

Attachment B: Compliance Tables – Iron Gates

Requirement	Proposal	Comply
State Environmental Planning Policy (State and Regional Development) 2011 (commenced 1 October 2011)		
Development to which Part applies (CI 20)		
<p>This Part applies to development of a class or description included in Schedule 4A to the Act.</p>	<p>Schedule 4A of the EP&A Act includes <i>Development for which regional panels may be authorised to exercise consent authority functions of councils.</i> The relevant provision is Clause 9(b) which provides:</p> <p>Development within the coastal zone for the purposes of subdivision of the following kind:</p> <ul style="list-style-type: none"> (a) ... (b) subdivision of land for residential purposes into more than 100 lots, if the land: <ul style="list-style-type: none"> (i) is not in the metropolitan coastal zone, or (ii) is wholly or partly in a sensitive coastal location, <p><i>sensitive coastal location means any of the following which occur within the coastal zone:</i></p> <ul style="list-style-type: none"> (a) <i>land within 100m above mean high water mark of the sea, a bay or an estuary,</i> (b) <i>a coastal lake,</i> (c) <i>a declared Ramsar wetland within the meaning of the <u>Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth,</u></i> (d) <i>a declared World Heritage property within the meaning of the <u>Environment Protection and Biodiversity Conservation Act 1999 of the Commonwealth,</u></i> (e) <i>land declared as an aquatic reserve under the <u>Fisheries Management Act 1994,</u></i> (f) <i>land declared as a marine park under the <u>Marine Parks</u></i> 	✓

	<p><u>Act 1997,</u> <i>(g) land within 100m of any of the following:</i> <i>(i) the water’s edge of a coastal lake,</i> <i>(ii) land to which paragraph (c), (d), (e) or (f) applies,</i> <i>(iii) land reserved under the <u>National Parks and Wildlife Act 1974,</u></i> <i>(iv) land to which <u>State Environmental Planning Policy No 14—Coastal Wetlands</u> applies,</i> <i>(h) residential land (within the meaning of <u>State Environmental Planning Policy No 26—Littoral Rainforests</u>) that is within a distance of 100m from the outer edge of the heavy black line on the series of maps held in the Department and marked “State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)”.</i></p> <p>The site is within a sensitive coastal location as it contains land:</p> <ul style="list-style-type: none"> • within 100m above the mean high water mark of the sea, a bay or an estuary (Evans River) (criteria a) • within 100m of land reserved under the <i>National Parks and Wildlife Act 1974</i> (criteria (g)(iii) - Bundjalung National Park; and • within 100m of land to which SEPP 14 applies (criteria (g)(iv). <p>The development application is for regional development.</p>	
<p>Council consent functions to be exercised by regional panels (CI 21)</p>		
<p>(1) A regional panel for a part of the State may exercise the following consent authority functions of the council or councils for that part of the State for development to which this Part applies:</p> <p>(a) the determination of development applications, and applications for the modification of development consents previously granted by the panel, in accordance with Part 4 of the Act,</p>	<p>The Panel is the consent authority.</p>	<p>✓</p>

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<p>(b) without limiting paragraph (a), the functions of a consent authority under Divisions 2 and 2A of Part 4 of the Act and sections 89A, 93I, 94, 94A, 94B, 94C, 94CA, 94EF, 94F, 95 (2), 96 (2) and 96AA of the Act.</p>		
<p>(2) However, the following functions of a council as a consent authority are not conferred by this clause on a regional panel:</p> <p>(a) the functions conferred by section 79B of the Act (other than section 79B (9)),</p> <p>(b) the functions conferred by section 80A (7)–(10) of the Act,</p> <p>(c) the functions conferred by section 82B of the Act,</p> <p>(d) the functions conferred by sections 94 (5) and 94EF (5) of the Act,</p> <p>(e) the receipt and assessment of development applications,</p> <p>(f) the determination and receipt of fees for development applications,</p> <p>(g) notification of determination of development applications,</p> <p>(h) the functions conferred by section 95A of the Act,</p> <p>(i) the determination of applications for modification of consents on the ground of a minor error, misdescription or miscalculation under section 96 (1) of the Act,</p> <p>(j) the functions conferred by section 96 (1A) of the Act,</p> <p>(k) the functions conferred by section 96AA of the Act, if the original development application was not determined by a regional panel.</p>	<p>The functions to be undertaken by Council include:</p> <ul style="list-style-type: none"> • Consultation and concurrence (s79B) • Conditions for security (s80A(7) to (10)) • Review a decision to reject DA (s82B) • Accepting dedication of land for local infrastructure contributions and special infrastructure contributions (s94(5) and 94EF(5)) • Receipt of DA, notification and fees • Assessment of the DA • Extend the lapsing of the consent by 1 year (s95A). <p>The Council has either undertaken these tasks or are not relevant to the application.</p>	<p align="center">✓</p>
<p>(3) The council remains the consent authority for development to which this Part applies, subject to the exercise by regional panels of functions conferred on them by this clause.</p>	<p>The Panel is the consent authority for this application.</p>	<p align="center">✓</p>
<p>Staged development functions for development exceeding minimum capital investment values (CI 22)</p>		
<p>If:</p> <p>(a) development of a class or description included in Schedule 4A to the Act is described in that Schedule by reference to a minimum capital investment value, other minimum size or other aspect, and</p>	<p>The Panel would be the consent authority for any future development applications for future stages of this development application.</p>	<p align="center">✓</p>

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<p>(b) development the subject of a staged development application under Part 4 of the Act is development so specified, and</p> <p>(c) the relevant regional panel is satisfied that development the subject of a separate development application forming part of the staged development application is part of a single proposed development so specified,</p> <p>the functions of a council conferred on the regional panel under this Part extend to the determination of the separate development application.</p>		
<p>State Environmental Planning Policy No 14 – Coastal Wetlands (commenced 12 December 1985)</p>		
<p>Aims, objectives etc (CI 2)</p>		
<p>The aim of this policy is to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State.</p>	<p>The proposal is likely to adversely impact on the drainage patterns to the wetlands and it is unknown whether there will be pollution from untreated stormwater flowing to the wetlands.</p>	<p align="center">No</p>
<p>Application of policy (CI 4)</p>		
<p>(1) Subject to subclause (2), this policy applies to the land outlined by the outer edge of the heavy black line on the map.</p> <p>(2) This policy does not apply to land dedicated or reserved under the <u>National Parks and Wildlife Act 1974</u> as an Aboriginal area, historic site, national park, nature reserve, state game reserve or state recreation area.</p> <p>(3) This policy does not apply to the land identified on the <u>Land Application Map</u> referred to in clause 2 (1) of Part 10 of <u>State Environmental Planning Policy (Major Development) 2005</u>.</p> <p>(4) This Policy does not apply to land to which <u>State Environmental Planning Policy No 26—Littoral Rainforests</u> applies.</p>	<p>Wetlands mapped under SEPP 14 occur in the north-western corner of the site. The exclusions to the Policy in subclauses 2, 3 & 4 do not apply to the site.</p>	<p align="center">✓ Applies</p>
<p>Inconsistency between instruments (CI 5)</p>		
<p>Subject to section 74 (1) of the Act, in the event of an inconsistency between this policy and another environmental planning instrument, whether made</p>	<p>Noted</p>	<p align="center">Noted</p>

