2019
Fig 9.10, Rev E	Road No. 7 Longitudinal Section Sheet 2	ACOR	May 2019
Fig 9.11, Rev E	Road No. 8 Longitudinal Section	ACOR	May 2019
Fig 9.12, Rev E	Road No.s 9 & 10 Longitudinal Sections	ACOR	May 2019
Fig 9.13, Rev E	Road No.s 12 & 13 Longitudinal Sections	ACOR	May 2019
Fig 9.14, Rev E	Road No. 14 Longitudinal Section	ACOR	May 2019
Fig 9.15, rev E	Road No.16 Longitudinal Section	ACOR	May 2019
Fig 9.16, Rev E	Road No.s 17 & 18 Longitudinal Sections	ACOR	May 2019
Fig 9.17, Rev E	Road No.s 19 & 20 Longitudinal Sections	ACOR	May 2019
Fig 9.18, Rev E	Road No.21 Longitudinal Section	ACOR	May 2019
Fig 9.19, Rev G	Road No.22Longitudinal Section Sheet 1	ACOR	May 2019
Fig 9.20, Rev G	Road No.22 Longitudinal Section Sheet 2	ACOR	May 2019
Fig 9.21, Rev G	Road No. 23 Longitudinal Section	ACOR	May 2019

Fig 9.22, Rev F	Road No.25 Longitudinal Section	ACOR	May 2019
Fig 9.23, Rev E	Road No. 27 Longitudinal Section Sheet 1	ACOR	May 2019
Fig 9.24, Rev E	Road No.27 Longitudinal Section Sheet 2	ACOR	May 2019
Fig 9.25, Rev E	Road No.27 Longitudinal Section Sheet 3	ACOR	May 2019
Fig 9.26, Rev E	Road No.s 28 & 29 Longitudinal Sections	ACOR	May 2019
Fig 9.27, Rev E	Road No.30 Longitudinal Section	ACOR	May 2019
Fig 9.28, Rev E	Fire Access No.s 1 & 2 Longitudinal Sections	ACOR	May 2019
Fig 10.1, Rev F	Road Typical Cross Sections Sheet 1	ACOR	Sep 2017
Fig 10.2, Rev G	Road Typical Cross Sections Sheet 2	ACOR	Sep 2017
Fig 11.1, Rev B	Ewingsdale Road Upgrade Works Plan (Roundabout)	ACOR	May 2019
Fig 11.2, Rev A	Ewingsdale Road & SAE Entry Road Longitudinal Sections	ACOR	May 2019
Fig 11.3, Rev A	Ewingsdale Road Typical Sections	ACOR	May 2019
Fig 12.2, Rev F	Cycleways and Pathways Plan Sheet 2	ACOR	May 2019
Fig 12.3, Rev F	Cycleways and Pathways Plan Sheet 3	ACOR	May 2019
Fig 14.1, Rev B	Typical Bioretention Swale Detail	ACOR	May 2019
Fig 14.2, Rev A	Typical Bioretention Basin Details	ACOR	May 2019
Fig 14.3, Rev A	Typical Raingarden Details	ACOR	May 2019

Fig 15.1 Rev Q	Stormwater Infrastructure Sheet 1	ACOR	9 Feb 2021
Fig 15.2, Rev H	Stormwater Infrastructure Sheet 2	ACOR	May 2019
Fig 15.3, Rev H	Stormwater Infrastructure Sheet 3	ACOR	May 2019
Fig 15.4, Rev A	Raingarden Invert Level Table	ACOR	Sep 2017
Fig 16.2, Rev E	Main Drain Cross Section 1	ACOR	May 2019
Fig 16.3, Rev D	Main Drain Longitudinal Section Sheet 1	ACOR	May 2019
Fig 16.4, Rev D	Main Drain Longitudinal Section Sheet 2	ACOR	May 2019
Fig 16.5, Rev E	Main Drain Cross-Sections Sheet 1	ACOR	Sep 2017
Fig 16.6, Rev E	Main Drain Cross Sections Sheet 2	ACOR	May 2019
Fig 17, Rev D	Existing Hydraulic Utilities Plan	ACOR	Sep 2017
Fig 18, Rev D	Water Supply Trunk Main Master Plan	ACOR	Sep 2017
Fig 19.2, Rev F	Hydraulic Infrastructure Plan Sheet 2	ACOR	May 2019
Fig 19.3, Rev F	Hydraulic Infrastructure Plan Sheet 3	ACOR	May 2019
Fig 20.2, Rev D	Erosion and Sediment Control Details Sheet 2	ACOR	Sep 2017
Fig 21.2, Rev B	Erosion and Sediment Control Plan Stage 2	ACOR	Sep 2017
Fig 21.3, Rev B	Erosion and Sediment Control Plan Stage 3	ACOR	Sep 2017
Fig 21.4, Rev B	Erosion and Sediment Control Plan Stage 4	ACOR	Sep 2017

Fig 21.5, Rev B	Erosion and Sediment Control Plan Stage 5	ACOR	Sep 2017
Fig 21.6, Rev B	Erosion and Sediment Control Plan Stage 6	ACOR	Sep 2017
Fig 21.7, Rev B	Erosion and Sediment Control Plan Stage 7	ACOR	Sep 2017
Fig 21.8, Rev B	Erosion and Sediment Control Plan stage 8	ACOR	Sep 2017
Fig 21.9, Rev B	Erosion and Sediment Control Plan Stage 9	ACOR	Sep 2017
Fig 21.10, Rev B	Erosion and Sediment Control Plan Stage 10	ACOR	Sep 2017
Fig 21.11, Rev B	Erosion and Sediment Control Plan Stage 11	ACOR	Sep 2017
Figure 22.1, Revision H	Staging Plan [including hand marked as part of the experts conferencing – Exhibit 5, Annexure E]	ACOR	<b>Oct 2020</b>
Fig 22.1, Rev H	Staging Plan	ACOR	Oct 2020
Fig 22.2, Rev E	Staging Plan Stage 1	ACOR	Oct 2020
Fig 22.3, Rev D	Staging Plan Stage 2	ACOR	Oct 2020
Fig 22.4, Rev D	Staging Plan Stage 3	ACOR	Oct 2020
Fig 22.5, Rev E	Staging Plan Stage 4	ACOR	Oct 2020
Fig 22.6, Rev E	Staging Plan Stage 5	ACOR	Oct 2020
Fig 22.7, Rev E	Staging Plan Stage 6	ACOR	Oct 2020
Fig 22.8, Rev E	Staging Plan Stage 7	ACOR	Oct 2020
Fig 22.9, Rev E	Staging plan Stage 8	ACOR	Oct 2020

