

Development Consent

Section 4.38 of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning and Public Spaces under delegation executed on 9 March 2020, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

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

Sydney

October 2020

SCHEDULE 1

Application Number:

SSD 7198

Applicant:

Moonee Parklands Trust

Consent Authority:

Minister for Planning and Public Spaces

Site:

Lot 1 in DP 1097743, Pacific Highway, Moonee Beach

Development:

Residential subdivision, comprising

- 103 residential lots
- 1 lot for access to adjoining land
- 1 lot for environmental conservation

DEFINITIONS

Applicant	Moonee Parklands Trust, or any person carrying out any development to which this consent applies
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
Certifying Authority	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Council	Coffs Harbour City Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning, Industry and Environment
Development	The development described in the EA and Response to Submissions, including the works and activities comprising subdivision, bulk earthworks, construction of roads, drainage services infrastructure, landscaping and rehabilitation and dedication of environmentally sensitive land for conservation and community purposes, as modified by the conditions of this consent.
EIS	The Environmental Assessment titled <i>Part 3A Environmental Assessment, Proposed Concept Plan for Residential Development</i> , prepared by JW Planning Pty Ltd dated June 2013, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
ENM	Excavated Natural Material
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence under the POEO Act
Feasible	Means what is possible and practical in the circumstances
Heritage NSW	Heritage NSW in the Department of Premier and Cabinet
Heritage item	<p>An Aboriginal object, an Aboriginal place, or a place, building, work, relic, moveable object, tree or precinct of heritage significance, that is listed under any of the following:</p> <ul style="list-style-type: none"> the State Heritage Register under the <i>Heritage Act 1977</i>; a state agency heritage and conservation register under section 170 of the <i>Heritage Act 1977</i>; a Local Environmental Plan under the EP&A Act; the World Heritage List; the National Heritage List or Commonwealth Heritage List under the EPBC Act; <p>or</p> <ul style="list-style-type: none"> anything identified as a heritage item under the conditions of this consent
Incident	<p>An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance</p> <p>Note: "material harm" is defined in this consent</p>
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	<p>Is harm that:</p> <ul style="list-style-type: none"> involves actual or potential harm to the health or safety of human beings or to

the environment that is not trivial, or

- results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)

Minister	NSW Minister for Planning and Public Spaces (or delegate)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
OEH	NSW Office of Environment and Heritage
Operation	The use of the subdivision upon completion of construction.
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
PCA	Means the certifier appointed as the principal certifier for the subdivision work under section 6.12(1)
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Response to submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
RMS	NSW Roads and Maritime Services

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the EA, as amended by the latest Response to Submissions prepared by JWP Planning dated December 2018 and supplementary information prepared by JWP Planning dated 6 July 2020;
in accordance with the approved subdivision plans listed in
 - (d) Table 1 below; and
 - (e) in accordance with the management and mitigation measures.

Table 1: Subdivision plans

Drawings prepared by CivilTech			
Drawing Number	Revision	Name of Plan	Date
1277-DR1	J	Proposed subdivision lot layout	19/06/2020
1277-DR2	J	Proposed staging plan	19/06/2020
1277-DR3	J	Proposed subdivision bulk earthworks and cut/fill concept plan	19/06/2020
1277-DR4	J	Proposed subdivision roadworks and levels concept plan	19/06/2020
1277-DR5	J	Proposed subdivision services plan	19/06/2020
1277-DR6	J	Stormwater layout and catchment plan	19/06/2020
1277-DR7	J	Erosion and sediment control plan	19/06/2020
1277-DR8	J	Typical site details and road sections	19/06/2020
1277-DR9	B	Lot layout with APZ	19/06/2020
1277-DR10	A	Road 7 long section, cross section and details	19/06/2020
1277-DR11	A	Lot layout with buffer offsets to creek	19/08/2020

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a).

- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

LIMITS OF CONSENT

- A5. This consent lapses five years from the date of consent unless the works associated with the project have physically commenced.

PLANNING SYSTEM ACCELERATION PROGRAM

- A6. Within six months of the date of this consent being granted, the Applicant must provide a report to the Planning Secretary describing how the development has commenced in line with its inclusion in the Planning System Acceleration Program.

STAGING

- A7. The development may be carried out in stages. A Subdivision Works Certificate may be obtained for each stage, subject to the satisfaction of the relevant conditions.

EVIDENCE OF CONSULTATION

- A8. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

LEGAL NOTICES

- A9. Any evidence or notice to the Consent Authority should be served on the Planning Secretary.

LONG SERVICE LEVY

- A10. For work costing \$25,000 or more, a Long Service Levy shall be paid prior to the issue of each Subdivision Works Certificate.

Note: For further information, contact the Long Service Corporation Helpline 13 14 41.

APPLICABILITY OF GUIDELINES

- A11. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A12. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

MONITORING AND ENVIRONMENTAL AUDITS

- A13. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A14. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.
- A15. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

NON-COMPLIANCE NOTIFICATION

- A16. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A17. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A18. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A19. Within three months of:
- (a) the submission of a compliance report under condition C8 and C10;
 - (b) the submission of an incident report under condition A14;
 - (c) the submission of an Independent Audit under condition C26;
 - (d) the approval of any modification of the conditions of this consent; or
 - (e) the issue of a direction of the Planning Secretary under condition A2 which requires a review,

The strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.

- A20. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

Note: *This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*

PART B PRIOR TO ISSUE OF SUBDIVISION WORKS CERTIFICATE

NOTIFICATION

B1. The person having the benefit of this consent must appoint a PCA for the works.

NO WORKS PRIOR TO SUBDIVISION WORKS CERTIFICATE REQUIRED

B2. Work must not commence until a relevant Subdivision Works Certificate has been issued.

EARTHWORKS

B3. Where filling is required on the site, specifications must be submitted to the Certifier for approval prior to the issue of a Subdivision Works Certificate for the affected stage. All allotment filling must be carried out in accordance with *AS 3798 Guidelines on Earthworks for Commercial and Residential Developments*.

All earthworks shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS 3798 shall be submitted to the Certifier upon completion of the work(s).

DETAILED EARTHWORKS DESIGN PLANS

B4. Prior to the issue of a Subdivision Works Certificate for each stage of the development, the Applicant shall provide the Certifier with plans, endorsed by a suitably qualified person, confirming the earthworks incorporate the following:

- a) the recommendations identified in Section 4 of the *Geotechnical and Acid Sulfate Soils Assessment Lot 1 DP 1097743, Pacific Hwy, Moonee Beach, NSW*, prepared by Martens Consulting Engineers dated July 2018
- b) the requirements outlined in Attachment A of the *Concept Stormwater Management Plan: Proposed Sub-Division, Lot 1 DP 1097743 and Lot 6 DP 252223, Pacific Highway, Moonee Beach NSW*, prepared by Martens Consulting Engineers dated August 2015, where relevant
- c) the requirements of *Flood Assessment: Proposed Sub-Division, Lot 1, DP1097743, Pacific Highway, Moonee Beach, NSW* prepared by Martens Consulting Engineers dated August 2015
- d) all residential lots and roads should be filled to a minimum 3.5m AHD.

