

**ADDENDUM TO COUNCIL ASSESSMENT REPORT**

<b>Panel Reference</b>	PPSNTH-96
<b>DA Number</b>	10.2017.201.2
<b>LGA</b>	Byron Shire Council
<b>Proposed Development</b>	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) Lots 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
<b>Street Address</b>	342 Ewingsdale Road and 22A and 22B Melaleuca Drive, Byron Bay
<b>Applicant/Owner</b>	Villa World Byron Pty Ltd / Telicove Pty Ltd
<b>Date of DA lodgement</b>	9 June 2021
<b>Recommendation</b>	<b>Approval</b>
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	The original proposal was considered to be “regional development” as defined under Clause 20 of the SEPP (State and Regional Development) 2011 and Schedule 4A (3) of the Environmental Planning and Assessment Act 1979 (EP&A Act) as at the date of DA lodgement, the proposal was “Development that has a capital investment value of more than \$20 million”.
<b>List of all relevant s4.15(1)(a) matters</b>	<p>Relevant environmental planning instruments</p> <ul style="list-style-type: none"> <li>• State Environmental Planning (Coastal Management) 2018</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Koala Habitat Protection) 2019</li> <li>• State Environmental Planning Policy No. 44 – Koala Habitat</li> <li>• State Environmental Planning Policy No 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No 14 – Coastal Wetlands</li> <li>• State Environmental Planning Policy No 26 – Littoral Rainforest</li> </ul> <p>Relevant local environment plan</p> <ul style="list-style-type: none"> <li>• Byron Local Environment Plan 1988</li> </ul> <p>Relevant development control plan</p> <ul style="list-style-type: none"> <li>• Byron Development Control Plan 2014</li> </ul> <p>Relevant planning agreement</p> <ul style="list-style-type: none"> <li>• (VPA) 2013/8948</li> </ul>
<b>List all documents submitted with this report for the Panel’s consideration</b>	Attachment A1 – Updated concept erosion and sediment control plans Attachment B1 – Letters of support from Applicant’s experts
<b>Clause 4.6 requests</b>	Not applicable
<b>Report prepared by</b>	Ivan Holland
<b>Report date</b>	25 October 2021

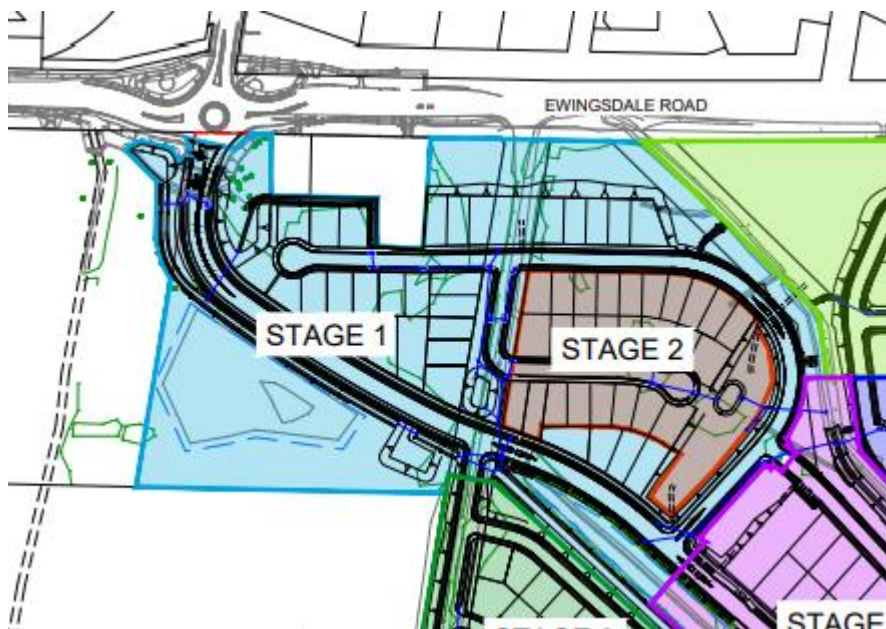
**MEMO TO:** Joint Regional Planning Panel  
**MEMO FROM:** Planner  
**SUBJECT:** Addendum to Council Assessment Report on DA10.2017.201.2  
**DATE:** 25 October 2021  
**RECORD NO:** E2021/131316

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The Applicant proposed an amended modification application during a meeting between the Applicant's team and Council staff on Wednesday 20/10/2021.

