Development consent

Section 89E of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, under delegation dated 16 February 2015, I determine:

(a) to grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2 and Schedule 3; and
(b) that pursuant to section 89D(2) of the *Environmental Planning and Assessment Act 1979*, any subsequent stage of the development not being for the purpose of a correctional centre with a capital investment value in excess of $30 million is to be determined by the relevant authority and that stage of the development ceases to be State significant development.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

David Gainsford
Executive Director
Priority Projects Assessments

Sydney 14th March 2017

SCHEDULE 1

Application No.:	SSD 7413
Applicant:	Infrastructure NSW, on behalf of Department of Justice
Consent Authority:	Minister for Planning
Land:	313 Avenue Road, Lavadia (Lot 26 DP751376 and Lot 1 DP 1190399)

Approved Development:

<u>Concept Proposal</u> for the staged development of the New Grafton Correctional Centre, comprising:

- 1,700 maximum and minimum security beds, consisting of:
  - 1,000 maximum security beds for male inmates;
  - 300 maximum security beds for female inmates; and
  - 400 minimum security beds for male inmates.
- core correctional facility buildings including: maximum and minimum accommodation units; special accommodation units; health facilities; education and programs areas; administration; workshops; staff amenities; and visitor facilities;
- a recreational oval within the perimeter of the facility;

- six metre high fence/s or wall/s around the perimeter of the facility, with light and security camera poles up to 10 metres in height;
- store buildings, small ancillary facilities, a central energy plant, black-water treatment facilities and a drug dog detection unit and yard located outside the perimeter wall / fence;
- fire access roads on the inside and the outside of the perimeter wall/ fence of the facility;
- water, power, wastewater and communication utilities within the site;
- a maximum building height of 12 metres (approximately three storeys);
- total GFA of approximately 100,000 sqm;
- vegetative buffer of 50 metres along the northern boundary, 15 metres along the eastern boundary and 30 metres along the southern boundary; and
- asset protection zone of 100 metres from every boundary or vegetation buffer;
- one vehicular entry/exit point from Avenue Road;
- 500 car parking spaces;
- 1.5 metre high boundary fence; and
- landscaping of ground cover and /or shrubbery.

Stage 1 Works, including:
- vegetation clearance and biodiversity management activities;
- bulk excavation and site stabilisation works;
- demolition of the existing house and sheds;
- construction of access roads including fire access roads to the extent required to conduct Stage 1 works;
- construction of auxiliary facilities such as construction compound, construction staff parking facilities and stockpiles sites;
- temporary provision of water, power and communication services within the site to the extent required to conduct Stage 1 works; and
- landscaping.

DEFINITIONS

ACHMP	Aboriginal Cultural Heritage Management Plan
Advisory Notes	Advisory information relating to the consent but do not form a part of this consent
AMT	Acceptable Modern Technology
Applicant	Consent holder or person with the benefit of the development consent
Application	The development application and the accompanying drawings plans and documentation described in Condition A5 Schedule 2 and A3 Schedule 3.
APZ	Asset Protection Zone
AS	Australian Standard
AS/NZS	Australian/New Zealand Standard
BAR	Biodiversity Assessment Report
BNR	Biological Nutrient Removal
BOS	Biodiversity Offset Strategy
Construction	The demolition of buildings or works, the carrying out of works, including bulk earthworks and vegetation clearing, and erection of buildings and other infrastructure covered by this consent.
Council	Clarence Valley Council
CEMP	Construction Environmental Management Plan
Certification of Crown Building works	Certification under s109R of the EP&A Act
Certifying Authority	Professionals that are accredited by the Building Professionals Board to issue construction, occupation, subdivision, strata, compliance and complying development certificates under the EP&A Act, *Strata Schemes (Freehold Development) Act 1973* and *Strata Schemes (Leasehold Development) Act 1986* or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works
Day time	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
DEC	Former Department of Environment and Conservation
Department	The Department of Planning and Environment
DPI	Department of Primary Industries
Evening	The period from 6 pm to 10 pm
EIS	Environmental Impact Statement titled *Environmental Impact Statement New Grafton Correctional Centre*, prepared by Dan Keary Urban Planning Pty Ltd and Michael Woodland Consulting Pty Ltd dated August 2016
EPA	Environment Protection Authority
EP&A Act	*Environmental Planning and Assessment Act 1979*
EP&A Regulation	*Environmental Planning and Assessment Regulation 2000*
FBA	Framework for Biodiversity Assessment
Feasible	Feasible relates to engineering considerations and what is practical to build
Incident	An occurrence or set of circumstances that causes, or threatens to cause, material harm to the environment, community or any member of the community, being actual or potential harm to the health or safety of human beings or to threatened species, endangered ecological communities or ecosystems that is not trivial. *Note: This meaning of "material harm" applies for the purpose of this approval only.*
MEDLI Model	Model for Effluent Disposal using Land Irrigation
Minister	Minister for Planning, or nominee
NCC	National Construction Code
Night time	The period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am on Sundays and Public Holidays
OEH	Office of the Environment and Heritage
RAP	Registered Aboriginal Parties
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements.
RFS	NSW Rural Fire Service
RMS	Roads and Maritime Services
RtS	Response to Submissions prepared by KEYLAN Consulting Pty Ltd dated November 2016

