



**BYRON
SHIRE
COUNCIL**

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BSC File No: 114330D x 10.2017.201.3/#A2024/26727Contact: Gregory Yopp

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application No.	10.2017.201.3 PAN-376115
Applicant	Planit Consulting Pty Ltd
Property	342 Ewingsdale Road BYRON BAY, Ewingsdale Road EWINGSDALE, 22A Melaleuca Drive BYRON BAY LOT: 1 DP: 542178, LOT: 227 DP: 755695, LOT: 7020 DP: 1113431, LOT: 9 DP: 111821, LOT: 229 DP: 755695, LOT: 1 DP: 1166535, LOT: 6 DP: 1269369
Development	Modification of Conditions of Consent, to Staging, Time Between Stages and Stockpiling of Soil on Site
Determination	Approved Consent Authority - Northern Regional Planning Panel
Date of determination	27 May 2024

Under of the EP&A Act, notice is given that the above application to modify 10.2017.201.2 has been approved, subject to the conditions specified in this notice and as described in the Modification Summary

Reason for approval

The conditions imposed have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment and the amenity of the neighborhood.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received this notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.9 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Signed on behalf of the Consent Authority

Gregory Yopp
Planner

Schedule 1 – Modification Summary

Attachment A – Amended conditions of consent

RECOMMENDATION

Delete the following conditions and replace with the amended conditions below:

1, 3, 8, 11, 13, 19, 32, 34, 40, 42b), 42p), 45, 51, 55, 58, 91m), 93 & 105

Condition 1 – Development in accordance with approved plans

Amend Condition 1 to read as follows

The development is to be in accordance with plans and documents listed below:

Plan No.	Description	Prepared by	Dated:
0050 Rev C	General Arrangement - Overall	Planit Consulting	27/8/20
0051 Rev C	General Arrangement – Sheet 1 of 2	Planit Consulting	27/8/20
0052 Rev C	General Arrangement - Sheet 2 of 2	Planit Consulting	27/8/20
0200 Rev B	Finished Surface Cut and Fill Plan – Sheet 1 of 2	Planit Consulting	27/8/20
0201 Rev B	Finished Surface Cut and Fill Plan – Sheet 2 of 2	Planit Consulting	27/8/20
0210 Rev B	Earthworks Plan Sheet 1 of 6	Planit Consulting	27/8/20
0211 Rev B	Earthworks Plan Sheet 2 of 6	Planit Consulting	27/8/20
0212 Rev B	Earthworks Plan Sheet 3 of 6	Planit Consulting	27/8/20
0213 Rev B	Earthworks Plan Sheet 4 of 6	Planit Consulting	27/8/20
0214 Rev A	Earthworks Plan Sheet 5 of 6	Planit Consulting	26/6/20
0215 Rev A	Earthworks Plan Sheet 6 of 6	Planit Consulting	26/6/20
0220 Rev B	Site Sections	Planit Consulting	27/8/20
0230 Rev A	Retaining Wall Sections	Planit Consulting	26/6/20
0300 Rev C	Road and Drainage Plan – Sheet 1 of 6	Planit Consulting	27/8/20
0301 Rev C	Road and Drainage Plan – Sheet 2 of 6	Planit Consulting	27/8/20
0302 Rev C	Road and Drainage Plan – Sheet 3 of 6	Planit Consulting	27/8/20

0303 Rev C	Road and Drainage Plan – Sheet 4 of 6	Planit Consulting	27/8/20
0304 Rev B	Road and Drainage Plan – Sheet 5 of 6	Planit Consulting	24/7/20
0305 Rev B	Road and Drainage Plan – Sheet 6 of 6	Planit Consulting	24/7/20
0310 Rev C	Typical Road Sections – Sheet 1 of 7	Planit Consulting	27/8/20
0311 Rev C	Typical Road Sections – Sheet 2 of 7	Planit Consulting	27/8/20
0312 Rev C	Typical Road Sections – Sheet 3 of 7	Planit Consulting	27/8/20
0313 Rev C	Typical Road Sections – Sheet 4 of 7	Planit Consulting	27/8/20
0314 Rev C	Typical Road Sections – Sheet 5 of 7	Planit Consulting	27/8/20
0315 Rev B	Typical Road Sections – Sheet 6 of 7	Planit Consulting	27/8/20
0316 Rev A	Typical Road Sections – Sheet 7 of 7	Planit Consulting	27/8/20
0320 Rev B	Road 01 Longitudinal Section – Sheet 1 of 2	Planit Consulting	24/7/20
0321 Rev B	Road 01 Longitudinal Section – Sheet 2 of 2	Planit Consulting	24/7/20
0322 Rev A	Road 02 Longitudinal Section	Planit Consulting	26/6/20
0323 Rev A	Road 03 & Melaleuca Drive Longitudinal Sections	Planit Consulting	26/6/20
0324 Rev A	Road 04 Longitudinal Section	Planit Consulting	26/6/20
0325 Rev A	Road 05 Longitudinal Section	Planit Consulting	26/6/20
0326 Rev B	Road 06 Longitudinal Section – Sheet 1 of 2	Planit Consulting	24/7/20
0327 Rev A	Road 06 Longitudinal Section – Sheet 2 of 2	Planit Consulting	26/6/20
0328 Rev A	Road 07 & 08 Longitudinal Sections	Planit Consulting	26/6/20
0329 Rev A	Road 09 Longitudinal Section	Planit Consulting	26/6/20
0340 Rev A	Kerb Return 01 Longitudinal Section	Planit Consulting	26/6/20
0341 Rev A	Kerb Return 02 Longitudinal Section	Planit Consulting	26/6/20
0342 Rev A	Kerb Return 03 Longitudinal Section	Planit Consulting	26/6/20
0410 Rev C	Proposed and Impacted Catchment Plan	Planit Consulting	27/8/20

0420 Rev A	Typical Swale Sections	Planit Consulting	26/6/20
0430 Rev A	Swale 01 Longitudinal Section	Planit Consulting	26/6/20
0440 Rev A	Bio-retention & Bio-swale Details	Planit Consulting	26/6/20
0450 Rev A	Plan of Swales – Sheet 1 of 2	Planit Consulting	13/8/20
0451 Rev A	Plan of Swales – Sheet 2 of 2	Planit Consulting	13/8/20
0500 Rev A	Sewer and Water Plan Set – Sheet 1 of 4	Planit Consulting	27/8/20
0501 Rev A	Sewer and Water Plan Set – Sheet 2 of 4	Planit Consulting	27/8/20
0502 Rev A	Sewer and Water Plan Set – Sheet 3 of 4	Planit Consulting	27/8/20
0503 Rev A	Sewer and Water Plan Set – Sheet 4 of 4	Planit Consulting	27/8/20
0510 Rev A	Sewer Pump Detail	Planit Consulting	26/6/20
0520 Rev A	Low Pressure Catchment Plan	Planit Consulting	26/6/20
0530 Rev B	Regional Sewer Pump Station Network Connections	Planit Consulting	27/8/20
0531 Rev A	Regional Sewer Pump Station Site Layout	Planit Consulting	26/6/20
0532 Rev A	Regional Sewer Pump Station General Details	Planit Consulting	26/6/20
0533 Rev A	Regional Sewer Pump Station Fittings Details	Planit Consulting	26/6/20
0534 Rev A	Regional Sewer Pump Station Wet Weather Storage Details	Planit Consulting	26/6/20
0600 Rev B	Staging Plan	Planit Consulting	27/8/20
0610 Rev C	Stage 1 Phase A Plan	Planit Consulting	27/8/20
0611 Rev C	Stage 1 Phase B Plan	Planit Consulting	22/10/21
0620 Rev C	Stage 2 Plan	Planit Consulting	22/10/21
0630 Rev B	Stage 3 Plan	Planit Consulting	27/8/20
0640 Rev C	Stage 4 Plan	Planit Consulting	27/8/20
0650 Rev C	Stage 5 Plan	Planit Consulting	27/8/20
0660 Rev B	Stage 6 Plan	Planit Consulting	27/8/20

J5644_02 Rev 02	Acid Frogs Habitat Plan – Habitat Creation Areas for Acid Frogs	Planit Consulting	16/6/20
J5644_03 Rev 02	Acid Frogs Habitat Plan – Sections & Details	Planit Consulting	16/6/20
J5644_04 Rev 02	Acid Frogs Habitat Plan – Detailed Pond Plan & Details	Planit Consulting	16/6/20
J5644_0501 Rev 02	Rehabilitation Plan – Zone 1	Planit Consulting	16/6/20
J5644_0502 Rev 02	Rehabilitation Plan – Zone 2	Planit Consulting	16/6/20
J5644_0503 Rev 02	Rehabilitation Plan – Zone 3	Planit Consulting	16/6/20
J5644_0504 Rev 02	Rehabilitation Plan – Zone 4	Planit Consulting	16/6/20
J5644_0505 Rev 03	Rehabilitation Plan – Zone 5	Planit Consulting	27/7/20
	Landscape Sections, Section 01, Section 02		20/8/20
	Landscape Sections, Section 03		16/6/20
J6539_001 Rev 04	Overall Masterplan	Planit Consulting	27/5/20
J6539_002 Rev 04	Subdivision Plan	Planit Consulting	27/5/20
J6539_101 Rev 03	Overall Open Space Plan	Planit Consulting	16/6/20
J6539_102 Rev 03	Open Space Plan As amended by Council on 031120 to identify “all roads are to be dedicated to Council free of cost”	Planit Consulting	3/11/20
J6539_210 Rev 02	Vegetation Clearing Plan	Planit Consulting	22/5/20
J6539_001 Rev 01	E2 Zone Buffer	Planit Consulting	21/5/20
J6682 Revision A	Rehabilitation Zones Plan – Pages 1 and 2		18/6/20
SK090 Rev A	Frog Habitat Sections (sheet 1 of 2)	Planit Consulting	20/8/20
SK091 Rev A	Frog Habitat Sections (sheet 2 of 2)	Planit Consulting	20/8/20
	Management Plans		
HMC 2016.119	Acid Sulfate Soils Management Plan Residential Subdivision	HMC environmental consulting	November 2016
	Harvest Estate Landscape Masterplan	Planit Consulting	28/8/2020
Revision D	Harvest Estate Groundwater Management Plan	Australian Wetlands Consulting	26/8/2020

Revision C	Harvest Estate Belongil Creek Plan of Management	Australian Wetlands Consulting	26/8/2020
Revision D	Harvest Estate Acid Frog Management Plan	Australian Wetlands Consulting	26/8/2020
Version 1.3	Harvest Estate Koala Plan of Management	Planit Consulting	26/8/2020
Version 1.3	Harvest Estate Threatened Species Management Plan	Planit Consulting	26/8/2020
Version D	Harvest Estate Vegetation Management Plan	Planit Consulting	27/8/2020
Version E	Harvest Estate Biodiversity Conservation Management Plan	Planit Consulting	27/8/2020
Revision E	Harvest Estate Stormwater Management Plan (SWMP)	Planit Consulting	27/8/2020
Documents / Reports			
	West Byron Urban Release Area	Bitzios	27 August
	(WBURA) Traffic Impact Assessment	Consulting	2020
	Cover Letter - s34 Traffic Experts Actions Response - Villa World Pty Ltd V Byron Shire Council	Bitzios Consulting	27 August 2020
	Harvest Estate, West Byron NSW: Cultural Heritage Assessment	Everick Heritage Consultants	October 2017

As subsequently amended by the following plans

J7148 0010 Rev A- Overall Staging Plan (26/07/23), Prepared by Planit Consulting
J7148 0013 Rev A - Stage 3 Plan (26/07/23), Prepared by Planit Consulting
J7148 0014 Rev A - Stage 4 Plan (26/07/23), Prepared by Planit Consulting
Harvest Estate Landscape Masterplan addendum (drawing J7148 dated Sept 2023), Prepared by Planit Consulting
J7148 SK001, Stockpile Sketch Plan, undated, Prepared by Planit Consulting

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 the conditions below, the relevant condition(s) are to prevail to the extent of the 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.

Condition 3 – Staged development

The development is to be carried out in the following stages as per the approved staging plans (Planit Consulting, J7148 0010, Rev A. 26/07/23):

Stage 1-A: The environmental restoration and enhancement and landscaping works within Stage 1 and 4, including the Ewingsdale Road buffer. This is as referenced in the Rehabilitation Plan – Zone 5 (J5644-505) and is subject to the updated Landscape Plan required by condition 36.

Stage 1-B: Lots 1 – 18, 29 – 34, 58 – 61 and 146 including all swales and the permanent basin shown as Stage 1 works in Drawings 0610 Rev C and 0611 Rev C, noise/acoustic barriers for lots 1 to 11 and the items detailed at a) and b) below.

Stage 2: Lots 19 – 28, 35 – 50 including the permanent basin shown as Stage 2 works on Drawing 0620 Rev C.

Stage 3: Lots 51– 57, 62–71, 72 – 86, 147 – 149 including all swales shown as Stage 3 works on Drawing 0013 Rev B, the Main Drain embellishment works as described by the SWMP (Version E, 27/8/20) and Road 9 construction from the intersection with Road 01 to the boundary with the neighbouring land as shown in Drawing 0304 Rev B.

Stage 4: Lots 87 –145 including all swales shown as Stage 4 works on Drawing 0014 Rev B, and noise/acoustic barriers (as identified in the Environmental Noise Impact Assessment (Ref: crgref: 16147 report rev.6 CRG Acoustics 25 August 2020), subject to the detailed design requested by Conditions 36 and 38.

The development is to progress sequentially as per the stages above, with the previous stages being complete to Council's satisfaction prior to works commencing on the next stage. A maximum of one (1) stage may be under construction at any one time.

Where roads terminate on stage boundaries, temporary turning heads in line with relevant requirements of the Northern Rivers Design Guides (<https://www.byron.nsw.gov.au/Services/Building-development/Plans-maps-and-guidelines/Development-Design-Manuals>) and the General Terms of Approval from NSW Rural Fire Service (Schedule 1) are to be provided to facilitate turning for all vehicles.