Fig 22.10, Rev E	Staging Plan Stage 9 – Sheet 1	ACOR	Oct 2020
Fig 22.11, Rev E	Staging Plan Stage 9 – Sheet 2	ACOR	Oct 2020
Fig 22.12, Rev E	Staging Plan Stage 10	ACOR	Oct 2020
Plan V1 Rev A	WBURA and Harvest Estate mound section location	Acor	10.11.20
Plan V2 Rev A	WBURA and Harvest Estate mound section location	Acor	10.11.20
Plan B3 Rev E	Civil Works Sheet 3	Acor	Aug 2019
Plan S1	WBURA and Harvest Estate Section Locations	Acor	Nov 2020
Plan S4	WBURA and Harvest Estate Sections Sheet 1	Acor	Nov 2020
Plan S5	WBURA and Harvest Estate Sections Sheet 2	Acor	Nov 2020
Plan W1 Issue D	Roads Plan With Semi-Trailer Turn Paths	ACOR	21 Jan 2021
Plan W2 Issue D	Roads Plan With 12.5m Truck/Bus Turn Paths	ACOR	21 Jan 2021
PLAN W3 Issue B	Melaleuca Longitudinal Section	ACOR	18 Jan 2021
PLAN W4 Issue C	Sections Sheet 1 of 1	ACOR	21 Jan 2021
LAD01-09	Landscaping Plans	Ennismore Field	Jul 2019
LAS01-12	Landscaping Plans	Ennismore Field	Jul 2019
LA01-56	Landscaping Plans	Ennismore Field	Aug 2019
<b>Management Plans</b>			

	Revised Construction Environment Management Plan	Australian Wetlands Consulting	28 Oct 2020
1-178189f	West Byron Urban Release Area Stormwater Management Strategy	Australian Wetlands Consulting	August 2019
WEST BYRON	Soil and Water Management Plan, Annexed to the Joint Report of Civil Engineering Experts	Soil and Water Solutions	Oct 2020
	Revised Threatened Species Management Plan	Australian Wetlands Consulting	28 Oct 2020
	Revised Koala Plan of Management	Australian Wetlands Consulting	27 Oct 2020
	Revised Koala Habitat Management Plan	Australian Wetlands Consulting	27 Oct 2020
	Revised Vegetation Management Plan	Australian Wetlands Consulting	28 Oct 2020
	Revised Biodiversity Conservation Management Plan	Australian Wetlands Consulting	27 Oct 2020
	Revised Belongil Creek Plan of Management	Australian Wetlands Consulting	26 Oct 2020
Revision B, 21/08/2019	Preliminary CEMP AMENDED	Australian Wetlands Consulting	August 2019
Ref: 1-17819-8c	Acid Sulfate Soil Management Plan Amended, West Byron Urban Release Area	Australian Wetlands Consulting	21 August 2019
	Mosquito Risk and Management Plan	Australian Wetlands Consulting	August 2019

V02	Generic acid sulfate soils management plan	Martens and Associates Pty Ltd	October 2020
	<b>Documents / Reports</b>		
	Statement of Environmental Effects	DAC Planning	Sept 2019
	Revised Engineering Assessment	ACOR	23 Aug 2019
	West Byron Flood Impact Assessment, Rev 2	BMT	Aug 2019
	Bushfire Threat Assessment	Bushfire Planning Aust	Aug 2019
	West Byron Stormwater Assessment	BMT	August 2019
	West Byron WSUD Water Quantity Report	BMT	August 2019
	Hydrogeological Assessment: West Byron Urban Release Area	Martens and Associates	August 2019
	Hydrological Impact Assessment Report	Martens and Associates	Sept 2019
	Amended Cultural Heritage Assessment	Adise Pty Ltd	August 2019
	Revised Assessment Report Traffic and Transport West Byron Urban Release Area	Veitch Lister Consulting	Oct 2020
	Geotechnical Investigation	Shaw Urquhart	August 2019
	Revised Statement of Landscape Intent	Ennismore Field	23 Aug 2019
	Electrical and NBN Infrastructure Report	Clarence	32 Oct 2017
	West Byron Urban Design Report	PAA	Aug 2019
	West Byron Urban Design Guidelines	PAA	Aug 2019

REF: 1-17819-7c	Detailed Site Investigation	AWC	26 September 2017
	Revised Environmental Noise Impact Assessment	TTM	26 August 2019
	Biodiversity Development Assessment Report	AWC	Feb 2020
	Construction Noise Assessment	TTM	Sept 2020

And as amended by

Figure 15.1 Rev R	Stormwater Infrastructure Sheet 1	Stanhold Consulting Engineer/ BTE Consulting	17.10.2024
15024-9R	Dimensioned Lot Size Plan	Abbott and Macro	21.10.2024
Figure 22.1 Rev M	Staging Plan	Stanhold Consulting Engineer/BTE Consulting	Feb 2020

The development is also to be carried out in accordance with any changes made pursuant to these conditions of consent. Where there is an inconsistency between any of the aforementioned plans and documents and these conditions and conditions below, the relevant conditions(s) are to prevail to the extent of the inconsistency.

Where there is any inconsistency between a plan dated August 2019 or earlier and a later plan, the later plan prevails to the extent of the inconsistency. In addition, All plans submitted to and approved by Council in accordance with the conditions of consent are to prevail to the extent of any inconsistency.

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

Prior to the issue of a Subdivision Works Certificate for Stages 11 and 12 of the development, detailed design shall demonstrate that:

(a) stormwater runoff from the western portion of Melaleuca Drive adjacent to the development and north of chainage 200 is directed to the bioretention basin denoted B3 on "Stormwater Infrastructure Sheet 1 – [BTE-210005 Fig 15.1 Revision R Issue-P](#)" prepared by Acor Consultants. The reason for this condition is to ensure that excess stormwater flows do not impact the driveway of Lot 2 DP 878549 to the south of the development; and

(b) the capacity of the culvert through the development is sufficient to collect contributing flows up to the 1% AEP from the upstream catchment, including Lots 5 & 6 DP 1269369. Overland flow paths must be identified for blockages and flows exceeding capacity of the culvert,

Prior to the issue of the first subdivision works certificate for the development, the following engineering plans relating to Stages 11 and 12 shall be amended to accord with the revised layout for Stages 11 and 12 in Plan S1 WBURA and Harvest Estate Section Locations, Acor, 29 March 2021, and the development is to be carried out in accordance with these amended plans:

Plan S1	WBURA and Harvest Estate Section Locations	ACOR	2 Nov 2020
Fig 3.1, Rev G	Earthworks Surface Levels Concept Plan Sheet 1	ACOR	May 2019
Fig 4.1, Rev F	Earthworks Filling Plan Sheet 1	ACOR	May 2019
Fig 7, Rev F	Roads Key Plan	ACOR	May 2019
Fig 12.1, Rev F	Cycleways and Pathways Plan Sheet 1	ACOR	May 2019
Fig 16.1, Rev H	Main Drain Plan	ACOR	Sep 2017
Fig 19.1, Rev F	Hydraulic Infrastructure Plan Sheet 1	ACOR	May 2019
Fig 21.1, Rev B	Erosion and Sediment Control Plan Stage 1	ACOR	Sep 2017
Fig 21.12, Rev B	Erosion and Sediment Control Plan Stage 12	ACOR	Sep 2017

Fig 22.13, Rev E	Staging Plan Stage 11	ACOR	Oct 2020
Fig 22.14, Rev E	Staging Plan Stage 12	ACOR	Oct 2020

#### 4D Provision of amended subdivision plans

Prior to the issue of any subdivision works certificate under this consent, an amended subdivision plan is to be submitted to and approved by Council for each stage of the development that demonstrates that the lot layout within the vicinity of Melaleuca Drive is consistent with the layout approved under development consent 10.2017.201.1 including changes to filling/earthworks, roads and drainage.

The Subdivision Layout Plans series 15024-9Q shall be amended by deleting the faint dashed lines indicating future urban lots within the proposed superlots. For avoidance of doubt the indicative building envelopes marked in red dashed lines on these plans do not constrain the location in which future buildings may be constructed on these lots.

Prior to the issue of the subdivision works certificate for the [first subdivision certificate stage 4](#), the Proposed Community Title & Environmental Associations Lot Plan 15024-29B (Abbott and Macro dated 13.08.2019) shall be amended as follows:

- a) To mark the whole of Pt 155 in green, and all residential lots in Stage 11 in pink.
- b) Lot 23 shall become part of Pt 155.
- c) The boundaries of each of the 3 Community Schemes are to be clearly identified and clearly show which roads are private accessways and open accessways.
- d) To show proposed Drainage Reserves and drainage easements.

A letter from a Registered Surveyor and/or suitably experienced Solicitor must be submitted with the amended plan certifying that the proposed Community Schemes are in accordance with Community Title legislation and will be acceptable for registration with NSW Land and Property Information. Including, but not limited to, whether the Community Scheme can be subdivided when the land being subdivided is not a contiguous parcel. This letter must be submitted to and approved by Council prior to the issue of the subdivision works certificate for [the first stage. 4](#).

#### 4E Provision of amended staging plans

Prior to the issue of any subdivision works certificate under this consent, amended subdivision staging plans are to be submitted to and approved by Council to address and identify the following:

- a) resolve the issue of water being dammed/trapped due to the staging of the filling works. The amended subdivision staging plan is to show revised staging that demonstrates that no water will pond behind newly filled areas and that all areas can drain under gravity to legal points of discharge. The hand mark up of stage numbers on ACOR Drawing Figure 22.1 Revision H provided as part of the experts conferencing (being Attachment E of the Civil Engineering Joint Report being Exhibit 5 in the proceedings) is to be adopted, with the exception of Stages 11 and 12. The amended staging plans provided are to formalise the hand mark-up revised staging and update Stages 11 and 12.
- b) The amended staging plans are to identify (via a notation on the plans or a new plan) a new **Stage A** that occurs prior to the first stage of the urban development (~~Stage 1~~). Stage A must comprise : All Year 1 planting and weed control identified in the VMP approved in accordance with these conditions of consent including but not limited to those works in zones 2A, 2D, 3 and the Belongil Creek restoration area.
- c) The amended staging plans are to be consistent with the approved architectural and engineering plans, and must identify that Stages 11 and 12 must not be commenced until the access road from Ewingsdale Road to Melaleuca Drive and the upgrade works to Melaleuca Drive have been completed as approved by development consent 10.2017.201.1.
- d) Stage 1 is to be amended to identify that all road works including roundabout and associated works, footpath and cycleway works, pedestrian/cyclist crossing facilities (traffic signals, grade separation, underpasses or pedestrian refuges) and other associated works required pursuant to this consent within Ewingsdale Road and any other road external to the site, must be included as part of Stage 1 of the subdivision. This excludes any woks required pursuant to Stages 11 and 12.

#### **4F Provision of amended engineering plans**

Prior to the **issue** of a subdivision works certificate for Stage 1 updated Engineering plans are to be submitted to and approved by Council to address the following matters:

- (a) ensure that the road and lot layout is compatible with any approved adjoining development, including but not limited to, compatibility with engineering aspects of the adjoining development in regards to bulk earthworks levels, road levels, stormwater drainage and footpath arrangements for all areas. Particular care is to be taken to ensure compatibility in areas adjoining Melaleuca Drive and Road 6 levels into the adjoining development.
- (b) The ACOR Engineering Plans shall be updated to adjust the details in each plan to the new development layout for Stages 11 and 12 shown in Plan 15024-9R.

## 5. Staged development

The development is to be carried out in the stages approved under **condition 4E above, noting** the addition of Stage A.

Stage A must comprise: All Year 1 planting and weed control including, but not limited to, works within management zones 2A, 2D, 3 and the Belongil Creek restoration area as specified in the KPoM, the KHMP, the TSMP, the VMP and the BCMP as amended in accordance with these conditions.

The development is to progress sequentially as per the approved stages with Stage A being the first stage. With the exception of Stage A (noting that Stage A is addressed in condition 13 of this consent) **the previous stage is to be completed to Council's satisfaction prior to works commencing on the next stage.**

*Notwithstanding the above, Stages 11 and 12 ~~must not~~ may be commenced, and may be constructed concurrently, until when the access road from Ewingsdale Road to Melaleuca Drive has been constructed as approved by consent 10.2017.202.1. and the upgrade works to Melaleuca Drive have been completed as approved by consent 10.2017.201.1 are to be in accordance with Condition 54 of this consent. and/or approved by the consent. For the purposes of this requirement, the access road will be taken to be completed when a subdivision certificate has been issued for all stages of the subdivision approved by consent 10.2017.201.1 and this consent shall include any part of the access road works described above.*

*A maximum of one (1) stage, with the exception of Stages 11 and 12 which may be undertaken concurrently, may be under construction at any one time with only the following exception being the construction of temporary turning heads where roads terminate on stage boundaries.*

Where conditions are required to be satisfied prior to a particular event, those conditions are the conditions relevant to the works being carried out in the stage. For clarity, if a condition of consent requires a matter to be addressed prior to the issue of a Subdivision Works Certificate and does not specify a stage of development for the issue of that Subdivision Works Certificate, it is taken to be applicable to each separate stage. That is, the condition must be satisfied prior to the issue of a Subdivision Works Certificate for each stage.