RL	Relative Level
Secretary	Secretary of Department of Planning and Environment
Secretary's approval, agreement or satisfaction	A written approval from the Secretary (or nominee/delegate)
Sensitive receiver	Residence
Stage 2	Design, construction and operation of the correctional facility
STCFF EEEC	Subtropical Coastal Floodplain Forest of the NSW North Coast Bioregion Endangered Ecological Community
Stock moving route(s)	Stock moving route with a permit issued under the *Local Land Services Act 2013*
Subject Site	313 Avenue Road, Lavadia (Lot 26 DP751376 and Lot 1 DP 1190399)
SWS	Static Water Supply
TfNSW	Transport for New South Wales
W2B	Woolgoolga to Ballina Pacific Highway upgrade works

SCHEDULE 2

CONDITIONS OF CONSENT FOR CONCEPT PROPOSAL

PART A TERMS OF CONSENT

Development Description

A1. Consent is granted to the 'concept proposal' as described in Schedule 1 and the EIS, as amended by the RtS and the conditions contained in this development consent.

Determination of Future Development Applications

A2. In accordance with section 83B(3) of the EP&A Act all development under the concept proposal are to be the subject of future development applications.

A3. The determination of future development applications are to be generally consistent with the terms of development consent SSD 7413 as described in **Schedule 1** and subject to the conditions in Part B, **Schedule 2**.

Development in Accordance with Plans and Documents

A4. The Applicant must carry out the development in accordance with the conditions of consent and generally in accordance with:

a) SSD 7413;

b) the EIS, as amended by the RtS; and

c) the following drawings prepared by NBRS and Partners Pty Ltd, except for:

i) any modifications which are Exempt or Complying Development; and

ii) otherwise provided by the conditions of this consent.

Name of Plan	Date
Landscape Mitigation Plan	February 2016

A5. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.

A6. The Applicant must comply with any reasonable requirement(s) of the Secretary arising from the Department's assessment of:

a) any reports, plans or correspondence that are submitted in accordance with this consent; and

b) the implementation of any actions or measures contained within these reports, plans or correspondence.

Limits of Consent

A7. This consent lapses five years after the date from which it operates, unless the Development has physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under section 95 of the EP&A Act.

Staged Submission of Plans and Programs

A8. With the approval of the Secretary, the Applicant may:

a) submit any strategy, plan or program required by this consent on a progressive basis; and/or

b) combine any strategy, plan or program required by this consent.

If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program. A clear relationship between the strategy, plan or program that is to be combined must be demonstrated.

Community Consultative Committee

A9. Within three months of the date of this approval, unless otherwise approved by the Secretary, the Applicant is required to establish a Community Consultative Committee in accordance with the Department's *Community Consultative Committee Guidelines for State Significant Projects*, dated November 2016.

Built form

A10. Future buildings and structures on the site must not exceed 12 metres from finished ground level, unless it can be demonstrated that visual impacts can be appropriately mitigated.

Dispute Resolution

A11. Where this consent requires further approval from public authorities, the parties must not act unreasonably in preventing an agreement from being reached. In the event that a dispute arises between the Applicant and Council or a public authority, in relation to an applicable requirement in this consent or relevant matter relating to the development, either party may refer the matter to the Secretary for resolution. The Secretary's determination of any such dispute shall be final and binding on the parties.

Statutory Requirements

A12. The Applicant must ensure all licences, permits and approvals/ consents are obtained and kept up to date as required throughout the life of the Development. No condition of this consent removes the obligation of the Applicant to obtain, renew or comply with such licences, permits or approvals.

Note: *The Applicant is required to obtain the relevant license/approval from Council under section 68 of the Local Government Act 1993 prior to the commencement of construction for all domestic effluent disposal and management systems on-site.*

PART B CONDITIONS TO BE SATISFIED IN FUTURE DEVELOPMENT APPLICATIONS

Development Plans

B1. All future development applications involving site and/or construction works must be supported with detailed plans which show the extent of the proposed works including the location of any proposed works, structures or services, floor plans, elevations, sections and building materials.

Built Form

B2. The location, height and design of future buildings and structures must be generally consistent with the development principles and development parameters identified in the EIS.

Residential Amenity Impacts

B3. Details are to be provided demonstrating that consideration has been given to the protection and minimisation of potential amenity impacts on adjoining sensitive land uses, including, but not limited to the following matters:

- a) visual amenity, including identifying key views, quantifying likely impacts and identifying appropriate measure to ameliorate the impacts;
- b) privacy;
- c) noise and vibration;
- d) odour;
- e) safety procedures; and
- f) lighting.

Social and Economic Impacts

B4. A comprehensive Social Impact Assessment must be prepared by a suitably qualified and experienced person and submitted with the development application for Stage 2. The Social Impact Assessment is to:

- a) include a social baseline study, which must be directly informed by community engagement. The social baseline study must be submitted to the Secretary for approval prior to finalisation of the Social Impact Assessment and should meet the following objectives:
  - i) identification of the directly-affected community and other stakeholders, specifying in what way each might be affected;
  - ii) assistance for these people and groups in understanding the proposal;
  - iii) completion of a qualitative community profile (including values and aspirations) as well as a quantitative baseline of key social aspects;
  - iv) identification of any diversity of views/concerns that might exist in the community;
  - v) relevance of any previous, current, and anticipated relevant developments (e.g. Pacific Highway upgrade) and how these might shape community views; and
  - vi) detailed consideration of potential impacts (including perceptions) on directly-affected communities (near neighbours and landholders).
- b) identify potential impacts, considering the following matters:
  - i) way of life;
  - ii) culture;
  - iii) community;
  - iv) political systems;
  - v) environment;
  - vi) health and wellbeing;

vii) personal and property rights; and
viii) fears and aspirations.