<p>before, on, or after the date on which this policy is made, this policy shall prevail to the extent of the inconsistency.</p>		
<p>Restriction on development of certain land (CI 7)</p>		
<p>(1) In respect of land to which this policy applies, a person shall not:</p> <ul style="list-style-type: none"> (a) clear that land, (b) construct a levee on that land, (c) drain that land, or (d) fill that land, <p>except with the consent of the council and the concurrence of the Director.</p>	<p>There is some doubt around whether the proposed works to Iron Gates Drive comprises clearing the land and filling the land pursuant to this clause, which would make the application for designated development.</p>	<p>???</p>
<p>(2) In considering whether to grant concurrence under subclause (1), the Director shall take into consideration:</p> <ul style="list-style-type: none"> (a) the environmental effects of the proposed development, including the effect of the proposed development on: <ul style="list-style-type: none"> (i) the growth of native plant communities, (ii) the survival of native wildlife populations, (iii) the provision and quality of habitats for both indigenous and migratory species, (iv) the surface and groundwater characteristics of the site on which the development is proposed to be carried out and of the surrounding area, including salinity and water quality, (b) whether adequate safeguards and rehabilitation measures have been, or will be, made to protect the environment, (c) whether carrying out the development would be consistent with the aim of this policy, (d) the objectives and major goals of the “National Conservation Strategy for Australia” (as set forth in the second edition of a paper prepared by the Commonwealth Department of Home Affairs and Environment for comment at the National Conference on Conservation held in June, 1983, and published in 1984 by the Australian Government Publishing Service) in so far as they relate to wetlands and the conservation of “living resources” generally, copies of which are deposited in the office of the 		

<p>Department,</p> <p>(e) whether consideration has been given to establish whether any feasible alternatives exist to the carrying out of the proposed development (either on other land or by other methods) and if so, the reasons given for choosing the proposed development,</p> <p>(f) any representations made by the Director of National Parks and Wildlife in relation to the development application, and</p> <p>(g) any wetlands surrounding the land to which the development application relates and appropriateness of imposing conditions requiring the carrying out of works to preserve or enhance the value of those surrounding wetlands.</p>		
<p>(3) Pursuant to section 29 of the Act, development for which consent is required by subclause (1) is declared to be designated development for the purposes of the Act.</p>	<p>Refer above.</p>	<p>???</p>
<p>(4) In this clause:</p> <p><i>clearing</i>, in relation to land, means the destruction or removal in any manner of native plants growing on the land, but does not include:</p> <p>(a) the destruction or removal of a plant declared to be a noxious weed within the meaning of the <u>Noxious Weeds Act 1993</u>, by means not likely to be significantly detrimental to the native ecosystem, or</p> <p>(b) the incidental destruction or removal of native plants lying adjacent to any such noxious plants occurring unavoidably during the process of destroying or removing those noxious plants, or</p> <p>(c) the destruction or removal of native plants, within 3 metres of the boundary between the lands owned or occupied by different persons, for the purpose of erecting or maintaining a dividing fence between those lands, or</p> <p>(d) the destruction or removal of native plants, within 0.5 metres of the boundary between the lands owned or occupied by different persons, for the purpose of enabling a survey to be carried out along that boundary by a surveyor registered under</p>	<p>noted</p>	<p>-</p>

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<p>the <u>Surveyors Act 1929</u>. <i>native plants</i> means plants indigenous to the State of New South Wales, including trees, shrubs, ferns, vines, herbs and grasses indigenous to the State.</p>		
<p>(5) This clause does not apply to the carrying out of restoration works.</p>	<p>The proposed works to Iron gates Drove are not considered to be restoration works.</p>	<p>N/A</p>
<p>Restriction on carrying out of restoration works (CI 7A)</p>		
<p>(1) In respect of land to which this policy applies, a person must not carry out restoration works except with the consent of the council and the concurrence of the Director. (2) An applicant for consent to carry out restoration works must lodge with the council a restoration plan prepared in accordance with the guidelines issued by the Department of Urban Affairs and Planning. (3) In considering whether to grant concurrence under subclause (1), the Director must take into consideration the adequacy of the restoration plan lodged by the applicant with the council.</p>	<p>Refer above</p>	<p>N/A</p>
<p>Copy of application to be sent to Director of National Parks and Wildlife (CI 8)</p>		
<p>Where a council receives an application for consent to carry out development referred to in clause 7 (1), the council shall, within 7 days of its receipt of that application, forward a copy of the application to the Director of National Parks and Wildlife.</p>	<p>Refer above</p>	<p>??</p>
<p>State Environmental Planning Policy No 71 – Coastal Protection (commenced 1 November 2002)</p>		
<p>Part 1: Preliminary</p>		
<p>Aims of Policy (CI 2)</p>		
<p>(1) This Policy aims: (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and (b) to protect and improve existing public access to and along</p>	<p>Addressed in the report – key issues</p>	<p>No</p>

<p>coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and</p> <p>(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and</p> <p>(e) to ensure that the visual amenity of the coast is protected, and</p> <p>(f) to protect and preserve beach environments and beach amenity, and</p> <p>(g) to protect and preserve native coastal vegetation, and</p> <p>(h) to protect and preserve the marine environment of New South Wales, and</p> <p>(i) to protect and preserve rock platforms, and</p> <p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i>), and</p> <p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and</p> <p>(l) to encourage a strategic approach to coastal management.</p>		
<p>(2) This Policy:</p> <p>(a) (Repealed)</p> <p>(b) requires certain development applications to carry out development in sensitive coastal locations to be referred to the Director-General for comment, and</p> <p>(c) identifies master plan requirements for certain development in the coastal zone.</p>	<p>This has been considered. The proposed concept DA fulfils this requirement.</p>	<p>✓</p>
<p>(3) This Policy aims to further the implementation of the Government's coastal policy.</p>	<p>Noted</p>	<p>✓</p>

Land and development to which Policy applies (CI 4)		
<p>(1) This Policy applies to land the whole or any part of which is within the coastal zone, except as provided by this clause.</p> <p>(2) This Policy does not apply to:</p> <p>(a) Lord Howe Island, or</p> <p>(b) in relation to <u>State Environmental Planning Policy No 62—Sustainable Aquaculture</u>:</p> <p>(i) a development application for consent to carry out development to which that Policy applies, or</p> <p>(ii) development that is carried out in accordance with a development consent granted under that Policy.</p>	<p>The site is within the coastal zone. The exclusions to the Policy in subclauses 2, 3 & 4 do not apply to the site.</p>	<p>✓</p> <p>Applies</p>
Part 2: Matters for Consideration		
Application of clause 8 matters (CI 7)		
<p>The matters for consideration set out in clause 8:</p> <p>(a) should be taken into account by a council, when it prepares a draft local environmental plan that applies to land to which this Policy applies, and</p> <p>(b) are to be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies.</p>	<p>The matters in Clause 8 must be taken into account in the determination of the application. This is considered in the key issues section of the report.</p>	<p>Applies</p>
Matters for consideration (CI 8)		
<p>The matters for consideration are the following:</p> <p>(a) the aims of this Policy set out in clause 2,</p> <p>(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,</p> <p>(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,</p> <p>(d) the suitability of development given its type, location and design</p>	<p>This is considered in the key issues section of the report.</p>	<p>No</p>

