



Moonee Beach Residential Subdivision

State Significant Development Assessment (SSD 7198)

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Cover image: Moonee Creek estuary near Moonee Beach Village and Green Bluff headland (Source: Moonee Creek Estuary Management Plan, 2008)

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Glossary

Abbreviation	Definition
ACHMP	Aboriginal Cultural Heritage Management Plan
AHD	Australian Height Datum
BBAM	BioBanking Assessment Methodology
BC Act	Biodiversity Conservation Act 2016
BCST Regulation	Biodiversity Conservation (Savings and Transitional) Regulation 2017
CIV	Capital Investment Value
Council	Coffs Harbour City Council
Department	Department of Planning, Industry and Environment
DCP	Development Control Plan
DPI	Department of Primary Industries, DPIE
EA	Environmental Assessment
EESG	Environment, Energy and Science Group
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FBA	Framework for Biodiversity Assessment
L&E Court	NSW Land and Environment Court, NSW
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
PBP 2006	Planning for Bushfire Protection 2006

RFI	Request for Information
RMS	Roads and Maritime Services, TfNSW
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for NSW
TMP	Traffic Management Plan
TSC Act	Threatened Species Conservation Act 1995
WAD	Works Authorisation Deed

Executive Summary

This report provides an assessment of a State significant development (SSD) application for a residential subdivision located at Lot 1 in DP 1097743, Pacific Highway at Moonee Beach in the Coffs Harbour local government area (LGA).

The application seeks approval to subdivide the site into 105 lots including 103 residential lots, one lot to provide access to adjoining land and one lot for drainage and environmental conservation drainage purposes.

The application was lodged by JW Planning Pty Ltd, on behalf of Moonee Parklands Trust (the Applicant). The proposal has a capital investment value (CIV) of \$50 million and would generate 130 construction jobs.

The application was previously a Transitional Part 3A project under Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). As the project was not determined prior to Part 3A being wound up, the proposal transitioned to State Significant Development (SSD) on 12 January 2015. Therefore, the Minister for Planning and Public Spaces (Minister) is the consent authority for the proposal.

Engagement

The Environmental Assessment (EA) was publicly exhibited between 19 June and 1 August 2013. The Department received a total of 24 submissions comprising submissions from four government agencies, one submission from Coffs Harbour City Council (Council) and 19 submissions from the public.

The NSW Roads and Maritime Service initially objected to the application based on access issues and impacts on the Pacific Highway along with noise impacts given the proximity of the subdivision to the highway. Key issues raised by other state agencies included impacts on biodiversity raised by the Office of Environment and Heritage (now Biodiversity Conservation Division within the Department), bushfire risk raised by the Rural Fire Service, and flooding and drainage issues raised by the Department of Primary Industries.

Council raised concerns about the proposal's inconsistency with the Moonee Beach Development Control Plan and Moonee Estuary Management Plan along with issues associated with access, flooding and biodiversity impacts.

Of the public submissions, 16 submissions supported the application and three submissions objected to the proposal. The supporting submissions noted the subdivision design and layout and the importance of the collector road, along with the demand for residential development and economic benefits. Submissions objecting to the proposal raised issues around the subdivision layout, and impacts on water quality and biodiversity.

Separate progressive Response to Submissions (RtS) reports were prepared by the Applicant and submitted to the Department in May 2016 and May 2017. In December 2018, the Applicant submitted to the Department a final RtS proposing changes to the application. A key amendment was to reduce the number of proposed residential lots from 159 to 103.

The final RtS was exhibited by the Department, and eight submissions were received. The submissions included four from government agencies, one submission from Council and three submissions from the public.

RMS indicated it is satisfied with the revised proposal and recommended conditions regarding access and works in the highway road reserve, if required. Other agencies and council raised residual issues for consideration in the assessment and recommended conditions of consent.

The public submissions raised issues about road access.

The Applicant undertook additional consultation with the Department to address the residual issues identified during notification of the final RtS. This included the submission of supplementary information to address the Department's request for information (RFI) sent to the Applicant in July 2019, November 2019, December 2019 and August 2020.

Assessment

The Department has carefully considered the issues raised in the submissions on the application and the Applicant's response in its assessment.

The key assessment issues associated with the proposed development are:

- subdivision design and layout
- biodiversity
- flooding and drainage

The Department is satisfied these issues have been addressed through the Applicant's responses to the submissions and requests for further information during the assessment of the application.

The Applicant revised the subdivision layout in response to the issues raised during consultation. The key changes include the reduction of the total subdivision lots, revised access arrangements including connections with the adjoining approved subdivisions and improved earthwork design to avoid the need for retaining walls. The Department is satisfied with the subdivision layout and new connections to the subdivision to the south. The Department has assessed the proposed road network layout and satisfied the proposal would create a legible street hierarchy comprised of a main access road (Road 1) and a series of collector roads to provide access to the residential lots.

The subdivision would impact approximately 11.37 hectares of native vegetation including part of an Endangered Ecological Community (EEC) and habitat for the Squirrel Glider, a vulnerable species under the Threatened Species Conservation Act 1995. The Applicant proposes to offset the impacts of the development in accordance with the *NSW Biodiversity Offsets Policy for Major Projects* and proposes to retire credits in stages according to the staged approach to the development. The Department and BCD are satisfied that the proposed offsets are suitable and the Department has recommended conditions requiring the retiring of offset credits in stages according to the staged development of the subdivisions.

The Applicant also proposes a 2 hectare environmental conservation area on land between the subdivision and Moonee Creek, which it proposes to dedicate to Council following rehabilitation.

The Applicant has assessed the potential flooding impacts on the subdivision and Moonee Creek during flood events. The assessment found that while the flood hazard would generally be low during

a 1 in 100 year flood event, access would be restricted to the existing dwelling to the east. The Department is satisfied that the anticipated on-site flooding can be addressed via conditions of consent and has recommended a condition requiring improvements to ensure access to the existing dwelling is maintained during the 1 in 100 year event.

Other issues including traffic and access, bushfire risk, noise impacts, Aboriginal heritage and construction impacts can be adequately managed through the Department's recommended conditions of consent.

The Department is satisfied the proposal is consistent with the strategic planning framework for the site as it would facilitate the provision of up to 103 new dwellings in an identified urban growth area, consistent with the goals, directions and actions of the *North Coast Regional Plan 2036*, the *Coffs Harbour Local Growth Management Strategy 2020*, the *MyCoffs Community Strategic Plan* and the draft *Coffs Harbour Local Strategic Planning Statement*.

Conclusion

The Department's assessment concludes the proposal is acceptable as it would deliver 103 new residential lots in an identified urban release area, consistent with the strategic and statutory planning framework applicable to the site. Further, the proposal includes the dedication of approximately two hectares of land to Council for environmental conservation and community purposes.

To manage the residual impacts of the proposed development, the Department has recommended conditions of consent requiring the Applicant to:

- develop the subdivision in accordance with the revised plans
- prepare a suite of management plans to protect sensitive areas from impacts on water quality, biodiversity and traffic during construction
- retire biodiversity credits to offset the clearing of native vegetation and impacts on Squirrel glider habitat
- prevent access to the site from the Pacific Highway unless approval is obtained from the RMS.

The Department therefore considers the proposal should be approved, subject to conditions.

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1 Introduction

This report provides an assessment of a State significant development (SSD) application for a residential subdivision located at Lot 1 in DP 1097743, Pacific Highway at Moonee Beach (SSD 7198).

The application seeks approval to subdivide the site into 105 lots including 103 residential lots, one lot to provide access to adjoining land and one lot for drainage and environmental conservation purposes.

The application was lodged by JW Planning Pty Ltd, on behalf of Moonee Parklands Trust (the Applicant) pursuant to Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Following the repeal of Part 3A, the application was subsequently transitioned to SSD.

1.1 The site

The site is located approximately 14 kilometres north of Coffs Harbour, 11 kilometres south of Woolgoolga and 800 metres north of Moonee Beach village on the NSW mid-north coast, in the Coffs Harbour local government area (LGA). The site comprises approximately 12.9 hectares of land that is zoned for residential and environmental conservation purposes (**Figure 1**).

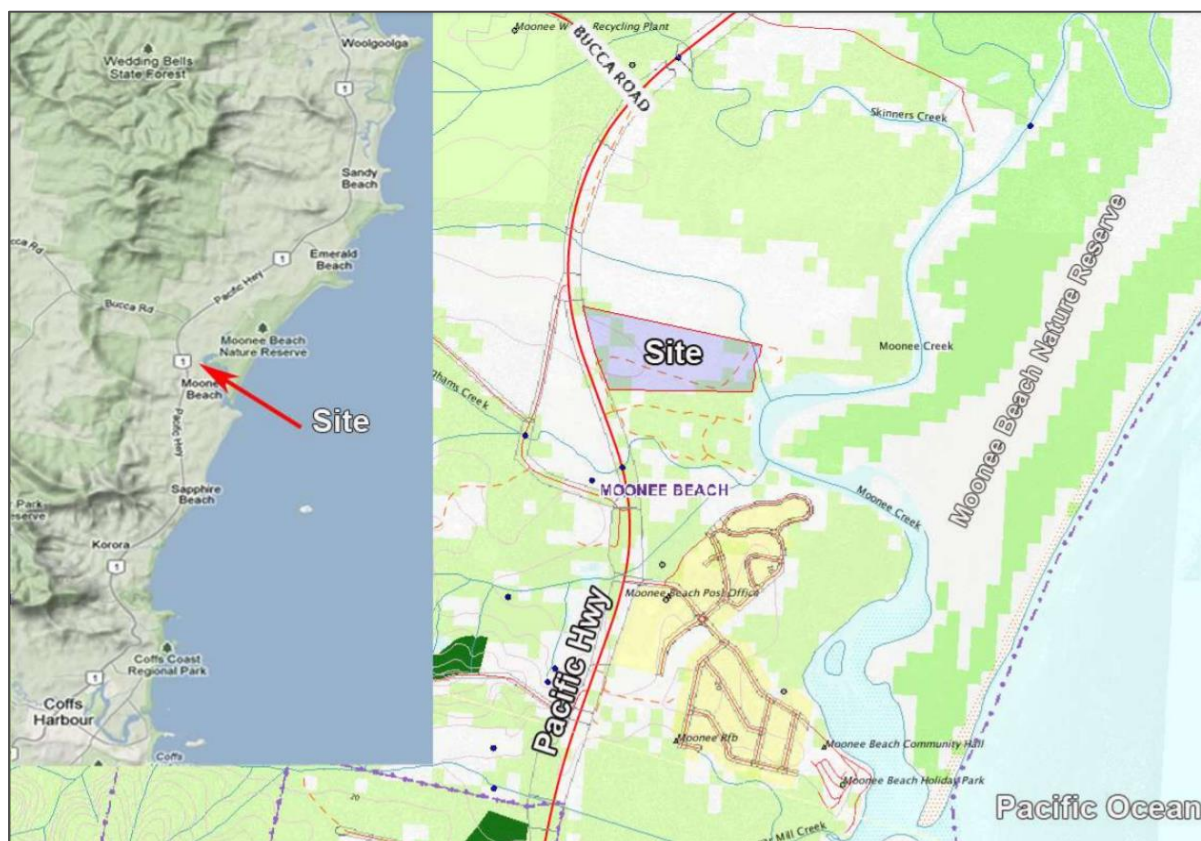


Figure 1 | Regional Context Map (Source: Applicant's Response to Submission)

The site is located adjacent to Moonee Creek and Moonee Beach Nature Reserve. The Nature Reserve forms part of the Solitary Islands Marine Park to the east. The Pacific Highway adjoins the site to the west and land approved for future residential development including a 524 lot residential subdivision to the north (the Glades Estate) and a 65 lot residential subdivision to the south (Figure 2).

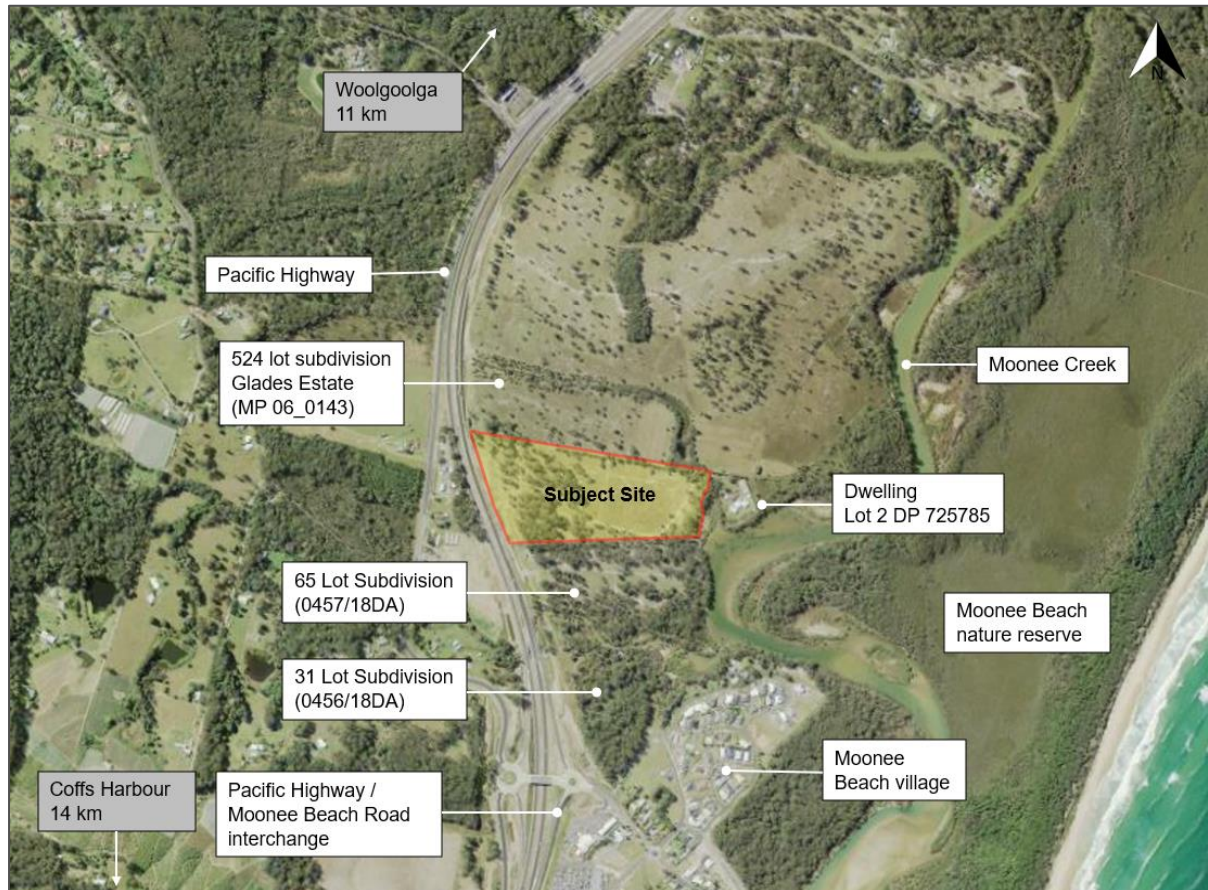


Figure 2 | Local Context Map (Source: SIX Maps)

The site is currently used for grazing purposes and consists of moderately undulating terrain and low-lying alluvial plains associated with Moonee Creek. Elevations across the site range from 2 metres AHD along the banks of Moonee Creek in the east to 19 metres AHD toward the Pacific Highway in the west.

