CONCEPT PROPOSAL OUTLINE – PROPOSED SUBDIVISION

AT IRON GATES, EVANS HEAD
DA2015/0096

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1.0 BACKGROUND

On 27 October 2014 Planit Consulting Pty Ltd lodged Development Application No. 2015/0096 with Richmond Valley Council (RVC). The Application proposed a residential subdivision, subdivision infrastructure, Evans River foreshore embellishment.

On or about the same time, Planit requested the Department of Planning to waive the requirement for a Master Plan pursuant to Clause 18(2) of SEPP71. The Department declined to waive the requirement for a Master Plan.

Subsequently, Planit Consulting Pty Ltd submitted a Draft Master Plan dated July 2015 to the Department of Planning and Environment.

In July 2019, a revised DA2015/0096 and Statement of Environmental Effects for the Iron Gates subdivision was submitted to RVC (DAC Planning, revised July 2019).

In October 2019, a revised SEPP71 Master Plan was submitted to the Department of Planning, Industry and Environment (DoPIE) (DAC Planning, revised October 2019). The revised Master Plan is generally consistent with the revised Development Application (July 2019).

In March 2020, a Response to Submissions Report ((DAC Planning) in relation to the revised Master Plan was provided to the DoPIE. The Report addresses issues raised by State Agencies and members of the public during the Master Plan exhibition period.

The Plans of Proposed Subdivision (Master Plan Drawings, 23 March 2020) were also amended to address key issues.

A copy of the Response to Submissions Report is contained at **Appendix 3**.

On 27 July 2020, RVC were requested to agree to amendment of DA2015/0096 to include, inter alia, the revised Plan of Proposed Subdivision (Rev P, zone layer and other layers) dated 23 March 2020. This was required to ensure the Plan of Subdivision in the RTS was consistent with the Plan of Subdivision in the revised DA.

On 29 July 2020, Council acknowledged receipt of further amendments to the 17 September 2019 amended Development Application DA2015/0096 for the Iron Gates subdivision and upgrades to Iron Gates Drive.

Council also advised that arrangements will be made to immediately forward a copy of the further amendments to the Integrated Agencies (approval bodies) as per clause 55(3)(b), and notice of receipt will also be given to the Northern Regional Planning Panel.

On 30 August 2020, Richmond Valley Council's Strategic Land Use Planner, Mr Tony McAteer, advised (pers comm) that no further information is required in relation to the amended Development Application and preparation of the DA Assessment Report is proceeding.

As an alternative to the requirement for the Master Plan (now a Development Control Plan), Goldcoral Pty Ltd intends to lodge a variation to DA2015/0096 under Clause 55(1) of the Environmental Planning and Assessment Regulation 2000 requesting Council to treat DA2015/0096 as a Concept Development Application under Section 4.22 of the Environmental Planning and Assessment Act 1979 (as amended).

Attached at **Appendix 7** is a legal advice from Mills Oakley dated 14 July 2021 confirming that it is open to Goldcoral to vary the Development Application as proposed and Council (NRPP) can approve the varied Application on the basis that the Concept Development Application fulfils the requirement for a Master Plan (DCP).

This Concept Proposal Outline Report should be read in conjunction with the revised Statement of Environmental Effects dated July 2019.

2.0 CONCEPT DA AS AN ALTERNATIVE TO A DEVELOPMENT CONTROL PLAN

Section 4.23 of the Environmental Planning and Assessment Act 1979 (as amended) (EPAA) is in the following terms:

> "***4.23 Concept development applications as alternative to DCP required by environmental planning instruments***
> *(cf previous s 83C)*
> *(1) An environmental planning instrument cannot require the making of a concept development application before development is carried out.*
> *(2) However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.*
> ***Note**—*
> *Section 3.44(5) also authorises the making of a development application where the relevant planning authority refuses to make, or delays making, a development control plan.*
> *(3) Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations."*

To avoid further delays in determination of DA2015/0096 and in accordance with Clause 55 of EPAR and Section 4.22 of EPAA, Goldcoral hereby proposes a variation to DA2015/0096 as follows:

The DA will be a Concept DA pursuant to Section 4.23 (3) of the EP&A Act and will be carried out in two stages as described below:

<u>Stage 1</u>

1. Completion of all subdivision work for the Stage 1 and future Stage 2 lots, including but not limited to:
   - Clearing and earthworks.
   - Roadworks and drainage.
   - Sewer and water supply (including service connections to the Stage 1 lots and future Stage 2 lots).
   - Electricity and communications (including connections to the Stage 1 lots and future Stage 2 lots).

2. Embellishment of the proposed public reserves adjacent to the Evans River foreshore.

3. Creation of:
   - 135 residential lots comprising Lots 1 to 135.
   - Creation of 4 public reserve lots comprising Lots 139 to 142.
   - Creation of 1 sewer pump station lot comprising Lot 144.
   - Creation of 1 drainage reserve lot comprising Lot 143.
   - Creation of 3 super lots (comprising Lots 145, 146, 147).
   - Creation of a residue lot (Lot 138).
   - Creation of 2 Rainforest Lots 137, & 136.

4. Upgrading of Iron Gates Drive.

<u>Stage 2</u>

Subdivision of super lots 145,146 &147 to create 40 residential lots. No subdivision work is required for Stage 2 as all subdivision infrastructure will be provided with Stage 1.

The Concept Proposal for Staged Subdivision DA2015/0096, Stages 1 & 2, Drawing No. BRJD6396.100-55 (2 sheets), Rev 1 – LandPartners, 19 July 2021 is contained at **Appendix 1**.