<p>and its relationship with the surrounding area,</p> <ul style="list-style-type: none"> (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore, (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities, (g) measures to conserve animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats, (h) measures to conserve fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats (i) existing wildlife corridors and the impact of development on these corridors, (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards, (k) measures to reduce the potential for conflict between land-based and water-based coastal activities, (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals, (m) likely impacts of development on the water quality of coastal waterbodies, (n) the conservation and preservation of items of heritage, archaeological or historic significance, (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities, (p) only in cases in which a development application in relation to proposed development is determined: <ul style="list-style-type: none"> (i) the cumulative impacts of the proposed development on the environment, and (ii) measures to ensure that water and energy usage by the 		
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proposed development is efficient.		
Part 3: Significant Coastal Development		
Application of Part (CI 9)		
(1) This Part applies to: (a) (Repealed) (b) (Repealed) (c) development within 100m below mean high water mark of the sea, a bay or an estuary, and (d) development on land described in Schedule 3, subject to subclause (2).	The site does not meet these criteria.	N/A
Part 4: Development Control		
Application of Part (CI 12)		
This Part applies to all development on land to which this Policy applies.	Applies to the proposal.	Applies
Flexible zone provisions (CI 13)		
A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.	Noted.	N/A
Public access (CI 14)		
A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	The proposal will not adversely impact on any public access to the foreshore as this area is located outside of the site.	✓
Effluent disposal (CI 15)		
The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent	The proposal involves the installation of an extension to the existing sewer reticulation system in the area to the site.	✓

<p>is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.</p>		
<p>Stormwater (CI 16)</p>		
<p>The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.</p>	<p>The proposal has not adequately demonstrated satisfactory stormwater management arrangements on the site – refer to key issues section of the report.</p>	<p>No</p>
<p>Part 5: Master Plans</p>		
<p>Definition of “master plan” (CI 17)</p>		
<p>In this Part: <i>master plan</i> means a document consisting of written information, maps and diagrams that outlines proposals for development of the land to which the master plan applies.</p>	<p>Noted</p>	<p>✓</p>
<p>Master plan required before certain consents may be granted (CI 18)</p>		
<p>(1) A consent authority must not grant consent for: (a) subdivision of land within a residential zone, or a rural residential zone, if part or all of the land is in a sensitive coastal location, or (b) subdivision of land within a residential zone that is not identified as a sensitive coastal location into: (i) more than 25 lots, or (ii) 25 lots or less, if the land proposed to be subdivided and any adjoining or neighbouring land in the same ownership could be subdivided into more than 25 lots, or (c) subdivision of land within a rural residential zone that is not</p>	<p>Considered in the report, satisfied with the lodgement of a concept DA.</p>	<p>✓</p>

<p>identified as a sensitive coastal location into more than 5 lots, unless:</p> <ul style="list-style-type: none"> (d) the Minister has adopted a master plan for the land, including any adjoining or neighbouring land in the same ownership, as referred to in paragraph (b) (ii), or (e) the Minister, after consulting the Natural Resources Commission, has, under subclause (2), waived the need for a master plan for the whole or a specified part of the land referred to in paragraph (d). <p>(2) The Minister may waive the need for a master plan to be adopted because of the nature of the development concerned, the adequacy of other planning controls that apply to the proposed development or for other such reasons as the Minister considers sufficient.</p> <p>(3) For the purposes of this clause, areas of land that are adjoining or neighbouring are in the same ownership if:</p> <ul style="list-style-type: none"> (a) the registered proprietor of all the areas of land is the same person, or (b) the registered proprietor of part of the areas of land is a body corporate and the registered proprietor of the other part is, or the registered proprietors of the other parts are, a director or shareholder of the body corporate, or a related body corporate of the body corporate. <p>(4) In subclause (3): <i>body corporate</i> has the same meaning as in the <u>Corporations Act 2001</u> of the Commonwealth. <i>registered proprietor</i> means a registered proprietor under the <u>Real Property Act 1900</u>. <i>related body corporate</i> has the same meaning as in the <u>Corporations Act 2001</u> of the Commonwealth.</p>		
<p>Consent authority to consider master plan (CI 19)</p>		

A consent authority must not determine a development application for development on land to which this Policy applies unless the consent authority has taken into consideration the provisions of a master plan adopted under this Part.	Considered in the report, satisfied with the lodgement of a concept DA.	✓
Preparation of master plans (CI 20)		
<p>(1) A draft master plan may be prepared by or on behalf of the owner or lessee of the land concerned.</p> <p>(2) A draft master plan is to illustrate and demonstrate, where relevant, proposals for the following:</p> <ul style="list-style-type: none"> (a) design principles drawn from an analysis of the site and its context, (b) desired future locality character, (c) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards, (d) the scale of any development and its integration with the existing landscape, (e) phasing of development, (f) public access to and along the coastal foreshore, (g) pedestrian, cycle and road access and circulation networks, (h) subdivision pattern, (i) infrastructure provision, (j) building envelopes and built form controls, (k) heritage conservation, (l) remediation of the site, (m) provision of public facilities and services, (n) provision of open space, its function and landscaping, (o) conservation of water quality and use, (p) conservation of animals (within the meaning of the <i>Threatened Species Conservation Act 1995</i>) and plants (within the meaning of that Act), and their habitats, (q) conservation of fish (within the meaning of Part 7A of the <i>Fisheries Management Act 1994</i>) and marine vegetation (within the meaning of that Part), and their habitats. 	Considered in the report, not satisfied in the concept DA.	No

Consultation (CI 21)		
<p>(1) After receiving a draft master plan, the Minister must cause it to be:</p> <ul style="list-style-type: none"> (a) advertised in a newspaper circulating in the locality, and (b) exhibited for not less than 28 days for public comment. <p>(2) After receiving a draft master plan, the Minister must also submit it to the Natural Resources Commission, the relevant council and such other public authorities as the Minister determines, for their comment. In doing so, the Minister must specify a date by which any comments are to be made.</p>	<p>A draft master plan does not form part of the application.</p>	<p>N/A</p>
Consideration of draft master plans (CI 22)		
<p>(1) In considering a draft master plan, the Minister must take into account:</p> <ul style="list-style-type: none"> (a) any written submissions made about the content of the draft master plan during the exhibition period under clause 21, (b) any written comments of the Natural Resources Commission, the relevant council or any of the public authorities to whom the draft plan has been submitted, that are made by the date specified under clause 21, and (c) the matters for consideration set out in Part 2. <p>(2) After considering a draft master plan, the Minister:</p> <ul style="list-style-type: none"> (a) may adopt the master plan without variation, or (b) may adopt the master plan with such variations as the Minister considers appropriate, or (c) may reject the draft master plan. <p>(3) A draft master plan becomes a master plan if it is adopted by the Minister.</p> <p>(4) When a master plan is adopted, the Minister must cause the adoption of the master plan to be advertised in a newspaper circulating in the locality to which the master plan applies.</p>	<p>A draft master plan does not form part of the application.</p>	<p>N/A</p>
Amendment of master plans (CI 23)		

<p>(1) A master plan may be amended or replaced by a subsequent master plan.</p> <p>(2) An amendment to a master plan may be dealt with concurrently with a development application.</p>	A draft master plan does not form part of the application.	N/A
Availability of master plans (CI 24)		
A copy of each master plan adopted under this Part must be available for inspection at the relevant council, and at the principal office and relevant regional offices of the Department of Planning, during normal office hours.	A draft master plan does not form part of the application.	N/A
Part 6: Miscellaneous		
Transitional provisions (CI 25)		
<p>(1) This Policy does not apply to a development application made, but not finally determined, before the commencement of this Policy.</p> <p>(2) Subject to subclause (1), this Policy, as amended by <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 1)</u>, extends to a development application made, but not finally determined, before the commencement of <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 1)</u>.</p> <p>(3) The amendments made to this Policy by <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 2)</u> do not apply to a development application made, but not finally determined, before the commencement of <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 2)</u>.</p> <p>(4) The amendment made to clause 9 of this Policy by <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 3)</u> extends to a development application made on or after 17 January 2003 but not finally determined before the commencement of <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 3)</u>.</p> <p>(5) Except as provided by subclause (4), the amendments made to this Policy by <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 3)</u> do not extend to a development application made but not finally determined before the commencement of <u>State Environmental Planning Policy No 71—Coastal Protection (Amendment No 3)</u>.</p>	The DA was lodged after the commencement of this Policy.	N/A
State Environmental Planning Policy No 44—Koala Habitat Protection (commenced 6 January 1985)		