c) assess significance of each impact based on the following characteristics:
   i) duration;
   ii) extent;
   iii) sensitivity (value that community members/groups place on the impact, and capacity to adapt);
   iv) severity; and
   v) level of community concern.

d) discuss mitigation options for potentially significant negative social impacts, and propose strategies to secure and maximise beneficial impacts;
e) propose methods for monitoring social impacts over time, and adaptively managing those impacts and any unanticipated impacts;
f) outline mechanisms for publicly reporting social impact performance over time;
g) clearly explain and describe the process, evidence and all assumptions made to identify the community, and to assess impacts and their significance;
h) be supported and informed by an extensive, inclusive and deliberative program of community engagement, actively seeking input from the affected community and other stakeholders, and demonstrating how that input has informed the proposal;
i) identify social impact indicators that would be monitored from the date of construction to five years after opening, to inform government agency responses and provide a baseline to measure and manage future impacts; and
j) identify the qualifications and experience of the author(s) in social science methods.

Traffic, Access and Car Parking

B5. The development application for Stage 2 must include a detailed assessment of traffic impacts, traffic generation, cumulative traffic impacts and analysis of intersection performance. The assessment must include mitigation and management measures and recommendations on intersection/infrastructure upgrades, where this is deemed necessary. The analysis of intersection performance must include, but not be limited to, the following intersections:

a) Avenue Road and Eight Mile Lane;
b) the existing Pacific Highway and Eight Mile Lane;
c) Old Six Mile Lane and the existing highway; and
d) Old Six Mile Lane and Avenue Road.

B6. The development application for Stage 2 must demonstrate that Avenue Road and the intersection of Eight Mile Lane and Avenue Road are able to accommodate construction and operational traffic generated by this development.

B7. The development application for Stage 2 must include a traffic management plan and traffic control plan for the facility prepared in consultation with the W2B contractor, RMS, Council and local residents to ensure traffic movements, vehicle access and car parking would be managed appropriately, including inmate transfers.

B8. The development application for Stage 2 must demonstrate adequate access, bus shelter and turning circle areas are incorporated in the design of the facility to ensure any bus services can enter, exit and manoeuvre through the site in accordance with relevant standards.

Wastewater Management

B9. Full details of the proposed wastewater management system to service the proposed correctional facility are to be provided with the development application for Stage 2, including but not limited to:

a) a comprehensive site and soil analysis to demonstrate the suitability of the site for on-site wastewater management, including rainfall frequency and intensity, Coffs Harbour evaporation data and comparison with Alstonville evaporation data;

b) details of the entire wastewater treatment and storage system, including detailed calculation of the water inputs and wastewater outputs, justification of the figures used, and plans showing the location and discharge points. The following matters should be comprehensively addressed:

i) effluent treatment:

i. defining the type of wastewater treatment proposed for the site (eg. Biological Nutrient Removal, Membrane filtration) and the expected effluent quality;

ii. defining and justifying the parameters utilised in designing the effluent treatment system;

iii. if effluent is to be discharged to waters more frequently than 1 year in 10 that effluent must meet the EPA's Accepted Modern Technology (AMT) criteria as a minimum; and

iv. options for the treatment, management and lawful disposal of any sludge/Biosolids generated by on-site treatment and detail any *Protection of the Environment Operations Act 1997* licensing requirements;

ii) effluent reuse strategies:

i. demonstrating consistency with the Use of Effluent by Irrigation, Appendix 1 (Guidelines for the use of Reclaimed Water from Municipal Sewage Treatment Plants) DEC 2004; and

ii. demonstrating consistency with Australian Guidelines for Water Recycling: Managing Health and Environmental Risks; and

iii. consideration of opportunities for off-site agricultural or horticultural reuse close to the project site where on-site management is not feasible and detail any *Water Industry Competition Act 2006* licensing requirements.

iii) effluent irrigation:

i. demonstrating consistency with the principals detailed in Use of Effluent by Irrigation (DEC 2004) and Australian Guidelines for Water Recycling: Managing Health and Environmental Risks;

ii. including an accurate model of the proposed effluent reuse (eg MEDLI model); and

iii. including a monitoring program.

c) a detailed analysis of potential impacts of off site discharge of the treated effluent on the receiving environment, an assessment of the alternative options and the measures proposed to mitigate any potential impacts; and

d) an analysis of the potential for impacts on the surrounding environment resulting from the overtopping of the effluent storage dam and the measures proposed to avoid and mitigate any adverse impacts.

B10. The development application for Stage 2 must demonstrate that the wastewater management infrastructure needed by the facility is provided as part of the development or alternatively determine with Council the contributions that the Applicant is required to pay to connect to Council infrastructure.

Water Supply

B11. Full details of the proposed potable water supply system infrastructure is to be provided with the development application for Stage 2, including but not limited to:

a) demonstrating that any proposed reticulation works/services would not conflict with future road maintenance and construction activities:

b) prepared in consultation with DPI Water and Council; and

c) details of the ongoing ownership and maintenance of any water supply services.

B12. The development application for Stage 2 must demonstrate that the water infrastructure needed by the facility is provided as part of the development or alternatively determine with Council the contributions that the Applicant is required to pay to connect to Council infrastructure.