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.

The relevant conditions that are applicable to each stage are the conditions stated as being necessary for the completion of each stage in this consent., or, where pursuant to the issue of a Construction Certificate, the relevant consent authority.

Condition 8 – 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 30 July 2021 contained in **Schedule 1** of these conditions of consent or any subsequent amendment to the GTA's.

Condition 11 - Updated Groundwater Management Plan – Monitoring

Prior to issue of a subdivision works certificate for each stage, an updated Groundwater Monitoring Plan (GMP) shall be prepared and provided to Council's Director of Planning (or nominee). The GMP (AWC, 26/8/20) shall be updated to include monitoring of groundwater levels and quality prior to, during and following construction of the subdivision works as they progress, including, but not limited to:

- a. Monitoring of groundwater levels and quality for at least 12 months prior to commencement of Stage 1-B subdivision construction works;
- b. Monitoring of groundwater levels and quality from the commencement of subdivision construction works until the issue of a subdivision certificate for Stage 4 with submission of an updated report to Council prior to the issue of the subdivision works certificate for each stage of works;
- c. Monitoring of groundwater levels and quality for at least 12 months following the issue of a subdivision certificate for Stage 4; and
- d. Targets for groundwater quality and levels and the commitment to use these targets in required, routine reporting.
- e. Data and learning from monitoring to date, including any additional adaptation and contingency measures garnered from monitoring conducted to date.

The groundwater monitoring shall take into account the specific details of the site, proposed subdivision construction works methodology and subdivision layout. The construction stage monitoring must be designed and conducted as appropriate for each stage with details to be given in the CEMP.

The Groundwater Management Plan (AWC, 2020b) and the Belongil Creek Plan of Management (AWC, August 2020) provide details on baseline groundwater levels and quality and this information is to be incorporated into the Updated Groundwater Management Plan.

Condition 13 - Additional Monitoring and Reporting Requirements

The monitoring requirements in the BCMP, VMP, KPoM, AFMP, BCPM, AFMP, ASSMP and GMP 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;
- e. Sampling and analysis methodologies to be used; and
- f. Data analysis methodologies including thresholds, limits and triggers for contingency actions.

The reporting requirements in the BCMP, VMP, KPoM, AFMP, BCPM, AFMP, ASSMP and GMP shall be updated in the CEMP to include, but not be limited to:

- a. Analysis of all monitoring and sampling data against baseline data and approved thresholds (in the approved CEMP), 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 Stage 4, 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 (being the notice of commencement of works to the Principal Certifying Authority). The report is to be to the satisfaction of, and submitted to Council and any remedial and or mitigation works as required by Council complied with, within the time stipulated.

Condition 19 – Fill material

Prior to the issue of a Subdivision Works Certificate for each stage, the type of fill material to be used is to be nominated by a suitably qualified geotechnical engineer. The fill is to be provided with certification that it is clean, uncontaminated and suitable for use as engineering fill.

The nominated fill for swales or other areas that rely on infiltration is to be provided to the Certifying Authority for approval showing that the parameters of the fill meet the minimum infiltration rates as required by the Stormwater Management Plan.

The location of stockpile area(s) for imported fill material and stripped topsoil is to be shown on plans submitted with the application for a Subdivision Works Certificate.

Stockpile areas can be located outside of the stage work area, but appropriate erosion and sedimentation controls must be in place and regularly maintained in accordance with Managing Urban Stormwater – Soils and Construction (“the Blue Book”) as a minimum.

Stockpiles can remain in place between construction of stages but must be removed prior to completion of Stage 4 construction works.

Condition 32 - Acid Frog Management Plan (AFMP)

Prior to the issue of the Subdivision Works Certificate for Stage 3, a modified AFMP shall be submitted to Council for approval including the following additions:

- a. Details of proposed monitoring of pH and water levels of groundwater in and/or adjacent to wallum sedge frog and wallum froglet habitat and wetlands, before, during and post subdivision construction.
- b. Updated monitoring provisions that detail monitoring to continue for at least 10 years from the commencement of subdivision works (being the notice of commencement of works to the Principal Certifying Authority) including annual reporting. The report is to be to the satisfaction of, and submitted to Council and any remedial and or mitigation works as required by Council complied with, within the time stipulated.

Condition 34 – Acid Sulfate Soils Management Plan (ASSMP)

Acid sulfate soils are to be managed generally in accordance with the recommendations in the Acid Sulfate Soil Management Plan (West Byron Urban Release Area HMC 2016.119 November 2016). Prior to the issue of the Subdivision works certificate for each stage, an updated ASSMP shall be submitted to Council for approval which includes but is not limited to:

- a. Identification of activities that are expected to intersect and disturb acid sulfate soils;
- b. Identification of the acid sulphate soils risks and identified acid sulphate soils layer on site;
- c. Estimation of volumes of acid sulphate soils requiring treatment and proposed treatment measures;
- d. Estimated liming rates and treatment procedures;
- e. Validation procedures and target criteria for treated soils;
- f. Monitoring protocols and target criteria as per the Acid Sulfate Soil Manual (ASSMAC, 1998) guidelines for surface and groundwater within the site; and
- g. Monitoring protocols for Belongil Creek including baseline data and target criteria for water quality and pH levels as per Guidelines for Fresh and Marine Water Quality (ANZECC & ARMCANZ 2000) and Guidelines for Managing Risk in Recreational Water (NHMRC, 2008).

- h. Incorporating data and learning from monitoring to date. Include adaptation and contingency measures garnered from monitoring conducted to date.
- i. The plan must also include measures to minimise the impact of any acid sulfate soils treatment on the pH of the environments required for targeted acid frogs.

Investigations and management of acid sulfate soils must be undertaken by a suitably qualified and experienced environmental consultant in accordance with the Acid Sulfate Soil Manual (ASSMAC, 1998).

Condition 40 – 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 as issued under Section 100B of the Rural Fires Act 1997 for this development have been complied with in relation to any necessary subdivision works.

Condition 42b) – Footpath, Cycleway and Pedestrian Refuge Construction

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 Drawings 0300, 0301, 0302, 0303 and 0304, and with the Harvest Estate Landscape Masterplan. In addition, 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) in accordance with Harvest Estate Landscape Masterplan addendum (drawing J7148 dated Sept 2023);
- (ii) a path (minimum 1.2m wide) providing connectivity from the Road 3 cul-de-sac to the path through the open space identified in the Harvest Estate Landscape Masterplan;
- (iii) a path (minimum 1.2m wide) providing connectivity from the Road 5 (in vicinity of CH80 Road 2) to the path through the open space identified in the Harvest Estate Landscape Masterplan;
- (iv) a shared pathway/cycleway (minimum 2.5m wide) providing connectivity from the Road 6 (in vicinity of CH300) to the path through the open space identified in the Harvest Estate Landscape Masterplan; and
- (v) no pedestrian link to the western side of Road 1 (near CH0).

Condition 42p) - Road 4 culverts

p) Road 4 culverts

Prior to the issue of a Subdivision Works Certificate for Stage 3 detailed design is to be provided to the satisfaction of the Certifying Authority (i) that the culverts under Road 1 conveying the Main Drain flows have the capacity to convey the 2100 climate change 1% Annual Exceedance Probability flows with minimum 0.3m freeboard to the underside of the culvert, and (ii) that show the conveyance of stormwater flows under the extended hardstand area for the bus stops. Flow widths and depth in the minor and major events are to be addressed in line with the Northern Rivers Design Guidelines

Condition 45 - Erosion and Sediment Control Plan

The plans and specifications to accompany the subdivision works certificate application are to include an Erosion and Sediment Control Plan (ESCP). The ESCP is to detail the measures to be employed to control erosion and loss of sediment from the site, is to be prepared in accordance with the requirements of Managing Urban Stormwater: Soils and Construction (NSW Government, 2004) and is to be generally in accordance with Drawings 0610, 0611, 0620, 0630, 0640, 0650, 0660, as detailed in **condition 1**.

The plan must include, without being limited to:

- a. Information on general site management;
- b. Material handling practices;
- c. Soil stabilisation;
- d. Stockpile location
- e. Sediment basin inclusion and maintenance;
- f. Water control;

- g. Sediment control;
- h. Wind erosion control;
- i. Water quality monitoring during construction works;
- j. Specific measures to protect sensitive environments such as frog habitat, vegetation to be retained, waterways and E2 zoned land, and
- k. Access measures and any fencing of 'No Go Zones' as required by the CEMP or other related reports.

A suitably qualified and experienced person must prepare the ESCP. Note: Suitably

qualified people include those certified by:

- The Institution of Engineers, Australia, for engineering and hydrology matters.
- The International Erosion Control Association for soil conservation matters.
- The Australian Society of Soil Science for collection or analysis of soil data.

Condition 51 - Long-term Delivery of Environmental restoration and Management

A draft positive covenant pursuant to Section 88E of the *Conveyancing Act 1919* is to be submitted to Council for approval prior to the issue of Subdivision Works Certificates for Stages 1 and 3. As outlined below the proposed Section 88E Instrument is to provide for the ongoing maintenance, management, monitoring and reporting of vegetation and frog habitat, on proposed Lots 146, 147, 148 and 149 (as identified on the Overall Masterplan, drawing no. J6539_001, Rev 06 dated 27/05/2020 prepared by Planit Consulting Pty Ltd).

The positive covenant is to create an obligation on future owners of Lots 146, 147, 148 and 149 to carry out ongoing maintenance, management, monitoring and reporting of the identified rehabilitation zones, existing vegetation, existing frog habitat and created frog habitat and E2 zoned land in accordance with the relevant requirements of the approved CEMP and associated management plans approved pursuant to **condition 35**.

The positive covenant must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the instrument.

Condition 55 - Lots 69 and 70 Sight Distance

Prior to the issue of a Subdivision Works certificate for Stage 3, sight distance plans are to be provided to show that vehicles leaving proposed lots 69 and 70 have adequate sight distance to safely exit the lots to the satisfaction of Council.

Condition 58 - Emergency access provision

Prior to the issue of a Subdivision Works Certificate for Stage 3, a design must be provided for a two way all-weather access road providing secondary emergency access from the intersection of Roads 1 and 6 to Ewingsdale Road. This access road is to be constructed as part of Stage 3.

A lockable gate or similar to Council's approval, must be provided at the emergency access location closest to Ewingsdale Rd to eliminate unlawful use of this access way.

If/when the permanent West Byron Urban Release Area secondary access point is operational at the SAE roundabout and through connection is available from Road 01 to this secondary access point, the temporary emergency access is to be removed at the applicant's expense unless Council deems the access appropriate to remain for the purpose of further emergency access.

Prior to the issue of a Subdivision Works Certificate for Stage 3, a bond is to be lodged to Council for the removal of the temporary emergency access. The value of the bond is to be approved by Council and cover the cost of the removal of the emergency access road and all ancillary works.

Condition 91m) - Easement for Support

m) Easement for Support

The creation of suitable easements for support to suit the arrangement of retaining walls built as part of Stage 4 works, where the retaining wall at the rear of one lot supports the adjoining lot. The creation of a suitable easement for support to suit the arrangement of retaining wall/s built on Lot 146 supporting Road 1.

Condition 93 - Section 88E Instruments

The positive covenant under Section 88E of the *Conveyancing Act 1919*, approved by Council under **condition 51**, must be registered on title prior to issue of the subdivision certificate for Stage 1 and Stage 3.

Documentary evidence is to be provided with the application for subdivision certificates for Stages 1 and 3 that the positive covenant has been registered on the title to the land.

Condition 105 - Landscaping to be completed and maintenance bond paid

The site is to be landscaped in accordance with the approved landscape plan. A bond of **\$20,000** is to be paid to Council, which will be released six (6) months following the issue of a subdivision certificate for Stage 4 if the landscaping for the entire subdivision is maintained to Council's satisfaction.



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BSC File No: 270451D x 10.2017.201.2/#A2021/41467
Contact: Mr I C Holland

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
issued under the
Environmental Planning and Assessment Act, 1979 Section 4.18(1)(a)

Development Application No. 10.2017.201.1

Villa World Byron Pty Ltd
C/- Planit Consulting ATT: Luke Blandford
PO Box 1623
KINGSCLIFF NSW 2487

Email: lukeb@planitconsulting.com.au

Property description	LOT: 1 DP: 542178, LOT: 227 DP: 755695, LOT: 7020 DP: 1113431, LOT: 9 DP: 111821, LOT: 229 DP: 755695, LOT: 1 DP: 1166535, LOT: 5 DP: 1222674, LOT: 6 DP: 1222674 342 Ewingsdale Road BYRON BAY, Ewingsdale Road EWINGSDALE, 22B Melaleuca Drive BYRON BAY, 22A Melaleuca Drive BYRON BAY
Development	S4.56 to modify staging, timeframes and consequential amendments to modify amended proposal: subdivision of six (6) lots into one hundred and forty-nine (149) consisting of one hundred and forty five (145) residential lots, four (4) large residential lots and dedication of residual land to Council for public or drainage reserves.
Determination	Consent granted <i>Subject to the attached schedule of conditions</i>
Date determined	4 November 2021
Consent to operate from	8 December 2020
Consent to lapse on	8 December 2025

CONDITIONS OF CONSENT:**Definition of Terms Used in these conditions of consent**

AFMP: Acid Frog Management Plan

ASSMP: Acid Sulfate Soils Management Plan

BCPM: Belongil Creek Plan of Management

BCMP: Biodiversity Conservation Management Plan

CEMP: Construction Environmental Management Plan

ESCP: Erosion and Sediment Control Plan

GMP: Groundwater Monitoring Plan

KPoM: Koala Plan of Management RSA: Road safety audit

VMP: Vegetation Management Plan

1. Development is to be carried out in accordance with approved plans

The development is to be in accordance with plans and documents listed below:

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0200 Rev B	Finished Surface Cut and Fill Plan – Sheet 1 of 2	Planit Consulting	27/8/20
0201 Rev B	Finished Surface Cut and Fill Plan – Sheet 2 of 2	Planit Consulting	27/8/20
0210 Rev B	Earthworks Plan Sheet 1 of 6	Planit Consulting	27/8/20
0211 Rev B	Earthworks Plan Sheet 2 of 6	Planit Consulting	27/8/20
0212 Rev B	Earthworks Plan Sheet 3 of 6	Planit Consulting	27/8/20
0213 Rev B	Earthworks Plan Sheet 4 of 6	Planit Consulting	27/8/20
0214 Rev A	Earthworks Plan Sheet 5 of 6	Planit Consulting	26/6/20
0215 Rev A	Earthworks Plan Sheet 6 of 6	Planit Consulting	26/6/20

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0220 Rev B	Site Sections	Planit Consulting	27/8/20
0230 Rev A	Retaining Wall Sections	Planit Consulting	26/6/20
0300 Rev C	Road and Drainage Plan – Sheet 1 of 6	Planit Consulting	27/8/20
0301 Rev C	Road and Drainage Plan – Sheet 2 of 6	Planit Consulting	27/8/20
0302 Rev C	Road and Drainage Plan – Sheet 3 of 6	Planit Consulting	27/8/20
0303 Rev C	Road and Drainage Plan – Sheet 4 of 6	Planit Consulting	27/8/20
0304 Rev B	Road and Drainage Plan – Sheet 5 of 6	Planit Consulting	24/7/20
0305 Rev B	Road and Drainage Plan – Sheet 6 of 6	Planit Consulting	24/7/20
0310 Rev C	Typical Road Sections – Sheet 1 of 7	Planit Consulting	27/8/20
0311 Rev C	Typical Road Sections – Sheet 2 of 7	Planit Consulting	27/8/20
0312 Rev C	Typical Road Sections – Sheet 3 of 7	Planit Consulting	27/8/20
0313 Rev C	Typical Road Sections – Sheet 4 of 7	Planit Consulting	27/8/20
0314 Rev C	Typical Road Sections – Sheet 5 of 7	Planit Consulting	27/8/20
0315 Rev B	Typical Road Sections – Sheet 6 of 7	Planit Consulting	27/8/20
0316 Rev A	Typical Road Sections – Sheet 7 of 7	Planit Consulting	27/8/20
0320 Rev B	Road 01 Longitudinal Section – Sheet 1of 2	Planit Consulting	24/7/20
0321 Rev B	Road 01 Longitudinal Section – Sheet 2of 2	Planit Consulting	24/7/20
0322 Rev A	Road 02 Longitudinal Section	Planit Consulting	26/6/20
0323 Rev A	Road 03 & Melaleuca Drive Longitudinal Sections	Planit Consulting	26/6/20
0324 Rev A	Road 04 Longitudinal Section	Planit Consulting	26/6/20
0325 Rev A	Road 05 Longitudinal Section	Planit Consulting	26/6/20
0326 Rev B	Road 06 Longitudinal Section – Sheet 1of 2	Planit Consulting	24/7/20
0327 Rev A	Road 06 Longitudinal Section – Sheet 2of 2	Planit Consulting	26/6/20

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0328 Rev A	Road 07 & 08 Longitudinal Sections	Planit Consulting	26/6/20
0329 Rev A	Road 09 Longitudinal Section	Planit Consulting	26/6/20
0340 Rev A	Kerb Return 01 Longitudinal Section	Planit Consulting	26/6/20
0341 Rev A	Kerb Return 02 Longitudinal Section	Planit Consulting	26/6/20
0342 Rev A	Kerb Return 03 Longitudinal Section	Planit Consulting	26/6/20
0410 Rev C	Proposed and Impacted Catchment Plan	Planit Consulting	27/8/20
0420 Rev A	Typical Swale Sections	Planit Consulting	26/6/20
0430 Rev A	Swale 01 Longitudinal Section	Planit Consulting	26/6/20
0440 Rev A	Bio-retention & Bio-swale Details	Planit Consulting	26/6/20
0450 Rev A	Plan of Swales – Sheet 1 of 2	Planit Consulting	13/8/20
0451 Rev A	Plan of Swales – Sheet 2 of 2	Planit Consulting	13/8/20
0500 Rev A	Sewer and Water Plan Set – Sheet 1 of 4	Planit Consulting	27/8/20
0501 Rev A	Sewer and Water Plan Set – Sheet 2 of 4	Planit Consulting	27/8/20
0502 Rev A	Sewer and Water Plan Set – Sheet 3 of 4	Planit Consulting	27/8/20
0503 Rev A	Sewer and Water Plan Set – Sheet 4 of 4	Planit Consulting	27/8/20
0510 Rev A	Sewer Pump Detail	Planit Consulting	26/6/20
0520 Rev A	Low Pressure Catchment Plan	Planit Consulting	26/6/20
0530 Rev B	Regional Sewer Pump Station Network Connections	Planit Consulting	27/8/20
0531 Rev A	Regional Sewer Pump Station Site Layout	Planit Consulting	26/6/20
0532 Rev A	Regional Sewer Pump Station General Details	Planit Consulting	26/6/20
0533 Rev A	Regional Sewer Pump Station Fittings Details	Planit Consulting	26/6/20
0534 Rev A	Regional Sewer Pump Station Wet Weather Storage Details	Planit Consulting	26/6/20
0600 Rev B	Staging Plan	Planit Consulting	27/8/20

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0610 Rev C	Stage 1 Phase A Plan	Planit Consulting	27/8/20
0611 Rev C	Stage 1 Phase B Plan	Planit Consulting	22/10/21
0620 Rev C	Stage 2 Plan	Planit Consulting	22/10/21
0630 Rev B	Stage 3 Plan	Planit Consulting	27/8/20
0640 Rev C	Stage 4 Plan	Planit Consulting	27/8/20
0650 Rev C	Stage 5 Plan	Planit Consulting	27/8/20
0660 Rev B	Stage 6 Plan	Planit Consulting	27/8/20
J5644_02 Rev 02	Acid Frogs Habitat Plan – Habitat Creation Areas for Acid Frogs	Planit Consulting	16/6/20
J5644_03 Rev 02	Acid Frogs Habitat Plan – Sections & Details	Planit Consulting	16/6/20
J5644_04 Rev 02	Acid Frogs Habitat Plan – Detailed Pond Plan & Details	Planit Consulting	16/6/20
J5644_0501 Rev 02	Rehabilitation Plan – Zone 1	Planit Consulting	16/6/20
J5644_0502 Rev 02	Rehabilitation Plan – Zone 2	Planit Consulting	16/6/20
J5644_0503 Rev 02	Rehabilitation Plan – Zone 3	Planit Consulting	16/6/20
J5644_0504 Rev 02	Rehabilitation Plan – Zone 4	Planit Consulting	16/6/20
J5644_0505 Rev 03	Rehabilitation Plan – Zone 5	Planit Consulting	27/7/20
	Landscape Sections, Section 01, Section02		20/8/20
	Landscape Sections, Section 03		16/6/20
J6539_001 Rev 04	Overall Masterplan	Planit Consulting	27/5/20
J6539_002 Rev 04	Subdivision Plan	Planit Consulting	27/5/20
J6539_101 Rev 03	Overall Open Space Plan	Planit Consulting	16/6/20
J6539_102 Rev 03	Open Space Plan As amended by Council on 031120 to identify “all roads are to be dedicated to Council free of cost”	Planit Consulting	3/11/20
J6539_210 Rev 02	Vegetation Clearing Plan	Planit Consulting	22/5/20
J6539_001 Rev 01	E2 Zone Buffer	Planit Consulting	21/5/20

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J6682 Revision A	Rehabilitation Zones Plan – Pages 1 and 2		18/6/20
SK090 Rev A	Frog Habitat Sections (sheet 1 of 2)	Planit Consulting	20/8/20
SK091 Rev A	Frog Habitat Sections (sheet 2 of 2)	Planit Consulting	20/8/20
	Management Plans		
HMC 2016.119	Acid Sulfate Soils Management Plan Residential Subdivision	HMC environmental consulting	November 2016
	Harvest Estate Landscape Masterplan	Planit Consulting	28/8/2020
Revision D	Harvest Estate Groundwater Management Plan	Australian Wetlands Consulting	26/8/2020
Revision C	Harvest Estate Belongil Creek Plan of Management	Australian Wetlands Consulting	26/8/2020
Revision D	Harvest Estate Acid Frog Management Plan	Australian Wetlands Consulting	26/8/2020
Version 1.3	Harvest Estate Koala Plan of Management	Planit Consulting	26/8/2020
Version 1.3	Harvest Estate Threatened Species Management Plan	Planit Consulting	26/8/2020
Version D	Harvest Estate Vegetation Management Plan	Planit Consulting	27/8/2020
Version E	Harvest Estate Biodiversity Conservation Management Plan	Planit Consulting	27/8/2020
Revision E	Harvest Estate Stormwater Management Plan (SWMP)	Planit Consulting	27/8/2020
	Documents / Reports		
	West Byron Urban Release Area	Bitzios	27 August
	(WBURA) Traffic Impact Assessment	Consulting	2020
	Cover Letter - s34 Traffic Experts Actions Response - Villa World Pty Ltd V Byron Shire Council	Bitzios Consulting	27 August 2020
	Harvest Estate, West Byron NSW: Cultural Heritage Assessment	Everick Heritage Consultants	October 2017

As subsequently amended by the following plans

J7148 0010 Rev A- Overall Staging Plan (26/07/23), Prepared by Planit Consulting
J7148 0013 Rev A - Stage 3 Plan (26/07/23), Prepared by Planit Consulting
J7148 0014 Rev A - Stage 4 Plan (26/07/23), Prepared by Planit Consulting
Harvest Estate Landscape Masterplan addendum (drawing J7148 dated Sept 2023), Prepared by Planit Consulting
J7148 SK001, Stockpile Sketch Plan, undated, Prepared by Planit Consulting

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 the conditions below, the relevant condition(s) are to prevail to the extent of the 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.

2. Amended subdivision plans required

An updated subdivision plan is to be provided for each stage of the development that demonstrates that each proposed residential lot within the R2 zoned land is capable of containing a building envelope of at least 12m x 15m. The updated subdivision plan shall be provided to Council's Director of Planning for his/her approval within three months of the issue of this development consent.

3. Staged development

The development is to be carried out in the following stages as per the approved staging plans (Planit Consulting, J7148 0010, Rev A. 26/07/23):

Stage 1-A: The environmental restoration and enhancement and landscaping works within Stage 1 and 4, including the Ewingsdale Road buffer. This is as referenced in the Rehabilitation Plan – Zone 5 (J5644-505) and is subject to the updated Landscape Plan required by condition 36.

Stage 1-B: Lots 1 – 18, 29 – 34, 58 - 61 and 146 including all swales and the permanent basin shown as Stage 1 works in Drawings 0610 Rev C and 0611 Rev C, noise/acoustic barriers for lots 1 to 11 and the items detailed at a) and b) below.

Stage 2: Lots 19 - 28, 35 – 50 including the permanent basin shown as Stage 2 works on Drawing 0620 Rev C.

Stage 3: Lots 51- 57, 62 -71, 72 – 86, 147 - 149 including all swales shown as Stage 3 works on Drawing 0013 Rev B, the Main Drain embellishment works as described by the SWMP (Version E, 27/8/20) and Road 9 construction from the intersection with Road 01 to the boundary with the neighbouring land as shown in Drawing 0304 Rev B.

Stage 4: Lots 87 -145 including all swales shown as Stage 4 works on Drawing 0014 Rev B, and noise/acoustic barriers (as identified in the Environmental Noise Impact Assessment (Ref: crgref: 16147 report rev.6 CRG Acoustics 25 August 2020), subject to the detailed design requested by Conditions 36 and 38.

The development is to progress sequentially as per the stages above, with the previous stages being complete to Council's satisfaction prior to works commencing on the next stage. A maximum of one (1) stage may be under construction at any one time.

Where roads terminate on stage boundaries, temporary turning heads in line with relevant requirements of the Northern Rivers Design Guides (<https://www.byron.nsw.gov.au/Services/Building-development/Plans-maps-and-guidelines/Development-Design-Manuals>) and the General Terms of Approval from NSW Rural Fire Service (Schedule 1) are to be provided to facilitate turning for all vehicles.

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.

The relevant conditions that are applicable to each stage are the conditions stated as being necessary for the completion of each stage in this consent., or, where pursuant to the issue of a Construction Certificate, the relevant consent authority.

4. Staging progression

Prerequisites for Council's assessment and approval to commence to the next development stage are:

- a) Monitoring for at least 12 months following completion of construction works for the stage in question (in accordance with the approved CEMP (see condition 35) – note condition 13 requires “thresholds, limits and triggers for contingency actions” to be developed);
- b) Analysis of monitoring data carried out in accordance with **conditions 11, 12, 13 and 35** and the approved CEMP;
- c) Updated modelling outputs that incorporate monitoring data collected in accordance with **conditions 11, 12, 13 and 35** and the approved CEMP;
- d) Satisfactory implementation of any recommended or required contingency measures in accordance with the approved CEMP (see condition 35) and/or amendments to the proposal based on the above analysis;
- e) Peer review of the above.

Reports demonstrating that the above conditions have been satisfactorily completed are to be provided to Council's Director of Planning (or nominee) for his/her approval prior to any work on the next stage of development commencing.

5. Vegetation removal

This development consent does not authorise any native tree to be ringbarked, cut down, lopped, removed or damaged, or caused to be ringbarked, cut down, lopped, removed or damaged beyond those in the area identified as “extent of works” on the Overall Masterplan-Vegetation Clearing (Planit Consulting, J6539_210, Rev 02, 22/5/20).

6. Conditions prescribed by the Regulation

This development consent is subject to the conditions prescribed by the Environmental Planning and Assessment Regulations in accordance with subsection 4.17(11) of the *Environmental Planning and Assessment Act 1979*. The conditions given in this consent are additional to those given in the Regulations.