Part 1: Preliminary		
Aims, objectives (CI 3)		
<p>This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:</p> <ul style="list-style-type: none"> (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and (b) by encouraging the identification of areas of core koala habitat, and (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones. 	<p>The proposal is contrary to these aims as koala habitat trees are proposed to be removed and inadequate mitigation measures are proposed.</p>	No
Definitions (CI 4)		
<p><i>core koala habitat</i> means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.</p> <p><i>potential koala habitat</i> means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.</p>	Noted	Applies
Land to which this Policy applies (CI 5)		
<ul style="list-style-type: none"> (1) This Policy applies to each local government area listed in Schedule 1. (2) However, it does not apply to land dedicated or reserved under the <u>National Parks and Wildlife Act 1974</u> or to land dedicated under the <u>Forestry Act 1916</u> as a State forest or flora reserve. 	Richmond River is listed in Schedule 1 and the land is not reserved as a National Park or state forest.	Applies
Part 2: Development control of koala habitats		
Land to which this Part applies (CI 6)		

<p>This Part applies to land:</p> <ul style="list-style-type: none"> (a) that is land to which this Policy applies, and (b) that is land in relation to which a development application has been made, and (c) that: <ul style="list-style-type: none"> (i) has an area of more than 1 hectare, or (ii) has, together with any adjoining land in the same ownership, an area of more than 1 hectare, <p>whether or not the development application applies to the whole, or only part, of the land.</p>	<p>The policy applies to the site and a DA has been made. The site has an area >1 hectare.</p>	<p>Applies</p>
<p>Step 1—Is the land potential koala habitat? (CI 7)</p>		
<ul style="list-style-type: none"> (1) Before a council may grant consent to an application for consent to carry out development on land to which this Part applies, it must satisfy itself whether or not the land is a potential koala habitat. (2) A council may satisfy itself as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification. (3) If the council is satisfied: <ul style="list-style-type: none"> (a) that the land is not a potential koala habitat, it is not prevented, because of this Policy, from granting consent to the development application, or (b) that the land is a potential koala habitat, it must comply with clause 8. 	<p>The land is potential koala habitat due to the presence of specific vegetation on the site as outlined in the 2019 Ecology Report.</p>	<p>Applies</p>
<p>Step 2—Is the land core koala habitat? (CI 8)</p>		
<ul style="list-style-type: none"> (1) Before a council may grant consent to an application for consent to carry out development on land to which this Part applies that it is satisfied is a potential koala habitat, it must satisfy itself whether or not the land is a core koala habitat. (2) A council may satisfy itself as to whether or not land is a core koala habitat only on information obtained by it, or by the applicant, from a person with appropriate qualifications and experience in biological science and fauna survey and management 	<p>Refer to review report – the land is considered to be core koala habitat.</p>	<p>Applies</p>

<p>(3) If the council is satisfied:</p> <p>(a) that the land is not a core koala habitat, it is not prevented, because of this Policy, from granting consent to the development application, or</p> <p>(b) that the land is a core koala habitat, it must comply with clause 9.</p>		
Step 3—Can development consent be granted in relation to core koala habitat? (CI 9)		
<p>(1) Before a council may grant consent to a development application for consent to carry out development on land to which this Part applies that it is satisfied is a core koala habitat, there must be a plan of management prepared in accordance with Part 3 that applies to the land.</p> <p>(2) The council's determination of the development application must not be inconsistent with the plan of management.</p>	<p>The land is considered to be core koala habitat and a Plan of Management has not been provided with the application. Accordingly, consent cannot be granted.</p>	No
Guidelines—matters for consideration (CI 10)		
<p>Without limiting clause 17, a council must take the guidelines into consideration in determining an application for consent to carry out development on land to which this Part applies.</p>	<p><i>Circular No. B35: State Environmental Planning Policy No. 44-Koala Habitat Protection</i> issued on 22 March 1995 ('Circular B35') contain the Director's Guidelines in Section 2. Section 2.1 of Circular B35 requires a thorough survey of the site and a vegetation plan outlining the vegetation on the site. This has not been provided.</p>	No
State Environmental Planning Policy No 55—Remediation of Land		
Contamination and remediation to be considered in determining development application (CI 7)		
<p>(1) A consent authority must not consent to the carrying out of any development on land unless—</p> <p>(a) it has considered whether the land is contaminated, and</p> <p>(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and</p>	<p>Consideration of whether the land is contaminated has not been adequately undertaken following the submission of a preliminary Site Investigation ('PSI') for the site.</p> <p>Accordingly, it is considered that the proposal is inconsistent with these controls.</p>	No

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<p>(c) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.</p>		
<p>(2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.</p>	<p>A PSI has been prepared; however, Council's health officer considers this to be unsatisfactory.</p>	<p align="center">No</p>
<p>(3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.</p>	<p>Council's Environmental Health Officer stated that the PSI has not been undertaken in accordance with NSW EPA Consultants Reporting on Contaminated Land - Contaminated Land Guidelines, SEPP No. 55 Remediation of Land or Council's Policy 15.7 Management of Contaminated Land which defers to the Regional Policy for the Page 130 of 219 Management of Contaminated Land, May 2006 (now June 2019) for land upon which the existing dwelling is located (Lot 163 DP 831052).</p> <p>There has been no systematic soil sampling for potential land contamination.</p>	<p align="center">No</p>
<p>(4) The land concerned is—</p> <p>(a) land that is within an investigation area,</p> <p>(b) land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,</p> <p>(c) to the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital—land—</p> <p>(i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning</p>	<p>The site is not in an investigation area. The site is known to have been used for agriculture and mining which are uses included in Table 1.</p> <p>Residential uses are proposed and the land is known to have been used for agriculture and mining which are uses included in Table 1.</p>	<p align="center">N/A Applies</p> <p align="center">Applies</p>

<p>guidelines has been carried out, and</p> <p>(ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</p>		
State Environmental Planning Policy (Infrastructure) 2007 (commenced 21 December 2007)		
Determination of development applications—other development (CI 45)		
<p>(1) This Clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—</p> <p>(a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,</p> <p>(b) development carried out—</p> <p>(i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or</p> <p>(ii) immediately adjacent to an electricity substation, or</p> <p>(iii) within 5m of an exposed overhead electricity power line,</p> <p>(c) installation of a swimming pool any part of which is—</p> <p>(i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or</p> <p>(ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,</p> <p>(d) development involving or requiring the placement of power lines underground unless an agreement with respect to the placement underground of power lines is in force between the electricity</p>	<p>There is a line of existing distribution poles through the site, which is within 2 metres of the proposed works.</p> <p>There is existing overhead electricity infrastructure on the site which is not located within an easement.</p> <p>An electricity substation is not located on the site.</p> <p>There is a line of existing distribution poles through the site, which is within 2 metres of the proposed works.</p> <p>It is unknown if there is a need or a proposal for underground electricity lines for the proposal.</p>	<p>Applies</p> <p>N/A</p> <p>N/A</p> <p>Applies</p> <p>No</p>