Telecommunications

B13. The development application for Stage 2 must include details on the proposed telecommunications infrastructure that is to be installed to service the proposal.

Electricity

B14. The development application for Stage 2 must demonstrate that adequate electricity infrastructure would be provided to service the proposed correctional centre facility.

Surface and Ground Water and Drainage

B15. The development application for Stage 2 is to include full details of the proposed stormwater management system to service the proposed correctional facility. This information must include:

a) an analysis of the impacts of the discharge of stormwater and changed hydrology of the land on the surrounding environment, including quality, quantity and velocity impacts and potential impacts on the nearby State Environmental Planning Policy No 14 – Coastal Wetlands;

b) plans showing the location of the on-site detention facilities and discharge points in relation to the other land uses on the site, particularly the effluent disposal areas and effluent storage facilities;

c) plans prepared in accordance with Council's stormwater and drainage requirements; and

d) detail on any potential impacts on groundwater, including mitigation measures such as lining sediment basins or monitoring groundwater.

Landscaping

B16. The development application for Stage 2 must include detailed landscape plans identifying the species to be used in the site buffer and other landscape areas (preferably species indigenous to the area).

Bushfire Protection

B17. The development application for Stage 2 must demonstrate that bushfire protection measures, comply with the relevant provisions of *Planning for Bushfire Protection 2006* and the requirements of the RFS in relation, but not limited, to:

a) Asset Protection Zones;

b) fire fighting vehicle access roads; and

c) fire fighting water supply.

Biodiversity

B18. The development application for Stage 2 must demonstrate that the proposal is consistent with the endorsed BAR and BOS.

Aboriginal Heritage

B19. An Aboriginal Cultural Heritage Management Plan (ACHMP) must be submitted with the development application for Stage 2.

Ecologically Sustainable Development

B20. The development application for Stage 2 must demonstrate how the principles of ESD have been incorporated into the design, construction and on-going operation of the proposal.

Contamination

B21. If the Phase 2 contamination assessment report identifies a Remediation Action Plan is required to be prepared, a Remediation Action Plan must be submitted with the development application for Stage 2 or a site validation certificate provided to verify that the site has been remediated.

Biting Insects

B22. The development application for Stage 2 shall include a health risk assessment for future inmates, workers and visitors that must identify what measures would be implemented to ameliorate the impact of biting insects and to minimise breeding areas on the site.

SCHEDULE 3

CONDITIONS OF CONSENT FOR STAGE 1 WORKS

PART A ADMINISTRATIVE CONDITIONS

Development Description

A1. Consent is granted to the 'Stage 1 works' as described in Schedule 1 and the EIS, as amended by the RtS and the conditions contained in this development consent.

Development in Accordance with Plans and Documents

A2. The Applicant must carry out the development in accordance with the conditions of consent and generally in accordance with:

a) SSD 7413; and

b) the EIS, as amended by the RtS.

A3. The Applicant must comply with any reasonable requirement(s) of the Secretary arising from the Department's assessment of:

a) any reports, plans or correspondence that are submitted in accordance with this consent; and

b) the implementation of any actions or measures contained within these reports, plans or correspondence.

Inconsistency between documents

A4. If there is any inconsistency between the plans and documentations referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this consent prevail to the extent of any inconsistency. Where there is an inconsistency between approved elevations and plans, the elevations prevail.

Development Expenses

A5. It is the responsibility of the Applicant to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this consent.

Lapsing of Approval

A6. This consent will lapse five years from the date of consent unless the works associated with Stage 1 have physically commenced.

Prescribed Conditions

A7. The Applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulation.

Dispute Resolution

A8. Where this consent requires further approval from public authorities, the parties must not act unreasonably in preventing an agreement from being reached. In the event that an agreement is unable to be reached within two months or a timeframe otherwise agreed to by the Secretary, the matter is to be referred to the Secretary for resolution. All areas of disagreement and the position of each party are to be clearly stated to facilitate a resolution. The Secretary's resolution of the matter will be binding on the parties.

Long Service Levy

A9. For work costing $25,000 or more, a Long Service Levy must be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 14 41.

Legal Notices

A10. Any advice or notice to the consent authority must be served on the Secretary.

Obligation to Minimise Harm to the Environment

A11. In addition to meeting the specific performance criteria established under this approval, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction or operation of the development.

PART B PRIOR TO THE COMMENCEMENT OF WORKS

Note: *Conditions below that refer to actions "prior to issue of a Construction certificate" may be read as prior to issue of a construction certificate for the relevant construction stage, unless otherwise indicated as to be satisfied prior to issue of any construction certificate.*

Development Plans

B1. Prior to commencement of works, detailed engineering plans which clearly illustrate the extent of the proposed works must be provided and approved by the Secretary and must illustrate:

a) the extent of site clearance works, which nominate any vegetation proposed to be cleared or retained;

b) existing and finished ground levels and plans which nominate the extent of cut and fill;

c) the location of all drainage facilities, utility services and auxiliary facilities;

d) proposed driveway access, internal road and car parking areas and fire trails; and

e) site and floor plans, elevations, sections and materials for any proposed structures.

B2. Any structures which are to be established on the site are to be detailed in structural drawings that are prepared and signed by a suitably qualified practising Structural Engineer and demonstrate compliance with:

a) the relevant clauses of the NCC; and

b) the development consent.

Notice of Commencement of Works

B3. The Certifying Authority, the Department and Council must be given written notice at least 48 hours prior to the commencement of work on the Subject Site.