7. Discovery of Aboriginal Relics

Upon discovery of any Aboriginal relics within the meaning of the *National Parks and Wildlife Act 1974*, the developer shall immediately notify the NSW Department of Planning Industry and Environment (DPIE), Tweed Byron Local Aboriginal Land Council and the Bundjalung of Byron Bay Aboriginal Corporation (Arakwal) and must immediately cease works within the vicinity until such time as the necessary permits have been obtained from DPIE to continue the work. The developer must comply with any further request made by DPIE to cease work for the purposes of archaeological assessment and recording.

8. 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 30 July 2021 contained in **Schedule 1** of these conditions of consent or any subsequent amendment to the GTA's.

9. 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 90 of the *Water Management Act 2000* in respect of water supply work, and is subject to the General Terms of Approval from Water NSW dated 20 June 2017 contained in **Schedule 2** of these conditions of consent.

The following conditions are to be complied with prior to issue of a Subdivision Works Certificate for subdivision works

10. Environmental restoration and enhancement and landscaping works

The environmental restoration and enhancement and landscaping works within Stage 1, Stage 6 and Stage 7 (Stage 1A), must be substantially commenced prior to the issue of a subdivision works certificate for Stage 1-B. The following must be provided to 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;
- b. In relation to the environmental restoration and enhancement works, certification of substantial commencement by a suitably qualified and experienced ecologist; and
- c. In relation to the landscaping works, certification of substantial commencement by a suitably qualified and experienced landscape architect.

Note: For the purposes of condition 10, "substantially commenced" means all 'trees' and 'small trees/shrubs' under the updated and approved VMP have been planted in all rehabilitation zones and all 'trees' and 'shrubs' under the amended and approved Landscaping Plan have been planted in the Ewingsdale Road landscape buffer.

11. Updated Groundwater Management Plan – monitoring

Prior to issue of a subdivision works certificate for each stage, an updated Groundwater Monitoring Plan (GMP) shall be prepared and provided to Council's Director of Planning (or nominee). The GMP (AWC, 26/8/20) shall be updated to include monitoring of groundwater levels and quality prior to, during and following construction of the subdivision works as they progress, including, but not limited to:

- a. Monitoring of groundwater levels and quality for at least 12 months prior to commencement of Stage 1-B subdivision construction works;
- b. Monitoring of groundwater levels and quality from the commencement of subdivision construction works until the issue of a subdivision certificate for Stage 4 with submission of an updated report to Council prior to the issue of the subdivision works certificate for each stage of works;
- c. Monitoring of groundwater levels and quality for at least 12 months following the issue of a subdivision certificate for Stage 4; and
- d. Targets for groundwater quality and levels and the commitment to use these targets in required, routine reporting.
- e. Data and learning from monitoring to date, including any additional adaptation and contingency measures garnered from monitoring conducted to date.

The groundwater monitoring shall take into account the specific details of the site, proposed subdivision construction works methodology and subdivision layout. The construction stage monitoring must be designed and conducted as appropriate for each stage with details to be given in the CEMP.

The Groundwater Management Plan (AWC, 2020b) and the Belongil Creek Plan of Management (AWC, August 2020) provide details on baseline groundwater levels and quality and this information is to be incorporated into the Updated Groundwater Management Plan.

12. Groundwater Management Report – analysis and modelling

Prior to issue of a Subdivision Works Certificate for each stage, groundwater monitoring data collected, as required by **condition 11**, shall be:

- a. compiled and analysed; and
- b. uploaded into a groundwater modelling report with updated results analysed.

The analysis of monitoring data and modelling outputs along with conclusions and recommendations for amendments to the GMP, stormwater management, subdivision design and/or contingency measures to mitigate impacts on the groundwater system shall be collated into a groundwater management report.

The report shall be peer reviewed by an independent groundwater expert.

The report and peer review shall be provided to Council's Director of Planning (or nominee) for approval prior to issue of a Subdivision Works Certificate for each stage.

13. Additional monitoring and reporting requirements

The monitoring requirements in the BCMP, VMP, KPOM, AFMP, BCPM, AFMP, ASSMP and GMP 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;
- e. Sampling and analysis methodologies to be used; and
- f. Data analysis methodologies including thresholds, limits and triggers for contingency actions.

The reporting requirements in the BCMP, VMP, KPOM, AFMP, BCPM, AFMP, ASSMP and GMP shall be updated in the CEMP to include, but not be limited to:

- a. Analysis of all monitoring and sampling data against baseline data and approved thresholds (in the approved CEMP), 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 Stage 4, 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 (being the notice of commencement of works to the Principal Certifying Authority). The report is to be to the satisfaction of, and submitted to Council and any remedial and or mitigation works as required by Council complied with, within the time stipulated.

14. Contaminated land remediation

A Remediation Action Plan (RAP) which includes an unexpected finds protocol must be prepared by an appropriately experienced and qualified consultant in accordance with the NSW Environmental Protection Authority (EPA) Consultants Reporting on Contaminated Land – Contaminated Land Guidelines (2020), to address lead contamination identified in the Detailed Site Investigation (Soil and Groundwater (Env Solutions, May 2018) and must be submitted to Council's Director of Planning (or nominee) at least 30 days before the commencement of the remedial work.

Remedial work must be completed and validated in accordance with the RAP and a notice of completion submitted to Council's Director of Planning before any other works commence. The notice of completion must be accompanied by a validation report specifying the standard of remediation achieved, which must be consistent with site's approved residential use. The notice is to be prepared by an EPA accredited site auditor and must conform to the NSW EPA Consultants Reporting on Contaminated Land – Contaminated Land Guidelines (2020), and must also include information confirming that the EPA and all other regulatory requirements have been met. In particular documentary evidence is to be provided showing that any off-site disposal of contaminated material has been undertaken in accordance with the RAP and applicable regulatory requirements.

An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of Subdivision Works Certificate for each stage. The UFP shall be prepared by a suitably qualified person experienced in matters relating to contamination of land and remediation.

15. Groundwater interaction with road pavement

Prior to the issue of Subdivision Works Certificates for each stage, all proposed road pavement works within that stage are to be shown to be above the level of the groundwater under the road. This reporting is to be undertaken by a suitably qualified engineer and hydrogeologist. The detailed design of each stage of works is to include any required protection measures for the pavement layers from groundwater effects.

This information is to be provided in the updated Groundwater Management Plan as required by **condition 11**.

16. Deleted by DA 10.2017.201.2**17. Road pavement design**

Prior to the issue of Subdivision Works Certificates for each stage, a pavement design report is to be provided by a suitably qualified geotechnical engineer providing a design for the road pavement. The road pavement is to be designed to suit minimum design equivalent standard axles (ESA) as per below:

- Distributor Road - 2×10^6 ESA (Road 01).
- Local/ Access Street – 3×10^5 ESA (All other roads).

The report is to note that the design has accounted for a 20 year design life of the road including projected construction traffic.

18. Unsuitable material

Prior to the issue of Subdivision Works Certificates for each stage the applicant is to submit a report that identifies the nature and quantity of any unsuitable material on site for removal that exist within that stage of works. Unsuitable material may be classified as such due to contamination, insufficient compressive strength or any other reasonable constraint. The CTMP for the applicable stage of works is to provide for the truck movements required to remove this unsuitable material.

19. Fill material

Prior to the issue of a Subdivision Works Certificate for each stage, the type of fill material to be used is to be nominated by a suitably qualified geotechnical engineer. The fill is to be provided with certification that it is clean, uncontaminated and suitable for use as engineering fill.

The nominated fill for swales or other areas that rely on infiltration is to be provided to the Certifying Authority for approval showing that the parameters of the fill meet the minimum infiltration rates as required by the Stormwater Management Plan.

The location of stockpile area(s) for imported fill material and stripped topsoil is to be shown on plans submitted with the application for a Subdivision Works Certificate.

Stockpile areas can be located outside of the stage work area, but appropriate erosion and sedimentation controls must be in place and regularly maintained in accordance with Managing Urban Stormwater – Soils and Construction (“the Blue Book”) as a minimum.

Stockpiles can remain in place between construction of stages but must be removed prior to completion of Stage 4 construction works.

20. Maximum disturbed area

Prior to the issue of Subdivision Works Certificates for each stage, the detailed design plans must show that the maximum area to be disturbed in that stage is 5ha or less. This 5ha maximum is inclusive of all works on site.

21. Works on neighbouring land

Prior to the issue of a Subdivision Works Certificate for each stage, any works shown on neighbouring land is to be provided with a letter by the affected landowner consenting to such works.

22. Master Stormwater Management Plan

Prior to the issue of the subdivision works certificate for Stage 1-B, a modified ‘Master’ Stormwater Management Plan shall be submitted to Council for approval including the following amendments:

- a. 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.
- b. Inclusion of the following items:
 - i. Catchment plan including all contributing external catchments (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; and

- iii. For existing flow paths 1, 2, 3 and 4, as per the Stormwater Management Plan (Rev E, Planit 27/8/20), 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.
- c. 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 be based on the Stormwater Management Plan (Rev E, Planit 27/8/20).

23. Stage Specific Stormwater Management Plan

Prior to the release of the Subdivision Works Certificate for each stage of the development a stage specific Stormwater Management Plan is to be submitted showing how the relevant stage meets the requirements of the 'Master' Stormwater Management Plan.

The stage specific Stormwater Management Plan must be based on all previously constructed works, modelling and reporting that has occurred prior to the stage of works in review. Where the stage specific Stormwater Management Plan differs from the Master Stormwater Management Plan justification is to be provided to Council's Director of Planning (or nominee) for approval.

The stage specific Stormwater Management Plan is to address:

- a. Stage catchments (external and internal);
- b. Temporary re-routing of drainage paths in accordance with **condition 29**;
- c. Water quality, by ensuring each stage satisfies the water quality objectives set in the Master Stormwater Management Plan;
- d. Legal points of discharge for the relevant stage;
- e. Minor and major flow conveyance; and
- f. Erosion and sediment control.

24. Main Drain Upgrade

The Master Stormwater Management Plan to be provided prior to the issue of the Subdivision Works Certificate for Stage 1-B, must include plans and details of the proposed upgrades to the Main Drain as per the Stormwater Management Plan (Planit, Rev E, 27/8/2020). The plans and details must include:

- a. Longitudinal sections;
- b. Cross Sections; and
- c. Batter stabilisation (turfing or other).

The profile of the Main Drain upgrades are to be supported by hydraulic calculations showing the Main Drain has the capacity to convey the major event flows, including the 8 megalitres/day flows expected to be discharged into the Main Drain by the upstream sewage treatment plant.

An approval is to be obtained under Section 68 of the *Local Government Act 1993* to carry out stormwater works prior to the commencement of those works.

25. Main drain stability

Prior to the issue of any Subdivision Works Certificate that includes any works within the Main Drain or works that discharge water into the Main Drain, a suitably qualified geotechnical engineer is to provide certification that the Main Drain batters in the affected areas are suitably stable for the works and the resulting flows. Any recommended stability works must be included in the detailed design and approved as part of the Subdivision Certificate Works.

26. Construction Traffic Management

Prior to the issue of a Subdivision Works Certificate for each stage, a Construction Traffic Management Plan (CTMP) specific for the proposed works is to be provided. The CTMP must address as a minimum:

- a. Construction traffic volumes/ day, as well as providing a commitment to a maximum number of truck movements on site per day the maximum size (length) of trucks and a program to monitor and report this to Council. The volume of trucks calculated must include both import of fill material and export of unsuitable materials, as well as all other traffic movements expected throughout the construction of the relevant stage of works;
- b. Planned construction routes and site entry points;
- c. Pedestrian and vehicle movement plan for the public;
- d. Hours of work;
- e. Noise and vibration;
- f. Dust mitigation; and
- g. Flora and fauna protection.

As a minimum, the CTMP is to commit to the following measures to reduce the impacts of construction traffic on Ewingsdale Road:

- a. Schedule the works involving the greatest volume of truck movements outside of school holiday or public holiday periods;
- b. Carrying out works only as per the approved working hours;
- c. The haulage route for trucks to be to/from the Pacific Highway and to avoid the Byron Bay town centre; and
- d. Trucks entering the site are not to exceed 10 trucks in any 1-hour period, or 5 trucks during the period 8.00 am to 9.00 am.

The CTMP is to commit to weekly monitoring of construction traffic movements during any phase of work which is predicted to involve more than 10 trucks per day entering or leaving the site. For the duration of those works, the following must be recorded daily:

- a. The total number of construction traffic movements relates to the works (not including private vehicles transporting construction workers to the site);
- b. The number of vehicle movements relates to importing fill to the site;
- c. The number of vehicle movements relating to exporting unsuitable/excess material from the site;
- d. Any construction traffic incidents; and
- e. Any construction traffic complaints.

The CTMPs must address the proposed vehicle and pedestrian movements on Melaleuca Drive and show how residents on this road can safely gain vehicular and pedestrian access to, and from, Ewingsdale Road while the works are underway.

27. Bayshore Drive Roundabout Approach

Prior to the issue of a Subdivision Works Certificate for Stage 1-B, detailed design documents are to be provided to the Certifying Authority showing at least a 30m length of dual lane approach on Road 1 to the Bayshore Drive/Ewingsdale Road roundabout.

The extension to the existing partially constructed median is to be provided as required to Austroads Guide to Road Design requirements as part of Stage 1-B.

28. Bus Stop

Bus stops on either side of the Road 01 are to be located generally in accordance with those shown on PLANIT drawing 0302 Rev C, including bus stands, connecting footpaths and pedestrian refuge (Ch 450-560). If the neighbouring development has a Subdivision Works Certificate issued which formalises a bus stop location(s) on the neighbouring land, the bus stop locations on the subject land may be adjusted in consultation with Council's Director of Planning (or nominee).

Swale crossings or culverts to convey major flows under extended hardstands at bus stop areas are to be provided to allow safe pedestrian access to the bus stops. Pedestrian ramps are also to be provided at bus stop locations.

29. Disruption to Existing Drainage Patterns

Prior to the issue of a Subdivision Works certificate for each stage of works that includes earthworks, the engineering plans must indicate how any existing drainage patterns affected by the works can be managed such that they are safely conveyed to their pre- development point of discharge unless they form part of a redirected catchment as per the Stormwater Management Plan (PLANIT, Rev E dated 27/8/20). The plans are to clearly show where all upstream stormwater flows are conveyed.