The site comprises approximately 6.9 hectares of disturbed native vegetation that has largely been cleared, low lying wet pasture and upland pasture with scattered trees.

Vehicular access is currently provided via an unformed road from the Pacific Highway. The site includes a Right of Carriageway that provides legal access through the site between the Pacific Highway and Lot 2 in DP 725785 where an existing dwelling is located.

1.2 Planning history

Residential development

Moonee Beach is identified as an urban release area in State and local strategic planning documents, including the *North Coast Regional Plan 2036*. The surrounding area has therefore been the subject of several subdivision applications for future residential development.

Approved residential subdivisions that adjoin, or are located in close proximity to the site, include:

- MP 06_0143 – the Glades Estate 524 lot residential subdivision, granted project approval on 5 March 2009 by the then Minister for Planning
- 0456/18DA – 31 lot residential subdivision, approved on 11 April 2019 by Council
- 0457/18DA – 65 lot residential subdivision, approved on 27 April 2020 by Council.

The location of the approved residential subdivisions, shown in context to the subject site, are indicated in **Figure 2** above.

Moonee Beach collector road

Vehicular access to the site is proposed via the Moonee Beach collector road (referred to as the 'collector road') linking Moonee Beach village to the south and the residential subdivision to the north (the Glades Estate, comprising Lots 1 and 2 in DP 725785), owned by Rothwell Boys Pty Ltd (Rothwell). In May 2019, Council advised the Department that an application for a construction certificate had been lodged for the construction of the collector road.

2 Project

The application (as originally lodged in June 2013) sought approval for a Concept Plan and Project Approval under the provisions of Part 3A of the EP&A Act (now repealed). The Department determined that insufficient information and documentation for a Project Approval was provided and issued DGRs and exhibited the proposal as a Concept Plan involving the:

- subdivision of the site into 162 lots comprising 159 residential lots, one public reserve lot, one drainage reserve lot and one road reserve lot
- dedication of approximately two hectares of land to Council for environmental conservation and community purposes
- provision of a collector road linking the approved residential development to the north of the site (the Glades Estate)
- extension of sewer and water infrastructure to service the site.

Following the public exhibition of the application in 2013, the Applicant submitted its Response to Submissions (RtS) in response to matters raised by the Department, Council, government agencies and the public in May 2016 and May 2017.

In response to ongoing consultation with the Department, Council and government agencies, a final RtS and an amended proposal was submitted to the Department in December 2018, with further information provided in August 2020.

The amended proposal (**Figure 3**) includes the following changes:

- the removal of Lot 6 in DP 1097743 (southern land parcel)
- a reduction in residential lots from 159 to 103 lots
- realignment of Roads 2 and 6, providing land for additional lots facing east to Moonee Creek
- an additional Road 7 to connect Road 2 with the approved 65 lot subdivision to the south (0457/18DA)
- relocation of stormwater and sewerage infrastructure outside of the buffer to Moonee Creek
- additional bulk earthworks to redirect stormwater to a relocated stormwater detention basin
- alteration of the development footprint resulting from the realignment of Road 3.

The Applicant advised in its RtS that the application is no longer proposed as a concept development application and documentation has been provided to seek approval for the subdivision of land and the carrying out of associated subdivision works.

The Department is satisfied, based on the information submitted with the RtS, that the detailed subdivision of the land and associated works can be determined without the need for a concept development application.

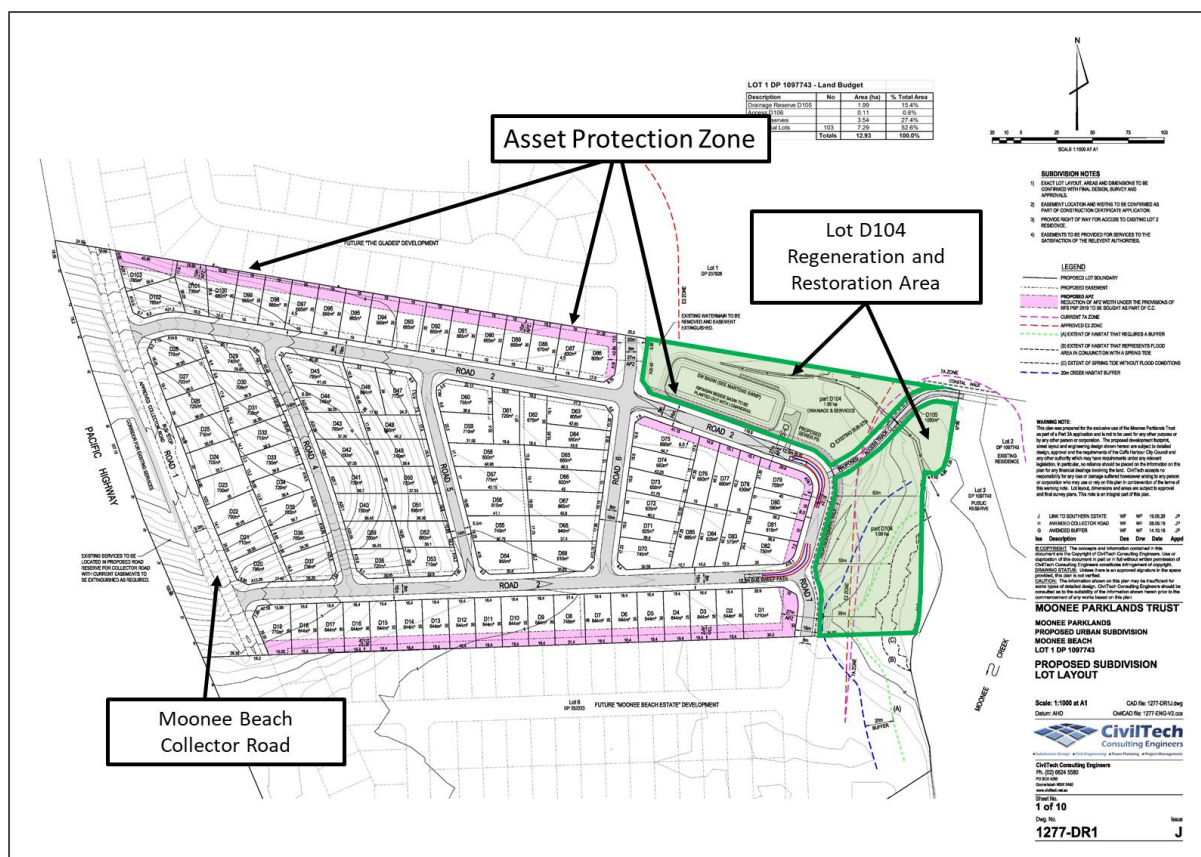


Figure 3 | Proposed Subdivision Layout (Source: Applicant's Response to RF1)

The key components of the application as amended by the RtS, are outlined in **Table 1** and are further described in **Sections 0** to Error! Reference source not found..

Table 1 | Main Components of the Project

Aspect	Description
Subdivision	<ul style="list-style-type: none"> Subdivision of the site into a total of 105 lots, including: <ul style="list-style-type: none"> 103 residential lots (varying in size from 590m² to 1210m²) 1 lot to provide vehicular access to adjoining land 1 lot for drainage and environmental protection
Site preparation works	<ul style="list-style-type: none"> Site clearing and vegetation removal. Bulk earthworks activities using existing site soils to level the entire site above the 1 in 100 year flood level. Movement of soil from the upper levels of the site to the lower levels of the site, including approximately: <ul style="list-style-type: none"> 82,000 m³ of cut material 74,000 m³ of fill material.
Access	<ul style="list-style-type: none"> Primary access via the Moonee Beach collector road linking the residential development to the north (the Glades Estate) and Moonee Village to the south.

Aspect	Description
	<ul style="list-style-type: none"> New public roads extending from the collector road to provide access to the residential lots.
Services infrastructure	<ul style="list-style-type: none"> Drainage, sewerage and water services infrastructure, including: <ul style="list-style-type: none"> stormwater treatment and detention basin sewage pump station Electrical and communication services infrastructure, including upgrades to an existing electrical kiosk.
Public infrastructure	<ul style="list-style-type: none"> Public coastal walking path within the road reserve of Road 3, connecting to the approved residential development to the north and Moonee Village to the south.
Biodiversity	<ul style="list-style-type: none"> Secure and retire 460 ecosystem credits and 169 species credits to offset the loss of 11.37 hectares of native vegetation. Rehabilitation and dedication of approximately two hectares of conservation land (proposed lot D104) to provide a buffer to Moonee Creek and connect to existing wildlife corridors (Figure 3).
Landscaping	<ul style="list-style-type: none"> Landscaping of public streets with appropriate native tree species, including: <ul style="list-style-type: none"> an avenue of tall trees (up to 12 metres high) at regular intervals along Road 1 (collector road) avenues of medium sized trees (7 to 8 metres high) at regular intervals within the verge of both sides of Roads 2 and 3 avenues of small to medium sized trees along Roads 4, 5 and 6 Rehabilitation of the conservation area (Lot D104) prior to dedication to Council.
Staging	<p>The development comprises the following Stages:</p> <p>Stage 1:</p> <ul style="list-style-type: none"> site preparation and environmental impact mitigation works bulk earthworks across the entire site connections to trunk power, water and telecommunication infrastructure located within the collector road construction of vehicular access to the proposed sewer pump station as well as to stormwater treatment and detention basin extension of services (where required) and access to the existing residence on Lot 2 in DP 1097743 maintained. <p>Stage 2:</p> <ul style="list-style-type: none"> extension of Roads 4, 5 and 6 with associated services. <p>Stage 3:</p> <ul style="list-style-type: none"> extension of Road 2 (northern) and Road 6

Aspect	Description
	<ul style="list-style-type: none"> partial construction of Road 2 (southern) with associated services. <p>Stage 4:</p> <ul style="list-style-type: none"> connection of Roads 1 and 2 completion of Roads 4 and 5 and associated services. <p>The proposal involves the progressive release of residential lots, commencing at the north-eastern extent of the site with an indicative 11 release stages.</p>
Capital investment value	\$50 million.
Employment	130 construction jobs.

3 Strategic Context

3.1 North Coast Regional Plan 2036

The Coffs Harbour LGA is located in the North Coast subregion. Development within the LGA is guided by the North Coast Regional Plan 2036 which provides a 20 year blueprint for the North Coast and sets out the following goals for the region:

- the most stunning environment in NSW
- a thriving, interconnected economy
- vibrant and engaged communities
- greater housing choice and lifestyle options.

A key focus of the Regional Plan is to provide for the supply of well-located land for residential development to accommodate the region's projected housing needs and sets out a minimum housing supply target of 8,950 additional dwellings for the Coffs Harbour LGA to 2036.

The Regional Plan identifies urban growth areas throughout the North Coast region to provide for urban expansion while protecting coastal and other environmental assets. The subject site is within an identified urban growth area.

The Department considers the proposal is consistent with the goals, directions and actions of the Regional Plan as it would:

- facilitate the creation of an additional 103 residential lots in an identified urban growth area that will assist in meeting the region's projected housing needs (Goal 4, Direction 22.1)
- provide a diversity of lot sizes able to accommodate different dwelling sizes for a range of household types (Goal 4, Direction 23)
- provide additional housing to support the nearby employment centre of Coffs Harbour (Goal 2, Direction 6).

3.2 Coffs Harbour Local Growth Management Strategy 2020

The Coffs Harbour Local Growth Management Strategy 2020 provides a strategic approach to facilitate growth over the next 20 years within the Coffs Harbour LGA. The Strategy sets out the strategic direction and framework for land use and development, including infill residential development and urban expansion in planned greenfield areas.

The Department considers the proposal is consistent with the directions and actions of the strategy as it would:

- facilitate new development offering housing diversity consistent with the site's identification in the Moonee Beach Infill area
- support economic and social functions of the Moonee Beach centre
- not cause conflict between residential development and other nearby uses
- promote health in the Coffs Harbour LGA by providing a cycle and pedestrian link to Moonee Beach village

- provide an appropriate type and scale of development in accordance with the centres hierarchy in the placemaking framework

3.3 Draft Coffs Harbour Local Strategic Planning Statement

The draft Coffs Harbour Local Strategic Planning Statement (LSPS) was placed on public exhibition in March and April 2020 and sets out a 20-year vision to guide land use planning in the Coffs Harbour LGA. The draft LSPS is consistent with the directions and actions outlined in the North Coast Regional Plan 2036.

The Department considers the proposal is consistent with the planning priorities of the draft LSPS as it would:

- contribute to the Compact City Program which promotes infill development in targeted locations, including Moonee Beach, to offer greater housing choice and affordability, protect the natural environment and provide quality public spaces (Planning Priority 1)
- facilitate the creation of an additional 103 residential lots to accommodate the projected population in the Coffs Harbour LGA while delivering greater housing supply, choice and diversity (Planning Priority 5).

3.4 MyCoffs Community Strategic Plan

The MyCoffs Community Strategic Plan provides an outline of the long-term aspirations and directions of the LGA for the next ten years. The stated vision for the community is to be connected, sustainable and thriving.

The Department considers the proposal is consistent with the themes, vision and actions of the Community Strategic Plan as it would:

- provide investment in the LGA by generating 130 construction jobs (B1.1)
- facilitate the creation of an additional 103 residential lots to accommodate the growing population within the LGA (B1.2).

4 Statutory Context

4.1 State significance

The proposal was previously a Transitional Part 3A project under Schedule 6A of the EP&A Act, as it satisfied the requirements of clause 1(1)(j)(i) under Schedule 2 of the then *State Environmental Planning Policy (Major Projects) 2005*, being the subdivision of land for more than 25 residential lots on land that is not in the metropolitan coastal zone.

As the project was not determined prior to Part 3A being wound up, it was declared a State significant development and transitioned to the SSD assessment framework on 12 January 2015. Therefore, the Minister for Planning and Public Spaces (Minister) is the consent authority for the proposal.

4.2 Consent Authority

The Minister for Planning and Public Spaces is the approval authority for the proposal. However, the Executive Director, Regions, Key Sites and Industry, may determine the request, under delegation dated 9 March 2020, as:

- the relevant local council has not made an objection
- a political disclosure statement has not been received
- there are less than 50 public submissions in the nature of objections.

4.3 Permissibility

The site is zoned R2 Low Density Residential and E2 Environmental Conservation under the *Coffs Harbour Local Environmental Plan 2013* (Coffs Harbour LEP 2013).

The proposed residential subdivision is permissible with consent and is consistent with the objectives of the R2 and E2 zones.

4.4 Other approvals

Under section 4.41 of the EP&A Act, several other approvals are integrated into the SSD approval process, and consequently are not required to be obtained separately.

Under section 4.42 of the EP&A Act, several further approvals are required, but must be substantially consistent with any development consent for the proposal (i.e. approval works under the *Roads Act 1993*).

The Department has consulted with the relevant government agencies responsible for integrated and other approvals, considered their advice in the assessment of the proposal, and included suitable conditions in the recommended conditions of consent at **Appendix G**.

4.5 Mandatory Matters for Consideration

Environmental Planning instruments

Under section 4.15 of the EP&A Act, the consent authority is required to take into consideration any environmental planning instrument (EPI) relevant to the proposed development. The Department considers the following EPIs apply to the assessment of the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)*
- *State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)*
- *Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation SEPP)*
- *State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Coffs Harbour Local Environmental Plan 2013*

Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects as set out in section 1.3 of the Act. In making an assessment, the objects should be considered to the extent they are relevant.