Stage 2 is only shown as concept proposals. The concept proposals for the Stage 2 lot layout DA is identical to the layout on the current plans before Council (014, Rev P; 015, Rev N; 013, Rev I and 100-45-2 showing bushfire setbacks). However, the varied Development Application does not seek any approval to actually carry out the stage 2 subdivision. This will be the subject of a subsequent Development Application.

Amended Plans of Proposed Subdivision showing proposed Stage 1 are attached at **Appendix 2**. LandPartners Drawing No. 100-014.

No changes to the latest versions of the Specialist Reports are required because no changes in the ultimate layout, yield or engineering design are proposed or required. The varied application includes this Concept Proposals Outline. This Concept Proposal Outline is closely based on the draft Master Plan (revised October 2019) that was submitted to the Department, together with the Response to Submissions document.

The varied application also includes a letter from Mills Oakley dated 14 July 2021. In summary, the letter confirms that:

> The requirement for a 'Master Plan' is now (as a matter of law), a requirement for a Development Control Plan that deals with the matters as set out in Clause 20(2) of SEPP 71.
>
> The requirement for a development control plan under Clause 18(1) of SEPP 71 (as modified by the transitional provisions) may be satisfied by the grant of a development consent for concept proposals.
>
> The Development Application can be determined by the grant of development consent — even when the Master Plan is withdrawn — provided that the application is varied as proposed.
>
> In the circumstances of this application, the overall essence of the development remains as a residential subdivision within a generally consistent development area as already proposed in the development application.

It would be lawful for the consent authority to agree to allow the variation under Clause 55(1) of the EPR.

The Development Application can be varied as proposed under Clause 55(1) of the EPR.

3.0 PARTICULARS SUFFICIENT TO INDICATE THE NATURE OF THE CHANGED DEVELOPMENT

The changed development differs from the one presently before the consent authority in the following key ways:

- Staging of the development has been introduced (two stages).
- The document that was previously progressed separately as a draft Master Plan has been re-cut as this Concept Proposals Outline. This document sets out the strategic basis of the development.
- No approval is sought in this current application to actually carry out Stage 2 (whereas, currently, the creation of the lots ultimately envisaged for Stage 2 are sought to be approved for actual development). The Stage 2 lots are, in Stage 1, only proposed to be created at super lots.

4.0 CONCEPT DA REQUIREMENTS

Section 4.23(3) of the EPAA requires a concept Development Application to contain the information required to be included in a Development Control Plan by and Environmental Planning Instrument. (In this case, the reference to a 'Development Control Plan' is a reference to a Master Plan, as per the Mills Oakley letter.)

Clause 20 of SEPP71 provides that a draft Master Plan (Development Control Plan) is to illustrate and demonstrate, where relevant, proposals for the following matters.

(a) design principles drawn from an analysis of the site and its context,

(b) desired future locality character,

(c) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards,

(d) the scale of any development and its integration with the existing landscape,

(e) phasing of development,

(f) public access to and along the coastal foreshore,

(g) pedestrian, cycle and road access and circulation networks,

(h) subdivision pattern,

(i) infrastructure provision,

(j) building envelopes and built form controls,

(k) heritage conservation,

(l) remediation of the site,

(m) provision of public facilities and services,

(n) provision of open space, its function and landscaping,

(o) conservation of water quality and use,

(p) conservation of animals (within the meaning of the *Threatened Species Conservation Act 1995*) and plants (within the meaning of that Act), and their habitats,

(q) conservation of 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 above matters are adequately addressed in this Concept Proposals Outline.

5.0 CONCEPT PROPOSAL OUTLINE

On or about 26 October 2014, Planit Consulting submitted a Draft Master Plan to the Department of Planning and Environment for the Iron Gates residential release (Planit Consulting Pty Ltd, July 2015).

Following lengthy negotiations with the Office of Environment and Heritage (OEH) and the Department of Planning and Environment (DoPE), a revised Draft Master Plan Drawing (06/04/2018 Rev F) was provided to both Agencies. A copy of the revised Draft Master Plan Drawing is attached at **Appendix 4**. On 29 May 2018, OEH advised DoPE that:

> *"If the measures that Goldcoral Pty Ltd is indicating will be undertaken for the proposal in its letter of 14 May 2018 are included in the proposal and implemented, then the OEH has no further comments in relation to this proposal or the draft Master Plan."*

The amended Subdivision Plans at **Appendices 1** and **2** are essentially the same layout as the Master Plan (Rev F – **Appendix 4**) agreed to by the DoPE and OEH. However, the lot numbers have changed and two additional lots are proposed (Lot 143 Drainage Reserve and Lot 144 Sewer Pump Station).

Upgrading of Iron Gates Drive to address bushfire access requirements is also proposed as part of DA2015/0096 (as amended). A Bushfire Assessment (Bushfire Risk dated 08/03/17) addressing access requirements and Engineering Plans (Arcadis, Rev 02 dated 21/08/17) showing the proposed upgrade work are contained at Appendices 4 and 1 of the revised SEE (July 2019).

Richmond Valley Council has agreed to accept a revised Development Application including the Iron Gates Drive upgrade work (see letter dated 18 February 2019). The revised Ecological Assessment at Appendix 6 of the revised SEE dated July 2019 addresses clearing impacts and includes credits for clearing of vegetation, which OEH have endorsed.

5.1 The Site and Surrounds

5.1.1 General Summary

Figure 1 – Aerial Photograph – Source: Google Earth

The subject site is described Lot 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road Reserve between Lot 163 DP 831052 and Lot 276 DP 755724 and Iron Gates Drive, Evans Head NSW. It is located west of the Evans Head town centre and accessed via Iron Gates Drive (See **Fig. 1**). The site fronts the Evans River to the south. Local native forest surrounds the site on to the north, east and west.

Part of the foreshore area south of proposed Road 6 was resumed and vested in fee simple in the Minister for Public Works in 1894 (see **Appendix 5**). No development is proposed in the resumed area.