30. Probable Maximum Flood (PMF) Evacuation Plan

Prior to the issue of a Subdivision Works certificate for each stage of works a flood evacuation plan is to be provided to show appropriate evacuation routes for the proposed lots in the PMF event.

The evacuation plan is to show that the route provides safe vehicular and pedestrian access to an area on/ north of Ewingsdale Road not affected by the PMF to the satisfaction of Council.

31. Updated Biodiversity Conservation Management Plan (BCMP) and Vegetation Management Plan (VMP)

Prior to the issue of the Subdivision Works Certificate for Stage 1-A, a modified BCMP shall be submitted to Council for approval including the following additions:

- a. Inclusion of all areas of zone E2 (Environmental Conservation) land within the site and details of ongoing management of vegetation and habitat within these areas; and
- b. Inclusion of specific, long-term management measures for the buffers between zone R2 (Low Density Residential) and E2 land (E2 Zone Buffer, J6539_001, Rev 1, 21/5/20).

32. Acid Frog Management Plan (AFMP)

Prior to the issue of the Subdivision Works Certificate for Stage 3, a modified AFMP shall be submitted to Council for approval including the following additions:

- a. Details of proposed monitoring of pH and water levels of groundwater in and/or adjacent to wallum sedge frog and wallum froglet habitat and wetlands, before, during and post subdivision construction.
- b. Updated monitoring provisions that detail monitoring to continue for at least 10 years from the commencement of subdivision works (being the notice of commencement of works to the Principal Certifying Authority) including annual reporting. The report is to be to the satisfaction of, and submitted to Council and any remedial and or mitigation works as required by Council complied with, within the time stipulated.

33. Baseline surface water quality assessment

Prior to issue of a subdivision works certificate for Stage 1-B, 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 surfacewater quality, sediment quality (the level of contaminants/toxicants in sediment that underlies a waterway/waterbody) 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.

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 Stage 1-B.

34. Acid Sulfate Soils Management Plan (ASSMP)

Acid sulfate soils are to be managed generally in accordance with the recommendations in the Acid Sulfate Soil Management Plan (West Byron Urban Release Area HMC 2016.119 November 2016). Prior to the issue of the Subdivision works certificate for each stage, an updated ASSMP shall be submitted to Council for approval which includes but is not limited to:

- a. Identification of activities that are expected to intersect and disturb acid sulfate soils;
- b. Identification of the acid sulphate soils risks and identified acid sulphate soils layers on site;
- c. Estimation of volumes of acid sulphate soils requiring treatment and proposed treatment measures;
- d. Estimated liming rates and treatment procedures;
- e. Validation procedures and target criteria for treated soils;
- f. Monitoring protocols and target criteria as per the Acid Sulfate Soil Manual (ASSMAC, 1998) guidelines for surface and groundwater within the site; and
- g. Monitoring protocols for Belongil Creek including baseline data and target criteria for water quality and Ph levels as per Guidelines for Fresh and Marine Water Quality (ANZECC & ARMCANZ 2000) and Guidelines for Managing Risk in Recreational Water (NHMRC, 2008).
- h. Incorporating data and learning from monitoring to date. Include adaptation and contingency measures garnered from monitoring conducted to date.
- i. The plan must also include measures to minimise the impact of any acid sulfate soils treatment on the pH of the environments required for targeted acid frogs.

Investigations and management of acid sulfate soils must be undertaken by a suitably qualified and experienced environmental consultant in accordance with the Acid Sulfate Soil Manual (ASSMAC, 1998).

35. Construction Environmental Management Plan (CEMP)

A CEMP is to be prepared and submitted to Council. The CEMP shall document all environmental related commitments for each Stage of development including but not limited to mitigation, management, restoration, monitoring and reporting detailed in the approved BCMP, VMP, KPOM, AFMP, BCPM, AFMP, ASSMP and GMP.

The CEMP is to be developed so that it can receive new information gathered from ongoing monitoring and modelling and be adapted as necessary to accommodate any necessary design changes and/or contingency measures.

Independent environmental audits of compliance with the CEMP are to be undertaken by a suitably qualified and experienced person/s and documented in a report.

The CEMP, including the independent environmental audit of compliance with the CEMP, is to be submitted to Council for approval prior to the commencement of each stage. Any non-compliance/s are to be satisfactorily addressed before commencement of the following stage.

The CEMP must specify that the successful contractor is to understand the interrelationships and potential conflict during construction between surface, groundwater, vegetation, acid sulphate soils, acid frog habitat and benthic invertebrates. The successful contractor is to retain competent environmental consultants to ensure that the CEMP is understood fully and implemented as required.

36. Amended Landscaping Plan

Updated landscaping plans must be submitted as part of the subdivision works certificate application for each stage. The updated landscaping plans must be prepared by a suitably qualified and experienced landscape architect / architect / ecologist and meet the relevant requirements of Chapter B9 of Byron Development Control Plan 2014.

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

- a. Details of the landscaping to be carried out for the formal entry statement (the area south of the Bayshore Drive roundabout and east of Road 1), the Ewingsdale Road buffer, the Main Drain corridor and all other areas identified as "Link Park", "Recreational Open Space" and "Stormwater Area" on the Open Space Plan (J6539_102 Rev 03, 16.6.20).
- b. Use of "fauna-neutral" plant species in the Ewingsdale Road buffer area (refer to plan) 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.
- 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. Proposed location for planted shrubs and trees – trees should be located clear of infrastructure and service pits.
- i. 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.
- j. Mature height, location and density of trees to be planted.
- k. Location of grassed and paved areas.
- l. Locations and design of acoustic barriers.
- m. Details of how landscape planting will be maintained and a description of any passive watering arrangements through water sensitive urban design.
- n. An analysis of the amended landscape plan against relevant provisions of Chapter B9 of Byron Development Control Plan 2014.

The updated landscaping plans must be approved by Council's Director of Planning (or nominee) as part of the Subdivision Works Certificate for each Stage.

37. Vibration Management Plan

Prior to the commencement of any excavation works requiring vibratory rolling, rock drilling, blasting or breaking on the site, a Vibration Management Plan prepared by a suitably qualified and experienced person must be submitted to and approved by Council. The Plan must address, but not be limited to, the following matters:

- a. Identification of the specific activities that will be carried out;
- b. Identification of all potentially affected sensitive receivers;
- c. Determination of appropriate vibration objectives for each identified sensitive receiver;
- d. Vibration monitoring, reporting and response procedures;
- e. Assessment of potential vibration from the proposed construction activities;
- f. Description of specific mitigation treatments, management methods and procedures that will be implemented to control vibration during construction;
- g. Procedures for notifying residents of construction activities that are likely to affect their amenity through vibration, and
- h. Contingency plans to be implemented in the event of non compliance and/or complaints.

38. Details of acoustic barrier

Details of the proposed acoustic barriers and acoustic walls, as described in the Environmental Noise Impact Assessment (Ref: crgref: 16147 report rev.6 CRG Acoustics 25 August 2020) are to be submitted to Council for approval prior to installation. The details are to be prepared by a suitably qualified acoustical engineer.

39. Public/Recreational Open Space Plan

Details of the proposed facilities for the public/recreational open space to be dedicated to Council are to be detailed in a plan to be submitted to Council for approval prior to installation. The plan shall include a consideration of the park facilities required under Prescriptive Measures 3 and 5 of E8.10.7 Byron Development Control Plan 2014.

Note: Developer contributions credits will be provided for the provision and embellishment of new neighbourhood parks as works in kind in accordance with Council's Developer Contributions Plan 2012 Amendment 3.

40. 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 as issued under Section 100B of the Rural Fires Act 1997 for this development have been complied with in relation to any necessary subdivision works.

41. Works within road reserves

Consent under the *Roads Act 1993* must be obtained from Council for all works within public road reserves managed by Council or, for Classified Roads, approval from Transport for NSW.. All works within any Classified Road are to be designed and undertaken in accordance with applicable TfNSW requirements.

42. 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

Full width road and drainage construction for all proposed roads within the relevant stage, as per Drawing 0600 Rev B.

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 Drawings 0300, 0301, 0302, 0303 and 0304, and with the Harvest Estate Landscape Masterplan. In addition, 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) in accordance with Harvest Estate Landscape Masterplan addendum (drawing J7148 dated Sept 2023);
- (ii) a path (minimum 1.2m wide) providing connectivity from the Road 3 cul-de-sac to the path through the open space identified in the Harvest Estate Landscape Masterplan;
- (iii) a path (minimum 1.2m wide) providing connectivity from the Road 5 (in vicinity of CH80 Road 2) to the path through the open space identified in the Harvest Estate Landscape Masterplan;
- (iv) a shared pathway/cycleway (minimum 2.5m wide) providing connectivity from the Road 6 (in vicinity of CH300) to the path through the open space identified in the Harvest Estate Landscape Masterplan; and
- (v) no pedestrian link to the western side of Road 1 (near CH0).

c) Gutter/Verge Crossings

Gutter/verge crossings to each of the proposed new allotments that have a frontingswale 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) Driveway Access to Lot 2 DP 551947

A minimum three (3) metre wide concrete (or equivalent) driveway, together with all necessary services/service conduits (water, sewer, telephone, power, stormwater) to Lot 2 DP 551947. The driveway must comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and the RFS General Terms of Approval.

e) Driveway Access to Lots 148 & 149

A minimum three (3) metre wide sealed driveway with passing bays, together with all necessary services/service conduits (water, sewer, telephone, power, stormwater) to the proposed dwelling sites of proposed Lots 148 & 149. The driveway must comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and the RFS General Terms of Approval. If the neighbouring development has a Subdivision Works Certificate issued which formalises a more suitable public road access point on the neighbouring land, the driveway access on the subject land may be adjusted in consultation with Byron Shire Council.

f) Turn Around Areas

All turn around areas are to be minimum 12 metre outer radius to suit Planning for Bushfire Protection 2019 or shall be provided in accordance with the General Terms of Approval from NSW Rural Fire Service dated 6 November 2020 and contained in **Schedule 1** of this Notice of Determination.

g) Service Conduits

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

h) Street Name Signs

Street name signs and posts to all proposed new roads.

i) 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.

j) 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.

k) 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. 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 1, 2, 3 and 4, as per the Stormwater Management Plan (Rev E, Planit 27/8/20), 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. The above must be satisfied prior to issue of a Subdivision Works certificate for Stage 1-B as part of the 'Master' Stormwater Management Plan;
- 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 proposed 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:
 - 0.4m²/s where pedestrian traffic is expected (footpath/ road).
 - 0.6m²/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;
- viii) As part of the Stage 1-B subdivision works certificate, the swale along the perimeter of lots 2 and 3 DP551947 is to be shown to have the capacity to safely convey the 1% AEP flows from lots 2 and 3 DP551947 and any other contributing catchment to the swale along the southern perimeter of said lots; and
- ix) Pits in roads are to be located outside kerb returns.

I) 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 (Rev E, Planit 27/8/20).

The arrangement of basin and swales is to generally be in line with the Stormwater Management Plan (Rev E, Planit 27/8/20), 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/m² 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 are to be shown to be above the surrounding groundwater levels or appropriately lined.

m) 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.

n) 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 Drawings 0200 and 0201 (Rev B) and the Flood Impact Assessment (Rev 0, BMT, 10/6/20).

o) 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.

p) Road 4 culverts

Prior to the issue of a Subdivision Works Certificate for Stage 3 detailed design is to be provided to the satisfaction of the Certifying Authority (i) that the culverts under Road 1 conveying the Main Drain flows have the capacity to convey the 2100 climate change 1% Annual Exceedance Probability flows with minimum 0.3m freeboard to the underside of the culvert, and (ii) that show the conveyance of stormwater flows under the extended hardstand area for the bus stops. Flow widths and depth in the minor and major events are to be addressed in line with the Northern Rivers Design Guidelines

43. Sewerage and water mains

An approval is to be obtained under Section 68 of the *Local Government Act 1993* to carry out water supply and sewerage works, prior to the commencement of these works.

Sewerage and water mains are to be extended to service all residential allotments in the subdivision. All Council gravity sewerage mains are to be a minimum 150 mm diameter and water mains are a minimum 100mm diameter.

A water trunk main of 250mm diameter is to be designed to service the development from the 300mm Trunk Main located along Ewingsdale Road linking through to the adjacent development to the east and ultimately connect to the existing 400mm diameter Trunk Main running from Coopers Shoot. No water service tapping will be permitted on $\geq 250\text{mm}$ diameter trunk mains, all residential service tapping are restricted to water reticulations mains between 100mm diameter and $<250\text{mm}$ in diameter.

Water supply and sewerage works are to comply with, as a minimum, Council's latest Standards and Policies including but not limited to:

- Development Design and Construction Manuals, Northern Rivers Local Government, 2009;
- Development Servicing Plan for Water Supply Services, Byron Shire Council, 2011;
- Development Servicing Plan for Sewerage Services, Byron Shire Council, 2011;
- Fire Flow Design Guidelines, Water Directorate, 2011;
- Water and Sewer Equivalent Tenement Policy (13/005), Byron Shire Council, 2013;
- Pressure Sewerage Policy (12/014), Byron Shire Council, 2012.
- Private Sewer Pump Station Policy (12/015), Byron Shire Council, 2012.

44. Traffic Control Plan

The plans and specifications accompanying the Subdivision Works Certificate application for each stage are to include a traffic control plan to indicate the measures to be employed to control traffic on public roads during construction of the subdivision. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual (1998), *Traffic Control at Work Sites*, and Australian Standard 1742.3 -1985, *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Work on Roads'*.

The traffic control plan must be prepared by a suitably qualified and Roads and Maritime Services/Transport for NSW accredited person.

Traffic Control Plans which comply with the above requirements must be submitted to and approved by Council prior to the commencement of each stage of works.