#### **11. Integrated approvals from other State Government Approval Bodies**

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the *Environmental Planning and Assessment Act 1979*, being an authorisation under section 100B of the *Rural Fires Act 1997* in respect of bush fire safety of development of land for subdivision of land, and is subject to the General Terms of Approval from NSW Rural Fire Service **dated 26 November 2024. ~~18 June 2024~~**

#### **13. Environmental restoration and enhancement and landscaping works**

All works within Stage A (as identified pursuant to condition 5, must be substantially commenced prior to the issue of [the first](#) subdivision works certificate. [Stage 4](#). The following must be submitted to and approved by Council's Director of Planning (or nominee) to demonstrate compliance with this condition:

- a. A report detailing the works carried out including supporting evidence and reference to the approved subdivision plans and management plans; and
- b. In relation to the environmental restoration and enhancement works, certification of completion of these works by a suitably qualified and experienced ecologist.

For avoidance of doubt, Stage A works will be substantially commenced for the purpose of this condition if all proposed planting of vegetation and specified restoration and enhancement works specified in the relevant management plans have been completed.

#### **13A Retirement of Biodiversity Credits**

Prior to the issue of a Subdivision Works Certificate [for the first stage \(excluding Stage A\) Stage 4](#), the following Ecosystem Credits and Species Credits must be

retired in accordance with the *Biodiversity Conservation Act 2016: (Judgement 151(e) referred to in the Judgement as condition 12B)*

<b>Ecosystem</b>	<b>Credits</b>
PCT 663 Banksia dry shrubland on coastal sands of the NSW North Coast Bioregion	42
PCT 780 Coastal floodplain sedgeland, rushlands, and forblands of the North Coast.	16
PCT 1064 Paperbark swamp forest of the coastal lowlands of the NSW North Coast Bioregion and Sydney Basin Bioregion.	396
PCT 1230 Swamp Mahogany swamp forest on coastal lowlands of the NSW North Coast Bioregion and northern Sydney Basin Bioregion.	41
PCT 776 Coast Cypress Pine shrubby open forest of the NSW North Coast Bioregion.	2

<b>Species</b>	<b>Credits</b>
Wallum Froglet	12
Olongburra Frog	10
Southern Myotis	161
Common Planingale	205
Durobby ( <i>Syzgium moorei</i> )	3

#### **14. Updated hydrogeological assessment**

Prior to the issue of the subdivision works certificate for [the first stage \(excluding Stage A\) Stage 4](#), the hydrogeological assessment should be amended to reflect the amended overall site civil and drainage scheme. The amended assessment should determine and specify (as necessary) the requirements of any long-term groundwater impact mitigation measures.

#### **17. Additional monitoring and reporting requirements**

Prior to issue of the first subdivision works certificate, the monitoring requirements in all approved management plans including the ASSMP, BCPM, BCMP, ESCP, TSMP, VMP and KPoM shall be updated in the CEMP and approved by Council.

The monitoring updates shall include, but not be limited to:

- a. Monitoring site locations including site descriptions, photos and coordinates. Monitoring site locations shall be included on a map/plan;
- b. Parameters to be measured;
- c. Monitoring/sampling frequencies for each parameter to be measured;
- d. The duration of sampling for all parameters to be measured;
- e. Sampling and analysis methodologies to be used; and
- f. Data analysis methodologies including thresholds, limits and triggers for contingency actions.

The reporting requirements shall include, but not be limited to:

- a. Analysis of all monitoring and sampling data against baseline data and approved thresholds, limits and triggers,
- b. At least six (6) monthly reporting during subdivision construction works for at least five (5) years or until the issue of a subdivision certificate [for the final stage of the development Stage 12](#), whichever is the later.
- c. At least annual reporting thereafter for a total period of at least ten (10) years from the commencement of subdivision works.

## **18. Baseline surface water quality assessment**

Prior to issue of a subdivision works certificate for [the first stage \(excluding Stage A\) Stage 1](#), a baseline surface water quality assessment shall be conducted. The baseline surface water quality assessment shall be carried out over at least twelve (12) months and shall include monitoring of surface water quality, sediment quality and benthic macroinvertebrates within drainage lines across the site and Belongil Creek. Where possible, the baseline surface water quality assessment shall consider wet and dry periods, tidal movements and incorporate sampling upstream and downstream of the development site.

The baseline surface water quality assessment should include any relevant monitoring data collected by, or for, Byron Shire Council.

All information collected as part of the baseline surface water quality assessment shall be documented and analysed and provided to Council for approval prior to the issue of a subdivision works certificate for [the first stage \(excluding Stage A\) of the development. Stage 1](#).

## 28. Master Stormwater Management Plan

Prior to the issue of the subdivision works certificate for [the first stage \(excluding Stage A\) Stage 1](#), a modified 'Master' Stormwater Management Plan shall be submitted to Council for approval including the following amendments:

a. amendment of the Stormwater Management Plan by AWC dated August 2019 to remove the smaller rain gardens distributed within the catchment, with water quality objectives to be met through the implementation of swales (as required) and end-of-line bioretention basins.

b. Inclusion of a Design Submission Checklist as set out in Appendix C of the Northern Rivers Local Government Handbook of Stormwater Drainage Design, which must be signed by a suitably qualified Civil Engineer or Registered Surveyor.

c. Inclusion of the following items:

i. Catchment plan including all contributing external catchments including flows from Ewingsdale Road (to also be included in the engineering drawing set);

ii. Hydrological and hydraulic calculations based on the methods outlined in the Queensland Urban Design Manual (QUDM) and Australian Rainfall & Runoff (AR&R) 1987. A summary of the calculations must be included on the drawings consistent with the Sample Drawings of the Northern Rivers Local Government Development & Design Manuals;

iii. For existing flow paths, it must be shown that the peak flow from the proposed development for the 5, 10, 20, 50 and 100 year ARI events, for durations from 5 minutes to 3 hours, does not exceed the existing peak flow from the site i.e. post-development flows must not exceed pre-development flows;

iii. Proposed Legal Points of Discharge for the site as a whole;

iv. Proposed works in the Main Drain to ensure it flows under gravity and has the capacity for major flows with appropriate freeboard.

d. A long-term management plan that details ownership and maintenance arrangements for all stormwater infrastructure including associated maintenance inspection forms.