Contamination

B4. A Phase 2 contamination assessment report must be prepared and submitted to the Secretary prior to the commencement of any works. This assessment is to define the nature, extent and degree of contamination (if any); assess potential risk posed by contaminants to health and the environment; and to obtain sufficient information to develop a remedial action plan (if required).

B5. A Remediation Action Plan (if required) is to be prepared and approved by an accredited site auditor prior to the commencement of works and submitted to the Certifying Authority.

Biodiversity

B6. Prior to the removal of any vegetation, a revised BAR and Stage 2 BOS must be submitted and approved by the Secretary, addressing:

a) results of additional basic soil sampling required to substantiate or otherwise the potential occurrence of Subtropical Coastal Floodplain Forest of the NSW North Coast Bioregion Endangered Ecological Community (STCFF EEC) on the site; and

b) consistency regarding the likelihood of occurrence for wallum froglet on the project site.

B7. Within six months of the date of this approval, unless otherwise approved by the Secretary, the final BOS (Stage 3 of the BOS) must be submitted and approved by the Secretary.

B8. Within 12 months of commencement of the vegetation clearance works, unless otherwise approved by the Secretary, the applicant must submit evidence that the final BOS (Stage 3 of the BOS) has been implemented, including the retirement of the relevant credits required in the BOS.

B9. A vegetation retention plan must be prepared by a suitably qualified consultant, which must:

a) identify and provide details of the retention of any trees (particularly hollow bearing) and groundcover;

b) provides details on the maintenance and improvement of retained or planted vegetation, particularly within the vegetative buffer areas; and

c) be reviewed by a suitably qualified bushfire consultant and include certification that any vegetation retained within an APZ meets the relevant standards.

Stormwater Management

B10. Full details of the proposed stormwater management system under Stage 1 of the project is to be provided to and approved by Council prior to the commencement of works. This information must include:

a) detailed engineering plans and specifications of the proposed drainage system on the site and provide details on the proposed management of drainage lines traversing the project site;

b) an analysis of the impacts of the discharge of stormwater and changed hydrology of the land from the site at Stage 1 on the surrounding environment, including quality, quantity and velocity impacts and potential impacts on the nearby SEPP 14 Coastal Wetlands;

c) plans prepared in accordance with Council's stormwater and drainage requirements for rural land; and

d) detail on any potential impacts on groundwater, including mitigation measures such as lining sediment basins or monitoring groundwater.

Aboriginal Heritage

B11. An **Aboriginal Cultural Heritage Management Plan** (ACHMP) is to be prepared in consultation with the Aboriginal stakeholders and the OEH and submitted to and approved by the Secretary prior to the commencement of works. The ACHMP must address, but not be limited to, the following matters:

a) the Aboriginal community is to be provided opportunity to identify the potential Bora Ring on the site. If the Bora Ring is identified to be located on the site, the Applicant must ensure this site is appropriately managed as part of the ACHMP;

b) procedures to ensure all works are to immediately cease if unexpected archaeological artefacts are found on-site during any stage of the works and appropriate procedures for notification and recommencing works;

c) all works and reports required under the ACHMP for any particular potential or archaeological site must be completed in accordance with the ACHMP prior to any other works at that site;

d) triggers to identify situations where mechanical salvage excavations cease and manual salvage is commenced;

e) protocols for the salvage required for the project and also for the long term management of any areas of cultural or archaeological significance, within the project boundaries, but not subject to salvage excavations;

f) a requirement for all salvage works to be completed at all locations identified in, and in accordance with the recommendations contained within, the Aboriginal Cultural Heritage Assessment Report prepared by Jacobs dated August 2016;

g) a requirement for all salvage works to be carried out under supervision of a qualified archaeologist and representatives of the Registered Aboriginal Parties (RAPs) for the project; and

h) a requirement for preparation of a final report outlining the results of all salvage work undertaken, which must be prepared in consultation with the project RAPs and should include all comments provided by the project RAPs regarding the salvage process and any long term management of Aboriginal objects.

B12. The final report as required by condition B11(h) outlining the results of all salvage work undertaken must be submitted to OEH for approval prior to the commencement of bulk earthworks.

Pre-construction Dilapidation Reports

B13. The Applicant is to engage appropriately qualified structural and civil engineers to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all adjoining buildings, infrastructure and roads. Any entry into private land is subject to the approval of the land owner(s). The report must be submitted to the Certifying Authority prior to the commencement of works. A copy of the report is to be forwarded to the Council and each of the affected property owners.

B14. In the event that access for undertaking the Pre-Construction Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of the Certifying Authority that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the report and that these steps have failed.

Construction Environmental Management Plan

B15. Prior to the commencement of works on the Subject Site, a **Construction Environmental Management Plan** (CEMP) that addresses those works must be prepared in accordance with the *Guideline for the Preparation of Environmental Management Plans* (Department of Planning and Infrastructure 2004) and approved by the Certifying Authority. The CEMP must be prepared by a suitably qualified and experienced person in consultation with Council and must address, but not be limited to, the following matters where relevant:

a) hours of work;
b) 24 hour contact details of site manager;
c) establishment of site facilities;
d) soil and water management, including surface and ground water quality and quantity, construction contaminants, soils, acid sulfate soils and spills;
e) flora and fauna management;
f) prevention of stock travelling along stock moving routes from entering the site;
g) bushfire prevention;
h) visual amenity of any stockpiles;
i) minimising potential breeding areas on the site for biting insects;
j) traffic management, in consultation with the local Council, including a designated off-street car parking area for construction related vehicles;
k) construction noise and vibration management, prepared by a suitable qualified person;
l) management of dust to protect the amenity of the neighbourhood, including truck movements along Avenue Road;
m) erosion and sediment control;
n) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Subject Site;
o) external lighting in compliance with AS4282:1997 *Control of the Obtrusive Effects of Outdoor Lighting*;
p) an Unexpected Finds Protocol (UFP); and
q) waste classification (for materials to be removed) and validation (for materials to remain) during construction to confirm the contamination status in these areas of the site.