If required, further detailed geotechnical investigations, including ASS assessment in accordance with the procedure established in the ASS and Groundwater Management Plan prepared by Martens & Associates (August 2013), will be carried out to confirm site stability prior to the commencement of construction of future stages of the development.

A copy of the civil engineer's endorsement shall be forwarded to the Planning Secretary and Council prior to works commencing within each stage of the development.

INTEGRATION WITH ADJOINING SITE

B5. Prior to the issue of a Subdivision Works Certificate, plans demonstrating the site levels can practically integrate with the boundary levels of the "Glades Estate" located to the immediate north shall be submitted to Council for approval. Details of any retaining structures, drainage requirements and the connecting road and footpath must be included.

DESIGN STANDARDS

- B6. Prior to the issue of each Subdivision Works Certificate, engineering design plans and specifications for internal works are to be submitted to and approved by the principal certifying authority. Details of all proposed works in the existing road reserve must be submitted to and approved by Council. In addition, the civil and road works must:
- (a) be designed in accordance with the requirements of the *Coffs Harbour Development Control Plan 2015*, Council's Engineering Design Specifications, and Development Construction Specifications, current at the time of construction;
 - (b) be designed by a qualified practising engineer in accordance with Council's Engineering Design Specifications;
 - (c) be carried out by suitably qualified and experienced practitioners, with all work to be in accordance with Council's Engineering Design Specifications. In relation to the stormwater drainage design, the minor and major systems must be designed for a 1:5 year and 1:100 year rainfall recurrence intervals respectively, as follows:
 - i. major systems must be designed by a qualified practising engineer; and
 - ii. minor systems must be designed by Registered Surveyor or Engineer.

ROAD DESIGN STANDARDS

B7. Prior to the issue of the first Subdivision Works Certificate for road forming works, road formation designs must be submitted to and approved by Council. The designs must identify the integral barrier kerb and gutter and layback

kerb and gutter specifications for all roads within the subdivision. The road forming works must be in accordance with the Coffs Harbour DCP, Council's Development Design and Construction Specifications also comply with the following requirements:

- (d) provide a 0.25m verge width from the back of kerb to the property boundary for Roads 4 and 5 to allow for clearance of infrastructure from street trees.
 - (e) the road design requirements outlined in Planning for Bushfire Protection 2006.
- B8. A 1:3 batter may be provided for the portion of Road 2 adjoining the vegetation reserve. Plans showing detailed selection of planting that are low maintenance and do not encroach into the proposed APZ within the Road Reserve when mature must be submitted to the satisfaction of Council prior to the issue of a Subdivision Works Certificate.

SOIL AND WATER MANAGEMENT PLAN

- B9. A Soil and Water Management Plan (SWMP) and accompanying specifications for the construction phase of the works, must be prepared by a suitably qualified and experienced person and based on the Landcom manual - *Soils and Construction, Managing Urban Stormwater, Vol 1, 4th Edition, March 2004*, and submitted to the Certifier for approval. The SWMP must be approved by the PCA prior to the issue of a Subdivision Works Certificate.

WASTE MANAGEMENT PLAN

- B10. Prior to the issue of the first Subdivision Works Certificate, the Applicant shall prepare and submit a whole of site Waste Management Plan (WMP) to the satisfaction of the Certifier. The WMP shall:
- (a) ensure waste generated by the development is classified and disposed of in accordance
 - (b) with the EPA's Waste Classification Guidelines 2009;
 - (c) provide details demonstrating compliance with the relevant legislation, particularly with regard to the removal of asbestos and hazardous waste.

PRE-CONSTRUCTION DILAPIDATION REPORTS

- B11. Prior to the issue of a Subdivision Works Certificate for earthworks, the Applicant shall:
- (a) engage a suitably qualified person to prepare a pre-construction dilapidation report detailing the current structural condition of all adjoining buildings, infrastructure and roads within the 'zone of influence' (including roads, gutters and footpaths). Any entry onto private land is subject to the consent of the owner(s) and any inspection of buildings on privately affected land shall include details of the whole building where only part of the building may fall within the 'zone of influence'
 - (b) the report shall be approved by the Certifier prior to the issue of a Subdivision Works Certificate for earthworks and a copy of the report shall be forwarded to each of the affected property owners, Council and the Planning Secretary
 - (c) in the event that access for undertaking a Pre-Construction Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing to the satisfaction of the Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the report and that these steps have failed; and
 - (d) any damage to the public way including trees, footpaths, kerbs, gutters, road carriageway and the like must be made safe and functional by the Applicant. Damage must be fully rectified by the Applicant in accordance with Council's standards prior to the issue of each Subdivision Certificate.

STREET TREE PLANTING (PLAN):

- B12. A plan is to be submitted to Council showing street tree planting, which has been prepared in accordance with the requirements of Council's "Street Tree Master Plan". The Plan shall be prepared by a qualified landscape architect or professional landscape consultant. The Plan must show all services and planting detail in accordance with Council's minimum requirements; alternatively a higher standard may be considered for tree protection. The Plan is to be approved by Council prior to the issue of a Subdivision Works Certificate.

ALIGNMENT WITH ADJOINING ROADS

- B13. Evidence confirming that Road 7 aligns with the approved road and pathway on the adjoining land (Lot 6, DP 252223), must be submitted to Council for approval prior to issue of the Subdivision Works Certificate.
- B14. Evidence confirming that Road 6 aligns with any approved road and pathway on the adjoining land (Lot 1, DP 725785), must be submitted to Council for approval prior to issue of the Subdivision Works Certificate.

ACCESS TO ADJOINING LOTS

- B15. Prior to the issue of any Subdivision Works Certificate, written agreement from the landowner of Lot 2 DP 1097743 confirming acceptable unimpeded access arrangements have been made must be submitted to the PCA.
- B16. The redesign and reconstruction of driveway crossing of Bucca Creek shall be in accordance with Section 4.2 of Policy & Guidelines for Aquatic Habitat Mgmt. & Fish Conservation.
- B17. Evidence that a deed of agreement with the owner of Lot 1, DP 725785 to construct the collector road through the site has been entered into is to be provided to the principal certifying authority prior to release of the Subdivision Works Certificate for Stage 1 of the development.

CONSTRUCTION ACCESS

- B18. Temporary access to the site for construction from the Pacific Highway may be gained only if approval is granted from TfNWS(RMS). The design of any temporary access shall be to the satisfaction of TfNSW(RMS) and the approval must be provided to the principal certifying authority prior to the issue of any Subdivision Works Certificate.