Former subdivision works and bushfire maintenance have been undertaken on the land, which has resulted in a number of large cleared areas and informal roadways and trails. A single dwelling, shed and gravel driveway is also located in the south eastern corner of Lot 163 DP 831052. The proposed development footprint is contained largely within the cleared areas of the site.

A roadway linking the site and the Evans Head urban area exists, being Iron Gates Drive. This roadway will be utilised as the access route to the site and upgraded in order to implement a Bushfire Safety Authority. RVC has advised, in correspondence dated 18 February 2019, that council will grant owner's consent for the upgrade work on Iron Gates Drive.

In relation to the Crown road reserve and Crown foreshore reserve adjacent to the Evans River, the NSW Department of Trade and Investment (Crown Lands) provided advice by letter dated 24 February 2014. A copy of the letter is also provided at **Appendix 5**.

The following responses are provided to the issues raised by Crown Lands:

Email 29 March 2019

1. The area shown by red outline was vested in fee simple in the Minister for Public Works.

Response

No development or use of the red edged land is proposed under DA2015/0096 as amended.

On the 9 May 2019 Richmond River County Council (now known as Rous County Council) advised as follows in relation to ownership and control of the red outlined area.

> *"Rous is the owner of Tuckombil Canal which is approximately 10km from this site.*
>
> *It is our understanding that the parcel of land was resumed by the government for drainage works, being the widening of the natural restriction in the river known as iron gates.*
> *We have no records of ownership or any active management or future plans of the subject parcel of land you refer to. Suggest it may be Crown land.*
>
> > *In our role as flood mitigation authority, we have an indirect interest in development of the subject land in that any restriction of flows by development in what is a natural restriction in the river will have a negative impact on flooding upstream."*

No work is proposed which is likely to restrict flows in the Evans River.

2. Capacity of proposed foreshore offset area including public lands to function as an effective environmental buffer.

Response

The revised Plans of Proposed Subdivision propose to dedicate a public reserve (Lots 141 and 142) between the proposed road and the existing foreshore road reserve, having an area of 4959m^2 (in two parts). The former Lots 151 and 152 had a similar area as the currently proposed foreshore public reserve.

Richmond Valley Council (RVC) does not want any additional freehold land dedicated as public reserve beyond that proposed on the amended Plan of Proposed Subdivision at **Appendix 2**.

In summary, the revised application complies with Council's requirements for open space.

3. Future management of foreshore offset area.

Response

It is proposed that the section of Crown road to be constructed between Lots 163 and 276 be transferred to RVC in accordance with Section 152 I of the Roads Act, 1993 as amended. This can be achieved by imposing a condition of consent.

Letter 24 February 2014

1. Enhance public access to the Evans River.

Response

A response to this issue is provided at Section 3.4 of the RTS at **Appendix 3**. In summary, no embellishment of the Crown foreshore reserve adjacent to the Evans River is proposed.

2. Future management of the foreshore road reserve.

Response

See comments above.

5.1.2 Constraints

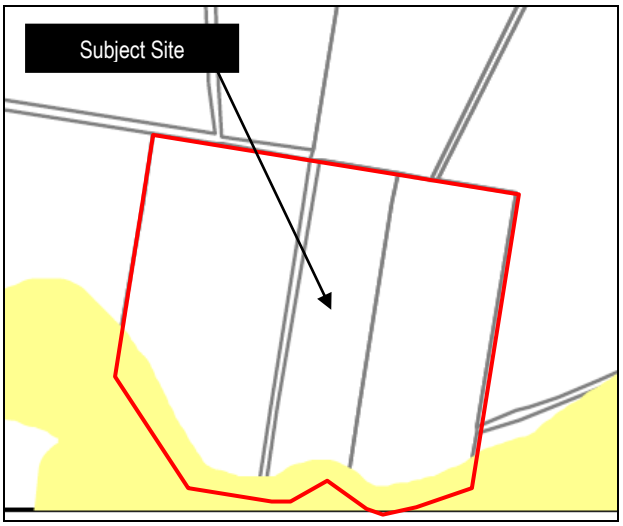

Figure 2 – Flood Prone Land Mapping – Source: RVC Mapping

Flood Prone Land

Part of the site is mapped as flood prone under Richmond Valley Council's Q100 flood level mapping (See **Fig. 2**). A **Flood Impact Assessment** has been carried out for the proposed development and is contained within **Annexure 5.** Appropriate flood management responses have been incorporated into the proposal.

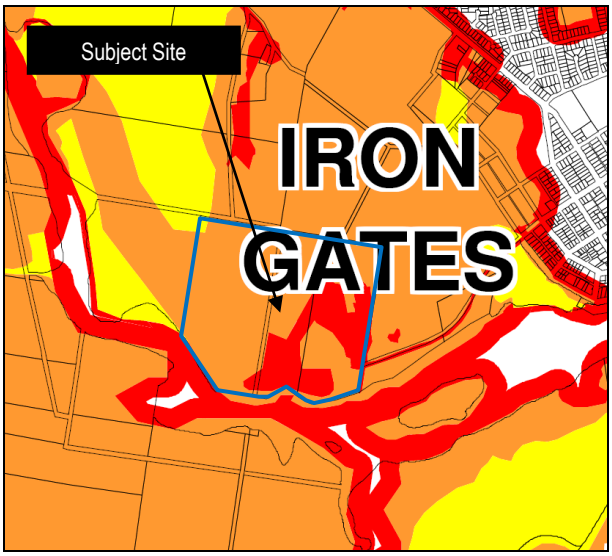

Figure 3 – Bushfire Prone Land Mapping – Source: RVC Mapping

Bushfire Prone Land

The site is identified as containing both Category 1 (shown in orange) and Category 2 (shown in yellow) bushfire prone vegetation under Richmond Valley Council's bushfire mapping (See **Fig.3**). Further detail citing the proposed design response to the surrounding bushfire threat has been included within **Annexure 3** of this document.