B16. The CEMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the CEMP, the consent shall prevail.

B17. The CEMP must detail how the environmental performance of the construction works will be monitored, and what actions will be taken to address identified adverse environmental impacts and describe the roles and responsibilities of all relevant employees involved in earthworks and construction.

B18. The Applicant must submit a copy of the CEMP to the Department and to the Council, prior to commencement of works.

Construction Traffic and Access

B19. A **Construction Traffic and Pedestrian Management Plan** (CTPMP) must be prepared by a suitably qualified person in consultation with Clarence Valley Council, the RMS, Pacific Complete and the immediately adjoining local residents. The CTPMP must be submitted to the satisfaction of the Certifying Authority prior to commencement of works. The CTPMP shall include, but not limited to, the following:

a) locations of the proposed work zone, plant storage, staff parking and staging area;
b) measures to mitigate impacts on stock moving routes;
c) include a Drivers' Code of Conduct that details the safe and quiet driving practices that must be used by drivers to and from the site;
d) describe the measures that would be put in place to ensure compliance with the Drivers' Code of Conduct, including measures to minimise the potential for fauna strike;
e) road safety audit and measures to mitigate any safety risks for this stage of the construction works;
f) haulage routes;
g) construction vehicle access arrangements;
h) estimated number of construction vehicle movements during various times of the day;
i) construction program;
j) consultation strategy for liaison with surrounding stakeholders, including holders of stock moving route permits affected by construction works;
k) any potential impacts to general traffic, cyclists, pedestrians, parking and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works; and
l) cumulative construction impacts of projects, including major transport projects, and details of the duration of the any cumulative impacts and measures to mitigate any associated general traffic, public transport, parking, pedestrian and cyclist impacts.

B20. Prior to commencement of any works, any measures required to mitigate any safety risks for this stage of the construction works must be implemented.

B21. The Applicant must submit a copy of the CTPMP to the Department and Council prior to the commencement of works.

Construction Noise and Vibration

B22. Prior to the commencement of works on the Subject Site, a **Construction Noise and Vibration Management Plan** (CNVMP) must be prepared and approved by the Certifying Authority. The CNVMP must:

a) be prepared by a suitably qualified expert;
b) be prepared in consultation with all noise sensitive receivers where noise levels exceed the highly affected noise management level, in accordance with EPA guidelines, and Council;
c) describe the measures that would be implemented to ensure:
   i) best management practice is being employed; and
   ii) compliance with the relevant conditions of this consent;
d) describe the proposed noise and vibration management measures in detail;
e) include strategies that have been developed to address impacts to noise sensitive receivers where noise levels exceed the construction noise management level, for managing high noise generating works;
f) describe the consultation undertaken to develop the strategies in e) above; and
g) evaluates and reports on the effectiveness of the noise and vibration management measures.

B23. The Applicant must submit a copy of the CNVMP to the Department and Council prior to the commencement of works.

Construction Waste Management

B24. Prior to the commencement of works on the Subject Site, a **Construction Waste Management Plan** (CWMP), prepared by a suitably qualified person in consultation with

Council, must be submitted to and approved by the Certifying Authority. The CWMP must address, but not limited to, the following matters:

a) identification of an appropriate area within the site for the storage of garbage bins and recycling containers and all waste and recyclable material generated on the land;
b) recycling of demolition materials; and
c) removal of hazardous materials and disposal at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines.

B25. The Applicant must submit a copy of the CWMP to the Department and Council prior to the commencement of work.

B26. Details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the Certifying Authority prior to the removal of any hazardous materials.

B27. The Applicant must consult Council and the RMS regarding truck routes(s) to be followed by trucks transporting waste material from the Subject Site, prior to the commencement of the removal of any waste material from the Subject Site.

Soil and Water

B28. Soil erosion and sediment control measures must be designed in accordance with the document *Managing Urban Stormwater - Soils & Construction Volume 1* (2004) by Landcom. Details are to be submitted to and approved by the Certifying Authority prior to the commencement of any works. The soil erosion and sediment control measures must address, but not limited to, the following matters:

a) provisions to ensure all works associated with or in close proximity to drainage lines are undertaken in accordance with DPI Water *Guidelines for Controlled Activities*;
b) emergency contingency procedures;
c) detail on any potential impacts on groundwater, including mitigation measures such as lining sediment basins or monitoring groundwater; and
d) classifying all excess soil in accordance with the *Protection of the Environment Operations Act 1997* and removed from the site appropriately.

Flora and Fauna Management

B29. A **Flora and Fauna Management Plan** (FFMP), prepared by a suitably qualified person, must be submitted to and approved by the Certifying Authority. The FFMP must address, but not limited to, the following matters:

a) minimising the risk, introduction and spread of invasive species and diseases;
b) traffic management procedures (including signage, speed limits and help information for incidents) in regard to the protection of the koala and Rufous Bettong;
c) fauna protection/relocation procedures for displaced wildlife, identifying potential release sites and timing protocols; and
d) identifying suitable receiving sites for displaced aquatic/amphibian fauna.