FOOTPATH DESIGN

- B19. Prior to the issue of the Subdivision Works Certificate for each stage of the development, details of the footpath design and location must be submitted to and approved by Council.
- B20. The final location of the coastal walk is to be agreed to in writing by Council.

ASSET PROTECTION ZONES

- B21. If APZs are to be amended to reflect Planning for Bushfire Protection 2019, an updated assessment of the Asset Protection Zone (APZ) requirements, in accordance with the provisions of the Rural Fire Service's Planning for Bushfire Protection 2019, showing APZs removed from public land (unless otherwise agreed to in writing by Council) shall be submitted to the Secretary for approval prior to the issue of a Subdivision Works Certificate.

MANAGEMENT PLANS

- B22. The following documentation and information will be provided with an application for a Subdivision Works Certificate:
 - (a) A Restoration Management Plan and Clearing Management Plan as detailed in Section 8.2 Proposed General Management Recommendations of the Ecological Assessment Lot 1 DP 1097743 Pacific Highway Moonee Beach, NSW February 2016 by PEA Consulting;
 - (b) A Construction Erosion and Sediment Control Plan in accordance with that prepared by Civiltech Sheet Drawing 1277 DR7 2014 and Managing Urban Stormwater: Soils and Construction (Landcom, 2004) (Blue Book).;
 - (c) An Environmental Management Plan with details of environmental management procedures, monitoring and reporting requirements during construction and operation phase;
 - (d) A Stormwater Management Plan in accordance with the recommendations of Martens and Associates.

PART C PRIOR TO COMMENCEMENT OF WORKS

NOTIFICATION OF COMMENCEMENT

- C1. The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

STATUTORY REQUIREMENTS

- C3. The Applicant must ensure that all necessary licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the development. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

CONTACT TELEPHONE NUMBER

- C4. Prior to the commencement of works, the Applicant shall forward to Council and the Department a 24-hour telephone number to be operated for the duration of the construction works.

EXISTING SERVICES

- C5. Prior to the commencement of works, the Applicant must check that the proposed works are not affected by, or do not affect any Council, electricity, telecommunications, gas or other services. All services existing and proposed, above or below ground are to be shown accurately on the engineering plans, including longitudinal sections with clearances to proposed infrastructure clearly labelled. Any required alterations to services will be at the Applicant's expense.

UTILITY SERVICES

- C6. Prior to the commencement of works, the Applicant must obtain written approval from the utility authorities (electricity, an approved telecommunications provider etc) in connection with the relocation and/or installation of services. Any construction or relocation costs are to be the responsibility of the Applicant.

ACCESS TO INFORMATION

- C7. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:
 - (a) make the following information and documents (as they are obtained or approved) publicly available on the Applicant's project website:
 - (i) the documents referred to in Condition A2 of this consent;
 - (ii) all current statutory approvals for the development;
 - (iii) all approved strategies, plans and programs required under the conditions of this consent;
 - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
 - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - (vi) a summary of the current stage and progress of the development;
 - (vii) contact details to enquire about the development or to make a complaint;
 - (viii) a complaints register, updated monthly;
 - (ix) audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report;
 - (x) any other matter required by the Planning Secretary; and
 - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

COMPLIANCE REPORTING

- C8. A Pre-Construction Compliance Report must be prepared for the development, and submitted to the PCA for approval before the commencement of construction. A copy of the endorsed compliance report must be provided to the Department at compliance@planning.nsw.gov.au before the commencement of construction.
- C9. The Pre-Construction Compliance Report must include:
 - (a) details of how the terms of this consent that must be addressed before the commencement of construction have been complied with; and
 - (b) the expected commencement date for construction.

- C10. Construction Compliance Reports must be submitted to the Department at compliance@planning.nsw.gov.au for information every six months from the date of the commencement of construction, for the duration of construction. The Construction Compliance Reports must provide details on the compliance performance of the development for the preceding six months and must be submitted within one month following the end of each six-month period for the duration of construction of the development, or such other timeframe as required by the Planning Secretary.
- C11. The Construction Compliance Reports must include:
- a results summary and analysis of environmental monitoring;
 - the number of any complaints received, including a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;
 - details of any review of the CEMP and the Environmental Management Strategy and associated sub-plans as a result of construction carried out during the reporting period;
 - a register of any modifications undertaken and their status;
 - results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;
 - a summary of all incidents notified in accordance with this consent; and
 - any other matter relating to compliance with the terms of this consent or requested by the Planning Secretary.

BIODIVERSITY OFFSET REQUIREMENTS

- C12. Prior to the commencement of works, the Applicant must retire biodiversity credits of a number and class specified in Table 2 and Table 3 below to offset the biodiversity impacts of the development.
- C13. The retirement of the credits must be carried out in accordance with the *NSW Biodiversity Offsets Policy for Major Projects* and can be achieved by:
- acquiring and retiring “biodiversity credits” within the meaning of the Biodiversity Conservation Act 2016; or
 - making payments into an offset fund that has been developed by the NSW Government; or
 - providing supplementary measures

Note. Following repeal of the *Threatened Species Conservation Act 1995* on 25 August 2017, “biodiversity credits” created under that Act are taken to be “biodiversity credits” under the *Biodiversity Conservation Act 2016* by virtue of clause 19 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*.

Table 2: Ecosystem credit requirements

Ecosystem credits	Code (PCT)	Credits Required
Blackbutt – Pink Bloodwood shrubby open forest	NR117	289
Forest Red Gum – Swamp Box forest	NR161	171

Table 3: Species credit requirements

Species	Credits Required
Squirrel Glider (<i>Petaurus norfolcensis</i>)	169

- C14. Should the development be staged, the credits may be retired in stages prior to the commencement of works within each stage of the development. The number of credits to be retired must be equivalent to the impact on the relevant ecosystem and/or species within the relevant stage.
- C15. The credits to be retired prior to commencing each stage shall be documented in a Biodiversity Offset Staging Plan for the development, to be prepared in consultation with the BCD and submitted to the Planning Secretary for approval prior to the commencement of works.

FAUNA PROTECTION

- C16. Prior to issue of the Subdivision Works Certificate, and prior to commencement of any works on the site, a detailed Fauna Management Plan shall be submitted and approved by Council. The Fauna Management Plan, at a minimum, is to detail the following:
- Pre-clearing procedures relevant for potential species occupying the site, and
 - Details of the number, size and location of all hollows on the site, and

- (c) A plan for the replacement of any hollows required to be removed with an emphasis on salvage and reinstallation of natural hollows with any artificial hollows used replaced as per the rates described in Chapter E1.2 of the *Coffs Harbour Development Control Plan*, and
- (d) Any maintenance requirements for artificial or relocated hollows inducing costing, and
- (e) Details of breeding times for any threatened fauna potentially occupying the site for when clearing works must be avoided.