#### Amended modification application

In summary, the amended modification application is to allow contemporaneous construction of Stages 1 and 2 only and leave the construction timeline for all remaining stages unaltered (see Figure 1). The construction component of Stage 1 is referred to as Stage 1B in the consent with Stage 1A being preliminary environmental restoration, rehabilitation and landscaping works.



**Figure 1. Currently approved staging layout.**

The following additional information was provided by the Applicant in support of the amended modification application:

- Updated erosion and sediment control concept plans (Drawings 610, 611 and 620) (see **Attachment A1**); and
- Letters of support for the amended modification application from the Applicant's experts being Dr Martens, Mr Rados and Mr McCann (see **Attachment B1**).

The applicant has agreed to the imposition of construction vehicle movement limits and monitoring to address potential additional traffic impacts that may result from the simultaneous construction of two stages.

#### Consideration of amended modification application

A review of the amended modification application under the relevant matters for consideration (s.4.15 of the EP&A Act) is summarised below:

The amended modification application does not raise any new issues or effects and in general terms will result in a reduced risk of adverse impacts compared to the original modification proposal.

Stage 2 was originally approved as an 'island' with roads and servicing circumnavigating the area to be constructed in Stage 1B. Allowing Stage 1B and Stage 2 to be constructed simultaneously is consistent with the objects of the EP&A Act (s.1.3(c)) in that it promotes orderly development.

The amended modification application does not raise any new issues relating to relevant environmental planning instruments that weren't already considered in the Council Assessment Report (20/10/2021). The amended modification application is unlikely to result in a significant increase in adverse impacts on the coastal environment and ecosystems (cl 88) and earthworks can be adequately managed (cl 98B). These matters are considered further below.

The combination of Stages 1B and 2 will result in the contemporaneous construction of ~55 lots being more than the 50-lot limit set in E8.10.1 of Byron Development Control Plan 2014. This increase in lots is considered to be minor and the change is not contrary to the relevant staging plan objectives and performance criteria which are largely focussed on ensuring orderly and co-ordinated development of the site.

The key potential adverse impacts of the amended modification application are considered to be:

- Increase in construction traffic;
- Construction phase stormwater management;
- Faster clearing of native vegetation and reduced timeframe for the establishment of compensatory planting; and
- Reduced ability to detect and respond to groundwater impacts (and associated impacts on frog habitat and frogs) due to faster filling of the site.

An updated statement of environmental effects was not provided with the amended modification application. However, measures have been proposed, or can be imposed, to minimise the scale and likelihood of adverse impacts arising from the proposed stage consolidation as follows:

- To address the potential increase in construction traffic, the applicant has agreed to the imposition of construction vehicle movement limits and monitoring to address potential additional traffic impacts that may result from the simultaneous construction of two stages; and
- Updated erosion and sediment control concept plans for Stage 1B and 2 have been provided.

On the basis of the above, the consolidation of the two stages is acceptable from an engineering perspective.

The ecological advice letter (Planit, 22/10/21) states that reducing the staging timeframe will result in fewer impacts to nearby habitat areas but does not include data or analysis to support this contention. An explanation of how the clearing progression of the proposed new staging plan will be altered in comparison to the existing plan was not provided however, the ecological advice letter details that the proposed consolidation of Stages 1B and 2 would only marginally increase the native vegetation clearing required in the initial construction stage (relative to the broader development). Key mitigation for native vegetation removal, being carrying out significant planting and ecological restoration works prior to any construction works commencing (referred to as Stage 1A in the conditions) will remain unchanged. No data or analysis was provided regarding potential changes to groundwater impacts associated with the combined construction of Stages 1B and 2. Notwithstanding, the consolidation of the two stages is unlikely to result in substantial additional biodiversity impacts considering the monitoring, management and contingency required by the current conditions of consent.

The amended modification application goes some way to addressing the main issues raised in submissions being:

- Reducing the likelihood of increased adverse impacts on the environment by only seeking to combine 2 out of the 7 stages; and
- Maintaining the duration of groundwater monitoring between stages to 12 months as original approved.

### Conclusion

The amended modification application, being to allow the contemporaneous construction of Stages 1B and 2 only, is recommended for approval subject to amended conditions of consent. A consolidated suite of conditions with recommended amendments will be provided prior to the hearing.