The Department has considered the proposal to be satisfactory with regard to the objects of the EP&A Act, as detailed in **Table 2**.

Table 2 | Response to the Objects of the EP&A Act

Objects of the EP&A Act	Consideration
(a) <i>to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,</i>	<ul style="list-style-type: none">• The proposal promotes the social and economic welfare of the community through the creation of 103 residential lots in an identified urban growth area that contributes to the region's projected housing needs.• The range of lots sizes would accommodate a range of household types.• The proposal promotes the ongoing protection of E2 zoned land, which is proposed to be rehabilitated, prior to being dedication to Council.• The E2 zoned land would form part of a conservation area that provides a buffer to Moonee Creek and its tributaries.
(b) <i>to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment</i>	<ul style="list-style-type: none">• The proposal includes the following mechanisms to facilitate ecologically sustainable development:<ul style="list-style-type: none">○ the retirement of 460 ecosystem and 169 species credits to offset the loss of approximately 11.37 hectares of native vegetation and habitat from the site○ the rehabilitation and dedication of 2 hectares of conservation land to Council• The Department has recommended conditions of consent to ensure the biodiversity impacts of the proposal are offset in accordance with the Biodiversity Offsets Strategy submitted as part of the application.

(c) <i>to promote the orderly and economic use and development of land,</i>	<ul style="list-style-type: none"> The proposal involves the subdivision of land to create new residential lots, public open space and servicing infrastructure in an urban growth area.
(d) <i>to promote the delivery and maintenance of affordable housing,</i>	<ul style="list-style-type: none"> This object does not apply as affordable housing does not form part of the application.
(e) <i>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i>	<ul style="list-style-type: none"> The proposal seeks to offset the loss of native vegetation and habitat from the site by securing and retiring 460 ecosystem and 169 species credits, consistent with the <i>NSW Biodiversity Offsets Policy for Major Projects</i> and the <i>Framework for Biodiversity Assessment (FBA)</i>.
(f) <i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i>	<ul style="list-style-type: none"> The subject site does not contain any European cultural heritage significance. Aboriginal artefacts have been identified on the site. It was found that the artefacts are not significant and will be subject to a management plan that either leaves them in situ or relocates them to an area on the site that will not be impacted by the development. A condition is recommend requiring that the Applicant adhere to the management plan contained within the Aboriginal Cultural Heritage Management Plan.
(g) <i>to promote good design and amenity of the built environment,</i>	<ul style="list-style-type: none"> The proposed subdivision layout is generally consistent with the Council's Development Control Plans that apply to the site.
(h) <i>to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i>	<ul style="list-style-type: none"> This object does not apply as the construction of buildings does not form part of the application.
(i) <i>to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,</i>	<ul style="list-style-type: none"> The Department publicly exhibited the proposal (Section 5), which included notification of the application and consultation with Council and State government agencies. A summary of the responses received and the Department's consideration of these responses is provided (Sections 5 and 6).
(j) <i>to provide increased opportunity for community participation in environmental planning and assessment.</i>	<ul style="list-style-type: none"> The Department publicly exhibited the proposal (Section 5), which included notifying surrounding landowners of the application, placing a notice in the local newspaper and displaying the proposal on the Department's website, the Department's information centre and regional office and at Council's offices during the exhibition period.

Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991* (POEA Act). Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle
- inter-generational equity
- conservation of biological diversity and ecological integrity
- improved valuation, pricing and incentive mechanisms.

The Department has assessed the proposed development in relation to the ESD principles outlined in the POEA Act, and has formed the following conclusions:

Precautionary Principle – the proposed development would not result in any serious or irreversible environmental damage, subject to the recommended conditions of consent which would require the Applicant to:

- retire biodiversity credits to offset the loss of native vegetation on the site
- prepare and implement a Vegetation Management Plan to provide for the long-term management of the vegetation within the E2 zone

Inter-Generational Equity – the proposal would not result in any adverse impacts on the environment for future generations, subject to the implementation of the recommended conditions of consent.

Biodiversity Principle – The major part of the development site has been cleared of native vegetation, except environmental buffer zones to Moonee Creek. This area is to be retained and revegetated where required to protect the biological diversity and ecological integrity of these areas and adjoining estuaries and wildlife corridors. In addition, the recommended conditions of consent will ensure the Applicant is required to offset the removal of any significant vegetation from the site.

Valuation Principle – the application seeks approval to purchase and retire 460 ecosystem credits and 169 species credits to offset the removal of 11.37 ha of native vegetation and habitat, consistent with the requirements of the *NSW Biodiversity Offsets Policy Major Projects* and the FBA.

Approval of an environmentally sensitive and ecologically sustainable residential subdivision will improve the valuation of the land and aid in the long term enhancement and maintenance of the locality and its environmental qualities, compared to an unsustainable development which would degrade the local environment and devalue the site and locality.

In response to the above, the Department concludes the proposal is consistent with the principles of ESD, in accordance with the objects of the EP&A Act.

Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)

Subject to any other references to compliance with the EP&A Regulation cited in this report, the requirements for notification and fees have been complied with.

Planning Secretary's Environmental Assessment Requirements

On 15 January 2010, the Department notified the Applicant of the Director-General's Environmental Assessment Requirements (now Secretary's Environmental Assessment Requirements (SEARs)) for the application. On 8 February 2010, the Department notified the Applicant that the SEARs had been

amended to include further assessment requirements requested by the (then) NSW Roads and Traffic Authority.

The Department is satisfied the Environmental Assessment, RtS and supplementary information submitted by the Applicant adequately address the SEARs to enable the assessment and determination of the application.

Section 4.15 Matters for Consideration

Table 3 identifies the matters for consideration under section 4.15 of the EP&A Act that apply to SSD in accordance with section 4.40 of the EP&A Act. The table provides a summary for which additional information and consideration is provided in **Section 6** and the relevant appendices, or other sections of this report, as referenced in the table.

Table 3 | Response to matters for consideration under section 4.15 of the EP&A Act

Section 4.15(1) Evaluation	Consideration
<i>(a)(i) any environmental planning instrument</i>	<ul style="list-style-type: none"> The proposal satisfactorily complies with the provisions set out in the relevant EPIs. The Department's consideration of the relevant EPIs is provided in Appendix B of this report.
<i>(a)(ii) any proposed instrument</i>	<ul style="list-style-type: none"> The proposal satisfactorily complies with the provisions set out in Draft Remediation of Land State Environmental Planning Policy.
<i>(a)(iii) any development control plan</i>	<ul style="list-style-type: none"> Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to relevant DCPs in Section 6.
<i>(a)(iia) any planning agreement, or any draft planning agreement</i>	<ul style="list-style-type: none"> Not applicable. No planning agreement or draft planning agreement is proposed as part of this application.
<i>(a)(iv) the regulations</i>	<ul style="list-style-type: none"> The application was originally lodged and exhibited under the now repealed provisions of sections 75E, and 75H of the EP&A Act. These steps were accredited prior to the application being declared a State significant development. The Department concludes the proposal is consistent with the current requirements of the EP&A Regulation, including the procedures relating to applications under Part 6 of the EP&A Regulation, the public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EIS.
<i>(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	<ul style="list-style-type: none"> The Department has undertaken a detailed assessment of the proposal in Section 6 of this report and considers the proposal is acceptable and any residual impacts can be appropriately managed or mitigated subject to conditions.
<i>(c) the suitability of the site for the development</i>	<ul style="list-style-type: none"> The site is suitable for the proposed development as discussed in Sections 3 and 6 of this report.

(d) <i>any submissions</i>	<ul style="list-style-type: none"> Consideration has been given to the submissions received during the exhibition period. Refer to Sections 5 and 6 of this report.
(e) <i>the public interest</i>	<ul style="list-style-type: none"> Refer to Section 6 of this report.

4.6 Threatened Species Conservation Act 1995

The *Threatened Species Conservation Act 1995* (TSC Act) aims to conserve biological diversity, promote ecologically sustainable development and protect the critical habitat of threatened species, populations and ecological communities.

The application includes an Ecological Assessment and a separate Biodiversity Offsets Strategy that has been prepared in accordance with the *NSW Biodiversity Offsets Policy for Major Projects* that is supported by the FBA.

4.7 Biodiversity Conservation Act 2016

The proposal is defined as a 'pending or interim planning application' under the Biodiversity Conservation (Savings and Transitional) Regulation 2017, as the application was made prior to the commencement of the *Biodiversity Conservation Act 2016*, but not determined prior to the commencement of the new Act. Accordingly, pursuant to Part 7, Clause 28 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017, the relevant provisions of the *Threatened Species Conservation Act 1996* (TSC Act) continue to apply to the assessment of the proposal.

5 Engagement

5.1 Department's engagement

Environmental Assessment

The application was exhibited between 19 June and 1 August 2013. The Environmental Assessment (EA) was made available to the public on the Department's website, the Department's information centres in Sydney, Coffs Harbour and Grafton and Council's office.

The Department also placed a public exhibition notice in the Coffs Coast Advocate and notified adjoining landowners, Council, Office of Environment and Heritage (OEH), Rural Fire Service (RFS), Environment Protection Authority (EPA), Department of Primary Industries (DPI), Solitary Island Marine Park Authority, Northern Rivers Catchment Management Authority and Roads and Maritime Services (RMS) in writing.

The Department received a total of 24 submissions on the EA, comprising four submissions from government agencies, one submission from Council and 19 submissions from the public. Of the 24 submissions received, four objected, 15 supported and five made general comments to the proposal. The Department placed copies of all submissions received on its website and requested the Applicant to provide a response to the issues raised in the submissions.

A summary of the issues raised in the submissions received on the EA is provided in **Section 5.2** below. Copies of the submissions are provided at **Appendix C**.

Response to Submissions (RtS)

Separate RtS reports were prepared by the Applicant and submitted to the Department in May 2016 and May 2017. The RtS reports were made available on the Department's website and provided to Council and relevant State government agencies for comment.

In December 2018, the Applicant submitted to the Department a final RtS that outlined amendments to the application. The final RtS responded to the issues raised by Council, government agencies and the public submissions following the exhibition of the application in 2013. The amendments made to the proposal in the final RtS are described in Section 2 above

The final RtS was exhibited between 10 April and 8 June 2019 and made available to the public on the Department's website, at Service NSW Centres and at the Department's Sydney office. The Department also placed a public exhibition notice in the Coffs Coast Advocate and notified adjoining landowners, Council and the relevant State government agencies in writing.

The Department received a total of eight submissions on the RtS, comprising four submissions from government agencies, one submission from Council and three submissions from the public. The Department placed copies of all submissions received on its website.

A summary of the issues raised in the submissions received on the final RtS is provided in **Section 5.2** below. Copies of the submissions are provided at **Appendix C**.

5.2 Summary of submissions

Government Agency Submissions

A summary of the government agency submissions provided in response to the Applicant's EA and final RtS is provided in **Table 4**. Copies of the submissions are provided at **Appendix E**.

Table 4 | Summary of Agency Submissions

Summary of Agency Submissions

Council

EA Comments:

Council **does not object** to the proposal, however, it provided the following comments:

- the subdivision footprint is inconsistent with the Moonee Beach Development Control Plan (MBDCP) in relation to buffer widths, encroachment upon protected vegetation, water quality protection measures and density targets
- the proposal is inconsistent with the Moonee Estuary Management Plan
- access from the site to adjoining Lot 2 in DP 1097743 be maintained to a standard that does not compromise the flood immunity
- further assessment of biodiversity impacts should be carried out, in relation to koala and squirrel glider species.

The Department notes that, subsequent to the EA exhibition, the southern land parcel (Lot 6 in DP 1097743) was removed from the application and Council's comments in relation to this portion of the development are no longer applicable.

RtS Comments:

Council **did not object** to the proposal, however, concerns were raised relating to the integration and connection of the proposed subdivision with the adjoining subdivision to the south. Council considers the two developments have been designed in relative isolation of one another. Council provided the following comments and recommendations:

- a vehicular link between the site and the residential subdivision to the south (0457/18DA) should be provided to improve connectivity and to provide an efficient subdivision layout
- the stormwater management arrangement should be designed to integrate with the residential subdivision to the south 0457/18DA
- the landowner should be required to extinguish legal and physical access to the Pacific Highway from the site.

Office of Environment and Heritage/Biodiversity and Conservation Division (OEH/ BCD)

EA Comments:

OEH **did not object** to the proposal, however, it sought further information and provided the following comments and recommendations:

- the proposal should demonstrate how the loss of native vegetation is adequately offset using the Biobanking assessment tools and undertaken by an accredited Biobanking assessor
- more detailed information is required on the likely impacts of habitat clearing for both Koala and Squirrel Glider species
- suitable offsets be provided for the loss of Glossy Black Cockatoo feed trees
- suitable water quality measures be in place to protect existing Wallum Froglet habitat before, during and after construction
- consultation should continue with local Aboriginal representative and an Aboriginal Cultural Heritage Management Plan (ACHMP) be prepared
- infrastructure and facilities be excluded from the ecological buffer to Moonee Creek
- subdivision release stages should consider adequate egress and safety during a full range of flood events.

RtS Comments:

OEH **did not object** to the proposal, however, issues were raised relating to the assessment of estuaries and flooding, Aboriginal cultural heritage and biodiversity. OEH provided the following comments:

- development infrastructure should be removed from the proposed conservation area and outside of the 50 metre buffer to Moonee Creek
- consideration be given to increasing the buffer distance to Moonee Creek to protect the integrity of the waterway and biodiversity
- works within the conservation area should demonstrate that biodiversity values will be improved or maintained
- further consideration should be provided on areas that are at potential risk from inundation and a greater setback to Moonee Creek be considered
- further consideration should be provided on the proposed bio-remediation basins and how these will treat stormwater
- an ACHMP should be prepared to the satisfaction of OEH, prior to any ground disturbance.

Rural Fire Service (RFS)

EA Comments:

The RFS **did not object** to the proposal, however, it provided the following comments:

- concern is raised regarding the APZs required for grassland on proposed lots B85 and B101 if the residential development to the north does (the Glades Estate) not proceed
- the public access roads and utility services shall comply with the relevant sections of *Planning for Bush Fire Protection 2006* (PBP 2006).

RtS Comments:

The RFS **did not object** to the proposal, however, it recommended the following:

- conditions of consent to ensure the intent of the APZs is achieved, including the entire area of each newly created residential lot to be managed as an inner protection area (IPA) in accordance with PBP 2006

- a temporary restriction to land use be encumbered on the undeveloped residue lot requiring a 10 metre wide APZ around the perimeter of the subdivision stage being released and managed as an IPA until the development of the adjoining land
- a restriction to land use be encumbered on Lots D1 to D19, D86 to D101 and D103 to prohibit the construction of a dwelling in the APZ
- a Bushfire Management Plan be prepared with respect to the APZ for Lot D104
- landscaping to comply with the principles provided in PBP 2006
- public road access and the provision of water, electricity and gas services to comply with relevant provisions of PBP 2006.

Roads and Maritime Services (RMS)

EA Comments:

The RMS initially **objected** to the proposal primarily in response to issues related to site access. The following comments were provided:

- RMS will only provide temporary, standard rural access to the site from the Pacific Highway that will be removed once access to the site becomes available via the Moonee Beach collector road
- any works on the Pacific Highway will require the execution of a Works Authorisation Deed (WAD) with RMS, prior to the commencement of construction and at no cost to RMS
- further assessment should be provided to determine whether the infrastructure has adequate capacity to accommodate the development
- a detailed noise study should be provided to determine the road traffic noise impacts on the development from both the Pacific Highway and the additional traffic from the collector road
- consideration be given for increased pedestrian safety, the provision of public transport facilities (i.e. lay-bys and shelters) and the construction of an off-road cycleway connecting to existing or proposed cycle ways on adjoining properties.