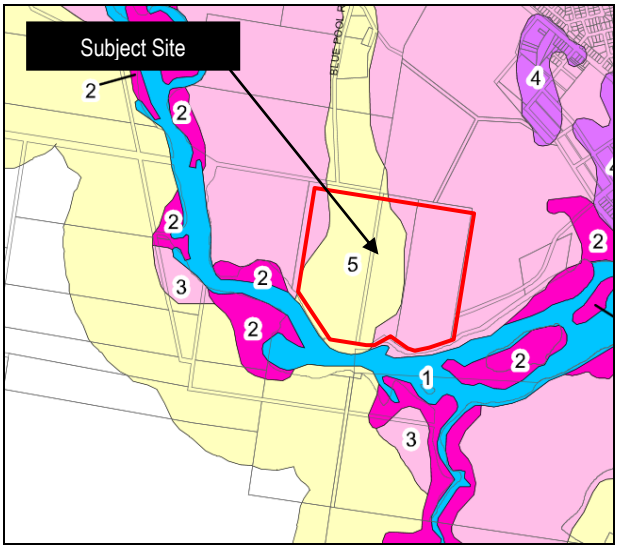

Figure 4 – Acid Sulfate Soils Mapping – Source: RVLEP2012

Acid Sulfate Soils

The site has been mapped as potentially containing Class 3 and 5 Acid Sulfate Soils (See **Fig. 4**).

Acid sulfate soils are addressed in **Annexure 4**.

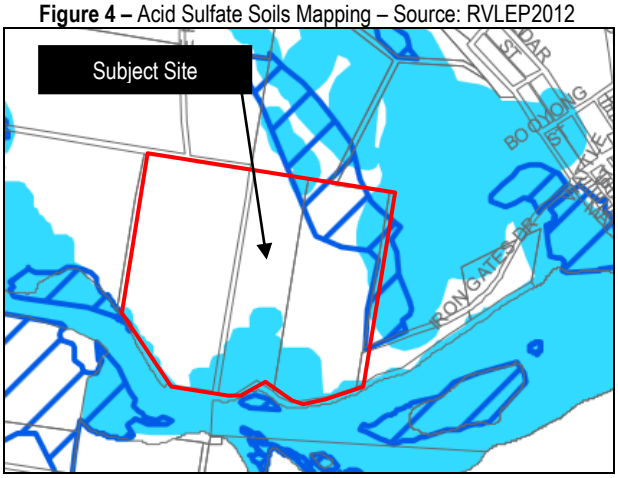

Figure 5 – Wetlands and Waterways Mapping – Source: RVLEP2012

Wetlands, Riparian Lands, Waterways and Key Fish Habitat

The site contains mapped potential fish habitat and wetland areas (See **Fig. 5**). An assessment of the proposal's potential impact on these waterways and wetlands has been provided within **Annexures 7 and 8.**

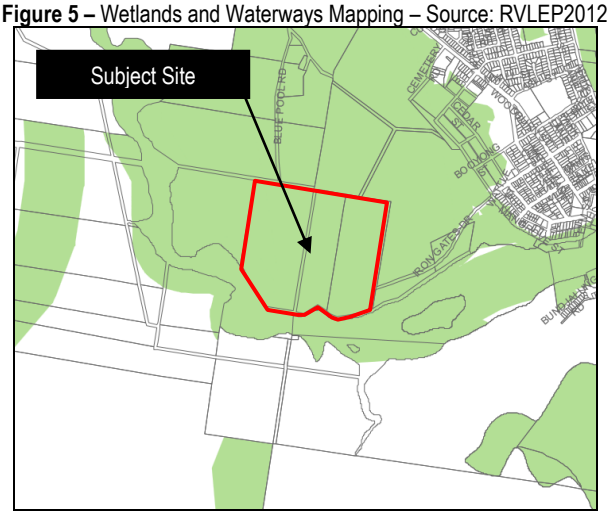

Figure 6 – Biodiversity Mapping – Source: RVLEP2012

Biodiversity

The land contains areas of remnant native vegetation and is mapped within a biodiversity value area under the Richmond Valley LEP 2012 (See **Fig. 6**). The proposed development footprint is contained largely within the cleared areas of the site. An assessment of the proposed development and its impact upon the biodiversity values is discussed throughout this report. A Flora and Fauna Impact Assessment has been carried out and is contained within **Annexures 7 and 8**.

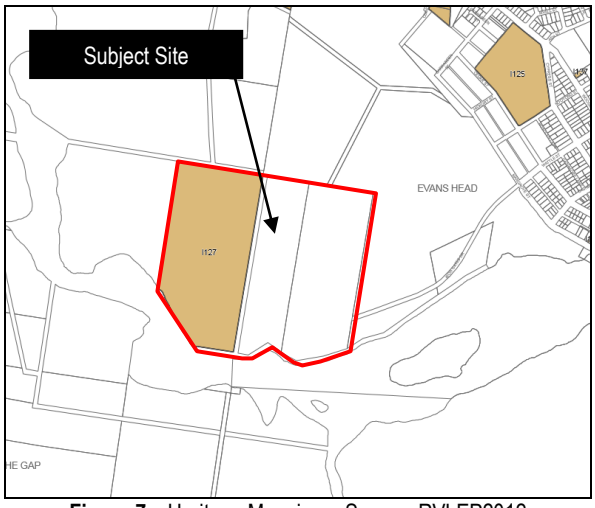

Figure 7 – Heritage Mapping – Source: RVLEP2012

Heritage

The site is identified to contain a local heritage item, being "Paddon Grave, Iron Gates (Ref No. I127)" The site also contains a midden (See **Fig. 7**). A Cultural Heritage Assessment has been completed for the development and is contained at **Annexure 9**.