TREE PROTECTION PLAN

- C17. A Tree Protection Plan must be prepared in accordance with *Australian Standard AS 4970-2009 'Protection of Trees on Development Sites'* and submitted to Council prior to the commencement of any works. The Plan must be prepared by a qualified arborist and should identify all significant indigenous native trees, including all trees to be retained and removed. The Plan must also include a protection strategy for retained vegetation, amelioration measures if works are to be undertaken within the critical root zone and details relating to removal techniques.

CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- C18. A Construction Traffic Management Plan must be submitted to and approved by Council as the Roads Authority prior to the commencement of work. It must be prepared and endorsed by a qualified civil engineer and include:
- (a) proposed haulage route(s) for introduction of site fill material
 - (b) a pre-construction dilapidation report detailing the current structural condition of any roads and infrastructure along the haulage route other than state or regional road.

If Moonee Creek Drive is proposed to be utilised as construction access, a \$200,000 bond is required to be lodged with Council to cover the cost of potential reconstruction works.

ABORIGINAL CULTURAL HERITAGE

- C19. Prior to any ground disturbance or development works, an Aboriginal Cultural Heritage Management Plan (ACHMP) must be prepared in consultation with the Coffs Harbour Local Aboriginal Land Council (LALC) and to the satisfaction of Heritage NSW. The Plan shall include an Aboriginal Cultural Education Program for the induction of construction personnel.
- C20. Consultation between the Applicant and Aboriginal Stakeholder must be carried out during all phases of development.

STORMWATER QUALITY AND CONTROL

- C21. The stormwater quantity and quality control measures detailed within the SWMP prepared under condition B9 must be in place before works commence on-site.

ACID SULFATE SOILS MANAGEMENT PLAN

- C22. Prior to the commencement of excavation works the Applicant must prepare and submit an Acid Sulfate Soils Management Plan (ASSMP) to Council for approval. The ASSMP should be prepared in accordance with the *Acid Sulfate Soils Manual (1998)* NSW EPA.

ROAD OCCUPANCY REQUIREMENTS

- C23. Prior to undertaking works within an existing road reserve, the Applicant must seek Council's consent under section 138 of the *Roads Act 1993*. The following details, where relevant, must be submitted with the request for consent:
- (a) any pavement design required by this consent;
 - (b) a Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site. The Plan must address the matters outlined in the RTA Technical Manual Traffic Control at Work Sites and the provisions of *AS 1742. 3- 2009 Traffic Control Devices for Works on Roads*;
 - (c) water, sewerage and landscaping works, along with copies of the layout plans and work method statements for these works. Where the above works form part of the section 138 application, all layout plans and work method statements must also be submitted to Council's Subdivision Manager;
 - (d) insurance details; and
 - (e) the name and contact information of the person/company appointed to supervise the construction.

The TCP required under (b) above must be prepared, signed and certified by a person holding an appropriate RMS accreditation. A copy of the accreditation must be submitted with the TCP. Where a TCP requires a reduction in the speed limit, a 'Direction to Restrict' must also be submitted with the request for consent. In addition, where works are proposed on a road controlled by RMS, a Road Occupancy Licence must be obtained from RMS prior to the lodgement of the TCP.

CONSTRUCTION MANAGEMENT PLAN

- C24. Prior to the commencement of works the Applicant must prepare and submit a Construction Management Plan (CMP). The CMP must:
- (a) be prepared by a suitable qualified and experienced person in consultation with Council;
 - (b) be approved by the Certifier prior to the commencement of construction;
 - (c) detail statutory and other obligations that the Applicant is required to fulfil during site establishment and construction, including approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
 - (d) clearly outline the stages/phases of construction that require on-going environmental management and/or reporting;
 - (e) outline all environmental management practices and procedures to be followed during construction works associated with each stage of the development;
 - (f) describe all activities to be undertaken on the site during construction of the development, including a clear indication of the type and duration of works associated with each stage of the development;
 - (g) detail how the environmental performance of the construction works will be monitored, and what actions will be taken to address any adverse environmental impacts;
 - (h) describe of the roles and responsibilities for all relevant employees involved in construction works associated with the development;
 - (i) document and incorporate all sub-management plans required under Condition C25 of this consent; and
 - (j) include arrangements for community consultation and complaints handling procedures during construction.
- C25. As part of the CMP required under Condition C245 of this consent, the Applicant shall include the following sub-plans:
- (a) environmental management;
 - (b) soil and water management (condition B9);
 - (c) waste management plan (condition B10)
 - (d) fauna management (condition C16);
 - (e) construction traffic (condition C18);
 - (f) Aboriginal cultural heritage management (condition C19);
 - (g) acid sulfate soils management (condition C22); and
 - (h) community consultation and complaints handling.

INDEPENDENT AUDIT

- C26. No later than 4 weeks before the date notified for the commencement of construction, an Independent Audit Program prepared in accordance with *the Independent Audit Post Approval Requirements* (Department 2018) must be submitted to the Department.
- C27. Independent Audits of the development must be carried out in accordance with:
- (a) the Independent Audit Program submitted to the Department under Condition C26 of this consent; and
 - (b) the requirements for an Independent Audit Methodology and Independent Audit Report in *the Independent Audit Post Approval Requirements* (Department 2018).
- C28. In accordance with the specific requirements in the *Independent Audit Post Approval Requirements* (Department 2018), the Applicant must:
- (a) review and respond to each Independent Audit Report prepared in accordance with the requirements of the Independent Audit Program prepared under Condition C266 of this consent;
 - (b) submit the response to the Department; and
 - (c) make each Independent Audit Report and response to it, publicly available within 60 days after submission to the Department and notify the Department in writing at least 7 days before this is done.

EROSION AND SEDIMENT CONTROL

- C29. Prior to commencement of work on the site for each stage of the development, erosion and sedimentation control measures must be installed and be operational, including the provision of a "shake down" area, where required to the satisfaction of the Principal Certifying Authority.

DURING CONSTRUCTION

APPROVED PLANS TO BE ON-SITE

- C30. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and must be made available to any officer of the Department, Council, or the PCA.

SITE NOTICE

- C31. A site notice shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details, including, but not limited to, the details of the contractor, the PCA and Structural Engineer.
- C32. The notice must satisfy all, but not be limited to, the following requirements:
- (a) the notice must be able to be read by the general public;
 - (b) the notice is to be rigid, durable and weather proof and displayed throughout the works period;
 - (c) the approved hours of works, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaints are to be displayed on the site notice; and
 - (d) the notice is to be mounted at eye level on the perimeter fencing and state that unauthorised entry to the site is not permitted.

HOURS OF CONSTRUCTION

- C33. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive; and
 - (b) between 8:00 am and 1:00 pm, Saturdays.
- C34. No work may be carried out on Sundays or public holidays.
- C35. Activities may be undertaken outside of these hours if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
 - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- C36. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- C37. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday.

SAFE WORK AUSTRALIA REQUIREMENTS

- C38. To protect the safety of work personnel and the public, the site shall be adequately secured to prevent access by unauthorised personnel, and works shall be conducted at all times in accordance with the relevant Safe Work Australia requirements.