RtS Comments:

RMS stated that, it understands that the adjoining landowners had/will enter into agreements for the construction of the collector road to provide access to the site. RMS also understands that, all existing access points between the site and the Pacific Highway will be legally and physically closed prior to the release of a subdivision certificate.

On this basis, the RMS **did not object** to the revised development and provided the following comments:

- construction vehicle access from the Pacific Highway, requires a Road Occupancy License and a Traffic Management Plan (TMP) and a WAD
- works within the Pacific Highway road reserve shall be in accordance with relevant Austroads Guidelines, Australian Standards and RMS standards.

Department of Primary Industries (DPI)

EA Comments:

DPI **did not object** to the proposal, however, it raised concerns to the following:

- the width of the riparian buffer particularly to Cunninghams Creek is insufficient to mitigate impacts on key fish habitat in the Solitary Island Marine Park and inconsistent with Fisheries NSW buffers policy
- the narrow buffer zones limit potential to manage the Intermittently Closing and Opening Lake or Lagoon (ICOLL)
- the inclusion of stormwater infrastructure in the buffer
- the new waterway crossing of Bucca Creek shall comply with Fisheries NSW fish passage requirements
- impacts of the proposed filling of low-lying alluvial flats which comprise vegetation communities that are potential habitat for a number of fauna species.

RtS Comments:

DPI **did not object** to the proposal, however, it advised that:

- works within the riparian corridor should be conducted in accordance with the DPI's Guidelines for Controlled Activities
- the relevant licences under the WM Act shall be obtained prior to any activities that intercept or extract groundwater and surface water.

Public Submissions (EA)

A total of 19 public submissions were received on the EA during the exhibition period including 16 submissions in support of the application and three submissions objecting to the proposal.

The key issues raised in support of the proposal included:

- subdivision design and layout
- need for the collector road to be established
- current shortage of larger lots for residential development in the Moonee Beach locality
- employment opportunity for construction and trades workers
- population growth is needed to support local businesses.

A submission made in support of the application was received from Winten Property Group Pty Ltd (Winten), the landowner of the land parcel to the north (the Glades Estate). Winten advised in its submissions that development of the Glades Estate is contingent upon the construction of the collector road which would provide access and connectivity between its site and Moonee Beach village. Winten requested a condition be applied that would require the construction of the collector road, to enable the issuing of subdivision certificates within the Glades Estate.

The key issues raised in objection to the proposal included:

- misrepresentations of relevant property boundaries

- the alignment and construction of the collector road
- impacts of bulk earthworks and stormwater plans
- impacts on biodiversity.

One of the public submissions included a petition containing 74 signatures objecting to the proposal on the basis of unfair costs burdened upon the landowner of Lot 6 in DP 252223, commercial disadvantage and ecological impacts.

Public Submissions (RtS)

A total of three public submissions were received on the RtS. Two of the submissions requested an additional entry and exit point to the Pacific Highway be included as part of the development to reduce traffic in Moonee Beach Village and for emergency evacuation.

A submission was also made by Winten reiterating its request (made in its 2013 submission) for a condition to be applied that would facilitate construction of the collector road.

6 Assessment

In assessing the merits of the proposal, the Department has considered:

- the Environmental Assessment, Response to Submissions and supplementary information
- all submissions received on the proposal
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key issues associated with the proposal are:

- subdivision design and layout
- biodiversity
- flooding and drainage

Each of these issues is discussed in the following sections of this report. All other issues taken into consideration during the assessment of the application are discussed in **Section 6.4** of this report.

A list of the key documents that informed the Department's assessment is provided in **Appendix A**.

6.1 Subdivision design and layout

The application, as proposed in the final RtS, seeks approval to subdivide the site into 103 residential lots (ranging in size from 575 m² to 910 m²), one lot for drainage and environmental conservation purposes (2 ha) and one lot for vehicle access to an adjoining land parcel (1,060 m²).

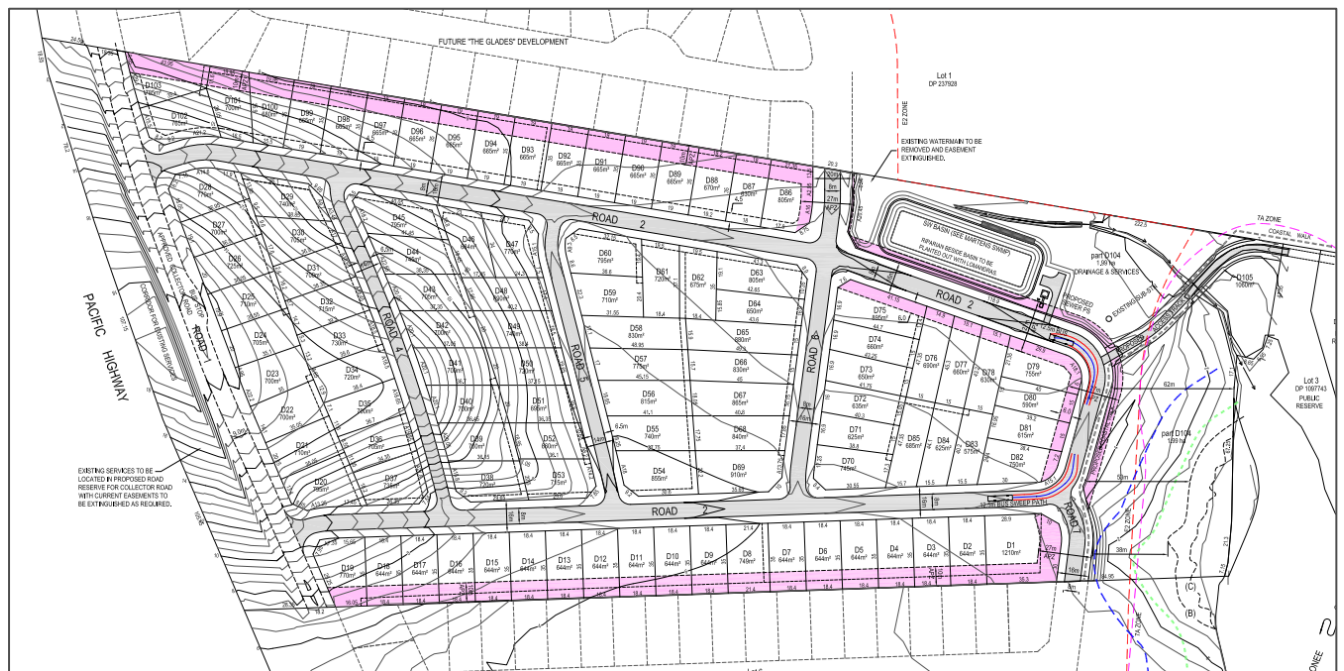


Figure 4 | Proposed Subdivision Layout (Source: Applicant's Response to RFI)

Following the public exhibition of the EA in 2013, the Applicant made various amendments in response to the matters raised by the Department, Council, government agencies and the public.

A key amendment made to the project included the removal of Lot 6 in DP 1097743 from the application (southern land parcel) including the removal of 56 residential lots from the application. The amendments to the project are set out in the final RtS (submitted in December 2018) and are described in detail at **Section** Error! Reference source not found..

The internal road network was redesigned as part of the RtS and proposes two connections to the approved collector road (Road 1) at the western extent of the site which would traverse in a general east-west direction (Road 2). A series of lower-order streets (Roads 4, 5 and 6) are proposed to connect to Road 2. A connection to the residential subdivision to the north (the Glades Estate) is proposed via an extension to Road 6. The subdivision design and road network layout are shown in Error! Reference source not found. above.

Department's consideration

Following the exhibition of the RtS, the following issues were raised by the Department and Council in response to the proposed subdivision layout:

- a road network connection to the approved subdivision to the south should be established for improved servicing, emergency response and traffic circulation
- the subdivision design is required to integrate with the updated road design and levels of the collector road
- site levels along the southern boundary of the site should be consistent with the adjoining subdivision to ensure potential stormwater, servicing and amenity impacts are minimised
- road reserves must demonstrate that infrastructure and street trees can be accommodated, consistent with Council's requirements.

The Applicant revised the subdivision plans to amend the levels along the southern boundary and include a new road connection (Road 7) to integrate with the approved development to the south (see Figure 3). The Applicant also proposes to undertake earthworks in conjunction with the development of the subdivision to the south, to avoid the need for retaining structures.

The Department notes that Council initially raised concerns about the inconsistency of the proposal with the Moonee Beach DCP, including dwelling density, the buffer to Moonee Creek and subdivision footprint. However, since the application was lodged the Moonee Beach DCP 2004 was replaced by the Coffs Harbour DCP 2015, and these controls are no longer applicable.

The Department is satisfied with the subdivision layout as:

- the proposed lots meet the minimum lot size of 400m² in accordance with the Coffs Harbour LEP 2013
- the proposed lots are generally rectangular in shape and provide a logical subdivision pattern
- the site levels and Road 7 ensure the proposal integrates with the subdivision to the south
- the proposed road network layout creates a legible street hierarchy comprised of a main access road (Road 1) and a series of collector roads to provide access to the residential lots

- the infrastructure requirements, environmental requirements and land dedication proposed are consistent with the DCP and conditions have been imposed where relevant.
- The layout is generally consistent with the Moonee Beach Masterplan (included in the DCP), and includes provisions for the required coastal walk (**Figure 5**).

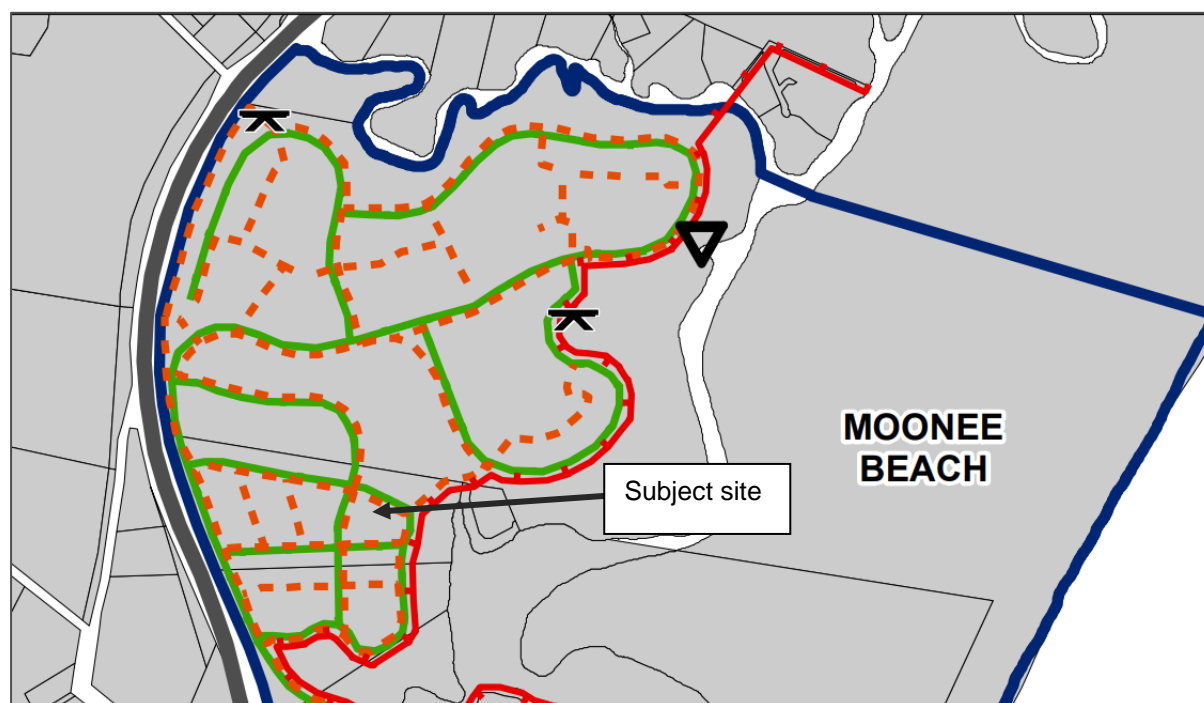


Figure 5 | Moonee Beach Masterplan (Source: Coffs Harbour DCP 2015)

The Department has therefore recommended conditions requiring the development of the site in accordance with the revised plans.

6.2 Biodiversity

The Applicant submitted an Ecological Assessment as part of the EA that included the results of flora and fauna surveys across the site and assessed the impact of the proposal on biodiversity. Further biodiversity assessment was provided as part of the RtS and supplementary information to address the residual concerns raised by OEH and Council.

The assessment undertaken by the Applicant considered the proposal in accordance with the provisions of section 5A of the EP&A Act (now repealed) and the requirements of the *NSW Biodiversity Offsets Policy for Major Projects* and the FBA. The ecological assessments and information submitted as part of the application included:

- Ecological Assessment prepared by PEA Consulting, dated March 2013
- Ecological Assessment prepared by PEA Consulting, dated February 2016
- Biodiversity Offsets Strategy (BOS) prepared by GHD, dated March 2017.

These studies were updated during the Department's assessment of the application, with a revised BOS dated June 2020 submitted in the Applicant's response in July 2020.

The application meets the criteria of a 'pending or interim planning application' under the BCST Regulation as it was made, but not finally determined, prior to the commencement of the *Biodiversity Conservation Act 2016* (BC Act). Accordingly, the provisions of the TSC Act continue to apply to the assessment of the proposal.

The Department's assessment has considered the potential impacts of the proposal on both terrestrial and aquatic environments including impacts on the Moonee Creek estuary.

Existing environment

Flora

Field surveys undertaken by GHD in September 2016 identified the presence of four vegetation zones across the site. Two of the vegetation zones are located within the proposed subdivision footprint and two are located in the proposed environmental conservation area (Lot D104).

The vegetation zones surveyed within the proposed subdivision area include:

- Blackbutt – Pink Bloodwood shrubby open forest dry grassy open forest of the central parts North Coast (NR117)
- Forest Red Gum – Swamp Box of the Clarence Valley lowlands of the North Coast (NR161).

The vegetation zones surveyed within the proposed environmental conservation area (Lot D104) include:

- Pink Bloodwood open forest of the coastal lowlands (NR220)
- Paperbark swamp forest (NR217).

The vegetation type Forest Red Gum – Swamp Box of the Clarence Valley lowlands of the North Coast (NR161) forms part of an Endangered Ecological Community (EEC) under the TSC Act as it comprises Sub-tropical Coastal Floodplain Forest of the NSW North Coast bioregion.

There were no threatened flora species identified during targeted surveys carried out as part of the Ecological Assessment submitted with the EA or during transect surveys that were undertaken as part of the BOS submitted with the RtS.

The distribution of vegetation zones across the site is shown in **Figure 5**.