The 'Master' Stormwater Management Plan is to set out the requirements for stormwater management of the development as a whole, and must be:

a. Based on the West Byron Urban Release Area Stormwater Management Plan (AWC, August 2019), West Byron Stormwater Assessment (BMT, August 2019), West Byron WSUD Water Quantity Report (BMT, August 2019) and the

Hydrogeological Assessment: West Byron Urban Release Area (Martens and Associates, August 2019) and;

b. Consistent with the amended and approved engineering plans and management plans listed in this consent.

#### **42. Updated Koala Plan of Management (KPoM)**

Prior to the issue of the Subdivision Works Certificate for, or the commencement of any planting or weed control required by Stage A, a modified KPoM shall be submitted to and approved by Council including the following additions and/or amendments:

- a. Consistency with the final, approved subdivision layout and design.
- b. Details of proposed acoustic fencing demonstrating compliance with safe koala fencing requirements; and Road speed limits within the subdivision to be 40 km/h.
- c. More detailed plans of the areas proposed for habitat improvement and habitat enhancement, showing the boundaries of each area, the rate of planting and the species to be planted within in each area.
- d. Clarify that habitat improvement and habitat enhancement works in all areas are to be substantially commenced in accordance with Condition 13 above prior to the grant of a subdivision certificate [the first stage of the development \(excluding Stage A\)](#). ~~Stage 1~~

#### **43. Baseline surface water quality assessment**

Prior to issue of a subdivision works certificate for [the first stage \(excluding Stage A\)](#) ~~Stage 1~~, a baseline surface water quality assessment shall be conducted generally in accordance with the BCPM. The baseline surface water quality assessment shall be carried out over at least twelve (12) months and shall include monitoring of surface water quality, sediment quality and benthic macroinvertebrates within drainage lines across the site. Where possible, the baseline surface water quality assessment shall consider wet and dry periods, tidal movements and incorporate sampling upstream and downstream of the development site.

The baseline surface water quality assessment is to include any relevant monitoring data collected by, or for, Byron Shire Council.

The baseline surface water quality assessment shall be peer reviewed by an independent and suitably qualified and experienced expert.

All information collected as part of the baseline surface water quality assessment shall be documented and analysed and provided to and approved by Council , with

the independent peer review, prior to the issue of a subdivision works certificate for Stage 1.

**45. Updated CEMP to include details of monitoring and reporting**

1. The monitoring requirements in the updated TSMP, BCPM, BCMP, KPoM and VMP shall be updated in the CEMP to include, but not be limited to:

- a. Monitoring site locations including site descriptions, photos and coordinates. Monitoring site locations shall be included on a map/plan;
- b. Parameters to be measured;
- c. Monitoring/sampling frequencies for each parameter to be measured;
- d. The duration of sampling for all parameters to be measured; and
- e. Sampling and analysis methodologies to be used.

2. The reporting requirements in the updated TSMP, BCPM, BCMP, KPoM and VMP shall be updated in the CEMP to include, but not be limited to:

- a. Data analysis methodologies;
- b. Analysis of all monitoring and sampling data against baseline data, thresholds, limits and triggers for contingency actions;
- c. At least six (6) monthly reporting during subdivision construction works for at least five (5) years or until the issue of a subdivision works certificate for the [final stage Stage-12](#), whichever is the later; and
- d. At least annual reporting thereafter for a total period of at least ten (10) years from the commencement of subdivision works.

**48. Landscaping Plan required**

A detailed landscaping plan must be submitted as part of the subdivision works certificate application for each stage. The landscaping plan must be prepared by a suitably qualified and experienced landscape architect / architect / ecologist and demonstrate consistency with the relevant requirements of Chapter B9 of Byron Development Control Plan 2014.

The detailed landscaping plans must indicate the following as a minimum:

- a. Details of the landscaping to be carried out in the Main Drain corridor and all other areas identified as public or recreational open space.

- b. Use of “fauna-neutral” plant species adjacent to Ewingsdale Road to minimise likelihood of colonisation by native fauna and consequently risk of vehicle strike. For the purposes of this condition, “fauna neutral” plant species are not plant species known to be used as food resources by native fauna, namely plants which provide foliage, blossoms, fruit or other ecologically relevant attributes. A “fauna neutral” plant species list must be submitted to Council for approval.
- c. Details of pedestrian links to/from the Main Drain corridor from footpaths and cycleways. The pedestrian links to the Main Drain corridor should avoid the use of concrete and asphalt surfaces in favour of timber, gravel and other “soft” pathway surface options.
- d. The environmental embellishment of the Main Drain including removal of weed species.
- e. Landscaping associated with stormwater treatment and conveyance devices and infrastructure.
- f. Landscaping treatments throughout the public road reserves including provision of street trees at a minimum of one street tree per 15 metres of residential lot street frontage. Street trees are to have a general maturity height of 10 metres and a canopy diameter of 8 metres.
- g. Landscaping and planting for drainage lines, car parking areas and recreational reserves to be dedicated to Council.
- h. Demonstrated consistency with the adjacent, approved subdivision (DA 10.2017.201.1) in relation to footpaths, cycleways, street trees, Main Drain embellishment and the area adjacent to Ewingsdale Road.
- i. Proposed location for planted shrubs and trees – trees should be located clear of infrastructure and service pits.
- j. Common and botanical name of shrubs and trees to be planted. Locally indigenous species are to be predominantly used in landscaping. No species listed as undesirable in Chapter B2 of Byron Development Control Plan 2014 are to be used in landscaping of the site.
- k. Mature height, location and density of trees to be planted.
- l. Location of grassed and paved areas.
- m. Locations and design of acoustic barriers.
- n. Details of how landscape planting will be maintained, including weed control, and a description of any passive watering arrangements through water sensitive urban design.
- o. A landscape plan to be provided for the subject land within proposed Lot 151 and adjacent to Lot 2 DP878549 46 Melaleuca Drive, Byron Bay for Stage 11. The plan to be prepared in accordance with the requirements of this

[conditions with species dominated by native grasses indigenous to the local area \(North Coast of NSW/ South East Qld\).](#)

The landscaping plan must be approved as part of the Subdivision Works Certificate for each Stage.