<p>supply authority and the council for the land concerned.</p> <p>(2) Before determining a development application (or an application for modification of a consent) for development to which this section applies, the consent authority must—</p> <p>(a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and</p> <p>(b) take into consideration any response to the notice that is received within 21 days after the notice is given.</p>	<p>It appears that there has been no consultation undertaken with Essential Energy by the Council.</p>	<p>No</p>
<p>Division 17 Roads and traffic</p>		
<p>Traffic-generating development (CI 104)</p>		
<p>(1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves—</p> <p>(a) new premises of the relevant size or capacity, or</p> <p>(b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.</p> <p>(2) In this section, relevant size or capacity means—</p> <p>(a) in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or</p> <p>(b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects</p>	<p>The proposal involves the subdivision of land into 184 lots and the opening of several public roads. The proposal does not achieve the criteria in Column 2 as less than 200 lots are proposed.</p> <p>In relation to Column 3, Iron Gates Drive is a local road (and is not a classified road) and does not connect to a classified road within 90 metres of the site. Woodburn Street forms part of the Woodburn-Evans Head Road (MR153) a classified (regional) road which is 1.5km from the site. Therefore, the proposal does not achieve the criteria in Column 3.</p> <p>Noted (refer above).</p>	<p>N/A</p> <p>N/A</p>

<p>to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.</p> <p>(3) Before determining a development application for development to which this section applies, the consent authority must—</p> <p>(a) give written notice of the application to RTA within 7 days after the application is made, and</p> <p>(b) take into consideration—</p> <p>(i) any submission that RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and</p> <p>(ii) the accessibility of the site concerned, including—</p> <p>(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and</p> <p>(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and</p> <p>(iii) any potential traffic safety, road congestion or parking implications of the development.</p> <p>(4) The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.</p>	<p>While the proposal did not meet the criteria for a referral to the RTA/ Transport for NSW (TfNSW), a referral was sent to TfNSW. Comments are discussed in the key issues section of this report.</p> <p>To be undertaken by Council following determination.</p>	<p>✓</p> <p>✓</p>
<p>Division 18 Sewerage systems</p>		
<p>Development permitted with or without consent (CI 106)</p>		
<p>(1) Development for the purpose of sewage treatment plants or biosolids treatment facilities may be carried out:</p> <p>(a) by or on behalf of a public authority or any person licensed under the <i>Water Industry Competition Act 2006</i> without consent on land in a prescribed zone, and</p>	<p>Not proposed.</p>	<p>N/A</p>

<p>(b) by any other person with consent on land in a prescribed zone.</p> <p>(2) Development for the purpose of water recycling facilities may be carried out:</p> <p>(a) by or on behalf of a public authority or any person licensed under the <u>Water Industry Competition Act 2006</u> without consent on land in a prescribed zone, and</p> <p>(b) by any other person with consent on land in a prescribed zone or on any land where the development is ancillary to an existing land use.</p> <p>However, such development may be carried out on land reserved under the <u>National Parks and Wildlife Act 1974</u> only if the development is authorised by or under that Act.</p>	<p>Not proposed.</p>	<p>N/A</p>
<p>(3) Development for the purpose of sewage reticulation systems may be carried out:</p> <p>(a) by or on behalf of a public authority or any person licensed under the <u>Water Industry Competition Act 2006</u> without consent on any land, and</p> <p>(b) by any other person with consent on any land.</p> <p>However, such development may be carried out on land reserved under the <u>National Parks and Wildlife Act 1974</u> only if the development is authorised by or under that Act.</p>	<p>A sewer reticulation system is proposed on the site which is permissible with consent under Subclause (3)(b).</p>	<p>✓</p>
<p>(4) Development for the purpose of the Northside Storage Tunnel may be carried out by or on behalf of Sydney Water Corporation without consent on land in any of the following local government areas:</p> <p>.....</p>	<p>The site is not located in these LGAs.</p>	<p>N/A</p>
<p>(5) A reference in this Division to development for the purpose of a sewerage system of any kind includes a reference to development for any of the following purposes if the development is in connection with the sewerage system:</p> <p>(a) pumping stations, pipelines and tunnels,</p>	<p>Noted</p>	<p>✓</p>

<ul style="list-style-type: none"> (b) temporary storage and transfer works to reticulate sewage or treated effluent, (c) effluent and biosolids reuse schemes, (d) power supply to the development, (e) energy generating works, (f) construction works, (g) routine maintenance works, (h) environmental management works. 		
Division 20 Stormwater management systems		
Development permitted without consent (CI 111)		
<p>(1) Development for the purpose of stormwater management systems may be carried out by or on behalf of a public authority without consent on any land.</p> <p>(2) A reference in this clause to development for the purpose of stormwater management systems includes a reference to development for any of the following purposes if the development is in connection with a stormwater management system:</p> <ul style="list-style-type: none"> (a) construction works, (b) routine maintenance works, including maintenance dredging to remove sediment build-up in a stormwater canal or at exit points into natural waterways that affects the efficiency of the stormwater management system, (c) environmental management works. 	<p>The proposed stormwater management system is not proposed to be carried out by or on behalf of a public authority. Accordingly, consent is required for the proposed stormwater management system on the site.</p> <p>Noted.</p>	<p>N/A</p> <p>N/A</p>
Exempt development (CI 112)		
<p>Development for any of the following purposes carried out by or on behalf of a public authority is exempt development if the development is in connection with a stormwater management system and complies with clause 20 if the development involves no greater soil or vegetation disturbance than necessary and does not involve any increase in</p>	<p>The proposed stormwater management system is not proposed to be carried out by or on behalf of a public authority. Accordingly, consent is required for the proposed stormwater management system on the site.</p>	<p>N/A</p>

<p>stormwater drainage or run-off from the site concerned:</p> <ul style="list-style-type: none"> (a) emergency works or emergency maintenance or repairs to protect a stormwater management system, (b) investigation for system development or to establish the condition or safety of existing infrastructure (including geotechnical and other testing, surveying and sampling) at, above or below the surface of the ground, (c) routine maintenance or associated landscaping works, including the following: <ul style="list-style-type: none"> (i) removal of litter or debris from stormwater quality improvement devices, (ii) harvesting of macrophytes associated with a treatment system, (iii) excavations to expose a pipeline for inspection or testing and temporary stockpiles associated with pipeline maintenance or repair, (iv) flushing or relining of a pipeline where access is by a manhole, (v) maintenance of access tracks along corridors, pipelines and other infrastructure, (vi) painting, servicing or minor alteration of existing equipment, (vii) alterations to existing enclosures or buildings, (d) installation, maintenance, repair or replacement of a trunk drainage channel, pipeline marker or cathodic protection system, (e) works for safety or security, such as: <ul style="list-style-type: none"> (i) construction, maintenance or realignment of security fencing that has a height above ground level (existing) of not more than 3.2m, or (ii) temporary fencing around work sites or around open excavations, or (iii) maintenance or repair of existing gates or installation of new gates, 		
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(f) temporary structures associated with maintenance projects, but only if the structure has only one storey.		
Division 24 Water supply systems		
Development permitted without consent (CI 125)		
(1) Development for the purpose of water reticulation systems may be carried out by or on behalf of a public authority without consent on any land.	The proposed water reticulation system (to connect to existing services external to the site) is not proposed to be undertaken by or on behalf of a public authority.	N/A
(2) Development for the purpose of water storage facilities, including development for any of the following purposes, may be carried out by or on behalf of a public authority without consent	Refer above.	N/A
(3) Development for the purpose of water treatment facilities may be carried out by or on behalf of a public authority without consent on land in any of the following land use zones:.....	Refer above.	N/A
(4) Development for the purpose of a water supply system may be carried out on land reserved under the National Parks and Wildlife Act 1974 only if it is authorised by or under that Act.	Not proposed on NPWS land.	N/A
(5) In this Division, a reference to development for the purpose of a water supply system of any kind includes a reference to development for any of the following purposes if the development is in connection with the water supply system: (a) dams, reservoirs, weirs, levees, spillways and fishways, (b) catchment management works, (c) groundwater investigation works, groundwater bore stations, borefields, minewater works and the like, (d) access ways, (e) water intakes, pumping stations, pipelines, channels, tunnels, canals and aqueducts, (f) gauging and monitoring equipment,	Noted	N/A