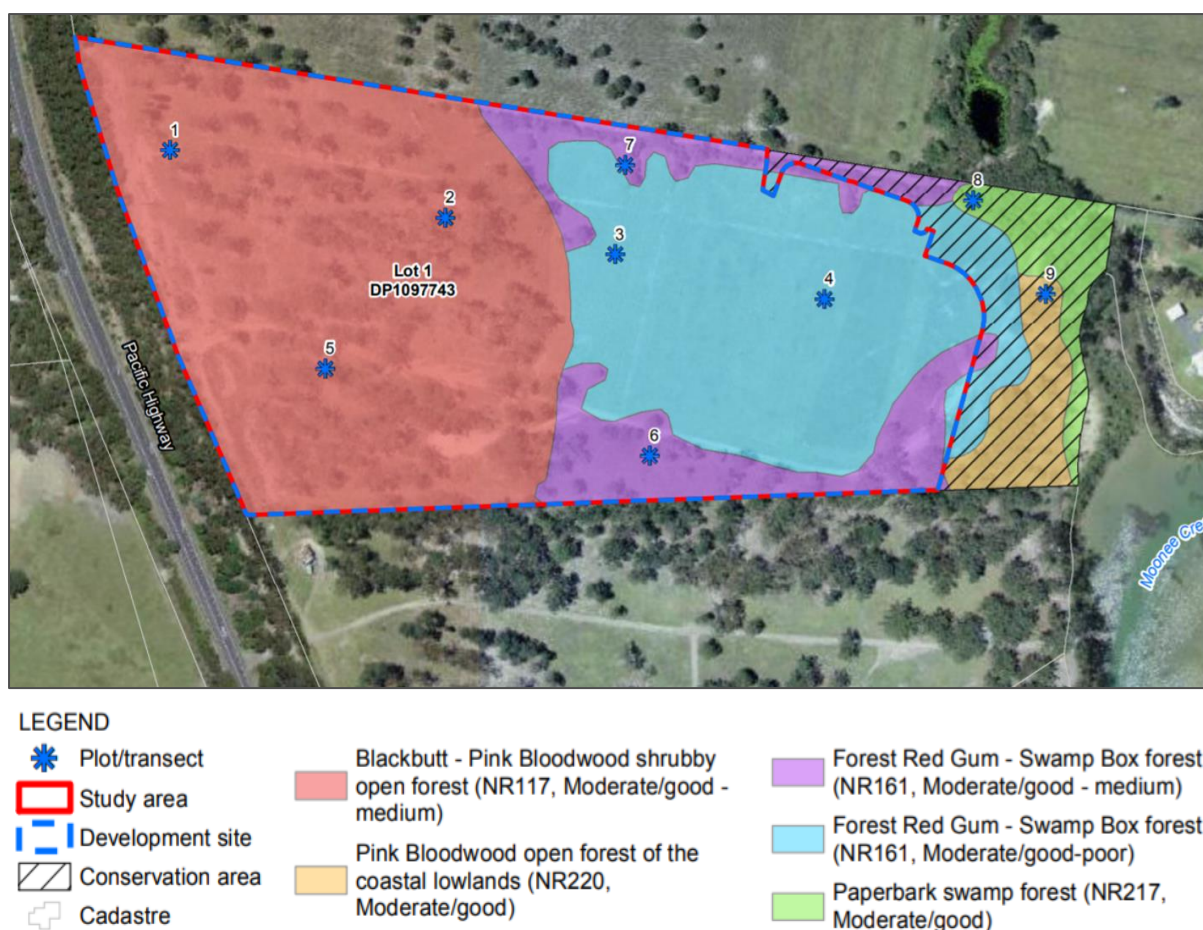


Figure 5 | Vegetation Zones (Source: Applicant's Response to Submissions)

Fauna

The Ecological Assessment included the results of fauna surveys that were carried out at the site in 2010 and 2011. The surveys located a total of 36 bird species, 17 mammal species, 11 amphibian species and three reptile species on the site.

Potential impacts of the proposal

Flora

A total of 11.37 ha of native vegetation would be cleared to accommodate the proposed development. The extent of vegetation clearing is confirmed in the BOS and is summarised in **Table 5** below.

Table 5 | Summary of proposed vegetation clearing

Vegetation Type	Disturbance Area (ha)
Blackbutt – Pink Bloodwood shrubby open forest	6.20
Forest Red Gum – Swamp Box forest	5.17
Total	11.37

The Ecological Assessment identified 17 hollow bearing trees on the site. None of the hollow bearing trees were identified as significant or observed as den trees for significant fauna species. Two of the trees will be retained in the environmental conservation area. The tree hollows that are unable to be retained will be salvaged and relocated to the conservation area.

The location of hollow bearing trees on the site, overlaid with the proposed subdivision, is shown in **Figure 6**.

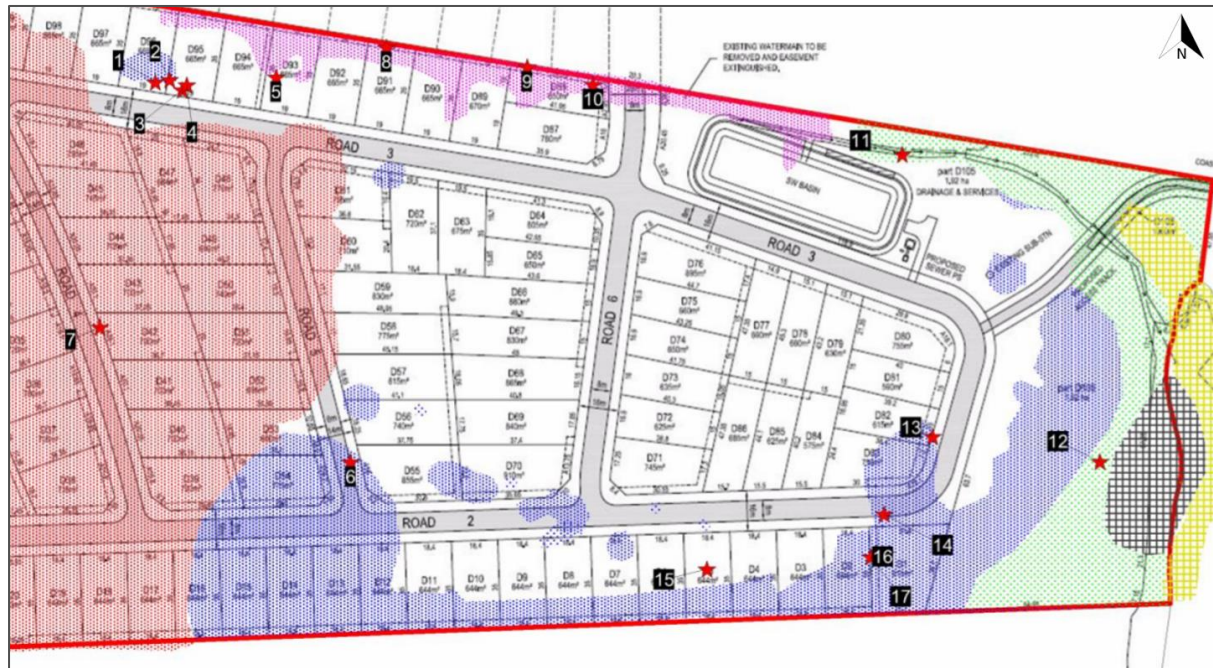


Figure 6 | Location of hollow bearing trees (Source: Applicant's Response to Submissions)

Fauna

Of the fauna species located on the site, three are listed as vulnerable species under the TSC Act including:

- Squirrel Glider (*Petaurus norfolcensis*)
- Glossy black-cockatoo (*Calyptorhynchus lathami*)
- Eastern Osprey (*Pandion heliaetus*)

None of the above species are listed species under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*.

A 7-part test of significance for each of these species was undertaken as part of the Ecological Assessment submitted with the EA. The tests concluded that the proposed development is unlikely to have a significant effect on these species, and a Species Impact Assessment is not required.

The revised offset strategy identified approximately 7.6 ha of potential squirrel glider habitat within the development footprint, requiring 169 species credits under the FBA. This is a 2 credit reduction from the area calculated in the EIS. BCD has reviewed the Applicant's response and is satisfied with the revised calculations.

The Ecological Assessment also detailed the results of tree surveys conducted in 2014 to establish if koala were present on the site, or whether there was any evidence of koala using these trees. No koalas were recorded on the site during the survey, nor during any previous surveys.

The Ecological Assessment states that the absence of scats and visual sightings of koala is consistent with the current knowledge that the koala species in the Moonee Beach area are at very low densities and likely restricted to the better quality areas where preferred trees occur on high quality Quaternary soils. Further, the absence of any koalas following detailed surveys over the proceeding four-year period indicates that the site provides poor quality habitat, likely as a result of the past clearing activities and ongoing site maintenance.

Biodiversity Offset Strategy

The BioBanking Assessment Methodology (BBAM) was used to determine the number and type of biobanking credits required to offset impacts of the Project. The BOS determined that the Project would require the retirement of 460 ecosystem credits (see **Table 7 | Summary of species credits required by the proposal**) and 169 species credits (see **Table 7**).

Table 6 | Summary of ecosystems credits required by the proposal

Vegetation Type	Disturbance Area (ha)	Credits required
NR117 – Blackbutt – Pink Bloodwood shrubby open forest	6.20	289
NR161 – Forest Red Gum – Swamp Box forest	5.17	171
Total	11.37	460

Table 7 | Summary of species credits required by the proposal

Species	Disturbance Area (ha)	Credits required
Squirrel Glider (<i>Petaurus norfolcensis</i>)	7.6	169
Total	7.6	169

Department's consideration

The Department has reviewed the biodiversity impacts of the proposal in consultation with the BCD and acknowledges the extensive field surveys have been undertaken to identify existing flora and fauna species on the site, including the presence of any threatened species.

The Department and BCD agree that the project is not required to complete a Biodiversity Development Assessment Report (BDAR) in accordance with the requirements of the FBA as the 2013 biodiversity assessment by PEA adequately considered the site's biodiversity values.

The Department's assessment concludes that the project is required to provide biodiversity offsets to mitigate residual impacts to biodiversity associated with the project.

The Applicant proposes to offset the impacts of the development in accordance with the *NSW Biodiversity Offsets Policy for Major Projects* and proposes to retire credits in stages according to the staged approach to the development.

Following its review of the revised BOS, BCD has advised that the retiring of credits may occur in a staged approach consistent with Section 7.13(5) of the BC Act, subject to the submission of a staging plan which indicates the corresponding credits required for each stage.

In conclusion, the Department is satisfied the BOS identifies suitable offsets, consistent with the requirements of the *NSW Biodiversity Offsets Policy for Major Projects* and the FBA, to mitigate the impacts of clearing 11.37 ha of native vegetation from the site. Further, the Department has included the conditions of consent recommended by the BCD to ensure the biodiversity impacts of the proposal are offset in stages prior to works in each stage occurring and managed over the life of the development.

Potential impacts on the Moonee Creek estuary

Part of the site directly adjoins Moonee Creek and provides an important buffer to the estuarine system. The Ecological Assessment described Moonee Creek as forming part of a healthy estuarine system that provides habitat for a wide range of significant bird species, provides important nursery habitat for local fish populations and supports large seagrass beds.

The proposed environmental conservation area (Lot D104) comprises approximately 2 ha and will provide a physical buffer to Moonee Creek. The conservation land and buffer are proposed for rehabilitation, management and dedication to Council post construction for community purposes. The Ecological Assessment concluded that the vegetation on the northern and southern boundary of the site cannot be retained due to the existing development approvals.

Council and OEH raised concerns about the proposed width of the buffer to Moonee Creek throughout the assessment process.

Council advised that the Moonee Creek Estuary Management Plan 2008 requires a 100 metre buffer to Moonee Creek.

The Applicant contends that a 100 metre buffer is not required, as the studies undertaken as part of the local environmental studies for the rezoning determined a 50 metre buffer was appropriate. However, the Environmental Assessment states that detailed studies for the subject site conclude an average buffer of 72 metres to Moonee Creek should apply.

OEH advised in its initial submissions that consideration should be given to removing any development infrastructure from the environmental conservation area and from within the 50 metre buffer to Moonee Creek. Subsequent submissions from OEH noted that the plans should be amended to ensure a buffer with an average width of 72m (excluding APZs and any infrastructure) can be incorporated, whilst recognising that the buffer will not be able to be fully achieved in the south-eastern corner where Road 7 connects to the site to the south.

The RTS included amended plans showing all stormwater infrastructure removed from the 50 metre buffer. The Applicant also provided an updated subdivision plan as part of the final response, which shows the buffer between the development and the top of bank of Moonee Creek ranges between 62.8 m and 90.5 m, with an average buffer of 72 metres (see

Figure). OEH indicated that it had no further comments on this issue.

Department's consideration

The Department considers that the proposed buffer with an average width of 72 metres is appropriate as:

- the 50 metre wide buffer incorporating land zoned E2 remains clear of development or infrastructure (excluding access to Lot 2 DP 1097743)
- it is consistent with the width of the buffer approved on the site to the south (**Figure 7**)
- the southern extent of the buffer having a width of 69.4 metres is appropriate to ensure Road 7 aligns with the connecting road on the site to the south
- the required stormwater and water quality control measures would mitigate adverse impacts of runoff into Moonee Creek.

The Department has recommended conditions of consent that require the preparation and implementation of a Vegetation Management Plan to provide for the long-term management of vegetation within the E2 zone, and subject to these conditions is satisfied the proposed buffer to Moonee Creek is appropriate and would not result in adverse biodiversity or runoff impacts.