**52. Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997**

Documentary evidence from a suitably qualified professional is to be submitted with the Subdivision Works Certificate application, demonstrating that the General Terms of Approval from NSW Rural Fire Service [18 June 2021](#), have been complied with in relation to any necessary subdivision works.

**54. Detailed design required for stages 11 and 12**

Prior to the issue of a Subdivision Works Certificate for Stages 11 and 12 of the development, detailed design of earthworks, roads, roundabout and stormwater management shall be undertaken incorporating Figure 8.1 Issue L, [BTE-210005 - Figure 15.1 Revision R Issue P](#), PLAN W1 Issue D, PLAN W2 Issue D, PLAN W3 Issue B, and PLAN W4 Issue C as amended by any plan submitted pursuant to the conditions of this consent.

**55. Engineering Construction Plans**

Three (3) copies of engineering construction plans and specifications must accompany the Subdivision Works Certificate application demonstrating compliance with Council's standards for the required engineering works.

Each set of drawings must be accompanied by a Certification Report which must be signed by a suitably qualified Civil Engineer or Registered Surveyor. The Certification Report will comprise the certificate and check lists set out in Annexure DQS-A of the [Northern Rivers Local Government Development & Design Manuals](#).

The information shown on the drawings must be logically collated on discrete sheets generally in accordance with Annexure DQS-B and the Sample Drawings of the Northern Rivers Local Government Development & Designs. The drawings are to provide for the following works:

**a) Full Width Road Construction for works within the subdivision**

Full width road and drainage construction for all proposed roads within the relevant stage. Trafficable road widths must be in accordance with Northern Rivers Design Guidelines as well as provide appropriate connection to roads they are connecting into over adjoining properties.

Traffic calming measures shall be supplied on all residential streets which have straight lengths greater than 100m.

**b) Footpath, Cycleway and Pedestrian Refuge Construction**

Footpaths (minimum 1.2m wide), shared cycleways (minimum 2.5m wide) and pedestrian refuges are to be provided generally in accordance with the revised engineering plans. The following must be provided for:

- (i) A shared pathway/cycleway (minimum 2.5m wide) along the Ewingsdale Road frontage connecting to the internal path network (including extension of drainage infrastructure and safety rails/fencing) as required;
- (ii) A 1.2m wide footpath on one side of local roads; and
- (iii) A shared path on one side of the road and a 1.2m footpath on the other side for distributor/collector roads, subject to approval by Council for areas of high density or business/commercial zonings.

The final footpath layout for the subdivision is to be submitted to Council for approval prior to the issue of the Subdivision Works Certificate for the stage under review. No new pedestrian refuges are to be constructed on Ewingsdale Road.

**c) Gutter/Verge Crossings**

Gutter/verge crossings to each of the proposed new allotments that have a fronting swale are to be provided as part of the subdivision works and extend from the edge of the road to the property boundary. Footpaths are to start and stop either side of the crossings. Cycle ways to be continuous and not start/stop for verge crossings, to give a continuous cycle way fronting lots. Typical details are to be provided for both cases.

**d) Turn Around Areas**

All turn around areas are to be minimum 12 metre outer radius in accordance with Planning for Bushfire Protection 2019 or shall be provided in accordance with relevant General Terms of Approval from NSW Rural Fire Service. ~~18 June 2021~~.

**e) Service Conduits**

Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.

**f) Street Name Signs**

Street name signs and posts to all proposed new roads.

**g) Stripping and Stockpiling**

Stripping and stockpiling of existing topsoil on site, prior to commencement of earthworks, and the subsequent re-spreading of this material together with a sufficient quantity of imported topsoil so as to provide a minimum thickness of 80mm over the allotments and footpaths and public reserves, upon completion of the development works.

**h) Inter-allotment Drainage**

Inter-allotment drainage to an approved public drainage system for each of the proposed new allotments where it is not possible to provide a gravity connection of future roof water to the fronting kerb and gutter/swale.

**i) Stormwater Drainage**

Stormwater is to be collected and discharged in accordance with Council's standards, currently [Northern Rivers Local Government Development Design & Construction Manuals](#). Detailed engineering drawings of the proposed stormwater drainage system must be provided. The drawings must be accompanied by a Design Submission Checklist as set out in APPENDIX C of the Northern Rivers Local Government Handbook of Stormwater Drainage Design, which must be signed by a suitably qualified Civil Engineer or Registered Surveyor. The drawings and management plan are to include, but not be limited to, the following items:

- i) Catchment plan including all contributing external catchments (included in the drawing set);
- ii) Hydrological and hydraulic calculations based on the methods outlined in the Queensland Urban Design Manual (QUDM) and Australian Rainfall & Runoff (AR&R) 1987 or 2019. A summary of the calculations must be included on the drawings consistent with the Sample Drawings of the Northern Rivers Local Government Development & Design Manuals;
- iii) For existing flow paths, it must be shown that the peak flow from the proposed development for the 5, 10, 20, 50 and 100 year ARI events, for durations from 5 minutes to 3 hours, does not exceed the existing peak flow from the site i.e. post-development flows must not exceed pre-development flows.
- iv) Stormwater management structures/facilities that have minimum impact on Council's maintenance program. All maintenance activities must be specified in a maintenance plan (and associated maintenance inspection forms) to be developed as part of the design procedure and included in the stormwater management plan. The maintenance plans must be submitted with each stage of the subdivision and relate to the stormwater infrastructure propose for the stage in review;

v) It must be shown that the minor event stormwater flows can be conveyed within the roadside swales and the major event is conveyed within the road reserve without entering any private land. Major flow depths on the trafficable road width and driveway crossings are to be shown to be maximum 200mm and with a velocity x depth ratio of no more than:

- $0.4\text{m}^2/\text{s}$  where pedestrian traffic is expected (footpath/ road).
- $0.6\text{m}^2/\text{s}$  where vehicular traffic is expected (where vehicle crosses swale);

vi) Surcharge pits in swales are to be provided for each lot that fronts and drains to a roadside swale. The pit in the swale and a stub that provides a connection point at the lowest part of the lot is to be provided as part of the subdivision works;

vii) All lots that do not front a roadside swale are to be provided with a kerb outlet. The kerb outlet is to be connected to a stub located at the lowest part of the lot. This is to be provided as part of the subdivision works; and

vii) Pits in roads are to be located outside kerb returns.

#### **j) Stormwater quality**

Stormwater quality must be suitable for discharge in accordance with Council's standards, currently [Chapter B3 Services of Development Control Plan 2014](#) and [Northern Rivers Local Government Development Design & Construction Manuals](#). The proposed water quality management devices and treatment train must have minimum impact on Council's maintenance program. All maintenance activities must be specified in a maintenance plan (and associated maintenance inspection forms) to be developed as part of the design procedure and submitted with the subdivision works certificate documentation.