45. Erosion and Sedimentation Control Plan

The plans and specifications to accompany the subdivision works certificate application are to include an Erosion and Sediment Control Plan (ESCP). The ESCP is to detail the measures to be employed to control erosion and loss of sediment from the site, is to be prepared in accordance with the requirements of Managing Urban Stormwater: Soils and Construction (NSW Government, 2004) and is to be generally in accordance with Drawings 0610, 0611, 0620, 0630, 0640, 0650, 0660, as detailed in condition 1.

The plan must include, without being limited to:

- a. Information on general site management;
- b. Material handling practices;
- c. Soil stabilisation;
- d. Stockpile location

- e. Sediment basin inclusion and maintenance;
- f. Water control;
- g. Sediment control;
- h. Wind erosion control;
- i. Water quality monitoring during construction works;
- j. Specific measures to protect sensitive environments such as frog habitat, vegetation to be retained, waterways and E2 zoned land, and
- k. Access measures and any fencing of 'No Go Zones' as required by the CEMP or other related reports.

A suitably qualified and experienced person must prepare the ESCP.

Note: Suitably qualified people include those certified by:

- The Institution of Engineers, Australia, for engineering and hydrology matters.
- The International Erosion Control Association for soil conservation matters.
- The Australian Society of Soil Science for collection or analysis of soil data.

46. Long Service Levy to be paid

Long Service Levy in accordance with the requirements of the Long Service Corporation is required to be paid prior to issue of the Subdivision works Certificate for each stage of development. This is a State Government Levy and is subject to change.

These payments may be made online at www.longservice.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. Where paying to Council, cheques are to be made payable to 'Byron Shire Council'.

For further information regarding the Long Service payment please refer to the website above.

47. Street Name Application to be lodged

Street / road names for the subdivision must be submitted for Council approval prior to issue of the Subdivision works Certificate for each stage.

An application for approval of a street name must be in writing (letter or email) and is to include:

- a. at least two (2) names for each proposed road in preferential order;
- b. the location and extent of the road;
- c. background/history of the selected name/s;
- d. details on why the selected name is considered to be appropriate;
- e. details on how the selected name conforms with Council's Street Names policy(07/102), and the NSW Address Policy and Guidelines;
- f. a locality plan;
- g. a layout plan showing proposed road/s and selected name/s suitable for publishing in the local newspaper; and
- h. payment of fees in accordance with Council's adopted schedule of fees and charges.

48. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Subdivision works Certificate in connection with each stage of the development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- a. the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- b. the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Note: "Real estate development project" has the meanings given in section 372Q of the Telecommunications Act.

49. Not used.

50. Site Waste Minimisation and Management Plan

Prior to the issue of a Subdivision works Certificate for each stage of the development, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. A template is provided on Council's website to assist in providing this information www.byron.nsw.gov.au/files/publication/swmmp-pro-forma-doc

51. Long-term delivery of environmental restoration and management

A draft positive covenant pursuant to Section 88E of the *Conveyancing Act 1919* is to be submitted to Council for approval prior to the issue of Subdivision Works Certificates for Stages 1 and 3. As outlined below the proposed Section 88E Instrument is to provide for the ongoing maintenance, management, monitoring and reporting of vegetation and frog habitat, on proposed Lots 146, 147, 148 and 149 (as identified on the Overall Masterplan, drawing no. J6539_001, Rev 06 dated 27/05/2020 prepared by Planit Consulting Pty Ltd).

The positive covenant is to create an obligation on future owners of Lots 146, 147, 148 and 149 to carry out ongoing maintenance, management, monitoring and reporting of the identified rehabilitation zones, existing vegetation, existing frog habitat and created frog habitat and E2 zoned land in accordance with the relevant requirements of the approved CEMP and associated management plans approved pursuant to condition 35.

The positive covenant must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the instrument.

52. Stormwater drainage

Unless exempt from obtaining an approval under section 68 of the *Local Government Act 1993* by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Subdivision Works Certificate for stormwater drainage works.

53. Mosquito management

The subdivision development is to incorporate design measures to limit the habitat for mosquitoes. Such measures to be incorporated into the design of the development must include but not be limited to:

- a. Stormwater ponds and artificial wetlands to be located in open areas to enable wind action to create surface waves that will help disrupt mosquito breeding and reduce habitat refuges for immature mosquitoes;
- b. Stormwater swales are to be designed to ensure ponding or standing water does not occur after rainfall events;
- c. Asset Protection Zones for bushfire protection purposes around residential development are to be suitably designed to reduce habitat for mosquitoes; and
- d. Appropriate plant selection and management of vegetation to reduce habitat opportunities for mosquitoes.

54. Certification of fill to be provided to Council

Documentation certifying that fill proposed for use on the subject site is from a source that is clean and uncontaminated must be provided to Council prior to the issue of a Subdivision works Certificate for the relevant stage of development.

55. Lots 69 and 70 Sight Distance

Prior to the issue of a Subdivision Works certificate for Stage 3, sight distance plans are to be provided to show that vehicles leaving proposed lots 69 and 70 have adequate sight distance to safely exit the lots to the satisfaction of Council.

56. Road 1 Safety Measures

Prior to the issue of a Subdivision Works certificate for Stage 1-B, appropriate safety measures are to be provided for errant vehicles and pedestrians along Road 1 where there is a retaining wall or steep batter between the road formation and the adjacent land.

The safety measures are to be detailed as part of the Stage 1-B Subdivision Works Certificate application and are to be approved by Council.

57. Access to Lot 2 DP551947

A right of carriageway and easement for services over the public land is to be shown connecting the end of Road 2 with Lot 2 DP 551947. This is to be shown in the Stage 1-B Subdivision Works Certificate plans.

58. Emergency access provision

Prior to the issue of a Subdivision Works Certificate for Stage 3, a design must be provided for a two way all-weather access road providing secondary emergency access from the intersection of Roads 1 and 6 to Ewingsdale Road. This access road is to be constructed as part of Stage 3.

A lockable gate or similar to Council's approval, must be provided at the emergency access location closest to Ewingsdale Rd to eliminate unlawful use of this access way.

If/when the permanent West Byron Urban Release Area secondary access point is operational at the SAE roundabout and through connection is available from Road 01 to this secondary access point, the temporary emergency access is to be removed at the applicant's expense unless Council deems the access appropriate to remain for the purpose of further emergency access.

Prior to the issue of a Subdivision Works Certificate for Stage 3, a bond is to be lodged to Council for the removal of the temporary emergency access. The value of the bond is to be approved by Council and cover the cost of the removal of the emergency access road and all ancillary works.

59. CEMP – reporting and review

An independent environmental audit of CEMP implementation is to be undertaken by a suitably qualified person/s and submitted to Council for approval prior to the commencement of the each Stage of the development. Any non-compliance/s are to be documented along with contingency measures undertaken along with suggested alterations to future stages and the CEMP.

The review of compliance with the CEMP should include but not be limited to:

- a. Surface water quality monitoring and impacts;
- b. Adequacy of erosion and sediment control measures;
- c. Groundwater level and quality;
- d. Acid frog monitoring and habitat health;
- e. Threatened species monitoring and health;
- f. Vegetation rehabilitation and management progress;
- g. Mosquito management;
- h. Dust control;
- i. Noise and vibration management;
- j. Acid sulfate soil management; and
- k. Contaminated land management.

The following conditions are to be complied with prior to commencement of subdivision works

60. Subdivision work

Subdivision work in accordance with the development consent must not be commenced until a Subdivision Works Certificate has been issued, a principal certifying authority has been appointed and at least 2 days' written notice for the intention to commence works has been made, in accordance with the requirements of the *Environmental Planning and Assessment Act and Regulations*. The written notice for the intention to commence works must also include names and contact details of the certifying engineer and principal contractor.

Note: Subdivision work means any physical activity authorised to be carried out under the conditions of this development consent for the subdivision of land, including earthwork, road work, stormwater drainage work, landscaping work, tree/vegetation removal, erosion and sediment control, traffic control, etc.

61. Public Liability Insurance

Prior to the issue of the first Subdivision Works Certificate in relation to the development, the developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$20 million. Council is to be nominated as an interested party on the policy.

62. Erosion and sediment measures

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan prior to the commencement of each stage of the development.

No soil or fill material is to be placed within the dripline of a tree that is to remain so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

63. Acid sulfate soils treatment and storage

All treatment and storage facilities associated with the approved Acid Sulfate Soils Management Plan must be in place prior the commencement of any subdivision works.

64. Generic Acid Sulfate Soil Management Plan for Landowners

A generic Acid Sulfate Soil Management Plan is to be prepared for the use of landowners and developers of vacant residential lots prior to the commencement of subdivision works for Stage 1-B. The Plan to address standard development issues such as footings for a dwelling and earthworks for services to the dwellings.

65. Metered Stand Pipe required

Prior to the commencement of any civil works requiring water from Council water main, a metered Stand Pipe for temporary water supply must be supplied and installed by Council.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

The following conditions must be complied with during subdivision works

66. Construction noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

67. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

68. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.

69. Council Specification

All works to be constructed to at least the minimum requirements of the "[Northern Rivers Local Government Design and Construction Manual](#)".

Water supply and sewerage works are to comply with, as a minimum, Council's latest Standards and Policies including but not limited to:

- Development Design and Construction Manuals, Northern Rivers Local Government, 2009;
- Development Servicing Plan for Water Supply Services, Byron Shire Council, 2011;
- Development Servicing Plan for Sewerage Services, Byron Shire Council, 2011;
- Fire Flow Design Guidelines, Water Directorate, 2011;
- Water and Sewer Equivalent Tenement Policy (13/005), Byron Shire Council, 2013;
- Pressure Sewerage Policy (12/014), Byron Shire Council, 2012.
- Private Sewer Pump Station Policy (12/015), Byron Shire Council, 2012.

70. Approved Subdivision Works Certificates to remain on site

Copies of the approved Subdivision Works Certificates including approved plans, details, supporting reports, specifications and the CEMP must remain at the site at all times during the construction of the subdivision.

71. Acid sulfate soils management

All soil disturbance and excavation works must be carried out in accordance with the approved Acid Sulfate Soils Management Plan (Condition 34).

72. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

73. Aboriginal Cultural Heritage

The recommendations of the Harvest Estate, West Byron NSW: Cultural Heritage Assessment (Everick Heritage Consultants, October 2017) shall be implemented during subdivision construction works.

74. Access to Ewingsdale Road for Melaleuca Drive residents

Safe and suitable vehicular and pedestrian access to the properties on Melaleuca Drive is to be provided at all times. Where access arrangements are to be modified, the residents are to be notified five (5) days prior to the changes being made, with clear instructions of how access will be provided during construction works.

75. CTMP monitoring

For the duration of the subdivision construction works, the following must be recorded daily:

- a. the total number of construction traffic movements related to the works;
- b. the number of heavy vehicle movements;
- c. the number of light vehicle movements;
- d. the number of vehicle movements related to importing fill to the site;
- e. the number of vehicle movements related to exporting unsuitable/excess material from the site;
- f. any construction traffic incidents;
- g. any construction traffic complaints; and
- h. the source of imported material and the disposal location of exported material.

A report that includes the above construction traffic monitoring shall be provided to Council fortnightly for the duration of the subdivision construction works.

76. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

77. Maintenance of sediment and erosion control measures

Sediment and erosion control measures specified in the approved Erosion and Sediment Control Plan must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

78. Groundwater Monitoring

Monitoring of groundwater levels and quality shall continue during subdivision works in accordance with the approved GMP and the relevant conditions in this consent.

79. Belongil Creek and Main Drain monitoring

Monitoring of the Main Drain and Belongil Creek shall continue during subdivision works in accordance with the approved BCPM, ASSMP and the relevant conditions of this consent. Baseline (pre-construction) monitoring results for the Main Drain and Belongil Creek must be used to inform analysis of subsequent monitoring data.

The following monitoring is required during the earthworks phase of the development, as the per the approved ASSMP under Condition 34:

- a. monitoring of treated, excavated acid sulfate soils to confirm neutralisation and success of treatment procedures;
- b. visual monitoring for (i) unexplained scalding or degradation of vegetation, (ii) green-blue or extremely clear water indicating high concentrations of aluminum;
- c. loss of neutralising agent from temporarily stockpiled material, bunds and treatment pads following rainfall events; and
- d. regular monitoring of leachate collection ponds, stormwater retention basins and water discharged from the site.

80. Frog and threatened species monitoring

Monitoring of frogs and threatened species shall continue during subdivision works in accordance with the approved AFMP, BCMP and the relevant conditions in this consent.

81. Additional Stage 1 stormwater basin

An additional stormwater basin has been identified as a possible contingency measure to minimise adverse impacts of stormwater entering the wallum sedge frog and wallum froglet habitat and wetlands within proposed Lot 146.

The location of the additional basin is identified as “ephemeral basin subject to detailed design if required” on the Road and Drainage Plan, Sheet 1 of 6 (Drawing 0300, Rev C, 27/8/20).

In the event that the additional stormwater basin is identified as a recommended or necessary contingency measure:

- a. Detailed design of the proposed basin shall be provided to and approved by Council prior to the commencement of subdivision works that relate to Lot 146, including, but not limited to, engineering details, expected capacity and treatment ability, landscaping and maintenance requirements. The basin design should demonstrate that the proposed basin is designed to, and capable of, managing pollutants and nutrients in stormwater coming from the Bayshore Drive roundabout and Ewingsdale Road under a range of flow regimes;
- b. The Master and Stage 1 stormwater management plans shall be updated to incorporate the basin;
- c. The AFMP and/or CEMP shall be updated to incorporate the basin; and
- d. The approved basin shall be constructed and subject to relevant conditions be complied with during subdivision works.

82. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a ‘Builders Skips’ or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

83. All excavated soils to be disposed of off-site

All excavated soils to be disposed of off-site must be handled in accordance with NSW Environmental Protection Authority Waste Classification Guidelines (2014) and approved environmental management plans.

84. Removal of demolition and other wastes

All wastes, including asbestos and lead-contaminated wastes, associated with the subdivision works are to be handled, and disposed of, in accordance with the requirements of the Work Cover Authority. Documentary evidence that this condition has been met must be provided to Council. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW Environmental Protection Authority Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>.