PROTECTION OF TREES ON-SITE

- C39. All trees on site that are to be retained are to be suitably protected in accordance with Australian Standard AS 4970-2009 'Protection of Trees on Development Sites' by way of tree guards, barriers or other measures as necessary to protect root system, trunk and branches, during construction of any stage of the project.

FAUNA MANAGEMENT PLAN

- C40. To reduce impacts to native fauna, works shall occur in accordance with the approved Fauna Management Plan.

IMPORTATION OF FILL

- C41. The only fill material that may be received at the development is:
- (a) Virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act* (POEO));
 - (b) Any other waste-derived material the subject of a resource recovery exemption under Clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material, excluding waste tyre.

At least 14 days prior to the importation of any fill material, details shall be submitted to the Certifying Authority demonstrating the material complies with the above requirements. Any waste-derived material the subject of a

resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority on request.

CONSTRUCTION SITE ACCESS

- C42. Construction site access is to be from Moonee Creek Drive via early construction of the proposed Northern Collector Road, where possible. Construction access from the A1 Pacific Highway is only permitted if approval to do so is provided by Transport for NSW (RMS) [per condition B18]. Any works within 40 metres of Moonee Creek and other watercourses shall be designed, installed and maintained in accordance with the *Guidelines for Controlled Activities on Waterfront Land (DPI Water, 2012)* or latest versions.
- C43. The applicant must obtain the relevant licences under the Water Management Act 2000 for all activities that intercept or extract groundwater and surface water prior to commencement of these activities, if required.

ROADS

- C44. Any temporary cul-de-sac created in the respective stages of the development shall provide an all-weather 12 metre outer radius turning circle.

IMPLEMENTATION OF CONSTRUCTION MANAGEMENT PLAN AND ASSOCIATED SUB-PLANS

- C45. The approved Construction Management Plan and associated sub-plans (as revised and approved by the Planning Secretary from time to time) must be implemented by the Applicant for the duration of the construction works.

EARTHWORKS

- C46. Where fill is imported to the site, the Applicant shall obtain documentation from the fill supplier certifying the fill material is not contaminated. Evidence the fill is not contaminated must be provided to Council and the Department within 14 days of the completion of earthworks for each stage of the development.

AIR QUALITY

- C47. The Applicant shall:
- (a) implement best management practice, including all reasonable and feasible mitigation measures to prevent and minimise dust and odour emissions from operation of the development;
 - (b) minimise any visible off-site air pollution that occurs as a result of construction of the development; and
 - (c) ensure the development does not cause or permit the emission of any offensive odour (as defined by the POEO Act).

DUST MANAGEMENT

- C48. During construction, the Applicant shall ensure that:
- (a) all vehicles on site do not exceed a speed limit of 30 kilometres per hour;
 - (b) all loaded vehicles entering or leaving the site have their loads covered; and
 - (c) all loaded vehicles leaving the site are cleaned of dirt, sand and other materials before they leave the site, to avoid tracking these materials onto public roads.

CONSTRUCTION NOISE LIMITS

- C49. The development shall be constructed with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the management and mitigation measures in the updated CMP approved by the Planning Secretary.

Note: The *Interim Construction Noise Guideline* identifies 'particularly annoying' activities that require the addition of 5dB(A) to the predicted level before comparing to the construction NML.

- C50. Any noise generated during the construction of the development must not be offensive noise within the meaning of the POEO Act.
- C51. If noise from construction activity is substantially tonal or impulsive in nature, as described in Chapter 4 of the *NSW Industrial Noise Policy*, 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.

CONSTRUCTION NOISE AND VIBRATION

- C52. Activities resulting in impulsive or tonal noise emission (such as rock breaking, rock hammering, pile driving) shall only be undertaken:
- (a) between the hours of 8:00am to 5:00 pm Monday to Friday;
 - (b) between the hours of 8:00am to 1:00 pm Saturday; and

- (c) in continuous blocks not exceeding three hours each with a minimum respite from those activities and works of not less than one hour between each block.

For the purposes of this condition 'continuous' includes any period during which there is less than a one-hour respite between ceasing and recommencing any of the work the subject of this condition.

- C53. The development shall be constructed with the aim of achieving the following construction vibration goals:
 - (a) for structural damage, the vibration limits set out in the German Standard *DIN 4150-3: Structural Vibration - effects of vibration on structures*; and
 - (b) for human exposure, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: A Technical Guideline* (Department of Environment and Conservation, 2006).
- C54. Where feasible and reasonable, noise mitigation measures shall be implemented at the start of construction (or at other times during construction) to minimise construction noise impacts.

OPERATION OF PLANT AND EQUIPMENT

- C55. The Applicant shall ensure all plant and equipment used for the development is:
 - (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

ABORIGINAL ARCHAEOLOGY

- C56. The Applicant must ensure that the development does not cause any direct or indirect impact on any identified heritage items located outside the approved disturbance area, beyond those predicted in the document/s listed in condition A2(c).
- C57. The Applicant shall implement the Aboriginal Cultural Heritage Management Plan (ACHMP) approved under Condition C19 of this approval.
- C58. In the event that surface disturbance identifies a new Aboriginal object, all works must cease in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and registered Aboriginal representatives must be contacted to determine the significance of the object(s). If an object is found and verified, the site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by EESG and the management outcome for the site included in the information provided to AHIMS. The Applicant must consult with the Aboriginal community representatives, including the Coffs Harbour LALC, the archaeologist and the EESG to develop and implement management strategies for all objects/sites.

NO OBSTRUCTION OF PUBLIC WAY

- C59. The public way must not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the Planning Secretary to stop all works on-site.

FENCING REQUIREMENTS

- C60. Temporary protective fencing must be provided for all protected vegetation during the construction phase. The fence shall extend from the critical root zone or 5 metres from the perimeter of existing indigenous vegetation. Protective fencing shall be installed prior to commencement of any works.

CONTACT TELEPHONE NUMBER

- C61. The Applicant shall ensure the 24-hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

COMPLIANCE

- C62. The Applicant shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

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

PART D PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

WATER AND SEWERAGE CONTRIBUTIONS

- D1. Payment to Council of contributions, at the rate current at the time of payment, towards the provision of water and sewerage is required prior to the release of any Subdivision Certificate. The current contribution rate is:

	Amount/Lot \$	Total \$
Works to satisfy increased demand within the area for 103 lot(s) of residential subdivision.		
Water	10,641.04	1,096,027.12
Sewer	10,175.85	1,048,112.55
Sub total		2,144,139.67
Less credit for 1 lot		20,816.89
TOTAL AMOUNT PAYABLE		2,123,322.78

SECTION 7.11 CONTRIBUTIONS

- D2. Payment to Council of contributions, at the rate current at the time of payment, towards the provision of the following public services or facilities is required.