Stormwater Quality measures for each stage of development are to be shown to comply with the Council pollution reduction targets and NORBE requirement as per the Stormwater Management Plan.

The arrangement of basin and swales is to generally be in line with the Master Stormwater Management Plan, minor modifications to the layout/ sizes may be allowable subject to the satisfaction of the Certifying Authority. Detailed design for each stage is to be supported by MUSIC modelling, as well as being supported by a maintenance plan.

The detailed design must include:

- An extended detention depth;
- Depth of filter media;
- Maintenance track details from the nearest public road (for basins);

- Landscaping detail for within and surrounding the basin. Note that the plants in the bioretention basin are to be selected and certified by a landscape architect to withstand significant periods of inundation and planted at a density of 8-10 plants/ m<sup>2</sup> to mitigate the growth of weeds on the filter area; and
- A staged approach to basin construction to suit the subdivision construction phase, lot development stage and final operations phase.

The bioretention basins must be shown to be above the surrounding groundwater levels or appropriately lined.

**k) Access to Stormwater Structures**

Satisfactory access to all drainage discharge points and filter controls for maintenance purposes. Where it is proposed to discharge stormwater into the Main Drain via a pipe, provide a junction pit upstream of the discharge point at the level of the top of batter for maintenance.

**l) Filling to above the flood level**

Filling of lots with clean suitable material to at least a level equivalent to the 1% flood level +0.5m is required. Fill levels are to be shown to be in line with the bulk earthworks levels shown in the amended engineering drawing required by the conditions **of this consent**.

**m) Street lighting**

The provision of street lighting to the satisfaction of Byron Shire Council and Essential Energy. Such lighting must be strategically positioned to minimise spill impacts on future dwellings within the subdivision and existing dwellings within adjacent properties.

**99. Section 88B Instruments**

A Section 88B Instrument, under the *Conveyancing Act 1919*, and one (1) copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for:

**a) Dedicated Public Road Access**

Dedication of suitable public road accesses to all proposed allotments.

**b) Dedicated Public Pathway**

Dedication of the proposed pathway(s) to the public.

**c) Dedicated Public Reserve**

Dedication of the proposed public reserves on the approved plans as amended by the conditions of this consent.

**d) Dedicated Corner Splays**

Dedication of 4m x 4m corner splays at all street junctions and intersections.

**e) Inter-allotment Drainage Easements**

The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments.

**f) Drainage Easements**

The creation of easements for drainage of water over all drainage pipelines and structures located within the proposed allotments in accordance with Council's "*Building in the Vicinity of Underground Infrastructure Policy*".

**g) Drainage Reserves**

The dedication of drainage reserves over the stormwater treatment devices and constructed access.

**h) Restricting Development –Stormwater Management**

Restricting residential development of each vacant allotment until the stormwater management system has been completed for that stage of the development to the requirements of Byron Shire Council.

**i) Easement for Electricity**

The creation of any necessary easements for electricity purposes as required by the electricity supply authority.

**j) Sewer Easements**

The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with Council's "*Building in the Vicinity of Underground Infrastructure Policy*".

**k) Water Supply Easements**

The creation of easements for water supply pipelines and structures located within the proposed allotments in accordance with Council's "*Building in the Vicinity of Underground Infrastructure Policy*".

**l) Easement for Support**

The creation of suitable easements for support to suit the arrangement of retaining walls built, where the retaining wall at the rear of one lot supports the adjoining lot.

**m) Positive Covenant – Rainwater tanks**

Creation of a positive covenant over the title of all proposed lot(s) to require provision of a rainwater tank with a capacity to match what is required by the amended and approved Stormwater Management Plan for the purpose of on-site stormwater management and re-use. The capacity of this rainwater tank must be in addition to any rainwater tank required by a BASIX Certificate for the dwelling(s) on the lot.

**n) Restriction on keeping of cats and dogs**

A restriction on the use of land on all residential lots which prohibits the keeping of cats and dogs other than official guide dogs or personal assistance dogs.

**o) Restriction on use of residual lots**

A restriction on the use of land must be registered on the "association lots" which prohibits, except as otherwise permissible by law, all of the following within the area covered by the restriction on the use of land, noting that any works required by the General Terms of Approval from NSW Rural Fire Service [dated 18 June 2021](#) are excluded from the restriction on the use of land :

- the destruction or removal of any local indigenous trees, shrubs, grasses or other vegetation, or the planting of any flora other than local indigenous flora;
- any act or omission which may adversely affect any local indigenous flora or any indigenous fauna or their related habitats;

- any act or omission which may result in the deterioration in the natural state or in the flow, supply, quantity or quality of any body of water or in the natural moisture regime of the area;
- the creation of any tracks through the area;
- the removal, introduction or disturbance of any soil, rock or other minerals;
- any structures or dwellings;
- the deposition or accumulation of rubbish or refuse, including garden refuse and weed propagules; and
- the use of any of the area for storage of any substance or material.

**p) Easement for landscaping**

The creation of an easement for landscaping extending for 3m from Melaleuca Drive into all adjoining lots to the west and extending 3m to the south from Road No.2 into the northernmost lot adjoining Melaleuca Drive. .

**q) Restriction on use of Lot 457 151**

A restriction on the use of Lot 457 151 which prohibits the carrying out of any residential development on that lot.

**r) Koala friendly fencing**

A restriction on the use of land must be registered on residential lots to prohibit fencing of residential lots unless it complies with the following:

Fencing of residential lots must not impede the movement of koalas. Fences that do not impede koala movement may include:

- a) hedges or screens of trees and/or shrubs;
- b) fences where the bottom of the fence is a minimum of 300 mm above the ground to allow koalas to freely move underneath;
- c) open post and rail fences;
- d) fences that comply with the provisions of the BCKPoM.
- s) Acid Sulphate Soils Management Plan

The construction of future dwellings within the subdivision shall be undertaken in accordance with the Generic Acid Sulphate Soils Management Plan referred to in Condition 1.

The s88B Instruments must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the instruments.

**99A. Community Title Subdivision**

The following proposed lots will be registered as three separate community schemes under Part 2 of the *Community Land Development Act 1989*:

Community Development Lot/s	Association Lot
25-62	151
21-22	155
107-149	156

Community Title plan 15024-29B is as amended pursuant to the requirements of the conditions of this consent .