<p>(g) power supply to the water supply system, (h) hydro-electric power generation equipment and associated connections to the electricity network, (i) construction works, (j) emergency works and routine maintenance works, (k) environmental management works.</p> <p>(6) Development for any of the following purposes may be carried out by or on behalf of the Sydney Catchment Authority without consent on any land: (a) investigations into the availability of groundwater (including mine water), extraction of groundwater or mine water, and associated water reticulation systems, (b) development to enable access to deep water extraction in dams within the Sydney Catchment Authority's area of operations under the Sydney Water Catchment Management Act 1998, including investigations, associated works or equipment and construction works and other water supply infrastructure, such as the Megarrity's Creek Water Pumping Station and other Warragamba Emergency Scheme works.</p>	<p>Not proposed.</p>	<p>N/A</p>
<p>State Environmental Planning Policy No (Rural Lands) 2008 (commenced 09 May 2008)</p>		
<p>Land to which Policy applies (CI 4)</p>		
<p>This Policy applies to the State, other than those parts of the State within the following local government areas: Ashfield, Auburn, Bankstown, Baulkham Hills, Blacktown, Blue Mountains, Botany Bay, Burwood, Camden, Campbelltown, Canada Bay, Canterbury, City of Sydney, Fairfield, Gosford, Hawkesbury, Holroyd, Hornsby, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lake Macquarie, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, Newcastle, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Warringah, Waverley, Willoughby, Wollondilly, Wollongong, Woollahra, Wyong.</p>	<p>The policy applies to the site.</p>	<p>Applies</p>

Matters to be considered in determining development applications for rural subdivisions or rural dwellings (CI 10)		
(1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.	The site contains land in the RU1, C2 and C3 zones.	Applies
(2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes: (a) subdivision of land proposed to be used for the purposes of a dwelling, (b) erection of a dwelling.	The application proposes the subdivision of land within the RU1, C2 and C3 zones, however, the subdivision within the C2 and C3 land does not propose use of the land for a dwelling. The land within the RU1 zone will include a dwelling entitlement (above the 40ha).	Applies to RU1 land
(3) The following matters are to be taken into account: (a) the existing uses and approved uses of land in the vicinity of the development, (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development, (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b), (d) if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone, (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).	Proposed Lot 138 is to be a residue lot of 47.418 hectares and will include land within the RU1 and C3 zones. The C2 zoned land is proposed to be included in the rainforest lots. Dwelling houses and dual occupancies are permissible in the C3 and RU1 zones, which have a minimum lot size of 40 hectares (for both the RU1 and C3 zones), which is achieved by the proposal. It is considered that the proposal has not sufficiently considered or demonstrated whether any future development of proposed Lot 138 would be compatible with the surrounding rural and environmental conservation zoned land in that there is no future development footprint identified or likely road access to the future lot.	No
<i>Richmond Valley Local Environmental Plan 2012</i>		
Part 2: Permitted or prohibited development		
Zoning of land to which Plan applies (CI 2.2) & Zone objectives and Land Use Table (CI 2.3)		
The site contains land in the following zones:	The proposed uses are permissible in the respective zones	✓

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<ul style="list-style-type: none"> • RU1 – Primary Production • R1 – General Residential • C2 – Environmental Conservation • C3 – Environmental Management 	<p>– considered further in the report.</p> <ul style="list-style-type: none"> • RU1 – Subdivision is proposed and is permissible with consent pursuant to CI 2.6 • R1 - Subdivision is proposed and is permissible with consent pursuant to CI 2.6, roads and <i>recreation areas</i> (public open space lots 141 and 142) are proposed and are permissible with consent. 	
Additional permitted uses for particular land (CI 2.5)		
Development on particular land that is described or referred to in Schedule 1 may be carried out with development consent, or if the Schedule so provides—without development consent.	The site is not listed ion Schedule 1.	N/A
Subdivision (CI 2.6)		
(1) Land to which this Plan applies may be subdivided, but only with development consent.	Subdivision is proposed and is permissible.	✓
(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.	A secondary dwelling is not proposed.	N/A
Demolition requires development consent (CI 2.7)		
The demolition of a building or work may be carried out only with development consent.	Demolition is proposed and can be addressed in consent conditions where applicable.	N/A
Part 4: Principal Development standards		
Minimum subdivision lot size (CI 4.1)		
(1) The objectives of this clause are as follows: (a) to ensure that lot sizes have a practical and efficient layout to meet	The proposed lots are generally in accordance with the minimum lot sizes	✓

<p>their intended use, and (b) to prevent the fragmentation of rural lands.</p> <p>(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.</p> <p>(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.</p> <p>(4) This clause does not apply in relation to the subdivision of individual lots in a strata plan or community title scheme.</p> <p>(4A) Despite subclause (3): (a) land within Zone RU5 Village may be subdivided to create lots of at least 600 square metres, but only if the consent authority is satisfied that each lot is, or will be, serviced by a water reticulation system and sewerage system, and (b) development consent may be granted to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land, but only where that lot comprises the entire residue of a subdivision under clause 4.2 or 4.2A.</p>	<p>All of the proposed lots require consent.</p> <p>The minimum lot size within the R1 zone on the site is 600m² while the RU1 has a minimum lot size of 40ha. All of the proposed lots are 600m² or greater and the residue lot in the RU1 zone is greater than 40 hectares.</p> <p>There is no strata or community title subdivision proposed in this application.</p> <p>The site does not contain any RU5 land and the proposed residue lot in the RU1 zone is in accordance with the minimum lot size.</p>	<p>Applies</p> <p>✓</p> <p>N/A</p> <p>N/A</p>
<p>Rural subdivision (CI 4.2)</p>		
<p>(1) The objective of this clause is to provide flexibility in the application of standards for subdivision in rural zones to allow landowners a greater chance to achieve the objectives for development in the relevant zone.</p> <p>(2) This clause applies to the following rural zones: (a) Zone RU1 Primary Production, (b) Zone RU2 Rural Landscape, (c) Zone RU4 Primary Production Small Lots,</p>	<p>Noted</p> <p>The site includes land within the RU1 zone in the north-western corner of the site) and is land included the proposed residue lot (Lot 138) which comprises an overall area of 47.418 hectares.</p>	<p>✓</p> <p>Applies</p>

<p>(d) Zone RU6 Transition. Note—When this Plan was made, it did not include Zone RU2 Rural Landscape, Zone RU4 Primary Production Small Lots or Zone RU6 Transition.</p> <p>(3) Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.</p> <p>(4) However, such a lot cannot be created if an existing dwelling would, as the result of the subdivision, be situated on the lot.</p> <p>(5) A dwelling cannot be erected on such a lot. Note— A dwelling includes a rural worker’s dwelling (see definition of that term in the Dictionary).</p>	<p>The proposed lot size complies with the minimum lot size and primary production is not proposed in the residue lot.</p> <p>Not proposed as an undersized lot (refer above).</p> <p>Not proposed as an undersized lot (refer above).</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>
<p>Exceptions to minimum lot sizes for certain rural subdivisions (CI 4.2A)</p>		
<p>(1) The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of current permissible uses other than for the purpose of dwelling houses or dual occupancies.</p> <p>(2) This clause applies to land in Zone RU1 Primary Production.</p> <p>(3) Land to which this clause applies may, with development consent, be subdivided to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land, if the consent authority is satisfied that the use of the land after the subdivision will be the same use (other than a dwelling house or a dual occupancy) permitted under the existing development consent for the land.</p>	<p>Consistent</p> <p>The site includes land within the RU1 zone in the north-western corner of the site) and is land included the proposed residue lot (Lot 138) which comprises an overall area of 47.418 hectares.</p> <p>The proposed lot size of the residue lot complies with the minimum lot size.</p>	<p>✓</p> <p>✓</p> <p>✓</p>