Note 1 - The contributions are to be paid prior to release of any Subdivision Certificate unless other arrangements acceptable to Council are made.

Note 2 - The rates will be adjusted in accordance with the procedures set out in Council's Section 7.11 (formerly sec 94) Contributions Plans. The applicant is advised to confirm the contribution rate applicable at the time of payment as rates are revised at least annually.

Note 3 - If the development is to be staged, contributions are to be paid on a pro rata basis in respect of each stage.

	\$ Per Lot
- Coordination and Administration	242.97
- Coffs Harbour Road Network	558.30
- Surf Rescue Facilities	140.93
- District Open Space	3,961.91
- Open Space (Neighbourhood: Moonee)	2,251.04
- Community Facilities (District: Moonee)	1,083.60
- Moonee Transport & Traffic	1,956.76
- Urban Planning	13.72
- Moonee Local Roads	6,900.29

The Section 7.11 is currently \$1,745,171.04 for the 102 additional lots proposed in the subdivision.

Contributions have been imposed under the following plans:

- Coffs Harbour Open Space 2017
- Coffs Harbour Road Network 2016

- Surf Rescue Facilities 2019
- Coffs Harbour Administration Levy 2019
- Moonee Release Area 2019

The Contribution Plans may be inspected at the Council Administration Offices, 2 Castle Street, Coffs Harbour or on Council's web site, www.coffsharbour.nsw.gov.au.

- D3. All civil infrastructure that is required, including external works to the stage, to service the stage of the development identified in the Subdivision Certificate must be provided in accordance with the approved Subdivision Works Certificate Plans. A statement from a suitably qualified engineer verifying the relevant civil infrastructure necessary to service the relevant stage of the subdivision must be provided to the PCA's satisfaction prior to the issue of each Subdivision Certificate.

DEDICATION OF ENVIRONMENTAL RESERVE TO COUNCIL

- D4. The proponent must make necessary arrangements for the dedication to Council, at no cost to Council, of Subdivision Lot D104 at the time of registration of the Subdivision Certificate for the first stage of the subdivision or the entire subdivision, whichever comes first.

FAUNA MANAGEMENT PLAN

- D5. The works (other than maintenance works) prescribed in the approved Fauna Management Plan prepared under condition C16 must be completed prior to issue of the first Subdivision Certificate (unless otherwise agreed to in writing by Council). A report from the consultant who prepared the plan or other suitably qualified consultant must be submitted to the Principal Certifying Authority with the Subdivision Certificate application to verify that the initial works have been completed in accordance with the approved Fauna Management Plan.

VEGETATION MANAGEMENT PLAN

- D6. Prior to the issue of the first Subdivision Certificate (unless otherwise agreed to in writing by Council) a Vegetation Management Plan (VMP) must be prepared to Council's satisfaction to allow management and maintenance works on the open space area for 10 years following the completion of construction. The VMP is to be in accordance with Council's *'Guideline for Preparing Vegetation Management Plans'* in Appendix 2 of the *Coffs Harbour Development Control Plan 2015*.
- D7. The VMP is to specify the environmental condition of the land that must be achieved before the dedication of Subdivision Lot D104 can be achieved.
- D8. Unless otherwise agreed by Council, the proponent is to cover the maintenance costs of the dedicated land for a minimum of ten years or such period as is required to achieve the outcomes for which the land was originally dedicated to Council or to establish an alternative funding stream to support the ongoing maintenance costs.
- D9. All necessary rehabilitation work must be undertaken to the satisfaction of Council prior to management passing to Council. All legal costs are to be borne by the proponent until dedication of Subdivision Lot D104 to Council.
- D10. A report from the consultant who prepared the VMP or other suitably qualified consultant shall be submitted to the Principal Certifier with the Subdivision Certificate application to the effect that the initial works have been completed in accordance with the approved VMP.
- D11. The VMP must include the mitigation measures for the Koala outlined in Table 5 of the Planning Report comprising Environmental Assessment State Significant Development (SSD 7198) under Part 4 of EP&A Act 1979, dated July 2018.
- D12. Compensatory planting of koala habitat trees in the E2 environmental conservation area must be undertaken to ensure the development is in accordance with *Coffs Harbour City Koala Plan of Management*.

VEGETATION MANAGEMENT PLAN BOND

- D13. A bond must be lodged with Council prior to release of the first Subdivision Certificate (unless otherwise agreed to in writing by Council) for 150% of the value of any works described in the approved Vegetation Management Plan (VMP) not yet completed, or an agreement may be reached with Council for the completion of work by Council. Any bond will be retained by Council until the maintenance period of the VMP has concluded. At the end of the maintenance period Council will undertake any works not completed with the cost of this work, in inclusive of CPI, taken from the bond.

SEWER

- D14. The sewer rising main is to be conveyed to the Wastewater treatment facility at Bucca Road, Moonee Beach or existing infrastructure connecting to this wastewater treatment facility.

STORMWATER

- D15. Updated Water Sensitive Urban Design (WSUD) modelling reflecting the 'for-construction detailed stormwater design' to be provided to Council, which demonstrates compliance with stormwater quality targets and objectives. A copy of the MUSIC model should accompany the submission.
- D16. The incoming flows to the basin are to be distributed across as much filter media area as possible to ensure longevity and performance from the filter media (as opposed to two localised outlet locations at either end of the basin).
- D17. Design consideration needs to be given to safety of the bio-retention basin in the public reserve e.g. ponding depth, batter slope, etc. Details reflecting this should be included in the SWC application.
- D18. Access arrangements around the perimeter of the bio-retention basin must be provided to allow Council access for maintenance purposes (including replacement of filter media).

EARTHWORKS

- D19. Certification of any retaining structures required with the subdivision should be provided by a suitably qualified and practising engineer and accompany the Subdivision Works Certificate application. Timber retaining walls are not be permitted within 1 metre of lot boundaries.

STAGING

- D20. The WSUD bio-retention basin must be established as a sedimentation basin for the first stage even if not in the Stage 1A/1B area, as required for sediment and erosion control purposes.

ACCESS

- D21. All access to the development will be via Moonee Beach Road.
- D22. 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. This Road is shown as 'approved collector road – Road 1' on Plan 1277-DR1 in Condition A2.

MAINTENANCE BOND

- D23. Prior to issue of a Subdivision Certificate and acceptance of 'On Maintenance' period, a maintenance bond for the constructed civil engineering works required to be dedicated to Council must be paid to Council. The bond may be in cash or by financial institution guarantee.

The bond required is the larger sum of:

- 10% of the contract sum for works associated with water and sewer plus 5% of the contract sum for all other works where the total value is more than \$50,000; or
- \$5,000

All work to be dedicated to Council is subject to a maintenance period of six (6) months from the date of release of the Subdivision Certificate. The maintenance period may be extended by Council due to material or construction work compliance reasons. The maintenance period and bond amounts for WSUD systems must be in accordance with the Council or accredited private certifier approved stormwater management plan.