**100. Section 88E Instruments**

The positive covenant under Section 88E of the *Conveyancing Act 1919*, approved by Council **pursuant** to condition 63 of this consent, must be registered on title of the **association lots (150 151, Pt 155 and 156)** prior to issue of the subdivision certificate for **Stages 5, 6, 7 and 11** respectively.

Documentary evidence is to be provided with the application for subdivision certificates for **Stages 5, 6, 7 and 11** that the positive covenant has been registered on the title of the community title association lots.

**116. Compliance with bushfire conditions under Section 100B of *Rural Fires Act 1997***

Prior to issue of the Subdivision Certificate, documentary evidence from a current level 2 Bushfire Planning and Design (BPAD) accredited consultant, under the Fire protection Association of Australia, is to be submitted to the Principal Certifying Authority certifying that the General Terms of Approval from NSW Rural Fire Service dated **26 November 2024** ~~18 June 2024~~ have been complied with.

**The following new condition be inserted**

**124 Compliance with Planning Agreement**

*Prior to the release of a subdivision certificate the developer shall provide Council with documentary evidence that the developer contribution as set out in schedule 4*

*of the planning agreement between the landowners and the Minister for Planning and Infrastructure have been paid.*

**The following condition to be deleted**

~~121. Lot 157~~

~~Lot 157 must be transferred to the owner of the adjoining allotment to the south within 3 months of the registration of that subdivision.~~

**Insert Schedule 1 below at the end of the consent**

## Schedule 1 – Section 100B Bushfire Safety Authority



# RFS



Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Your reference: (CNR-71096) 10.2017.661.2  
Our reference: DA-2017-04642-S4.55-2

**ATTENTION:** Greg Yopp

Date: Tuesday 26 November 2024

Dear Sir/Madam,

**Integrated Development Application**  
**s100B – Subdivision – Torrens Title Subdivision**  
**MELALEUCA DRIVE BYRON BAY NSW 2481, 2//DP818403**

I refer to your correspondence dated 21/11/2024 seeking general terms of approval for the above Integrated Development in accordance with s4.55 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

### General Conditions

1. The development proposal is to comply with the following specified plans prepared by Abbott and Macro Land and Engineering Surveyors;

- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 8R, noted as sheet 1 of 9 and dated 21 October 2024,
- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 9R, noted as sheet 2 of 9 and dated 21 October 2024,
- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 10R, noted as sheet 3 of 9 and dated 21 October 2024,
- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 11R, noted as sheet 4 of 9 and dated 21 October 2024,
- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 12R, noted as sheet 5 of 9 and dated 21 October 2024,
- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 13R, noted as sheet 6 of 9 and dated 21 October 2024,
- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 14R, noted as sheet 7 of 9 and dated 21 October 2024,
- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 15R, noted as sheet 8 of 9 and dated 21 October 2024, and

1

#### Postal address

NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

#### Street address

NSW Rural Fire Service  
4 Murray Rose Ave  
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555  
F (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



- 'Plan Showing Proposed Subdivision of Land at West Byron -Ewingsdale Road', identified as Ref. No. 15024 - 16R, noted as sheet 9 of 9 and dated 21 October 2024.

Except where the following conditions modify the referenced plans.

#### **Asset Protection Zones**

***The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:***

2. At the issue of subdivision certificates for each stage, and then in perpetuity, all 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'.

3. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed on all land areas (including road reserves) within the subdivision that are noted as being BAL-FZ or BAL-40 on the plan; titled "Figure 7 - BAL Contour Map", prepared by GEOVIEW and dated 08/06/2021. These areas, identified as being BAL-FZ or BAL-40, 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'.

4. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed on any land that has become either; residual land, super lots or community title lots (following the completion of any stage within the subdivision), requiring a 100m wide asset protection zone (APZ), managed as an inner protection area (IPA), to be provided where the residual land, super lots or community titled lots adjoins the completed stage(s).

The required IPA shall 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'.

5. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon any lot that has been noted to contain areas of BAL-FZ or BAL-40, as identified on the plan titled; "Figure 7 BAL Contour Map", prepared by GEOVIEW and dated 08/06/2021. The restriction shall prohibit a habitable dwelling being erected upon the areas of the lots identified as either BAL-FZ or BAL-40.

***The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:***

6. The section of public road, that is located between proposed stages 7 and 9 and identified as "Road 23" (as shown on plan ref. 15024-8R, that is referenced above in Condition No. 1), shall have the entire road reserve area managed as an IPA in perpetuity, prior to the release of a subdivision certificate for stage 7. The width of management, measured along the road reserve, shall be equivalent to the extent of the eastern and western edges of the vegetation (noted as E2 zoned strip of land) located to both the north and south of the road.

#### **Access – Public Roads**

***The intent of measures is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:***





# RFS



7. The section of road, identified as Road 22, that links the south-western ends of roads 22 and 25 (i.e. part of stage 6) is to be constructed prior to the subdivision certificate for Stage 6 being released.

8. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

9. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed on residual land created when an adjoining stage has been completed and a proposed through road temporarily dead ends, thereby requiring the construction of a temporary cul-de-sac upon the residual land. This restriction can be released upon the completed development of the adjacent land and the continuing road has been constructed.

#### **Access – Fire Trails**

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

10. Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.

#### **Water and Utility Services**

***The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:***

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

#### **General Advice – Consent Authority to Note**

- Any future development application lodged within this subdivision under section 4.14 of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2019'.
- Establishment of asset protection zones, within the proposed staged subdivision, may require the clearing of vegetation. This bush fire safety authority does not authorise the clearing of any vegetation, nor does it include an assessment of potential ecological impacts of clearing vegetation for the purpose of establishing asset protection zones. Approvals necessary for the clearing of vegetation should be obtained prior to the establishment of any asset protection zones.
- The RFS raises no concern with allowing for Stages 11 and 12 in the western section of the WBURA to proceed non-sequentially and separately with Stages 1-10.
- The RFS raises no concern with the consolidation of Lots 157 and 151 into Lot 151.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 12/08/2024.

For any queries regarding this correspondence, please contact Wayne Sketchley on 1300 NSW RFS.

Yours sincerely,

Anna Jones

**Manager Planning & Environment Services  
Built & Natural Environment**





# RFS



## BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision  
MELALEUCA DRIVE BYRON BAY NSW 2481, 2//DP818403  
RFS Reference: DA-2017-04642-S4.55-2  
Your Reference: (CNR-71096) 10.2017.661.2

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

**Anna Jones**

Manager Planning & Environment Services  
Built & Natural Environment

Tuesday 26 November 2024