85. Excavated natural materials and demolition waste disposal

All excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a NSW Protection of The Environment Operations Act s143 Notice.

Note: Template s143 Notices are available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/160095-notices143-form.docx>

86. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council’s stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

The following conditions must be complied with prior to issue of a Subdivision Certificate for each Stage of the subdivision

87. Subdivision Certificate application required

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

Note: The application MUST be one complete concise package addressing ALL conditions of consent relevant to the subdivision with a clear explanation how each condition has been complied with, together with supplying ALL the relevant information /documents/ certificate and/or plans that is required by that condition. Failure to provide the abovementioned information in one package will likely result in the application being refused or rejected and returned to you.

88. Plan of Subdivision

The final plan of subdivision must be in accordance with the approved plan/s. A Deposited Plan Administration Sheet (original plus one (1) copy), two (2) copies of the plan of subdivision and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a subdivision certificate.

An additional copy of the final plan of subdivision is to be submitted showing that each proposed residential lot within the R2 zoned land is capable of containing a building envelope of at least 12m x 15m in accordance with approved subdivision certificate workplans.

The final plan of subdivision must indicate lots to be transferred to Council.

89. Street addressing

In accordance with clause 60(c) of the Surveying and Spatial Information Regulation 2017 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot in the final plan of subdivision. The street address for this property must be approved by Council. A written request seeking approval of street addresses is to be submitted to Council's Land Information Officer (planning.certificates@byron.nsw.gov.au) with a copy of the final plan of subdivision showing driveway access to each lot from the public road servicing the lots.

Prior to issue of the subdivision certificate for each stage, the approved street number for each lot within that stage must be displayed in a prominent location near the approved driveway access for each lot with an existing dwelling/building approved for separate occupation.

90. Remediation of contaminated land

For any stage(s) subject to the lead contamination identified in the Detailed Site Investigation (Soil and Groundwater (Env Solutions, May 2018)), the application for a subdivision certificate must be accompanied by a Notice of Completion of remediation works and a Validation Report prepared by a suitably qualified person with experience in the remediation of contaminated land. The Notice of Completion and Validation Report must specify the standard of remediation achieved and certify that the site is suitable for the proposed use. The report must conform to NSW EPA *Consultants Reporting on Contaminated Land – Contaminated Land Guidelines (2020)*, and all other relevant statutory requirements.

Documentary evidence must be provided confirming the method of disposal and destination of all contaminated soil removed from the site.

91. Section 88B Instruments

A Section 88B Instrument, under the *Conveyancing Act 1919* is to be submitted with the application for a subdivision certificate for each stage. The final plan of subdivision for each stage 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 Lot(s) as public reserve.

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) Rights of Carriageway/Easement for Services

The creation of suitable rights of carriageway and easement for services over the access and services/service conduits to proposed Lot(s) 148 and 149 for the benefit of the lot owners; and suitable rights of carriageway and easement for services over the public land connecting the end of Road 2 with Lots 2 & 3 DP 551947, for the benefit of the lot owners and Byron Shire Council.

i) 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.

j) Easement for Electricity

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

k) 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*".

l) 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*".

m) Easement for Support

The creation of suitable easements for support to suit the arrangement of retaining walls built as part of Stage 4 works, where the retaining wall at the rear of one lot supports the adjoining lot. The creation of a suitable easement for support to suit the arrangement of retaining wall/s built on Lot 146 supporting Road 1.

n) 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 of at least 3000 litres 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.

o) Restriction on keeping of cats and dogs

A restriction on the use of land on all residential lots and lots 146, 147, 148 and 149 which prohibits the keeping of cats and dogs other than official guide dogs or personal assistance dogs.

p) Restriction on future subdivision of Lots 146, 147, 148 and 149

A restriction on the use of land that prohibits further subdivision of proposed lots 146, 147, 148 and 149.

q) Restriction on use of Lots 146, 147, 148 and 149

The restriction on the use of land applying to the entire area of proposed Lots 146, 147, 148 and 149 but for the areas identified as "Privately Managed Areas" on the Vegetation Clearing Plan (J6539_201, Rev 02, 22/5/20). The restriction shall prohibit, except as otherwise permissible by law, all of the following within the area covered by the restriction on user:

- 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 or maintenance 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

92. Restriction on short-term rental accommodation

- a)** A restriction on the use of land on all residential lots and lots 146, 147, 148 and 149 which prohibits the use of residential accommodation on the land for short-term rental accommodation.

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

93. Section 88E Instruments

The positive covenant under Section 88E of the Conveyancing Act 1919, approved by Council under **condition 51**, must be registered on title prior to issue of the subdivision certificate for Stage 1 and Stage 3.

Documentary evidence is to be provided with the application for subdivision certificates for Stages 1 and 3 that the positive covenant has been registered on the title to the land.

94. Completion of all works

All subdivision works required by this development consent, and associated Subdivision Works Certificate, are to be completed prior to issue of the subdivision certificate. A copy of the final completion letter/s, issued by the Principal Certifying Authority, and final plumbing certificate, issued by the water supply authority, for the relevant subdivision works must be submitted with the application for a subdivision certificate.

95. Erection of street signs

The applicant is to supply and erect street signs for the approved street names in accordance with this development consent and the Subdivision Works Certificate approval.

96. Certificates for engineering works

All test certificates, owners manuals, warranties and operating instructions for civil works, mechanical and/or electrical plant, together with a certificate from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans, conditions of consent and Council's current "Northern Rivers Local Government Design and Construction Manuals and Specifications" must be submitted to and approved by Council prior to the issue of the subdivision certificate.

97. Works-As-Executed Plans

Following completion of works and prior to issue of the subdivision certificate, Work-as-Executed Drawings, together with a Work-As-Executed Certification Report, in accordance with Council's requirements are to be submitted to Council. Further, a Road Safety Audit (completed by an accredited Level 3 Road Safety Auditor listed on the RSA register) is to be submitted to Council that confirms that all works (road widths, footpaths, shared paths and pedestrian refuges) comply with the approved engineering plans and required sight distances for refuges. The scope of the RSA shall include confirmation that all lots can comply with AS2890.1-2004, with respect to safe driveway locations. Two categories of Work-as-Executed Drawings are to be submitted to Council, being **Amended Design Work-as-Executed Drawings** and **Summary Work-as-Executed Drawings** as follows:

- a. **Amended Design Work-as-Executed Drawings**, being certified copies of all approved design plans with as constructed departures, deletions and additions clearly noted and detailed on the plans, are to be submitted to Council in the following formats:-
 - i. One (1) paper copy at the same scale and format as the approved design plans, but, marked appropriately for as constructed information and with original signatures; and
 - ii. An electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

- b. **Summary Work-as-Executed Drawings** are to be prepared on a background plan of lot layout and kerb lines with a set of separate plans for stormwater drainage, sewerage, water supply and site works. The site works drawing/s must include the 1 in 100 year flood and flood planning level extents and levels, where relevant. Such drawings are to be submitted to Council in the following formats:-
- i. One (1) paper copy of each drawing with original signatures and in accordance with Council's requirements.
 - ii. Electronic copy of the above in AutoCAD DWG or DXF format and provided to Council on CD, DVD or via email. The AutoCAD (DWG or DXF) files are to be spatially referenced to MGA Zone 56.
 - iii. Electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Note: Council's requirements are detailed in Council's adopted engineering specifications, currently the [Northern Rivers Local Government Development Design and Construction Manuals](#), and on Council's website.

98. CCTV Inspection and Report

CCTV inspection must be undertaken on all completed underground pipe systems, including minor sewer main extensions, in accordance with Council's specification.

Both a hardcopy and electronic copy of the report (submitted in CD or DVD medium in a format suitable to Council) of the CCTV inspection must be provided to Council for consideration prior to the release of the Subdivision Certificate, Occupation Certificate, Final Inspection for Section 68 Approvals, "Off-maintenance" or Release of Security Bond.

99. Certificate for services within easements

Prior to the release of the Subdivision Certificate, a certificate from a registered surveyor certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements must be provided to Council.

100. Water service and meter to be connected to each lot

Prior to the release of the Subdivision Certificate, a water service and water meter must be connected to all residential allotments in the subdivision using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Note: Any new water service and meter will be at the applicants cost.

101. Electricity Supply Certificate

Prior to the issue of the Subdivision Certificate, a Notice of Arrangement (NOA) requested from the Distribution Network Service Provider, currently Essential Energy, must be submitted to the Principal Certifying Authority. The NOA must confirm that satisfactory electricity supply has been provided to each of the proposed lots and all necessary street lighting has been energised for the development.

Note: Requests for a NOA are to be made to the Contestable Works section at Essential Energy.

102. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Subdivision Certificate, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- a. The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- b. The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

Note: real estate development project has the meanings given in section 372Q of the Telecommunications Act.

103. Certificate of Compliance – *Water Management Act 2000*

Water and sewer services are to be provided to the land in accordance with an approval granted under Section 68 of the Local Government Act 1993.

Payment of developer charges to Byron Shire Council for water supply and sewerage.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate.

Note: Application forms are available from Council's administration building or online at http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf to be submitted for a Certificate of Compliance.

104. Geotechnical Report (Lot Classification)

A certificate from a practicing geotechnical engineer must be provided in conjunction with a Lot Classification Report prepared in accordance with Australian Standard AS2870.1. Such certificate must certify that all vacant allotments have a building site of adequate size and shape on each lot that is not subject to slip or subsidence and must be submitted to and approved by Council prior to the release of the Subdivision Certificate.

105. Landscaping to be completed and maintenance bond paid

The site is to be landscaped in accordance with the approved landscape plan. A bond of

\$20,000 is to be paid to Council, which will be released six (6) months following the issue of a subdivision certificate for Stage 4 if the landscaping for the entire subdivision is maintained to Council's satisfaction.

106. Developer Contributions to be paid

Contributions set out in the schedule contained at the end of these conditions are to be paid to Council prior to the release of a subdivision certificate. Contributions are levied in accordance with the [Byron Shire Developer Contributions Plan 2012 \(as amended\)](#). The Plan may be viewed on line or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions as set out in the schedule may either be paid in full or they may be paid in stages on a proportional basis dependent on the number of lots to be released in the

subdivision certificate. The first credit for a site will be retained on the residual lot. Any additional credits over one (1) will be allocated at the first stage(s).

In lieu of payment of the developer contribution for bikeways and footpaths Council will accept the works as set out in condition 42 b) i) and 42 b) iv) as works in kind. Council will offset up to the full amount of the contribution for bikeways and footpaths provided that the value of the works is independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors.

In lieu of payment of the developer contribution for local open space Council will accept the works as set out in condition 36 as works in kind. Council will offset up to the full amount of the contribution for local open space provided that the value of the works is independently certified by a Quantity Surveyor who is registered with the Australian Institute of Quantity Surveyors.

In lieu of payment of the developer contribution for local open space Council will accept the dedication of land for "recreational open space" as shown on plan J6539_102 Rev 03 excluding the area of the community centre, buffer area and Lot 7020 DP1113431.

Council will offset up to the full amount of the contribution for local open space provided that the value of the land to be dedicated is independently valued.

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment**. The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

107. Maintenance Bond

A maintenance bond of 5% (**minimum bond amount of \$1,000.00**) of the value of the works constructed is to be lodged with Council. A copy of the contract construction cost of the subdivision works is to be submitted with the bond. The maintenance period is 6 months in accordance with Council's current Design & Construction Manuals and will commence from the date of issue of the **Subdivision Certificate**. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

108. 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.

109. Record of Infrastructure

A record of infrastructure coming into Council ownership, upon registration of the final plan of subdivision, is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record" prior to the release of the Subdivision Certificate. This form is available from Council's Local Approvals Section.

110. 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 6 November 2020 contained in **Schedule 1** have been complied with.

111. Landscaping and Public/Recreation facility works

Prior to the issue of a subdivision certificate for each stage of the development, the developer must demonstrate to Council's satisfaction that all landscaping works required for the subject stage have been completed in accordance with the approved Landscape Plan and that all public/recreation facilities required for the subject stage have been completed in accordance with the approved Public/Recreational Open Space Plan.

112. Acid sulfate soils

The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Acid Sulfate Soils Management Plan. Documentary evidence must be provided confirming the destination of all Acid Sulfate soils removed from the site.

113. Emergency Access Bond

Prior to the issue of the Subdivision Certificate for Stage 4, a bond is to be lodged with Council for the removal of the temporary emergency access provided as part of Stage 4 works. The value of the bond is to be approved by Council and cover the cost of the removal of the emergency access road and all ancillary works.

114. Schedule - Developer Contributions to be paid Council contributions

The contributions payable to Council are set out in the following table.