6.0 STATUTORY ASSESSMENT

The following provides an assessment of the proposed development in accordance with the matters under Section 4.15(1)(a) of the Environmental Planning & Assessment Act, 1979 and the relevant Council controls applying to the subject site.

6.1 State Environmental Planning Policies

6.1.1 State Environmental Planning Policy No. 71 – Coastal Protection

The site is located within the coastal zone and as such the provisions of SEPP 71 apply. As defined within the SEPP, the site is located within a sensitive coastal location as it is 100m from the mean high water mark of a sea, bay or estuary and within 100m of mapped SEPP 14 Coastal wetlands.

Clause 8 – Matters for consideration

The proposed subdivision has been designed considering the site attributes and constraints. Appropriate measures have been included in the design and will be established at construction stage to minimise potential impact on environmental and scenic values. The subdivision layout will provide new opportunities for public access to Evans River.

A review of the heads of consideration (Section 8) and other key matters listed under the SEPP has been undertaken and is provided below.

Section 8

(a) The aims of this Policy set out in clause 2,

(1) This Policy aims:
(a) To protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and

Comment: The proposal seeks to subdivide land which has historically been zoned for urban purposes. All proposed residential lots are contained within the R1 General Residential land use zone boundary.

- Natural Environment

  The development footprint has been mainly contained within the R1 Zoned land and on land that has been subject to land clearing and degradation in association with former subdivision works onsite.

  The development footprint has been guided by a detailed flora and fauna ecological assessment, which confirmed the land suitable for urban development. Revegetation and rehabilitation works will be undertaken within proposed reserve areas to ensure environmental values are retained. Minor encroachments into the E2 and E3 zones are proposed in areas which are highly disturbed and degraded, as indicated in the Terrestrial Flora and Fauna Assessment at Appendix 5 of the revised SEE (July 2019).

  An average 40m setback has been proposed to the Evans River foreshore. This area will be revegetated and maintained as public open space, promoting usability of the foreshore and visual buffering between the urban footprint.

- Cultural

  A detailed Cultural Heritage Assessment has been undertaken for the site. This has included consultation with representatives of the traditional land owners and ongoing community consultation processes. The assessment identified a shell scatter / midden within the south of the site, adjoining the foreshore area. Minor works are proposed over this culturally significant site. Ongoing negotiations are being undertaken regarding the future protection and/or relocation of this shell midden. This is being considered under an Aboriginal Heritage Impact Permit application for the land.

  In addition to the protection of the shell midden, the proposed setback from the foreshore area will ensure views along the river are not impeded by residential development. This will assist in protecting the traditional views towards the foreshore area.

- Recreational

  As discussed above, the proposal seeks to dedicate and embellish public reserves adjacent to the river foreshore (Lots 141 and 142). These lots will be suitably embellished to promote usability and recreation activity.

  Appendix 7 (Landscape Statement of Intent, 17 July 2019) of the revised SEE (July 2019) continues to apply to the site with the exception of the Evans River foreshore embellishment work shown on Figure 3.3. Under this varied proposal no work is proposed in the Crown foreshore reserve. Proposed embellishment work in the proposed public reserves (Lots 141 and 142) is shown on the plans at Annexure 9 of the RTS Report (see **Appendix 3**).

- Economic

  The proposal will provide for new housing opportunity on the Far North Coast. The proposed subdivision includes a range of residential lot types which will encourage housing diversity and lifestyle choice in the locality and achieve the objectives of the North Coast Regional Plan 2036.

(b) To protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and

Comment: Despite a road reserve currently fronting the Evans River foreshore, there is no constructed public access to the river from the site. No embellishment of the foreshore reserve is proposed. This is discussed in Section 5.2.1. An average 40m setback is proposed to this foreshore which is consistent with the NSW Office of Water requirements for development on water front land.

(c) To ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and

Comment: See comments above.

(d) To protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and

Comment: A Cultural Heritage Assessment has been undertaken as part of the preparation of this Development Application (Appendix 8 of the revised SEE July 2019).

This assessment has concluded that the proposed subdivision is unlikely to have any detrimental impact on aboriginal cultural significance and has included a number of recommendations to ensure appropriate management during construction works.

A shell scatter was identified on the site. Subject to the support of the Bandjalang, the shell scatter will be collected and placed in a safe area within the site. An Aboriginal Heritage Impact Permit Application has been submitted (6 July 2015) to National Parks and Wildlife to undertake these works, however the permit has not been issued to date (see Appendix 8 of the revised SEE July 2019).

(e) To ensure that the visual amenity of the coast is protected, and

Comment: The proposal seeks to subdivide land which has historically been zoned for residential purposes. Future dwellings constructed on the land will be guided by the existing planning controls which prescribe maximum building height, bulk and scale provisions. An 8.5m building height requirement is applied to the whole site which will ensure any future dwelling on the land will not significantly protrude into the skyline.

As mentioned above, an average 40 meter wide setback from the Evans River waterline is provided and will be landscaped and embellished as part of the proposed works on site. These works will contribute to the protection of the natural amenity of the coastline.

(f) To protect and preserve beach environments and beach amenity, and

Comment: The proposal will not have any impact on beach environments or beach amenity.

(g) To protect and preserve native coastal vegetation, and

Comment: Required clearing works are restricted to highly modified / previously cleared areas. A Flora and Fauna Assessment has been undertaken for the site which confirms that these clearing works will not have any significant environmental impact on flora and fauna species or their habitats.

Landscaping within road reserve and open space areas will also contribute to the existing native vegetation onsite.