<p>(4) Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> (a) the subdivision will not adversely affect the use of the surrounding land for agriculture, and (b) the subdivision is necessary for the ongoing operation of the permissible use, and (c) the subdivision will not increase rural land use conflict in the locality, and (d) the subdivision is appropriate having regard to the natural and physical constraints affecting the land. 	<p>The proposed residue lot (Lot 138) will not adversely impact on adjoining land uses.</p>	<p>✓</p>
<p>Height of Buildings (CI 4.3)</p>		
<p>(1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> (a) <i>to identify maximum heights of buildings,</i> (b) <i>to ensure that the heights of buildings are compatible with the character of the existing development within the surrounding area.</i> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p>There are no structures proposed in this application.</p>	<p>N/A</p>
<p>Floor space ratio (CI 4.4)</p>		
<p>(1) The objectives of this clause are as follows—</p> <ul style="list-style-type: none"> (a) <i>to identify maximum floor space ratios in major centres,</i> (b) <i>to ensure that floor space ratios provide development opportunities that are compatible with building heights,</i> (c) <i>to encourage development in locations readily accessible to public transport and services that will provide increased employment opportunities.</i> <p>(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</p>	<p>There are no structures proposed in this application.</p>	<p>N/A</p>
<p>Part 5: Miscellaneous provisions</p>		

Relevant acquisition authority (CI 5.1)		
(1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the <i>Land Acquisition (Just Terms Compensation) Act 1991 (the owner-initiated acquisition provisions)</i> .	The site is not affected by any land acquisition requirements.	N/A
Development within the coastal zone (CI 5.5)		
Heritage conservation (CI 5.10)		
(1) Objectives The objectives of this clause are as follows— <i>(a) to conserve the environmental heritage of Richmond Valley,</i> <i>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</i> <i>(c) to conserve archaeological sites,</i> <i>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</i>	There is a heritage item located on the site and the site contains Aboriginal cultural heritage which has not been adequately considered in this assessment.	No
(2) Requirement for consent - Development consent is required for any of the following— (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance)— (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area, (b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,	Consent is required pursuant to Clause 5.10(2)(f)(ii) as the proposal involves subdividing land on which an Aboriginal object is located. This DA seeks consent for the proposal.	✓

<p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,</p> <p>(f) subdividing land—</p> <p>(i) on which a heritage item is located or that is within a heritage conservation area, or</p> <p>(ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.</p> <p>(3) When consent not required - However, development consent under this clause is not required if—</p> <p>(a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development-</p> <p>(i) is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and</p> <p>(ii) would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or</p> <p>(b) the development is in a cemetery or burial ground and the proposed development—</p>	<p>Consent is required for the proposal as the site contains Aboriginal objects and that is within an Aboriginal place of heritage significance.</p>	<p>N/A</p>
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<p>(i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and</p> <p>(ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or</p> <p>(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or</p> <p>(d) the development is exempt development.</p> <p>(4) Effect of proposed development on heritage significance - The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(5) Heritage assessment - The consent authority may, before granting consent to any development—</p> <p>(a) on land on which a heritage item is located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> <p>(6) Heritage conservation management plans - The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this</p>	<p>The heritage item located on the site a pursuant to Schedule 1 of the LEP will not be adversely affected by the proposal.</p> <p>Refer above. A Heritage Management document is not required.</p> <p>Aboriginal Cultural heritage is considered in the key issues section.</p>	<p>✓</p> <p>N/A</p> <p>✓</p>
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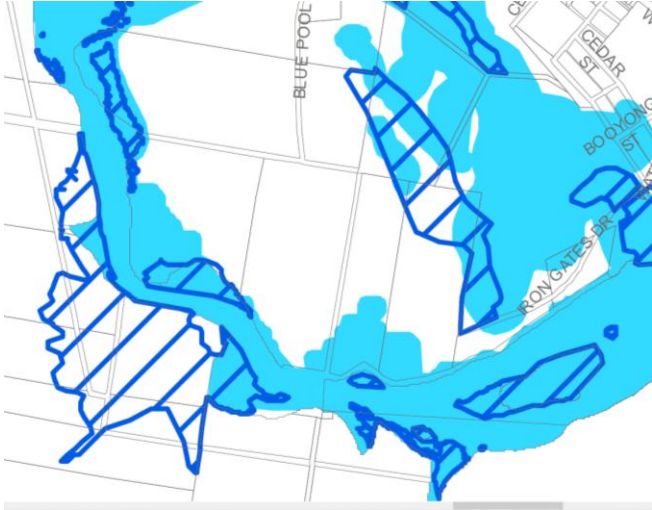
<p>clause.</p>	<p>Not relevant</p>	<p>N/A</p>
<p>(7) Archaeological sites - The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies)— (a) notify the Heritage Council of its intention to grant consent, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>Not relevant</p>	<p>N/A</p>
<p>(8) Aboriginal places of heritage significance - The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance— (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	<p>Considered in the key issues section of the report.</p>	<p>No</p>
<p>(9) Demolition of nominated State heritage items - The consent authority must, before granting consent under this clause for the demolition of a nominated State heritage item— (a) notify the Heritage Council about the application, and (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p>	<p>Not proposed.</p>	<p>N/A</p>
<p>(10) Conservation incentives - The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, or for any purpose on an</p>	<p>Not proposed. The proposal is permissible with consent in the respective zones.</p>	<p>N/A</p>

<p>Aboriginal place of heritage significance, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that—</p> <ul style="list-style-type: none"> (a) the conservation of the heritage item or Aboriginal place of heritage significance is facilitated by the granting of consent, and (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, or the heritage significance of the Aboriginal place of heritage significance, and (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area. 		
<p>Part 6: Additional Local Provisions</p>		
<p>Acid sulfate soils (CI 6.1)</p>		
<ul style="list-style-type: none"> (1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. (2) Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works. (3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority. 	<p>Unacceptable – refer to report</p>	<p>No</p>