Section 94 contributions Schedule for Byron Bay Suffolk Park Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =	0	@	0.55 SDU	=		0
2 bedroom units =	0	@	0.75 SDU	=		0
3 bedroom units/dwellings =	0	@	1 SDU	=		0
Allotments =	145	@	1	=		145
Less Site Credits =	2	@	-1	=		-2
Total SDU				=		143
Schedule valid until		27/01/2021		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-BB)	143.00	SDU @ \$ 4,255.12	=		\$ 608,482.16
LGA Wide Open Space & Recreation	(OS-SW)	143.00	SDU @ \$ 765.88	=		\$ 109,520.84
LGA wide Community Facilities	(CF-SW)	143.00	SDU @ \$ 1,121.71	=		\$ 160,404.53
Local Community Facilities	(CF-BB)	143.00	SDU @ \$ 1,263.98	=		\$ 180,749.14
Bikeways & Footpaths	(CW-BB)	143.00	SDU @ \$ 1,401.26	=		\$ 200,380.18
Shire Wide Bikeways & Footpaths	(CW-SW)	143.00	SDU @ \$ 82.28	=		\$ 11,766.04
Urban Roads	(R-BB)	143.00	SDU @ \$ 3,174.29	=		\$ 453,923.47
LGA Wide Roads	(R-SW)	143.00	SDU @ \$ 231.75	=		\$ 33,140.25
Rural Roads	#N/A	143.00	SDU @ \$ -	=		\$ -
Administration Levy	(OF-SW)	143.00	SDU @ \$ 1,158.46	=		\$ 165,659.78
Total				=		\$ 1,924,026.39
				=		

115. Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT
(ET Policy 2018)

Water	142.40 ET
Bulk Water	142.40 ET
Sewer	150.00 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>). These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

Schedule 1: Rural Fire Service General Terms of Approval



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: 10.2017.201.1
Our reference: DA-2017-01701-S4.55-1

ATTENTION: See letter

Date: Friday 30 July 2021

Dear Sir/Madam,

Integrated Development Application

s100B – Subdivision – Torrens Title Subdivision

342 Ewingsdale Road BYRON BAY NSW 2481, 227//DP755695, 1//DP542178, 1//DP1166535

I refer to your correspondence dated 17/06/2021 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 identified plans;

- The drawing; prepared by Planit Consulting, titled 'Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020,
- The drawing; prepared by Planit Consulting, titled 'Overall Master Plan', noted as Issue 4 and dated 27/5/2020, and
- The drawing; prepared by Planit Consulting, titled 'Staging Plan', noted as Revision No. 03 and dated 30/04/2021.

Asset Protection Zones

Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact. To achieve this, the following conditions shall apply:

2. At the issue of subdivision certificate and in perpetuity the following areas of the property shall be managed as an inner protection area (IPA) as specified in Table 5.3a and Appendix 4 of PBP 2019;

- Those areas identified as "Managed Urban land" within the drawing; prepared by Planit Consulting, titled "Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020, 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

- Those areas identified as "Large Lot managed land" within the drawing; prepared by Planit Consulting, titled "Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

3. A restriction to the land use, pursuant to section 88B of the Conveyancing Act 1919, shall be placed upon any residue lots (i.e. created at the completion of any stage), where the residual lot has boundaries common with created residential lots, for the purpose of a temporary asset protection zone (APZ) in accordance with Appendix 4 of Planning for Bush Fire Protection 2019. The restriction to land use, for the purpose of a temporary asset protection zone, may be extinguished upon commencement of future development over the affected areas.

The name of authority empowered to release, vary or modify any instrument shall be Byron Shire Council.

The APZ shall be managed as an inner protection area (IPA) for at least 50 metres, as measured from the common boundary (created with an urban/residential lot) and extending into the residual lot.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

4. All bio retention swales (generally located along road sides) that are within the "Managed Urban land" areas, as noted within the drawing; prepared by Planit Consulting, titled "Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020, shall be managed as per the requirements of condition No. 2 of this approval.

5. At the issue of a subdivision certificate and in perpetuity (to ensure ongoing protection from the impact of bush fires), a suitable mechanism, such as an instrument pursuant to section 88B of the Conveyancing Act 1919, shall be in place over specified parts of the two "large hectare Lots" 148 and 149 to ensure the ongoing management as an Inner Protection Area (IPA) in accordance with Appendix 4 of Planning for Bush Fire Protection 2019.



The areas requiring management, as an IPA, are specified as follows;

- The 10 metre by 15 metre building envelopes,
- The land surrounding the building envelopes as follows;
 - Lot 148 - the land already required to be managed as an IPA (Large Lot managed land),
 - Lot 149 - the land already required to be managed as an IPA (Large Lot managed land), and
- The single property access road servicing proposed lots 148 and 149.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

The name of authority empowered to release, vary or modify any instrument shall be Byron Shire Council.

Construction Standards

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

6. At the issue of a subdivision certificate, a suitably worded instrument shall be created over proposed lots 148 and 149, pursuant to section 88B of the *Conveyancing Act 1919*.

The instrument shall require future dwellings, proposed to be erected upon the specified lots, to be;

- Constructed to BAL-29 (minimum), in accordance with the requirements of, either; *Australian Standard "AS3959-2018 Construction of buildings in bush fire-prone areas"*, or the NASH Standard (1.7.14 updated) "*National Standard Steel Framed Construction in Bushfire Areas – 2014*" as well as the additional requirements of Section 7.5 of *Planning for Bush Fire Protection 2019*, and
- Be located as shown on the approved subdivision plan (as referenced in Condition 1 above) that is attached to the amended Bushfire Safety Authority Application, prepared by Planit Consulting and dated June 2020, as Attachment A "Subdivision Plans".

The name of authority empowered to release, vary or modify the instrument shall be Byron Shire Council.

Access – Public Roads

Intent of measures: 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:

7. Public road access shall comply with; section 5.3.2 Access of 'Planning for Bush Fire Protection 2019' and Table 5.3b of 'Planning for Bush Fire Protection 2019'.

8. At each stage of the subdivision, temporary turning heads shall be provided to temporary dead end roads in accordance with the requirements of section A3.3 of PBP 2019. The turning area can be removed upon opening of future proposed through roads.



Access – Property Access

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

9. Property access roads, servicing proposed lots 148 and 149 shall comply with the requirements of section 5.3.2 of 'Planning for Bush Fire Protection 2019' and Table 5.3b of Planning for Bushfire Protection 2019. A temporary property access road, that requires access over any adjacent land, shall be provided by the inclusion of a right of way (ROW), over that land, for that purpose. Details are to be provided to Byron Shire Council prior to any Construction Certificate being released for the development stage that includes the creation of proposed lot 148 and 149.

Water and Utility Services

Intent of measures: 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:

10. The provision of water, electricity and gas must comply with Table 5.3c of Planning for Bush Fire Protection 2019.

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' may be subject to requirements as set out in 'Planning for Bush Fire Protection 2019'.
- This revised bushfire safety authority (BFSA) includes improved outcomes for the future dwellings on proposed lots 148 and 149 that are to be accessed via a single property access longer than 200 metres from the public road system.
- Establishment of asset protection zones within the proposed 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.

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 13/08/2020.

For any queries regarding this correspondence, please contact Bradford Sellings on 1300 NSW RFS.

Yours sincerely,

Alan Bawden
Supervisor Development Assessment & Plan
Built & Natural Environment



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision

342 Ewingsdale Road BYRON BAY NSW 2481, 227//DP755695, 1//DP542178, 1//DP1166535

RFS Reference: DA-2017-01701-S4.55-1

Your Reference: 10.2017.201.1

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 supersedes the previous Bush Fire Safety Authority DA-2017-01701-CL55-1 issued on 13/08/2020 and confirms that, subject to the attached reissued 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*.

Alan Bawden

**Supervisor Development Assessment & Plan
Built & Natural Environment**

Friday 30 July 2021

Schedule 2: General Terms of Approval from Water NSW dated 20 June 2017



Your Ref:
Our Ref: ERM2017/0522
Contact: J Findlay
Telephone: 0266 416500

BYRON SHIRE COUNCIL
DOC NO:
REC'D: 26 JUN 2017
FILE NO: A60946
ASSIGNEE: PMILLS

151400

The General Manager
Byron Shire Council
P O Box 219
Mullumbimby NSW 2482

20th June 2017

Attention: Paul Mills

Dear Sir,

Reference: Development Application 10.2017.201.1 – Villa World Byron Pty Ltd - Staged Residential Lot Development – Ewingsdale Road Byron Bay.

I refer to your recent letter regarding Development Application (DA) proposed for the subject property.

At this location, dewatering less than 3 megalitres or for less than 12 months would not require a licence or approval under the *Water Management Act 2000*.

Dewatering greater than 3 megalitres or for more than 12 months would require a water supply work approval and a water access licence under the *Water Management Act 2000*. The water access licence would need to be purchased through either a controlled allocation order, if an order is operating, or on the open market in accordance with the rules of the relevant Water Sharing Plan. Attached, please find WaterNSW GTA for works requiring a water supply work approval under the *Water Management Act 2000*.

It is the consent holder's responsibility to assess and monitor water take and determine whether a licence or approval is required.

The consent holder should note the condition relating to the need for a WaterNSW approved DeWatering Management Plan and be aware that the current Management Plan would require amendment to provide for more adequate pH testing and correction of all water prior to discharge. DPI Water recommends the plan be altered to include either an online pH monitoring and dosing system, or storage of the full capacity of the daily discharge being approximately 1.2 ML for testing prior to discharge. The consent holder should also note that DPI Water has included a condition identifying discharge water quality criteria to be between 7 and 8.5 pH consistent with the EPA Brunswick River Water Quality Objectives.

The consent holder must ensure that post construction dewatering is not required and therefore an extended approval should not be necessary.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to

be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- WaterNSW should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- WaterNSW requests notification of any legal challenge to the consent.

As dewatering more than 3ML or for more than 12 months cannot commence before the applicant applies for and obtains a licence or an approval, WaterNSW recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a licence or approval until a copy of the licence or approval has been provided to Council".

The attached GTA are not the licence or approval. The applicant must apply (to WaterNSW) for a licence or approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a licence or approval can take up to eight (8) weeks from the date WaterNSW receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a licence or approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the WaterNSW) and proof of Council's development consent.

Application forms for a licence or approval are available from the undersigned or from DPI Water's website:

www.water.nsw.gov.au

[Water licensing](#) > [Approvals](#) >

WaterNSW requests that Council provide a copy of this letter to the applicant.

WaterNSW also requests that Council provides WaterNSW with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours sincerely



J Findlay
Senior Water Regulation Officer
North Coast



General Terms of Approval

for work requiring an approval
under the *Water Management Act 2000*

Number	Condition	File No: ERM2017/0522
Site Address:	394 Ewingsdale Road Byron Bay; 342 Ewingsdale Road, Byron Bay; Ewingsdale Road; 22B Melaleuca Drive, Byron Bay; 22A Melaleuca Drive, Byron Bay	
DA Number:	10.2017.201.1	
LGA:	Byron Shire Council	
<div><div>1. Before commencing any works or using any existing works for the purpose of dewatering groundwater in excess of 3 megalitres per annum or using said works for a period greater than 12 months an approval under the Water Management Act 2000 (WMA) must be obtained from WaterNSW. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.</div><div>2. An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the WMA.</div><div>3. When WaterNSW grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or let lapse.</div><div>4. All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.</div><div>5. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.</div><div>6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.</div><div>7. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.</div><div>8. The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.</div><div>9. A fee calculated in accordance with the WMA must be paid before an approval can be granted.</div><div>10. The water extracted under the approval to be granted shall be used for the purpose of dewatering and for no other purpose. A proposed change in purpose will require a replacement license to be issued.</div><div>11. Works for construction of a bore must be completed within such period as specified by the Department.</div><div>12. Within two months after the works are completed WaterNSW must be provided with an accurate</div></div>		

WaterNSW
Level 3, 49 Victoria Street Grafton NSW 2460 : Locked Bag 10 Grafton NSW 2460
t + 61 2 66416500 | f + 61 2 66416642 | e water.enquiries@dpi.nsw.gov.au



Number	Condition	File No: ERM2017/0522
	plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are specified in the approval.	
13.	WaterNSW has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.	
14.	The approval holder must allow authorised officers of WaterNSW, and it's authorised agents reasonable access to the licensed works with vehicles and equipment at any time for the purposes of:	
	1 -inspecting the said work	
	2 -taking samples of any water or material in the work and testing the samples.	
15.	The approval holder shall within 2 weeks of being notified install to the satisfaction of WaterNSW in respect of location, type and construction an appliance(s) to measure the quantity of water extracted from the works. The appliance(s) to consist of either a measuring weir or weirs with automatic recorder, or meter or meter(s) of measurement as may be approved by WaterNSW. The appliance(s) shall be maintained in good working order and condition. A record of all water extracted from the works shall be kept and supplied to WaterNSW upon request. The approval holder when requested must supply a test certificate as to the accuracy of the appliance(s) furnished either by the manufacturer or by some person duly qualified.	
16.	The authorised work shall not be used for the discharge of polluted water into a river or lake otherwise than in accordance with the conditions of a licence granted under the protection of the Environment Operations Act 1997. A copy of the licence to discharge is to be provided to WaterNSW.	
17.	The approval holder must make a determination of the requested licence volume and time frame for dewatering.	
18.	The authorised work shall not be used for the discharge of water unless the ph of the water is between 7 and 8.5, or the water has been treated to bring the ph to a level between 7 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.	
19.	The work shall be managed in accordance with the constraints set out in an Acid Sulfate Soil Management Plan & Dewatering Management Plan approved by WaterNSW.	
20.	The retention or holding pond must be lined with an impermeable material (such as clay or geotextile) to prevent seepage, leakage or infiltration of treated water.	
21.	The consent holder must ensure that post construction dewatering is not required.	
END OF CONDITIONS		

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Are you dissatisfied with conditions of consent?

If you are unhappy with conditions of consent discuss your concerns with the officer who dealt with your application. You may submit an application to Council to modify the consent under Section 4.56 of the Environmental Planning & Assessment Act 1979.

You will need to provide reasons why the conditions should be changed or deleted. You may lodge a Section 4.56 application at any time after the notice of determination. If you are not happy with Council's decision on your request for modification, then you may appeal to the Land & Environment Court within six (6) months of the notification by Council.

Right of Review

You may request Council to review its decision under Section 8.2 of the Environmental Planning and Assessment Act, 1979. Such a request must be made within six (6) months of the date of the determination, or if there is an appeal to the Land and Environment Court, up to the time when the court hands down its decision. In reviewing its decision Council is able to consider alterations to the above plans, provided that the Development Application remains substantially the same as the one for which the consent was originally sought, and the changes are publicly notified.

NOTE: This clause does not relate to Integrated Development Applications, applications determined by the Joint Regional Planning Panel or applications previously considered under Section 8.2 of the Environmental Planning and Assessment Act 1979.

Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

S c h e d u l e o f C o n d i t i o n s

Signed on behalf of the Consent Authority

Yours faithfully

A handwritten signature in black ink, appearing to read 'Gregory Yopp', written in a cursive style.

Gregory Yopp
Planner

Dated: 28 May 2024

General Advisory Notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.