(h) To protect and preserve the marine environment of New South Wales, and

Comment: The proposal does not impact upon fish, marine vegetation or estuarine habitats (see Appendices 5, 6 and 11 of the revised SEE July 2019).

(i) To protect and preserve rock platforms, and

Comment: No rock platforms will be impacted by the proposed development.

(j) To manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and

Comment: As discussed above the proposed subdivision provides for population growth and economic development without putting the natural, cultural and heritage values of the coastal environment at risk. The proposal is in accordance with the principles of sustainable development.

(k) To ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and

Comment: Any future dwellings onsite will be designed in accordance with the general housing guidelines prescribed by Richmond Valley Council's LEP & DCP. These controls include provisions for building setbacks, height and bulk as well as landscaping and infrastructure provision. These controls have been prepared specific to the Richmond Valley LGA and will ensure any future building works are consistent with the natural scenic quality of the area.

(l) To encourage a strategic approach to coastal management.

Comment: The site has been historically earmarked for residential development. The proposal is consistent with the strategic planning for the area, including the North Coast Regional Plan 2036 and RVC Development Control Plan 2015.

(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,

Comment: As discussed above the land fronting the Evans River Foreshore Reserve is currently privately owned, which prohibits public access. Two areas will be dedicated as public reserve and embellished.

(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

Comment: The proposal seeks to establish a new public foreshore open space and access area. A range of public services including picnic and seating areas will be provided to promote recreation activity in this area.

(d) The suitability of development given its type, location and design and its relationship with the surrounding area,

Comment: The proposal is consistent with the relevant land use zone and development provisions. It will provide new housing opportunity on land that has historically been earmarked for this purpose. The proposal is consistent with the strategic planning for the area.

(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,

Comment: As discussed in detail above, appropriate measures have been included in the design to ensure the proposed works and future land use on site will not have any detrimental impact on the amenity of the coastal foreshore. The proposed 40m average setback from the foreshore will ensure overshadowing or view losses of this natural area do not occur.

(f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Comment: Similar to the comments provided above, the proposed subdivision is consistent with the provisions for residential development provided by Richmond Valley Council's LEP and DCP. Native vegetation along the Evans River foreshore will be retained and within proposed Lots 176 and 177, which will ensure the natural scenic qualities of the NSW coast are protected.

(g) Measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act}, and their habitats,

Comment: A Flora and Fauna Assessment has been undertaken for the site. This report confirms that by limiting the development footprint to the already cleared /low ecological value areas of the site, the proposed development will not create any significant adverse impact on terrestrial biodiversity in the locality. Proposed landscaping and revegetation works consistent with the regrowth vegetation on site will assist in maintaining and regenerating natural habitat in the area. The proposal will have minimal impact on animals and their environments.

(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,

Comment: The proposal will have minimal impact on fish and marine vegetation (see Appendices 5, 6 and 11 of the revised SEE July 2019).

(i) Existing wildlife corridors and the impact of development on these corridors,

Comment: The proposal seeks to retain vegetated corridors through the site and along the foreshore to protect wildlife movements. The Flora and Fauna Assessment confirms that the proposal will not have any detrimental impact on wildlife corridors in the area.

(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Comment: The site is not mapped within a coastal hazard zone. Setting development appropriately back from the foreshore area will assist in minimising the risk of impact from coastal processes.

(k) Measures to reduce the potential for conflict between land-based and water-based coastal activities,

Comment: The proposal will promote land and water based activity along the coastal foreshore in an area that was previously only accessible by private property. No site specific controls are considered necessary to manage land and water based activities.

(/) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

Comment: As discussed above, a Cultural Heritage Assessment (Appendix 8 of the revised SEE July 2019) was been undertaken as part of the preparation of the Development Application. The recommendations in the report will be complied with.

(m) Likely impacts of development on the water quality of coastal waterbodies,

Comment: The proposal will have minimal impact on water quality. Appropriate measures have been proposed to manage potential water quality impacts such as bio-retention areas, seepage pits and gross pollutant traps as well as erosion and sediment control.

The supporting Engineering Assessment at Appendix 2 of the revised SEE July 2019 confirms that water quality can be appropriately managed under the revised development scenario.

(n) The conservation and preservation of items of heritage, archaeological or historic significance,

Comment: A local heritage item, being "Paddon's Grave, Iron Gates" is identified approximately 70m west of the development footprint. The Cultural Heritage Assessment confirms that the proposal will not impact this local heritage item.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Comment: The site has been zoned for residential development for approximately 25 years.

(p) Only in cases in which a development application in relation to proposed development is determined:

(i) The cumulative impacts of the proposed development on the environment, and

Comment: The impacts of the proposal have been identified as short term and manageable. Significant environmental, social and economic benefits would be experienced over a longer period.

(ii) Measures to ensure that water and energy usage by the proposed development is efficient.

Comment: Energy saving measures will be incorporated in future dwelling designs.

Clause 14 – Public Access

The proposed development will not impact upon or prevent access to the Evans River foreshore reserve as it is wholly contained within private property. The proposed foreshore reserve/open space area (Lots 141 and 142) at the south of the development will be dedicated to Richmond Valley Council and embellished for use. Public access will be available to the Evans River frontage.

Despite a road reserve currently fronting the river foreshore, there is no opportunity for public access to the river from within the site. The proposal will establish a new public open space area fronting this foreshore. An average 40m setback is proposed to this foreshore which is consistent with the NSW Office of Water requirements for water front land development.

Clause 15 – Effluent Disposal

Reticulated sewer is accessible for the site and all of the residential allotments are to be connected to Council's sewerage network. Detail of the proposed connection is provided within Appendix 2 of the revised SEE July 2019. The proposal is compliant with Clause 15.