B30. The Applicant must submit a copy of the approved FFMP to the Department and Council prior to the commencement of works.

Bush Fire Management

B31. A **Bush Fire Management Plan** (BFMP), prepared by a suitably qualified person, must be submitted to and approved by the Certifying Authority. The BFMP must address, but not limited to, the following matters:

a) contact person (site supervisor) and 24 hour contact phone number;
b) schedule and description of proposed bush fire mitigation works implemented in accordance with requirements set out in Rural Fire Service letter dated including:
    i) location of asset protection zones (100 metres around compound and 20 metres around perimeter of the Subject Site) and management requirements;

    ii) provision and location of 20,000 litres firefighting water supply;
    iii) internal vehicle access roads; and
- c) a plan identifying the location and storage of bulk flammable liquids and materials;
- d) a 'hot works' management plan, including:
    i) restriction when 'hot works' are limited or prohibited;
    ii) safety measures to be implemented when 'hot works' are being conducted; and
- *e)* an Emergency/Evacuation Plan is to be prepared consistent with the NSW Rural Fire Service document *Guidelines for the Preparation of Emergency/Evacuation Plans* and Australian Standard AS 3745 2010 *Planning for Emergencies in Facilities.*

B32. A copy of the approved BFMP must be submitted to the Clarence Valley Fire Control Centre prior to works commencing.

Complaints and Enquiries Procedure

B33. Prior to the commencement of works, or as otherwise agreed by the Secretary, the following must be made available for community enquiries and complaints for the duration of construction:

- a) a toll-free 24hour telephone number(s) on which complaints and enquiries about the application may be registered;
- b) a postal address to which written complaints and enquires may be sent;
- c) an email address to which electronic complaints and enquiries may be transmitted;
- d) a mediation system for complaints unable to be resolved; and
- e) a mechanism for community members to make enquiries in common community languages of the area.

The telephone number, the postal address and the email address must be published in newspaper(s) circulating in the local area including in newspapers of culturally and linguistically diverse communities affected by the proposal prior to the commencement of construction. This information must also be provided on the website (or dedicated pages) required by this approval and available in common community languages within three months of construction commencing.

B34. Prior to the commencement of works, or as otherwise agreed by the Secretary, a Construction Complaints Management System consistent with AS/NZS 10002:2014 *Guidelines for Complaint Management in Organisations* must be prepared and implemented. The applicant must maintain the Construction Complaints Management System for the duration of construction and up to 12 months following completion of construction works. Information on all complaints received, including the means by which they were addressed and whether resolution was reached, with or without mediation, must be maintained in a complaints register. The information contained within the Construction Complaints Management System must be made available to the Secretary on request.

Demolition

B35. Any demolition work must comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures.* The work plans required by AS2601: 2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the satisfaction of the Certifying Authority prior to the commencement of works.

Utility Services

B36. Prior to the commencement of works the Applicant is to negotiate with the utility authorities in connection with the relocation and/or adjustment of any services affected by the construction works.

B37. Prior to the commencement of works, written advice must be obtained from relevant utility authorities stating that satisfactory arrangements have been made to ensure provisions of adequate services for the duration of the Stage 1 works.

PART C DURING CONSTRUCTION

Hours of Work

C1. The hours of construction, including the delivery of materials to and from the site, must be restricted as follows:

a) between 7 am and 6 pm, Mondays to Fridays inclusive;

b) between 8 am and 1 pm, Saturdays; and

c) no work on Sundays and public holidays; or

d) works may be undertaken outside these hours where:
   i) works are inaudible at the nearest sensitive receivers; or
   ii) the delivery of materials is required outside these hours by the Police or other authorities; or
   iii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; or
   iv) a variation is approved, in advance, in writing, by the Secretary or her nominee.

Approved Plans to be On-Site

C2. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on the Subject Site at all times and must be readily available for any officer of the Department, Council or the Certifying Authority.

Management Plans

C3. The ACHMP, CEMP, CNVMP, CWMP, CTPMP's, FFMP and BFMP (as revised from time to time) must be implemented by the Applicant for the duration of the construction works.

Erosion and Sediment Control

C4. All erosion and sediment control measures, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works have been stabilised and rehabilitated so that it no longer acts as a source of sediment.

Bushfire Protection

C5. The following bushfire mitigation works must be implemented for the duration of the construction works:

a) a minimum 100 metre APZ around the construction site compound;

b) a 20 metre APZ around perimeter of the subject land;

c) a fire fighting vehicle access road (to fire trail standard) within the perimeter APZ with:
   i) a minimum carriageway width of four metres with an additional one metre wide strip on each side of the trail (clear of bushes and long grass);
   ii) maximum grade of 15 degrees if sealed and not more than 10 degrees if unsealed;
   iii) a minimum vertical clearance of four metres to any overhanging obstructions, including tree branches is provided;
   iv) maximum crossfall of the trail is not more than 10 degrees;
   v) passing bays every 200 metres and must be a minimum 20 metres long by three metres wide (minimum trafficable width of seven metres at the passing bay);
   vi) access for fire fighters;
   vii) maintained in a serviceable condition by the owner of the land; and
   viii) fire trails do not traverse a wetlands or other land potentially subject to periodic inundation (other than a flood or storm surge).