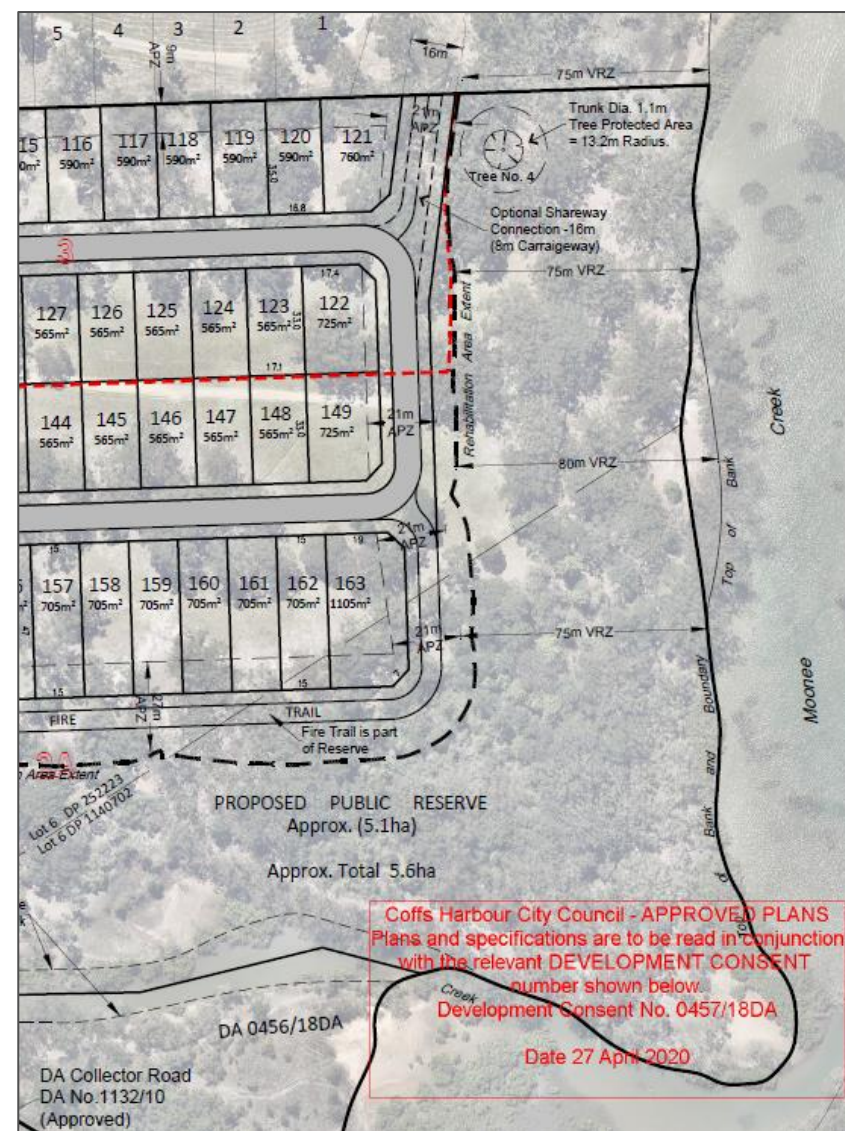
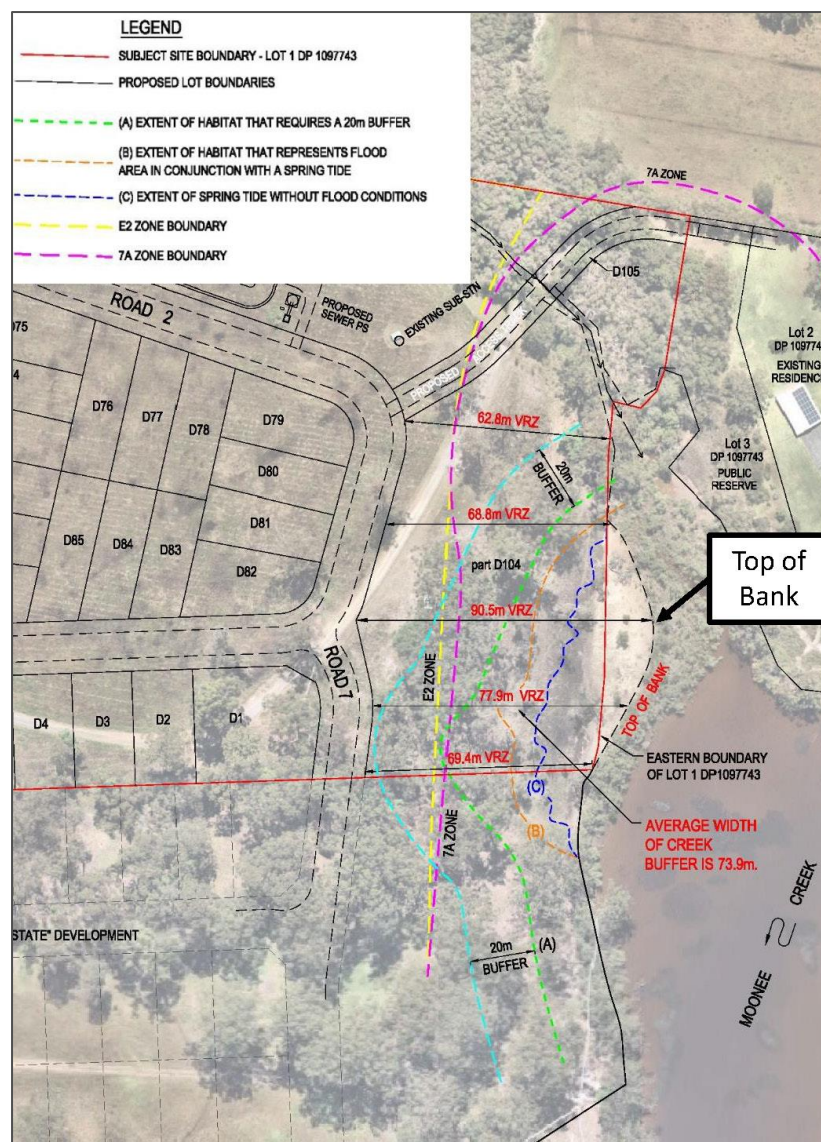


Figure 7 | Buffer to Moonee Creek top of bank (Source: Applicant's RTS July 2020) **Figure 8 |** Buffer to Moonee Creek on site to South (Source: 0457/18DA)

6.3 Flooding

The site is located within the Moonee Creek catchment which encompasses a total area of approximately 42 square kilometres. Moonee Creek originates in the north of the catchment and flows south where it discharges to the ocean at Moonee Beach. There are three main tributaries to Moonee Creek including Skinners Creek, Cunninghams Creek and Sugar Mill Creek (**Figure 9**Figure).

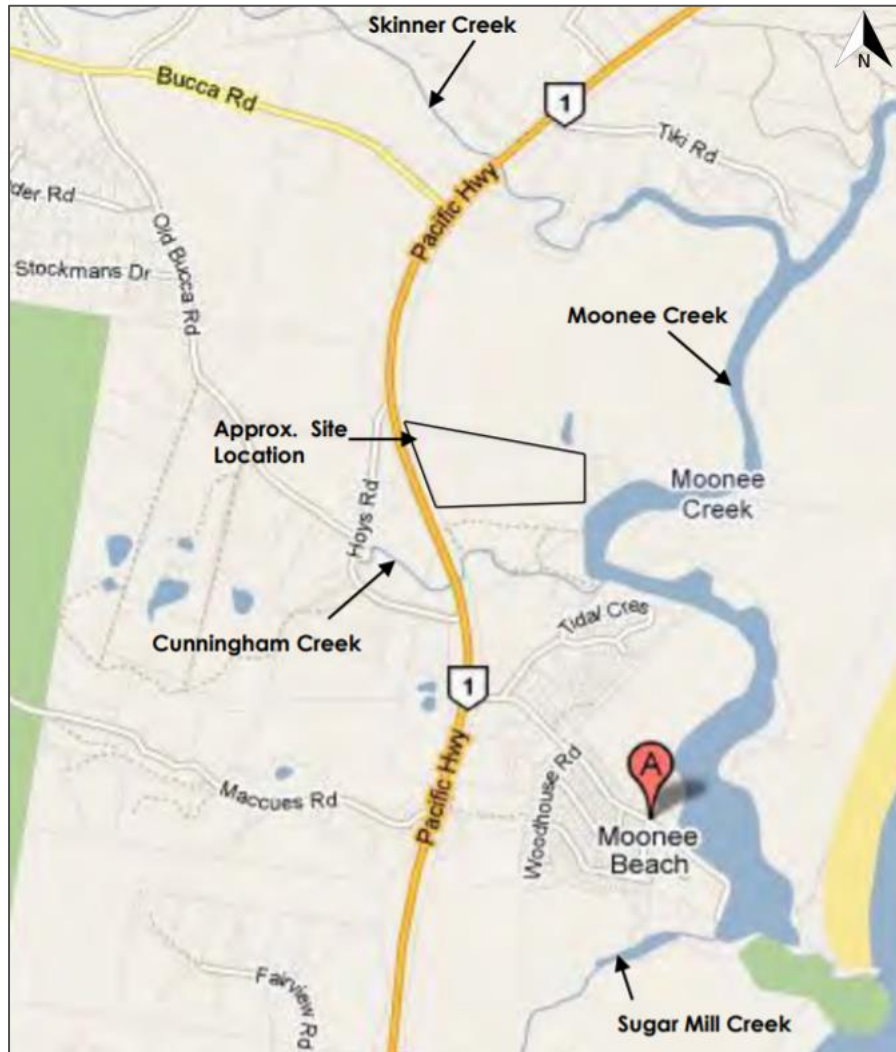


Figure 9 | Moonee Creek and its main tributaries (Source: Applicant's Response to Submissions)

The RtS included a Flood Assessment prepared by Martens & Associates Pty Ltd (Martens). The Flood Assessment was informed by previous flood studies conducted for the lower part of Moonee Creek and included hydrological and hydraulic flood modelling for existing and developed conditions at the site. The Flood Assessment provided detailed the flood characteristics at the site during the 1 in 20-year ARI, 1 in 100-year ARI and Probable Maximum Flood (PMF) events including the predicted flood depths, velocities, direction of flows and hazard classification. The Flood Assessment included an assessment of the impact of climate change and sea level rise on the site's flood regime.

The Flood Assessment provided the following conclusions:

- all flooding impacts arising from the proposed development are contained within the site and would not have an adverse flooding impact on the neighbouring properties
- the 1 in 100-year ARI flood hazard mapping indicates that inundated areas of the site for post-development conditions generally experience flows of less than 0.4 m²/s, indicating that the flood hazard across the site is generally low
- access to adjoining Lot 2 in DP1097743 will be inundated for the 1 in 100-year ARI flood event for existing conditions
- there is no significant effect of the development on flood behaviour for climate change events modelled.

OEH recommended in its submission on the RtS that:

- all residential lots and roads be filled to a minimum 3.5 metres AHD
- the minimum floor levels for dwellings be set at 4.0 metres AHD
- earthworks and civil works be consistent with that modelled in the Flood Assessment submitted with the RtS.

Department's consideration

The Department is satisfied that the anticipated on-site flooding can be addressed via conditions of consent.

The Department acknowledges the conclusions made in the Flood Assessment that the access driveway to the adjoining lot to the east of the site (Lot 2 in DP1097743) would be inundated in the 1 in 100-year ARI flood event. Therefore, a recommended condition of consent is included that requires the Applicant to ensure the access driveway is raised and the provision of new culverts established underneath the driveway where it crosses Bucca Creek to ensure it is trafficable during the 1 in 100 year ARI flood event.

6.4 Other issues

The Department's assessment of other issues is summarised in **Table 8**.

Table 8 | Other Issues

Issue	Findings	Recommendations
Traffic and access	<ul style="list-style-type: none"> The RtS included a Traffic Impact Statement (TIS) prepared in accordance with the requirements of the <i>Guide to Traffic Generating Developments</i> (RMS) and Austroads Guidelines. The western extent of the site has frontage to the Pacific Highway, however, no direct access to or from the site and the highway is proposed. Vehicle access to the site will be provided via an extension of the approved access road linking the site with Estuary Drive/Moonee Creek Drive. The TIS finds that the impact of the development on daily traffic flows in the locality will be relatively low and within the capacity of the local roads. The greatest impact would occur at Moonee Beach Road and Estuary Drive intersection (roundabout). The TIS states that observations indicate the roundabout currently operates with minimal delays and congestion. SIDRA modelling assessment of the roundabout was undertaken as part of the TIS. The modelling finds that the roundabout will continue to have adequate capacity and provide a good level of operation over the 10-year design horizon, allowing for increased traffic associated with the ongoing development of Moonee Beach, including additional traffic generated by the proposed development. The internal road network will provide access to each individual lot and has been designed in accordance with Council's standard engineering requirements. A bus stop is proposed at the corner of Road 1 and Road 2 to allow for a future expansion of the bus route that provides access for school children. The layout of the site allows for bus circulation. Pedestrian pathways for access has also been provided in accordance with Council's requirements. The proposal is expected to have a minimal impact on road safety. The intersection 	<p>The Department has recommended conditions of consent that require:</p> <ul style="list-style-type: none"> any access from the site to the Pacific Highway to be legally and physically closed and redirected via the collector road, prior to the issue of a subdivision certificate for the first residential lot restricted access to the Pacific Highway unless approval is obtained from the RMS.

provides for good visibility for safe traffic control.

- The Department's assessment concludes the additional traffic demand associated with the proposed development will have an acceptable impact on the continued operation of the existing road network including the Moonee Beach Road and Estuary Drive intersection.

Stormwater management

- The RtS included a revised Concept Stormwater Management Plan (CSMP) that outlined the minimum drainage infrastructure requirements to convey stormwater from the developed site to Moonee Creek.
- The CSMP has been prepared in accordance with the Coffs Harbour DCP, Council's Water Sensitive Urban Design (WSUD) guidelines and the principles of ESD.
- Stormwater quantity and quality control measures proposed as part of the development include:
 - an established network of stormwater drainage infrastructure including pits, pipes, culverts and headwalls, outlet energy dissipation and erosion protection works
 - a bioremediation basin to capture surface and piped stormwater flows from the site and upslope catchments
 - 5 KL rainwater tanks on each lot to reduce stormwater runoff
 - earthworks designed to minimise the concentration of runoff and flood hazard, to direct runoff to the bioremediation basin and to minimise potential erosion.
- Overall, the proposed stormwater management system is designed to have a beneficial effect on water quality through the capture and removal of sediments, nutrients and gross pollutants.
- Council has reviewed the stormwater strategy and recommended a condition of consent requiring updated WSUD modelling to reflect the 'for-construction' designs.
- The Department is satisfied the proposed stormwater management system has been designed in accordance with Council's WSUD guideline. Further, the Department's assessment concludes that the stormwater flows from the site would be treated to an appropriate standard prior to entering Moonee Creek.

The Department has recommended conditions of consent that require:

- the stormwater quantity and quality control measures detailed within the CSMP must be in place before works commence on-site
- the implementation of soil and water control measures during construction
- updated Water Sensitive Urban Design (WSUD) modelling reflecting the 'for-construction detailed stormwater design' to be provided to Council.

Bushfire	<ul style="list-style-type: none"> • The site is identified as containing Category 1 Vegetation on Council's Bushfire Prone Land Map. • The RtS included a Bushfire Assessment Report (BAR). The BAR identified the vegetation located in the north-eastern part of the site (within the environmental conservation lot) as being a potential bushfire hazard. • The BAR set out the minimum required APZs for the site to ensure compliance with PBP 2006. The APZs comprise Roads 2 and 6 to the north-east (20 metres), land within the proposed residential lots and land within environmental conservation lot. • The BAR confirms that all proposed residential lots can accommodate a building footprint and achieve the minimum APZ. Further, the APZs to adjoining land north and south of the site could be dissolved at the time the land is developed for residential purposes and the bushfire hazard subsequently removed. • The RFS recommended a restriction to land use be encumbered on Lots D1 to D19, D86 to D101 and D103 to prohibit the construction of a dwelling in the APZ and for a Bushfire Management Plan to be prepared for the environmental conservation lot (Lot D104). • The RFS further recommended that all landscaping, public road access and the provision of water, electricity and gas services comply with PBP 2006. • The Department's assessment concludes that the bushfire hazard at the site can be appropriately managed and/or mitigated via the implementation of appropriate APZs across the site, ensuring the relevant requirements of the PBP 2006 are complied with and through the preparation of a Bushfire Management Plan for the environmental conservation land. These requirements are enforced via the recommended conditions of consent. 	<p>The Department has recommended conditions of consent that require:</p> <ul style="list-style-type: none"> • road designs in accordance with PBP 2006 as may be amended by PBP 2019 • an updated assessment of the APZ requirements, in accordance with the provisions of the Rural Fire Service's PBP 2006, with a view to reduce / remove the APZ encroachment on public land • a restriction to use requiring a 10 metre temporary APZ over undeveloped lots D1 to D19, D86 to D101 and D103 • a restriction to use requiring an APZ over lot D104 and the preparation of a Bush Fire Management Plan for the APZ on this lot • installation of services to comply with the requirements of PBP 2006.
Road traffic noise	<ul style="list-style-type: none"> • The EA included a Noise Assessment which considered the impact of road traffic noise from the operation of the Pacific Highway on future residential dwellings within the proposed subdivision. • Clause 102 of the Infrastructure SEPP requires a consent authority to consider internal noise criteria for residential accommodation adjacent to a road corridor or a freeway that has an annual average 	<p>The Department has recommended conditions of consent that require:</p> <ul style="list-style-type: none"> • a restriction to user requiring the design and construction of dwellings on lots D14-D45 and D96-D103 in accordance with AS3671:1989.

daily traffic volume of more than 20,000 vehicles (i.e. the Pacific Highway).