Clause 16 – Stormwater

The proposed subdivision layout seeks to maintain the natural drainage regime for the land. Bio-retention areas, ponds and gross pollutant traps are proposed to collect and manage stormwater from the site. Appropriate erosion and sedimentation controls will be implemented during the construction phase (see Appendix 2 of the revised SEE July 2019).

Clause 18 – Master plan required before certain consents may be granted

The proposed subdivision is located within a sensitive coastal location as defined by the SEPP. A Master Plan is required pursuant to Clause 18(1) of the Policy.

This revised Master Plan is submitted pursuant to Clause 18. Relevant matters for consideration in Clause 20 are addressed in **Table 1**.

TABLE 1 – CLAUSE 20 OF SEPP71 – COASTAL PROTECTION	
CONSIDERATION	**COMMENT**
20 Preparation of master plans	
(1) A draft master plan may be prepared by or on behalf of the owner or lessee of the land concerned.	This Concept Proposal Outline is an alternative to a Master Plan.

TABLE 1 – CLAUSE 20 OF SEPP71 – COASTAL PROTECTION	
CONSIDERATION	**COMMENT**
(2) A draft master plan is to illustrate and demonstrate, where relevant, proposals for the following:	
(a) design principles drawn from an analysis of the site and its context,	Appendix 1 of the revised SEE July 2019– Amended Subdivision Plans and Site Analysis Plan.
(b) desired future locality character,	The revised SEE July 2019 and Appendices and RTS Report at **Appendix 3**.
(c) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards,	The revised SEE July 2019 and Appendices and RTS Report at **Appendix 3**.
(d) the scale of any development and its integration with the existing landscape,	The revised SEE July 2019 and Appendices and RTS Report at **Appendix 3**.
(e) phasing of development,	See **Appendices 1** and **2**.
(f) public access to and along the coastal foreshore,	See comments at Sections 5.1 and 6.1.
(g) pedestrian, cycle and road access and circulation networks,	See revised SEE July 2019.
(h) subdivision pattern,	See **Appendices 1** and **2**.
(i) infrastructure provision,	See revised SEE July 2019.
(j) building envelopes and built form controls,	See **Appendix 6**.
(k) heritage conservation,	See Section 6.1.1 and revised SEE July 2019.
(l) remediation of the site,	See revised SEE July 2019.
(m) provision of public facilities and services,	See **Appendix 3**.
(n) provision of open space, its function and landscaping,	See **Appendix 3**.
(o) conservation of water quality and use,	See revised SEE July 2019.
(p) conservation of animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	See revised SEE July 2019 and **Appendix 3**.
(q) conservation of 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.	See Appendices 5 and 6 of revised SEE July 2019.

Access to the site will be provided by Iron Gates Drive and proposed streets including a new street adjoining the Evans River foreshore.

The street will provide public vehicular and pedestrian access to the proposed foreshore public reserve (Lots 141 and 142) which will be suitably embellished and landscaped.

6.1.2 NSW Coastal Policy

The NSW Government Coastal Policy applies to the land. The proposed development is considered to be consistent with the design and locality objectives of the NSW Government Coastal Policy as discussed in this Section.

Natural Environment

Clause 1.2.5 Threatened species
See revised SEE July 2019.

Clause 1.2.7 Threatening processes
See revised SEE July 2019.

Clause 1.3.2 Non-point source of pollution
The revised Engineering Services and Civil Infrastructure Report appended to the revised SEE July 2019 addresses this issue.

Clause 1.3.7 Water quality
The revised Engineering Services and Civil Infrastructure Report appended to the revised SEE July 2019 addresses this issue.

Clause 1.3.8 Contaminated stormwater
The revised Engineering Services and Civil Infrastructure Report appended to the revised SEE July 2019 addresses this issue.

Clauses 1.4.5 & 1.4.7 Assessment of coastline development proposals
The development site is not in close proximity to the coastline and is not subject to coastal processes. No development is proposed in, or immediately adjacent to, the Evans River and potential adverse impacts have been avoided and mitigated in the design and siting of the development.

Natural Processes & climate change

Clause 2.1.3 Physical and ecological processes
Physical and ecological processes are addressed in the revised Engineering Services and Civil Infrastructure Report, the Terrestrial Flora and Fauna Assessment and the revised Ecological Assessment appended to the revised SEE July 2019.

Clause 2.1.4 Acid sulfate soils
The revised Engineering Services and Civil Infrastructure Report appended to the revised SEE July 2019 addresses this issue.

Clause 2.2.2 Sea level change
The revised Engineering Services and Civil Infrastructure Report appended to the revised SEE July 2019 addresses this issue.

Aesthetic qualities

Clause 3.2.1 North Coast design guidelines (1989)
The proposed development is not inconsistent with the guidelines and in particular, the location principles as the development is not on a headland, ridge or foreshore and will retain existing littoral rainforests and wetlands and provide appropriate treatment of the Evans River foreshore.

Clauses 3.2.2 & 3.2.4 Design to ensure more compact, human scale towns
The site is identified in the North Coast Regional Plan 2036 for Urban development and is zoned for residential development and the proposal is therefore not inconsistent with these Clauses. The proposal is also not inconsistent with the Design and Locational Policies which are relevant to the Development Application in the context of the site location and existing zone.

Cultural heritage

Clause 4.2.3 Aboriginal heritage
Cultural heritage issues are addressed in Section 6.1.1, **Appendix 3** and the revised SEE July 2019.

7.0 CONCLUSION

As reflected in this Concept Proposal Outline, the proposal addresses all statutory and policy requirements. The proposed development is permissible, with development consent and has been designed to avoid or mitigate potential adverse impacts.