d) installation of a 20,000 litres firefighting water supply and maintained in the following manner:

i) must be located not less than five metres and not more than 20 metres from any structures;

ii) if located above ground it must manufactured using non-combustible material (concrete, metal, etc);

iii) only use non-combustible materials (concrete, metal, etc) to elevate or raise firefighting water supply tank(s) above the natural ground level;

iv) a 65mm metal Storz outlet with a gate or ball valve must be fitted to any firefighting water supply tank(s) and accessible for a firefighting truck;

v) the gate or ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material;

vi) all associated fittings to the firefighting water supply tank(s) must be non-combustible;

vii) any below ground firefighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials must be shielded from the impact of radiant heat and direct flame contact;

viii) a hardened ground surface for firefighting truck access is to be constructed up to and within four metres of the firefighting water supply (tank or Storz fitting);

ix) any firefighting water supply tank(s) located below ground must be clearly delineated to prevent vehicles being driven over the tank;

x) all water supplies for firefighting purposes must be clearly signposted as a fire fighting water supply;

xi) below ground firefighting water supply tank(s) must have an access hole measuring a minimum 200mm x 200mm to allow firefighting trucks to access water direct from the tank;

xii) firefighting water supply tank(s) and associated fittings, located within 60 metres of a bushfire hazard and on the hazard side of an approved building, must be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for fire fighters;

xiii) a minimum 5hp or 3kW petrol or diesel powered pump(s) must be made available to the water supply. A 19mm (internal diameter) fire hose(s) and/or reel(s) must be connected to the pump. Fire hose(s) and/or reel(s) must be installed so that each elevation of the building can be reached by a fire hose(s). The fire hose(s) and/or reel(s) must be constructed in accordance with 'AS/NZS 1221:1997, Fire hose reels' and must be installed in accordance with 'AS 2441:1988 Installation of fire hose reels';

xiv) pumps are to be shielded from the direct impacts of bush fire;

xv) a Static Water Supply (SWS) sign must be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:

- markers must be fixed in a suitable location so as to be highly visible; and
- markers should be positioned adjacent to the most appropriate access for the water supply.

Note: The definition of below ground dedicated firefighting water supply tank(s) is when the outlet valve is located below natural ground level.

Site Notice

C6. A site notice(s) must be prominently displayed at the boundaries of the Subject Site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

a) minimum dimensions of the notice are to measure 841 mm x 594 mm (A1) with any text on the notice to be a minimum of 30 point type size;

b) the notice is to be durable and weatherproof and is to be displayed throughout the works period;

c) the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and

d) the notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Subject Site is not permitted.

Incident Reporting

C7. Within 24 hours of the occurrence of an incident that causes (or may cause) harm to the environment, the Applicant must notify the Secretary and any other relevant agencies of the incident.

C8. Within seven days of the detection of the incident, the Applicant must provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

Regular Reporting

C9. The Applicant must provide regular reporting on the environmental performance of the Development on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent.

Access to Information

C10. Within three months of the date of this approval, or as otherwise agreed by the Secretary, the Applicant must make the following information publicly available on its website and keep the information up to date:

a) the EIS;

b) current statutory approvals for the Development;

c) approved strategies, plans or programs;

d) a complaints register, updated on an annual basis; and

e) any other matter required by the Secretary.

Note: *This condition does not require any confidential information to be made available to the public.*

Work Cover Requirements

C11. To protect the safety of work personnel and the public, the work site must be adequately secured to prevent access by unauthorised personnel, and work must be conducted at all times in accordance with relevant Work Cover requirements.

Contaminated Land

C12. All asbestos material if found is to be removed in accordance with the guidelines of the WorkCover Authority and the requirements of the EPA.

Hoarding/Fencing Requirements

C13. The following hoarding requirements must be complied with:

a) no third party advertising is permitted to be displayed on hoarding/fencing; and

b) the construction site manager must be responsible for the removal of all graffiti from any construction hoarding/fencing or the like within the construction area within 48 hours of its application.

Protection of Public Infrastructure

C14. The Applicant must:

a) repair or pay the full costs associated with repairing any public infrastructure that is damaged as a result of works undertaken pursuant to this consent within three months of being notified of the damage or as otherwise agreed with the relevant authority; and

b) relocate or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

Compliance

C15. The Applicant must ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

C16. The Applicant shall be responsible for environmental impacts resulting from the actions of all persons that it invites onto the site, including contractors, sub-contractors and visitors.

ADVISORY NOTES

Appeals

AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* (as amended).

Other Approvals and Permits

AN2. The Applicant must apply to the Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act 1993* or Section 138 of the *Roads Act 1993.*

Responsibility for other consents / agreements

AN3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Temporary Structures

AN4. An approval under *State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007* must be obtained from the Authority for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

AN5. Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Authority with the application under *State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007* to certify the structural adequacy of the design of the temporary structures.

Disability Discrimination Act

AN6. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979.* No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992.* The Applicant is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - *Design for Access and Mobility.* AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

AN7. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

AN8. This application has been assessed in accordance with the *Environmental Planning & Assessment Act 1979.* The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

Asbestos Removal

AN9. All excavation works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with NOHSC: "*Code of Practice for the Safe Removal of Asbestos*".

Site contamination issues during construction

AN10. Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination then the Applicant must be immediately notified and works must cease. Works must not recommence on site until the consultation is made with the Department.