At the end of the Maintenance Period an 'Off Maintenance' inspection must be held with Council or accredited private certifier to confirm the compliance and performance of the constructed works, in accordance with Councils Standards.

Note: If a financial institute guarantee is proposed to be used, please contact Council to determine whether this institute is acceptable to Council as well as to ascertain specific requirements of the guarantee.

STORMWATER ASSET BOND

- D24. The bio-retention system cannot be planted out and utilised as a water sensitive urban design measure until 80% of dwellings in the catchment have been constructed.

Any bio-retention system contained within land being dedicated to Council that has not been planted out with satisfactory survival rate for 12 months is subject to a Stormwater Asset bond to be lodged with Council prior to the release of the Subdivision Certificate.

Where the bio-retention system is still operating as a sedimentation basin, the asset bond will be for a sum of 150% of the cost of construction, establishment and maintenance of the landscaping and 150% of the cost of construction of the uncompleted civil components. The bond will be retained by Council until 80% of allotment building phase is established or 4 years following practical completion of the subdivision, whichever occurs first.

At this stage, following the completion of the bio-retention by the Applicant or where the bio-retention basin has been operational for less than 12 months at time of dedication, a bond for 100% of the cost of establishment and maintenance of the vegetation is to be available to Council. The bond will be retained by Council for at least one growing season of 6 to 12 months and vegetation has been established satisfactorily.

The Stormwater Asset bond will ensure that the stormwater treatment works are completed and that necessary maintenance works are undertaken within that period by Council in the event that the works are not undertaken by the Applicant.

WORK AS EXECUTED PLAN

- D25. Prior to the issue of Subdivision Certificate, a work as executed plan endorsed by a registered surveyor or consulting engineer (hard or digital format) in accordance with Council specifications and standard drawings, being submitted to Council certifying that:
- (a) the civil works approved in accordance with Condition A2 have been undertaken with any amendments shown in red on the approved plans.
 - (b) All drainage lines, sewer lines, services, and structures are wholly contained within the relevant easement;
 - (c) The plans accurately reflect the work as executed.

FILL CERTIFICATION

- D26. Prior to the release of the Subdivision Certificate, a fill report along with a final contour plan is to be submitted to and endorsed by Council. The fill report must show the location, depth, and type of fill located on the site.

ASSET PROTECTION ZONES

- D27. At the issue of the subdivision certificate for each stage and in perpetuity, the entire area of each newly created residential lot shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Services' document '*Standards for asset protection zones*'.

RESTRICTION TO LAND USE

- D28. At the issue of subdivision certificate for the relevant stage of subdivision, a restriction to land use pursuant to section 88B of the '*Conveyancing Act 1919*' shall be included over the undeveloped residue lot requiring a 10 metre wide temporary asset protection zone around the perimeter of the subdivision stage being released. The temporary asset protection zone shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bushfire Protection 2006*' and the NSW Rural Fire Services' document '*Standards for asset protection zones*'. The temporary APZs may be deleted upon the development of subsequent stages or development of the adjoining land, as applicable.
- D29. At the issue of subdivision certificate for the relevant stage of subdivision, a restriction to land use pursuant to section 88B of the '*Conveyancing Act 1919*' shall be included over the area identified as an asset protection zone on Lots D1 to D19, D86 to D101 and D103, as shown on Drawing 'Proposed subdivision lot layout' referred to in Condition A2, to prohibit the construction of a dwelling in the subject area. The restriction to land use may be deleted upon the development of the adjoining land as managed land.
- D30. At the issue of subdivision certificate for the relevant stage of subdivision, a restriction to land use pursuant to section 88B of the '*Conveyancing Act 1919*' shall be included over Lot D104 for the purpose of an asset protection zone as shown on the drawing titled 'Proposed subdivision lot layout' referred to in Condition A2. The APZ shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of '*Planning for Bush Fire Protection 2006*' and the NSW Rural Fire Services' document '*Standards for asset protection zones*'.
- D31. At the issue of subdivision certificate for the relevant stage of subdivision, a restriction to land use pursuant to section 88B of the '*Conveyancing Act 1919*' shall be included over lots D14-D45 and D96-D103 requiring that all dwellings are constructed in accordance with AS3671:1989 "*Acoustics - Road Traffic Noise Intrusion - Building Siting and Construction*" to achieve the maximum internal noise levels prescribed in AS/NZS 2107:1987 "*Acoustics - Recommended Design Sound Level and Reverberation Times for Building Interiors*". The restriction to user shall require the user to apply the design and acoustic treatments as outlined in the Memorandum titled Moonee Parklands – Proposed Subdivision prepared by Wilkinson Murray dated 26 September 2012.
- D32. At the issue of subdivision certificate for the relevant stage of subdivision, a restriction to land use pursuant to section 88B of the '*Conveyancing Act 1919*' shall be included over all lots requiring the minimum floor levels for dwellings to be 4.0m AHD.
- D33. At the issue of a subdivision certificate a right of carriageway pursuant to section 88B of the '*Conveyancing Act 1919*' shall be included burdening Lot D105 (shown on Proposed subdivision lot layout, issue J, dated 19/02/20) and benefitting Lot 2 DP 1097743.
- D34. The registered proprietor of the land must enter into covenants to prohibit the ownership of cats within the subdivision. Council shall not be listed as benefiting from the covenant nor having responsibility for compliance,

revoking, varying or modifying the covenant. Detail of the proposed restriction must be provided to Council with the application for subdivision certificate. Registration must be effected in conjunction with the registration of the plan of subdivision.

- D35. At the issue of a subdivision certificate, a restriction to user pursuant to section 88B of the 'Conveyancing Act 1919' shall be included over all lots requiring the installation of Koala proof fencing should they keep a pet dog.
- D36. At the issue of a subdivision certificate, a restriction to user pursuant to section 88B of the 'Conveyancing Act 1919' shall be included over all lots requiring that all swimming pools are to have koala rescue ropes installed.