- RMS prepared an operational noise management plan for the project which identified the predicted traffic noise levels affecting the site to 2024. The predicted noise levels were relied upon in the EA to determine the extent of road traffic noise impact on the development.
- The Noise Assessment finds that the traffic noise intrusion on the site exceeds the criteria established in the Infrastructure SEPP, during both the day-time and night-time periods. Therefore, appropriate noise mitigation measures to the affected properties is required.
- The Noise Assessment recommended that all future lots located adjacent to the collector road (Road 1) at the western extent of the site would need to be limited to single-storey dwellings only and for architectural treatments to be provided to the building facades within an area extending to the lots on the east of Road 4.
- The Department is satisfied that the impact of road traffic noise on future residential accommodation on the site can be appropriately managed and/or mitigated via recommended conditions of consent.

Aboriginal heritage

- The EA included an Aboriginal Heritage Assessment which assessed the potential impacts of the proposed development on Aboriginal heritage and the archaeological values of the site.
- The assessment found an artefact scatter, consisting of four individual items, found on the gravel access road at the western extent of the site. The items were likely introduced with imported fill/gravel materials during road access upgrades.
- The artefacts are not considered to be of high Aboriginal archaeological significance. Further, areas within the site that are considered to have the highest archaeological potential are located outside the proposed development footprint and within the E2 conservation zone.
- The assessment included consultation with registered Aboriginal stakeholders who advised that there were no objections, from a cultural heritage perspective, to the proposed development on the site as all known areas, objects and features of high value to the Aboriginal community are located outside the footprint of the proposed development.

The Department has recommended conditions of consent that require:

- an ACHMP be prepared in consultation with the Coffs Harbour Local Aboriginal Land Council (LALC) and to the satisfaction of Heritage NSW, prior to any ground disturbance or development works. The Plan shall include an Aboriginal Cultural Education Program for the induction of construction personnel
 - any artefacts that may be unearthed during construction shall be collected and kept with the Coffs Harbour LALC until an appropriate keeping place is determined by the ACHMP
 - consultation between the Applicant and Aboriginal Stakeholder is to be
-

	<ul style="list-style-type: none"> The OEH recommended in its submission on the RtS (December 2018) that an ACHMP be prepared, prior to any ground disturbance or development works on the site. The Department's assessment concludes that the proposal would not have a significant impact on Aboriginal archaeology and that any potential impacts of the development can be appropriately managed via the recommended conditions. 	carried out during all phases of development.
Contamination	<ul style="list-style-type: none"> The RtS included a Preliminary Site Investigation (PSI) which assessed the suitability of the site for future residential development. The PSI found that the site is unlikely to pose a significant risk to future human and/or environmental receptors and a further site assessment (i.e. sampling and laboratory testing) is not considered necessary. The Department has assessed the application in accordance with the requirements of SEPP 55 and is satisfied the site is suitable for its proposed use for residential development. 	The Department has recommended a condition of consent requiring the Applicant to cease construction activities should any new information come to light during construction works which may alter the previous conclusions about site contamination. Works must not recommence on the site until the Department has been consulted.
Acid sulfate soils	<ul style="list-style-type: none"> The site is identified as containing Class 2, 3 and 5 Acid Sulfate Soils on the Coffs Harbour LEP 2013 Acid Sulfate Soils Map. The RtS included a Geotechnical and Acid Sulfate Soils Assessment. The assessment indicated that there are in-situ acidic soils and potential acid sulfate soils on the site. Therefore, it was recommended for an Acid Sulfate Soils Management Plan to be prepared for the site to address the risk of exposure during construction works. The assessment confirmed that, once the site works have been completed, no further management requirements would be required as the groundwater levels at the site would return to pre-development levels and any environmental risk associated with acid sulfate soils is, therefore, unlikely. The Department has recommended a condition of consent to ensure an Acid Sulfate Soils Management Plan is provided prior to excavation works in any areas containing Acid Sulfate Soils. 	The Department has recommended a condition of consent requiring the Applicant to prepare and submit an Acid Sulfate Soils Management Plan to Council for approval prior to the commencement of any excavations works on the site.
Development contributions	<ul style="list-style-type: none"> Clause 6.1 of the Coffs Harbour LEP 2013 requires satisfactory arrangements to be made for the provision of designated State infrastructure prior to the subdivision of land in an urban release area. 	The Department has recommended a condition of consent requiring the payment of Section 7.11 development contributions prior to the issue

- The *Moonee Release Area Development Contributions Plan 2019* applies to the development. The purpose of the Plan is to enable Council, through conditions on development consents, to require contributions towards the provision, extension or augmentation of public services and facilities.
- Based on a proposed yield of 103 residential lots, the proposed development would generate a development contribution of approximately \$2.1 million.

of a subdivision certificate for each stage.

Construction management

- The Applicant proposes to construct the development in four stages including site preparation works.
- Construction works have the potential to generate dust, noise, water quality, traffic, waste and ecological impacts.
- The Department has recommended conditions of consent to ensure the Applicant prepares and implements a Construction management Plan (CMP) and Waste Management Plan (WMP) to manage potential construction impacts.
- The Department has also recommended conditions of consent to ensure suitable erosion and sediment control and wildlife protection measures are implemented during the construction works.
- Subject to the recommended conditions, the Department is satisfied the construction impacts of the proposal can be managed and/or mitigated.

The Department has recommended conditions of consent that require:

- the preparation and implementation of a CMP and WMP for the duration of construction
- suitable erosion and sediment control measures to be implemented and maintained during the duration of construction
- undertake construction works only during the standard construction hours set out in the *Interim Construction Noise Guideline*.

7 Evaluation

The Department has assessed the application in accordance with the relevant requirements of the EP&A Act, in consultation with key government agencies, Council and the Applicant. The key assessment issues associated with the proposed development are subdivision design and layout, biodiversity, flooding and drainage.

The Department is satisfied the proposal is consistent with the strategic planning framework for the site as it would facilitate the provision of up to 103 new dwellings in an identified urban growth area, consistent with the goals, directions and actions of the *North Coast Regional Plan 2036*, the *Coffs Harbour Local Growth Management Strategy 2020*, the *MyCoffs Community Strategic Plan* and the draft *Coffs Harbour Local Strategic Planning Statement*.

The Applicant revised the subdivision layout in response to the issues raised during consultation. The key changes include the reduction of the total subdivision lots, revised access arrangements including connections with the adjoining approved subdivisions and improved earthwork design to avoid the need for retaining walls. The Department has assessed the proposed road network layout and is satisfied the proposal would create a legible street hierarchy comprised of a main access road (Road 1) and a series of collector roads to provide access to the residential lots. Therefore, the Department is satisfied with the subdivision layout and new connections to the subdivision to the south.

To manage the residual impacts of the proposed development, the Department has recommended conditions of consent requiring the Applicant to:

- develop the subdivision in accordance with the revised plans
- prepare a suite of management plans to protect sensitive areas from impacts on water quality, biodiversity and traffic during construction
- retire biodiversity credits to offset the clearing of native vegetation and impacts on Squirrel glider habitat
- dedicate a two hectare parcel of land to Council for environmental conservation and the preparation of a long term vegetation management plan for the land
- design and construct a raised access to Lot 2 DP 1097743 to maintain access during flooding events up to a 1 in 100 year event
- prevent access to the site from the Pacific Highway unless approval is obtained from the RMS
- ensure dwellings potentially impacted by highway noise are designed in accordance with the relevant acoustic requirements in Australian Standard AS3671:1989
- provide bushfire asset protection zones to the subdivision, including temporary APZs to lots developed in stages.

The Department's assessment concludes the proposal is acceptable as it would deliver 103 new residential lots in an identified urban release area, consistent with the strategic and statutory planning framework applicable to the site. Further, the proposal includes the dedication of approximately two hectares of land to Council for environmental conservation and community purposes.

Consequently, the Department recommends the application be approved subject to conditions of consent (see **Appendix G**).

8 Recommendation

It is recommended that the Executive Director, Regions, Industry and Key Sites, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for consent listed in the notice of decision
- **grants consent** for the application for a residential subdivision at Moonee Beach in the Coffs Harbour LGA (SSD 7198), subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (see attachment).

Recommended by:



Silvio Falato
Team Leader
Regional Assessments

Recommended by:



Keiran Thomas
Director
Regional Assessments

9 Determination

The recommendation is **adopted** by:

Anthea Sargeant

Executive Director

Key Sites and Industry Assessments

Appendices

Appendix A – List of referenced documents

<https://www.planningportal.nsw.gov.au/major-projects/project/13401>

Appendix B – Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/13401>

Appendix C – Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/13401>

Appendix D – Submissions Report

<https://www.planningportal.nsw.gov.au/major-projects/project/13401>

Appendix E – Community Views for Draft Notice of Decision

The Department exhibited the Concept Plan for the project in 2013 and received a total of 19 submissions from the public including 16 submissions in support of the application and 3 submissions objecting to the proposal.

The Applicant's Response to Submissions (RtS) received a total of eight submissions on the RtS, comprising four submissions from government agencies, one submission from Council and three submissions from the public.

The Applicant's supplementary information (SRtS) received in July 2019, August 2019, September 2019, November 2019, July 2020 and August 2020 was also uploaded on the Departments website and one further public submission was received.

The key issues raised by the community include access, earthworks and impacts on adjoining sites. Other issues are addressed in detail in the Department's Assessment Report.

Issue	Consideration
Access	
The proposal should have another entry and exit to the Pacific Highway to reduce the traffic flow through the Moonee Village and to provide an alternative emergency escape route	Access to the site is proposed from the approved collector road. In accordance with RMS advice, no direct access to the subdivision is permitted directly from the Pacific Highway. Two connections are provided to the collector road to allow for adequate circulation of traffic.
Bulk Earthworks	
The bulk earthworks proposed are inappropriate and will create adverse impacts on adjoining properties	<p>As part of the RtS, the Applicant provided amended earthworks plans showing the site levels modified to align with the subdivision to the south and minimise the need for retaining walls.</p> <p>The Department has recommended Condition B5 requiring site levels on the northern part of the site to integrate with Glades Estate.</p>
Inaccurate Reports	
The supporting reports for the proposal are inaccurate	Since the receipt of this submission, amended reports have been received and reviewed by the Department, Council and relevant agencies.

Road alignments

The proposed road alignments must be aligned with the approved road alignments within the Glades Estate and the Northern Collector Road.

The Department has considered the approved Glades Estate and the design of the Northern Collector Road. The Department notes that Council advised the alignment of the Collector Road extension has been considered and incorporated these collector road levels into the subdivision design. This Road forms part of Condition 1 and is shown as 'approved_ collector road – Road 1' on Plan 1277-DR1 Issue J.

Conditions B13 and B14 are recommended requiring evidence that Roads 6 and 7 align with connecting roads on adjoining sites be submitted.

Further consultation

Further consultation at the detailed design stage is needed to ensure appropriate consideration is taken regarding the design of interconnecting roads, infrastructure services, drainage requirements and fill levels.

The Department has considered the relationship of the proposed development and the adjoining approved subdivision developments with regard to design and interconnecting roads, infrastructure services, drainage requirements and fill levels.

The Department notes that Council is satisfied the proposed drainage system, site levels and road network are appropriate and would integrate with the adjoining site.

Condition E26 is recommended requiring, prior to the release of the Subdivision Certificate that a final fill report be submitted to and endorsed by Council. The final fill report must show the location, depth and type of fill located on the site.

The Department has recommended Condition B5 requiring site levels on the northern part of the site to integrate with Glades Estate.

Deed of agreement / formal arrangement

The Collector Road is the only public access route for the Glades Estate. The Applicant should enter into a Deed of Agreement' or similar formalised arrangement with the adjoining landowners and Council to facilitate the design, construction and dedication of the Northern Collector Road as a public road

The relevant landowners will enter into agreements for the construction of the Northern Collector Road and that all access to the future development will be via Moonee Beach Road and the Pacific Highway interchange. Condition B17 has been recommended to require evidence of the deed being entered into to be provided prior to the issue of a Subdivision Works Certificate.

Condition E22 requires that prior to the release of any Subdivision Certificate for any new residential lot, interim or final, all existing property access to the Pacific Highway will be legally and physically closed and redirected via the Northern Collector Road to Moonee Beach Road.

Appendix F – Statutory Considerations

Environmental Planning Instruments (EPIs)

To satisfy the requirements of section 4.15(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the project and have been taken into consideration in the Department's environmental assessment. The EPIs considered as part of the assessment of the proposal include:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy No. 44 – Koala Habitat Protection*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *Draft State Environmental Planning Policy (Remediation of Land) (Draft Remediation SEPP)*
- *State Environmental Planning Policy No. 71 – Coastal Protection*
- *State Environmental Planning Policy (Coastal Management) 2018*
- *Coffs Harbour Local Environmental Plan 2013*

Compliance with Controls

State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

The SRD SEPP aims to identify development that is State significant development, State significant infrastructure, critical State significant infrastructure and regionally significant development.

Table 1 addresses the relevant requirements of the SRD SEPP.

Table 1 | SRD SEPP Compliance Table

Relevant Sections	Consideration and Comments	Complies?
3 Aims of Policy <i>The aims of this Policy are as follows–</i> <i>(a) To identify development that is State significant development,</i>	The application was previously a Transitional Part 3A project under Schedule 6A of the EP&A Act and was transition to the State significant development framework on 12 January 2015.	Not applicable.
8 Declaration of State significant development: section 4.36 <i>(1) Development is declared to be State significant development for the purposes of the Act if–</i> <i>(a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and</i> <i>(b) the development is specified in Schedule 1 or 2.</i>	The application was previously a Transitional Part 3A project under Schedule 6A of the EP&A Act and was transition to the State significant development framework on 12 January 2015.	Not applicable.

10 Subdivision certificates for State significant development

A subdivision certificate may be issued by an accredited certifier for a subdivision that is State significant development in accordance with Section 6.5(3)(a) of the Act.

The recommended conditions of consent enable an accredited certifier to issue subdivision certificates for the proposal.

Yes.

State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)

The Infrastructure SEPP aims to facilitate the effective delivery of infrastructure across the State by improving regulatory certainty and efficiency, identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and providing for consultation with relevant public authorities about certain development during the assessment process.

Clause 101 of the Infrastructure SEPP aims to ensure that new development does not compromise the effective and ongoing operation and function of classified roads and to prevent or reduce the potential impact of traffic noise and vehicle emissions on development adjacent to a classified road. Under clause 101(2), the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- practical and safe vehicular access is provided by a road, other than the classified road, or
- the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, and
- development that is sensitive to road traffic noise includes measures to ameliorate traffic noise arising from the adjacent classified road.

The Department is satisfied that the ongoing operation and function of the Pacific Highway would not be compromised by the development. Clause 101 of the Infrastructure SEPP applies to land with frontage to a classified road. The consent authority must not grant consent to a development on land that has frontage to a classified road unless it is satisfied that:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the development, or
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

TfNSW advise that the Applicant will enter into an agreement for the construction of the Northern Collector Road and that all access to the future development will be via Moonee Beach Road and the Pacific Highway interchange. TfNSW further note that prior to the release of any Subdivision Certificate for any new residential lot, all existing property access to the Pacific Highway will be legally and physically closed and redirected via the Northern Collector Road to Moonee Beach Road.

The Department is satisfied that safe and practical access can be provided to the development that does not impact the functioning of the Pacific Highway via conditions of consent.