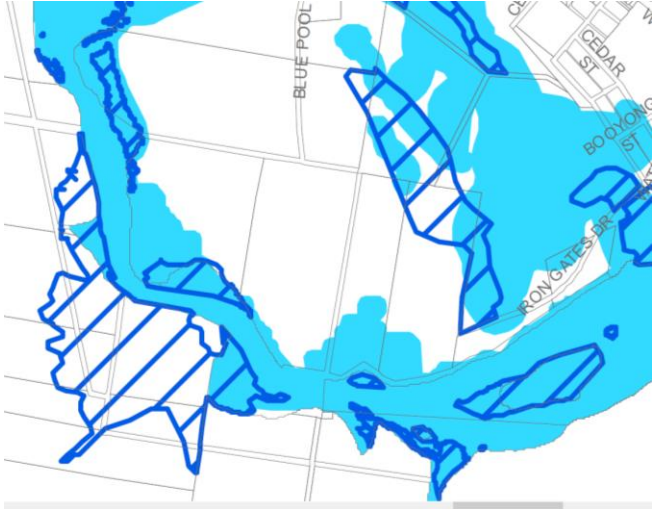
<p>(4) Despite subclause (2), development consent is not required under this clause for the carrying out of works if:</p> <ul style="list-style-type: none"> (a) a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicates that an acid sulfate soils management plan is not required for the works, and (b) the preliminary assessment has been provided to the consent authority and the consent authority has confirmed the assessment by notice in writing to the person proposing to carry out the works. <p>(5) Despite subclause (2), development consent is not required under this clause for the carrying out of any of the following works by a public authority (including ancillary work such as excavation, construction of access ways or the supply of power):</p> <ul style="list-style-type: none"> (a) emergency work, being the repair or replacement of the works of the public authority required to be carried out urgently because the works have been damaged, have ceased to function or pose a risk to the environment or to public health and safety, (b) routine maintenance work, being the periodic inspection, cleaning, repair or replacement of the works of the public authority (other than work that involves the disturbance of more than 1 tonne of soil), (c) minor work, being work that costs less than \$20,000 (other than drainage work). <p>(6) Despite subclause (2), development consent is not required under this clause to carry out any works if:</p> <ul style="list-style-type: none"> (a) the works involve the disturbance of less than 1 tonne of soil, and (b) the works are not likely to lower the watertable. <p>(7) Despite subclause (2), development consent is not required under this clause for the carrying out of works on land for the purpose of agriculture if:</p>		
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<p>(b) the earthworks are ancillary to other development for which development consent has been given.</p> <p>(3) Before granting development consent for earthworks, the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,</p> <p>(b) the effect of the proposed development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or of the soil to be excavated, or both,</p> <p>(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material or the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>These issues have not been adequately demonstrated by the application and is therefore unsatisfactory.</p>	<p>No</p>
<p>Flood planning (CI 6.5)</p>		
<p>(1) The objectives of this clause are as follows:</p> <p style="padding-left: 20px;">to minimise the flood risk to life and property associated with the use of land,</p> <p style="padding-left: 20px;">(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</p> <p style="padding-left: 20px;">(c) to avoid significant adverse impacts on flood behaviour and the environment.</p> <p>(2) This clause applies to land at or below the flood planning level.</p> <p>(3) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that</p>	<p>Flood planning is not sufficiently detailed in the application – refer to report.</p>	<p>No</p>

<p>the development:</p> <ul style="list-style-type: none"> (a) is compatible with the flood hazard of the land, and (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding. <p>(4) A word or expression used in this clause has the same meaning as it has in the Floodplain Development Manual (ISBN 0 7347 5476 0), published in 2005 by the NSW Government, unless it is otherwise defined in this clause.</p> <p>(5) In this clause, flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.</p>		
Terrestrial biodiversity (CI 6.6)		
<p>(1) The objective of this clause is to maintain terrestrial biodiversity by:</p> <ul style="list-style-type: none"> (a) <i>protecting native fauna and flora, and</i> (b) <i>protecting the ecological processes necessary for their continued existence, and</i> (c) <i>encouraging the conservation and recovery of native fauna and flora and their habitats.</i> <p>(2) This clause applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map.</p>	<p>The proposal is contrary to the objectives of this clause arising from the ecological and biodiversity impacts from the proposal as outlined in the report.</p> <p>The entire site is identified as biodiversity on the map.</p>	<p>No</p> <p>Applies</p>

<p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>		
<p>Riparian Land and watercourses (CI 6.8)</p>		
<p>(1) The objective of this clause is to protect and maintain the following: <i>(a) water quality within watercourses,</i> <i>(b) the stability of the bed and banks of watercourses,</i> <i>(c) aquatic and riparian habitats,</i> <i>(d) ecological processes within watercourses and riparian areas.</i></p>	<p>The proposal is inconsistent with these objectives as outlined in the report.</p>	<p>No</p>
<p>(2) This clause applies to land identified as “Key Fish Habitat” on the Riparian Land and Waterways Map.</p>	<p>The site is affected by key fish habitat as outlined in the map.</p> 	<p>Applies</p>
<p>(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider: (a) whether or not the development is likely to have any adverse impact on the following: (i) the water quality and flows within the watercourse,</p>	<p>Discussed in the report.</p>	<p>No</p>

<ul style="list-style-type: none"> (ii) aquatic and riparian species, habitats and ecosystems of the watercourse, (iii) the stability of the bed and banks of the watercourse, (iv) the free passage of fish and other aquatic organisms within or along the watercourse, (v) any future rehabilitation of the watercourse and its riparian areas, and <p>(b) whether or not the development is likely to increase water extraction from the watercourse, and</p> <p>(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact. 	<p>Discussed in the report</p>	<p>No</p>
<p>Wetlands (CI 6.10)</p>		
<p>(1) The objective of this clause is to ensure that wetlands are preserved and protected from the impacts of development.</p> <p>(2) This clause applies to land identified as “Wetland” on the Wetlands Map.</p>	<p>The proposal is inconsistent with these objectives as outlined in the report.</p> <p>The site is affected by wetlands as outlined in the map.</p>	<p>No</p> <p>Applies</p>

<p>(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:</p> <p>(a) whether or not the development is likely to have any significant adverse impact on the following:</p> <ul style="list-style-type: none"> (i) the condition and significance of the existing native fauna and flora on the land, (ii) the provision and quality of habitats on the land for indigenous and migratory species, (iii) the surface and groundwater characteristics of the land, including water quality, natural water flows and salinity, and <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or (c) if that impact cannot be minimised—the development will be managed to mitigate that impact. 	 <p>Discussed in the report.</p>	<p>No</p>
<p>Airspace operations (CI 6.11)</p>		

<p>(1) The objectives of this clause are as follows: (a) to provide for the effective and ongoing operation of the Casino and Evans Head Airports by ensuring that such operation is not compromised by proposed development that penetrates the Limitation or Operations Surface for that airport, (b) to protect the community from undue risk from that operation. (2) If a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application. (3) The consent authority may grant development consent for the development if the relevant Commonwealth body advises that: (a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or (b) the development will not penetrate the Limitation or Operations Surface. (4) The consent authority must not grant development consent for the development if the relevant Commonwealth body advises that the development will penetrate the Limitation or Operations Surface and should not be constructed. (5) In this clause: Limitation or Operations Surface means the Obstacle Limitation Surface or the Procedures for Air Navigation Services Operations Surface as shown on the <i>Obstacle Limitation Surface Map</i> or the <i>Procedures for Air Navigation Services Operations Surface Map</i> for the Casino and Evans Head Airports. relevant Commonwealth body means the body, under Commonwealth legislation, that is responsible for development approvals for development that penetrates the Limitation or Operations Surface for the Casino and Evans Head Airports.</p>	<p>Discussed in the report.</p>	<p>✓</p>
<p>Development in areas subject to aircraft noise (CI 6.12)</p>		
<p>(1) The objectives of this clause are as follows:</p>	<p>Discussed in report.</p>	<p>✓</p>

<p>(a) to prevent certain noise sensitive developments from being located near the Casino and Evans Head Airports and its flight paths,</p> <p>(b) to assist in minimising the impact of aircraft noise from that airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,</p> <p>(c) to ensure that land use and development in the vicinity of that airport do not hinder or have any other adverse impacts on the ongoing, safe and efficient operation of that airport.</p> <p>(2) This clause applies to development that:</p> <p>(a) is on land that:</p> <p>(i) is near the Casino and Evans Head Airports, and</p> <p>(ii) is in an ANEF contour of 20 or greater, and</p> <p>(b) the consent authority considers is likely to be adversely affected by aircraft noise.</p> <p>(3) Before determining a development application for development to which this clause applies, the consent authority:</p> <p>(a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and</p> <p>(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and</p> <p>(c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.</p> <p>(4) In this clause:</p> <p>ANEF contour means a noise exposure contour shown as an ANEF contour on the <i>Noise Exposure Forecast Contour Map</i> for the Casino and Evans Head Airports prepared by the Department of the Commonwealth responsible for airports.</p>		
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AS 2021—2000 means AS 2021—2000, <i>Acoustics—Aircraft noise intrusion—Building siting and construction.</i>		
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