REGISTRATION OF EASEMENTS / RESTRICTION TO USE / RIGHT OF CARRIAGEWAY

- D37. The creation of easement(s) for services, rights of carriageway and restrictions as to user as are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
- (a) any application for future dwellings on lots D14-D45 and D96-D103 must be accompanied by an acoustic assessment, which demonstrates that internal noise levels will comply with the requirements of *State Environmental Planning Policy (Infrastructure) 2007* and the *Development Near Rail Corridors and Busy Roads - Interim Guideline 2008*, prepared by the Department of Planning.
Details of the Restrictions and Easements are to accompany the application for Subdivision Certificate.
 - (b) the foundations of buildings and structures erected on those lots are designed and constructed to withstand storm surge and/or tidal inundation;
 - (c) easements for sewer, water supply trunk mains and inter-allotment drainage and Council drainage services/infrastructure on private property
 - (d) each lot effected by the nominated asset protection zone (APZ) requiring the ongoing management of the APZ as an Inner Protection Area as outlined in the Planning for Bush Fire Protection and NSW Rural Fire Service document "Standards for Asset Protection Zones";
 - (e) right of carriageways are to benefit and burden the property owners. Maintenance of the right of carriageways is to be shared between the property owners.
- Note:** an 88(b) instrument is acceptable subject to the area effected by the easement not requiring renewal upon sale or transfer at any time.
- D38. A Subdivision Certificate must be issued for each stage prior to lodgement of the Final Plan of Survey with the NSW Land Registry Services. Council must issue a Subdivision Certificate except where an environmental planning instrument provides that a Subdivision Certificate may be issued by an Accredited Certifier for a specified subdivision.
- D39. The Applicant must submit two (2) copies of the Plan of Survey to Council prior to the issue of a Subdivision Certificate for each stage.

BUSH FIRE MANAGEMENT PLAN

- D40. A Bush Fire Management Plan is to be prepared with respect to the asset protection zone on Lot D104 and submitted to the Secretary for approval. The Plan shall include:
- (a) Details of the contact person/department responsible for implementation of the plan and
 - (b) A schedule and description of works for the construction of asset protection zones and their continued maintenance.

ROADS

- D41. Evidence that the access to Lot 2 DP 1097743 (Lot D105) will be raised where it crosses Bucca Creek to ensure it is trafficable during the 1 in 100 year ARI flood event is to be submitted to the principal certifying authority prior to the issue of any Subdivision Certificate.

VERIFICATION OF WORKS

- D42. The following information must be provided to the satisfaction of the PCA prior to issue of a Subdivision Certificate:
- (a) a statement from a suitably qualified and experienced civil engineer confirming:
 - i. the works have been constructed in accordance with the approved plans and construction specifications;
 - ii. works in the road reserve have been completed in accordance with the approved plans and construction specifications;

- iii. all inspections required by the PCA have been completed in accordance with the approved plans and construction specifications where Council is not the PCA. Please note Council will be the PCA for all works in existing public roads; and
- iv. all structural elements have been constructed in accordance with the approved plans.

WORK-AS-EXECUTED PLANS

- D43. Work-as-executed (WAE) plans for each stage, certified by a suitably qualified and experienced consulting engineer or registered surveyor, must be submitted to Council/asset custodians for review and records, within a timely manner upon completion of the works. These plans must include:
- (a) certification confirming "the information shown on the plans is a true and accurate representation of the constructed works and any variation does not compromise the approved design". Where works are not within the tolerances specified in Council's *Development Construction Specifications*, the certifying engineer/surveyor must confirm in writing, whether the works still comply with the intent of the original design, specifications and relevant Standards; and
 - (b) WAE information marked in red and provided on a copy of the stamped approved plans. Following Council's acceptance of the WAE plans, a CAD file (DWG format) is to be to Council showing the WAE information for input into Council's GIS and Asset Register.

POST-CONSTRUCTION DILAPIDATION REPORT

- D44. Prior to the issue of each Subdivision Certificate, the Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of subdivision works for each stage of the development.

This report is to ascertain whether the construction/subdivision works created any structural damage to adjoining buildings, infrastructure and roads within the 'zone of influence', and the report is to be submitted to the PCA and Council, where Council is not the PCA, and copy shall be provided to the Department within 7 days of lodgement with the PCA.

In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads within the zone of influence, the PCA must:

- (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required by this development consent; and
- (b) have written confirmation for the relevant authority that there is no adverse structural damage to their infrastructure or roads.

RECTIFICATION OF DAMAGE

- D45. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:

- (a) repair, or pay the full costs associated with repairing any public infrastructure, or private residence that is damaged by the development prior to the issue of each Subdivision Certificate; and
- (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development prior to the issue of each Subdivision Certificate.

DEDICATION OF INTERNAL ROADS

- D46. All internal roads must be constructed by the proponent and dedicated to Council as public roads following registration of the Plan of Subdivision. Upon dedication and at the end of the maintenance period Council will be responsible for the on-going maintenance of the roads.

INFRASTRUCTURE PROVISION

Prior to the issue of the final Subdivision Certificate, evidence shall be provided to the certifying authority confirming that provisions have been made for the following:

- a) underground electricity reticulation to each lot as per relevant standards of electricity authority;
- b) reticulated water supply to each residential lot in accordance with relevant Council standards;
- c) reticulated sewer system to each residential lot in accordance with relevant Council standards; and
- d) satisfactory arrangements will be made with the relevant telecommunications service provider for the provision of fibre optic cable to each residential lot.

PART E DURING OPERATION

LANDSCAPING

- E1. Landscaping to the site is to comply with the principles of Appendix 5 of *'Planning for Bush Fire Protection 2006'* or as amended by *'Planning for Bush Fire Protection 2019'*.

ROADS

- E2. Public road access shall comply with section 4.1.3(1) of *'Planning for Bush Fire Protection 2006'*.

BUSHFIRE MANAGEMENT

- E3. Water, electricity and gas are to comply with section 4.1.3 *'Planning for Bush Fire Protection 2006'* or as amended by *'Planning for Bush Fire Protection 2019'*.
- E4. All bushfire management plans/protocols required by this consent must be implemented in-perpetuity.

APPENDIX 1 ADVISORY NOTES

APPEALS

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

RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS

AN2. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

TEMPORARY STRUCTURES

AN3. An approval under *State Environmental Planning Policy (Temporary Structures) 2007* must be obtained from the council for the erection of any temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

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

DISABILITY DISCRIMINATION ACT

AN4. This application has been assessed in accordance with the Act. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. *The Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1- *Design for Access and Mobility*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

SITE CONTAMINATION ISSUES DURING CONSTRUCTION

AN5. Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination then the Applicant must be immediately notified and works must cease. Works must not recommence on site until consultation is made with the Department.

STREET NAMES

AN6. Street numbering and/or street names, whether for a public or private road within an urban, rural or community subdivision must comply with the State Governments Comprehensive Property Addressing System (CPAS), and Council's *Property Address Numbering Policy and/or Road and Street Naming Policy*.

In this regard, an Application for Property Address must be processed and approval for street numbering and/or street names must be obtained from Council's GIS Group on (02) 4429 3479 prior to submission of a Subdivision Certificate Application.

APPENDIX 2 INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A14 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - (a) identify the development and application number;
 - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - (c) identify how the incident was detected;
 - (d) identify when the Applicant became aware of the incident;
 - (e) identify any actual or potential non-compliance with conditions of consent;
 - (f) describe what immediate steps were taken in relation to the incident;
 - (g) identify further action(s) that will be taken in relation to the incident; and
 - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - (a) a summary of the incident;
 - (b) outcomes of an incident investigation, including identification of the cause of the incident;
 - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - (d) details of any communication with other stakeholders regarding the incident.