Clause 102 of the Infrastructure SEPP applies to residential accommodation as it is on land adjacent to a road corridor for a freeway (i.e. the Pacific Highway) that has an annual average daily traffic volume of more than 20,000 vehicles. Under clause 102(3), the consent authority must not grant consent to a development unless it is satisfied that appropriate measures will be taken to ensure that the following LA_{eq} levels are not exceeded at any time:

- in any bedroom: 35 dB(A) between 10 pm and 7 am
- anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway): 40 dB(A)

The Noise Assessment submitted with the EA finds that the traffic noise intrusion on the site exceeds the criteria established in the Infrastructure SEPP. Therefore, appropriate noise mitigation measures to the affected properties is required. The Noise Assessment indicated that all future lots located adjacent to the collector road (Road 1) at the western extent of the site would need to be limited to single-storey dwellings only and for architectural treatments to be provided to the building facades.

The Department is satisfied that the impact of road traffic noise on future residential accommodation on the site can be appropriately managed and/or mitigated via recommended conditions of consent, and that compliance with the noise levels set out in the Infrastructure SEPP can be achieved.

State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)

The Department notes that a new Koala Habitat Protection SEPP (SEPP 19) to replace SEPP 44 came into force on 1 March 2020. However, as this application was lodged but not determined before SEPP 19 commenced, it does not apply and SEPP 44 remains applicable.

SEPP 44 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 by:

- requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat
- encouraging the identification of areas of core koala habitat
- encouraging the inclusion of areas of core koala habitat in environment protection zones.

A 7-part test of significance in accordance with section 5A of the EP&A Act (now repealed) for koala species was undertaken as part of the application. The test concluded that the proposed development is unlikely to have a significant effect on koala species, and a Species Impact Assessment is not required.

The Department's assessment concludes that the site currently provides poor quality habitat for koala due to past clearing activities. Notwithstanding, the Department has included a recommended

condition that requires compensatory planting of koala habitat trees in the E2 environmental conservation area.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment and ensures that potential contamination issues are considered in the determination of a development application.

The Response to Submissions included a Preliminary Site Investigation (PSI) which assessed the suitability of the site for future residential development. The PSI found that the site is unlikely to pose a significant risk to future human and/or environmental receptors and a further site assessment (i.e. sampling and laboratory testing) is not considered necessary.

The Department has assessed the application in accordance with the requirements of SEPP 55 and is satisfied the site is suitable for its proposed use involving residential development.

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

The provisions of SEPP 71 apply to land within the coastal zone to provide a consistent approach to planning within this area. Clause 8 identifies additional matters for consideration where SEPP 71 applies which are to be assessed by an authority when it determines developments to be carried out on lands within the Coastal Zone. The site is located within the Coastal Zone and is subject to these additional considerations. **Error! Reference source not found.** below addresses these requirements.

Table 2 | SEPP 71 Compliance Table

Clause	Consideration and Comments	Complies?
(a) The aims of this Policy set out in clause 2.	The proposal is considered to comply with the aims of the SEPP as, subject to the recommended conditions of consent, it will respond to the ecological and social constraints of the site and its surrounds.	Yes
(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	Although the site is located within the coastal zone, it does not have direct frontage or access to the coastal foreshore.	N/A
(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.	The proposal does not provide for direct public access to Moonee Creek. The environmental conservation area provides a physical buffer to Moonee Creek and human activity within the riparian corridor is discouraged. A public coastal walk is proposed as part of the development to connect Moonee village in the south with the Glades Estate subdivision in the north.	N/A

(d) The suitability of development given its type, location and design and its relationship with the surrounding area	Subject to the recommended conditions of consent, the subdivision design responds to the environmental constraints of the site. Further, the Department notes the proposal is consistent with the strategic vision for the locality.	Yes
(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.	Due to the location of the site, there will be no impacts on the coastal foreshore. There would be no overshadowing of the coastal foreshore or significant loss of views.	Yes
(f) The scenic qualities of the New South Wales coast and means to protect and improve these qualities.	The site is located approximately one kilometre from the coastal foreshore and the development footprint is setback from the Moonee River. Accordingly, direct scenic impacts have been avoided.	Yes
(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.	The biodiversity impacts of the proposal have been offset in accordance with the requirements of the FBA. Further, the Department has recommended conditions of consent to ensure vegetation clearing is appropriately managed to minimise impacts on fauna.	Yes
(h) Measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats.	The Department has recommended conditions of consent to ensure new waterway crossings satisfy DPI's <i>Policy and guidelines for fish habitat and conservation</i> .	Yes
(i) Existing wildlife corridors and the impact of development on these corridors.	The proposal will facilitate the long-term protection of vegetation within the E2 zone. This land is proposed to form part of a long-term sustainable wildlife corridor connecting to the existing wildlife corridors approved as part of the residential subdivisions to the north and south of the site.	Yes
(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards.	The site is not subject to coastal hazards or processes such as tidal inundation or shoreline erosion. While the site is located within the coastal zone, it is not directly adjacent to a coastal foreshore area and as such, conflict between land and water based coastal activities are unlikely.	Yes
(k) Measures to reduce the potential for conflict between land-based and water based coastal activities.	While the site is located within the coastal zone, it is not directly adjacent to a coastal foreshore area and as such, conflict between land and water	Yes

	based coastal activities are not anticipated.	
(l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals.	The Department has recommended a condition of consent to manage potential impacts on Aboriginal cultural heritage, including the preparation and implementation of an Aboriginal Cultural Heritage Management Plan (ACHMP) in consultation with the Coffs Harbour Local Aboriginal Land Council (LALC).	Yes
(m) Likely impacts of development on the water quality of coastal waterbodies.	Stormwater flows from the site would be treated to an appropriate standard, in accordance with Council's water sensitive urban design guidelines, prior to entering Moonee Creek. The Department has recommended conditions of consent to ensure the final stormwater management system is designed to provide a neutral or beneficial impact on surrounding water bodies.	Yes
(n) The conservation and preservation of items of heritage, archaeological or historic significance.	The site does not contain any items of European cultural heritage. An artefact scatter was identified on the site consisting of four individual items that were likely introduced with imported fill/gravel materials. The items are not considered to be of high Aboriginal archaeological significance. The Department has recommended the following conditions of consent to manage potential impacts on Aboriginal cultural heritage: <ul style="list-style-type: none"> the preparation and implementation of an ACHMP in consultation with the Coffs Harbour LALC the use of a 'stop work' protocol if any new Aboriginal objects are discovered during construction works. 	Yes
(p) Only in cases in which a development application in relation to a proposal is determined: (i) The cumulative impacts of the proposal on the environment. (ii) Measures to ensure that water and energy usage by the proposal is efficient.	The Department has assessed the cumulative impacts of the proposal and is satisfied that, subject to the recommended conditions of consent, the cumulative impacts can be managed and/or mitigated. Further, the Department is satisfied the proposed subdivision has been designed to minimise energy use (via appropriate lot orientation) and provide opportunities for on-site water re-use via the provision of 5 KL on-lot water storage tanks.	Yes

State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP)

The Coastal Management SEPP promotes an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*. The Coastal Management SEPP replaces the requirements of the now repealed provisions of SEPP 71. However, as the application was lodged and undetermined prior to the gazettal of the Coastal Management SEPP, the provisions of clause 21 of the Coastal Management SEPP apply. In this regard, clause 21 states the provisions of the Coastal Management SEPP do not apply to the assessment of the proposed development, and the provisions of SEPP 71 continue to apply.

Coffs Harbour Local Environmental Plan 2013 (Coffs Harbour LEP 2013)

The Coffs Harbour LEP 2013 aims to provide for sustainable economic growth and development that supports a strong and diverse local economy, encourage a mix of housing types to meet the existing and future needs of the community and promote development that is consistent with the principles of ecologically sustainable development.

The Department has consulted with Council throughout the assessment process and has considered all relevant provisions of the Coffs Harbour LEP 2013 and those matters raised by Council in its assessment of the development (refer to **Table 3** below and **Section 6** of this report). Based on these assessments, the Department concludes the development is consistent with the relevant provisions of the Coffs Harbour LEP 2013.

Table 3 | Coffs Harbour LEP 2013 Compliance Table

Clause	Consideration and Comments	Complies?
Zone R2 Low Density Residential Objectives of the zone	<p>The proposed development incorporates a range of lot sizes to facilitate the housing needs of the community within a low-density residential environment.</p> <p>The proposed development is appropriate for the low-density residential zone and meets the objectives and requirements of the LEP.</p>	Yes
Zone E2 Environmental Conservation Objectives of the zone	<p>The proposed development is appropriate for the environmental conservation zone.</p> <p>The environmental conservation zone will be maintained to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values of the land.</p>	Yes
4.1 Minimum subdivision lot size <ul style="list-style-type: none">subdivision of land is not to be less than the minimum size shown on the Lot Size Map	<p>The site is noted as being a DM in the CLEP 2000. Notwithstanding the subdivision meets the aims and objectives of the zone.</p>	Yes

4.1A Minimum subdivision lot sizes for certain split zones	<p>The proposal incorporates lots ranging from 590m² to 1210m² and are proposed within the R2 zone. The Coffs Harbour LEP 2013 requires a minimum lot size of 400m².</p>	<p>Yes</p>
5.10 Heritage Conservation <ul style="list-style-type: none"> subdivision lot sizes for lots zoned residential and E2 Environmental Conservation are to promote suitable land use and development conserve Aboriginal objects and Aboriginal places of heritage significance consider the effect of development on the heritage significance of a place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment 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>The subject site does not contain any built form structures or other items that contain European cultural heritage significance.</p> <p>The ACHA identified an artefact scatter at the site comprising four individual items, which were likely introduced with imported fill/gravel materials during road access upgrades. The artefacts are not considered to be of high Aboriginal archaeological significance. The application includes an Aboriginal Cultural Heritage Assessment (ACHA) and the Applicant has undertaken consultation with Aboriginal stakeholders.</p> <p>The Department has recommended a condition of consent requiring the Application to prepare an Aboriginal Cultural Heritage Management Plan (ACHMP) in consultation with the Coffs Harbour Local Aboriginal Land Council (LALC) and to the satisfaction of the EESG, prior to any ground disturbance or development works.</p>	<p>Yes</p>
5.16 Subdivision of, or dwellings on, land in certain rural, residential or environmental protection zones <ul style="list-style-type: none"> consider land use conflict between proposed and existing development in the E2 Environmental Conservation zone 	<p>The proposed residential subdivision is contained wholly within the portion of the site zoned R2.</p> <p>Works within the E2 zone of the site are limited to the proposed access road to provide a connection to the adjoining residential dwelling on the lot to the east.</p>	<p>Yes</p>
6.1 Arrangements for designated State public infrastructure <ul style="list-style-type: none"> Development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent 	<p>All lots within the proposed subdivision exceed the minimum lot size provision of 400m² for the portion of the site zoned R2 Low Density Residential.</p> <p>The portion of the site zoned E2 Environmental Conservation is not proposed to be subdivided.</p>	<p>Yes</p>

authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.

6.2 Public utility infrastructure

- Development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.

The proposal provides for the extension of existing sewer and water infrastructure to service the site. Yes

The proposal also provides for a new public coastal walking path within the road reserve of Road 3, connecting to the approved residential development to the north and Moonee Village to the south.

7.1 Acid sulfate soils

- Development consent is required for the carrying out of works on class 2 land below the natural ground surface and works by which the watertable is likely to be lowered
- Development consent is required for the carrying out of works on class 3 land more than 1 metre below the natural ground surface and works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.
- Development consent is required for the carrying out of works on class 4 land more than 2 metres below the natural ground surface and works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.

The site identified as containing Class 2,3 and 5 Acid Sulfate Soils on the Coffs Harbour LEP 2013 Acid Soils Sulfate Soils Map. Yes

The Department has recommended a condition of consent requiring the Applicant to prepare and submit an Acid Sulfate Soils Management Plan to Council for approval prior to the commencement of any excavation works on the site.

7.2 Earthworks

Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,
- (b) the effect of the development on the likely future use or redevelopment of the land,

Bulk earthworks on the site involve cut and fill using existing site soils to level the site above the 1 in 100 year flood level. Yes

A Geotechnical and Acid Sulfate Soils Assessment was submitted with the RtS which confirmed that upon completion of the site works, there would be no further management requirements as groundwater levels would return to pre-development levels meaning risks in relation to acid sulfate soils is low.

- (c) the quality of the fill or the soil to be excavated, or both,
- (d) the effect of the development on the existing and likely amenity of adjoining properties,
- (e) the source of any fill material and the destination of any excavated material,
- (f) the likelihood of disturbing relics,
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Earthworks will be designed to minimise the concentration of runoff and flood hazard, to direct runoff to the bioremediation basin and to minimise potential erosion.

7.3 Flood planning

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—

- (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.

A flood assessment conducted provided the following conclusions:

- all flooding impacts arising from the proposed development are contained within the site and would not have an adverse flooding impact on the neighbouring properties
- the 1 in 100-year ARI flood hazard mapping indicates that inundated areas of the site for post-development conditions generally experience flows of less than 0.4 m²/s, indicating that the flood hazard across the site is generally low
- access to adjoining Lot 2 in DP1097743 will be inundated for the 1 in 100-year ARI flood event for existing conditions
- there is no significant effect of the development on flood behaviour for climate change events modelled

Yes

The Department is satisfied the development meets objectives of clause 7.3 and has recommended a condition of consent to require the Applicant to ensure the access driveway is raised and the provision of new culverts established underneath the driveway where it crosses Bucca Creek to ensure it is trafficable during the 1 in 100 year ARI flood event.

7.4 Terrestrial biodiversity

The environmental conservation zone will be maintained to protect, manage

Yes

Before determining a development application for development on land to which this clause applies, the consent authority must consider—

(a) whether the development is likely to have—

(i) any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and

(ii) any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and

(iii) any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and

(iv) any adverse impact on the habitat elements providing connectivity on the land, and

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

(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 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.

and restore areas of high ecological, scientific, cultural or aesthetic values with respect to terrestrial biodiversity.

The development is required to secure and retire ecosystem and species credits to offset the biodiversity impacts of the proposal.

The Department has included recommended conditions by the OEH to ensure the biodiversity impacts of the proposal are offset prior to work commencing for each stage.

7.6 Riparian land and watercourses

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—

The proposed development is not anticipated to have any adverse impacts on riparian land and watercourses.

Yes

The environmental conservation zone will remain uncleared and undeveloped to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.

- (i) the water quality and flows within the watercourse,
- (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 riparian areas, and
- (b) whether or not the development is likely to increase water extraction from the watercourse, and
- (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—

- (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.

7.8 Koala Habitat

Development consent must not be granted to development on land to which this Plan applies unless the development is in accordance with *Coffs Harbour City Koala Plan of Management*, ISBN 0 7313 6050 8, published in November 1999.

The absence of any koalas following detailed surveys over the proceeding four-year period indicates that the site provides poor quality habitat, likely as a result of the past clearing activities and ongoing site maintenance.

Yes

Notwithstanding, the Department has included a recommended condition that requires compensatory planting of koala habitat trees in the E2 environmental conservation area to ensure the development is in accordance with *Coffs Harbour City Koala Plan of Management*.

7.11 Essential services

Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable vehicular access.

Coffs Harbour City Council has confirmed reticulated water and sewerage can be provided to service the site.

The Department has recommended conditions of consent to ensure reticulated water, sewer and power is provided to each lot prior to the issue of any Subdivision Certificate

Yes

Appendix G – Recommended Instrument of Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/13401>