The application is considered to be a logical and appropriate approach to the development of the land having regard to relevant planning controls, the context of the surrounding area, and the circumstances of this case. On this basis Council and the NRPP are respectfully requested to approve this Concept Development Application.

CONCEPT PROPOSALS FOR SUBDIVISION, CLEARING, EARTHWORKS, ROADWORKS, DRAINAGE, UPGRADING OF IRON GATES DRIVE, INFRASTRUCTURE AND EMBELLISHMENT OF PROPOSED PUBLIC RESERVES - DA 2015/0096- STAGE 1 & 2 IRON GATES - EVANS HEAD

Lot Table	
Lot	Area
1	969 m²
2	612 m²
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14	612 m²
15	612 m²
16	612 m²
17	612 m²
18	612 m²
19	612 m²
20	612 m²
21	649 m²
22	615 m²
23	600 m²
24	600 m²
25	600 m²
26	600 m²
27	600 m²
28	600 m²
29	627 m²
30	600 m²
31	600 m²
32	600 m²
33	600 m²
34	600 m²
35	600 m²
36	788 m²
37	674 m²
38	775 m²
39	612 m²
40	604 m²
41	604 m²
42	604 m²
43	604 m²
44	604 m²
45	604 m²
46	604 m²
47	609 m²
48	605 m²
49	600 m²
50	600 m²
51	600 m²
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131	602 m²
132	602 m²
133	602 m²
134	614 m²
135	600 m²
136	2.188ha
137	4.857ha
138	47.418ha

Lot Table	
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151	600 m²
152	647 m²
153	619 m²
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156	646 m²
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173	605 m²
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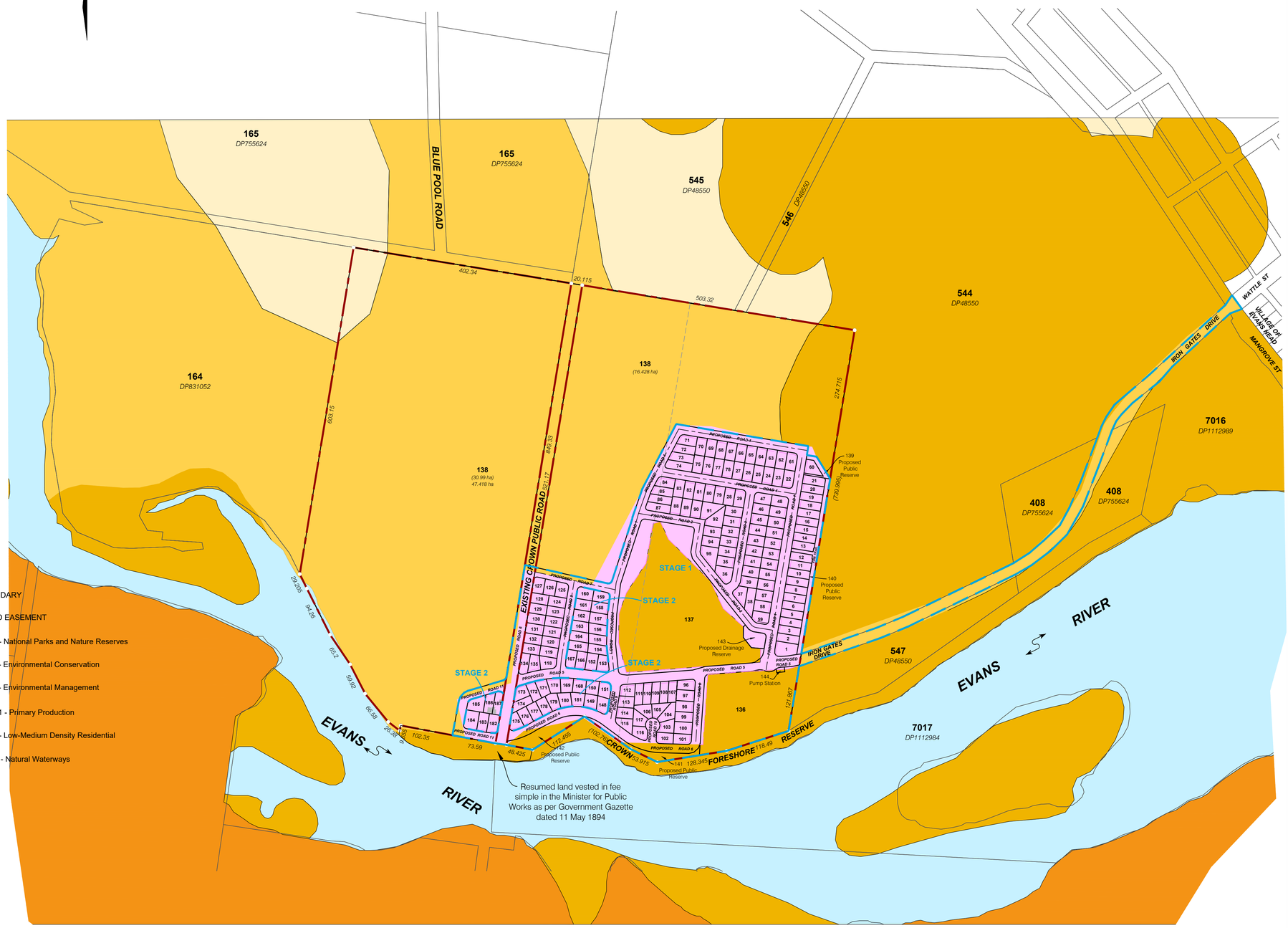
181	600 m²
182	665 m²
183	629 m²
184	834 m²
185	765 m²
186	603 m²
187	627 m²

LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways



CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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Residue Lots (3)	54.463ha
Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m

SCALE 1:4000 @ A1

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ISO 9001 Quality Management

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
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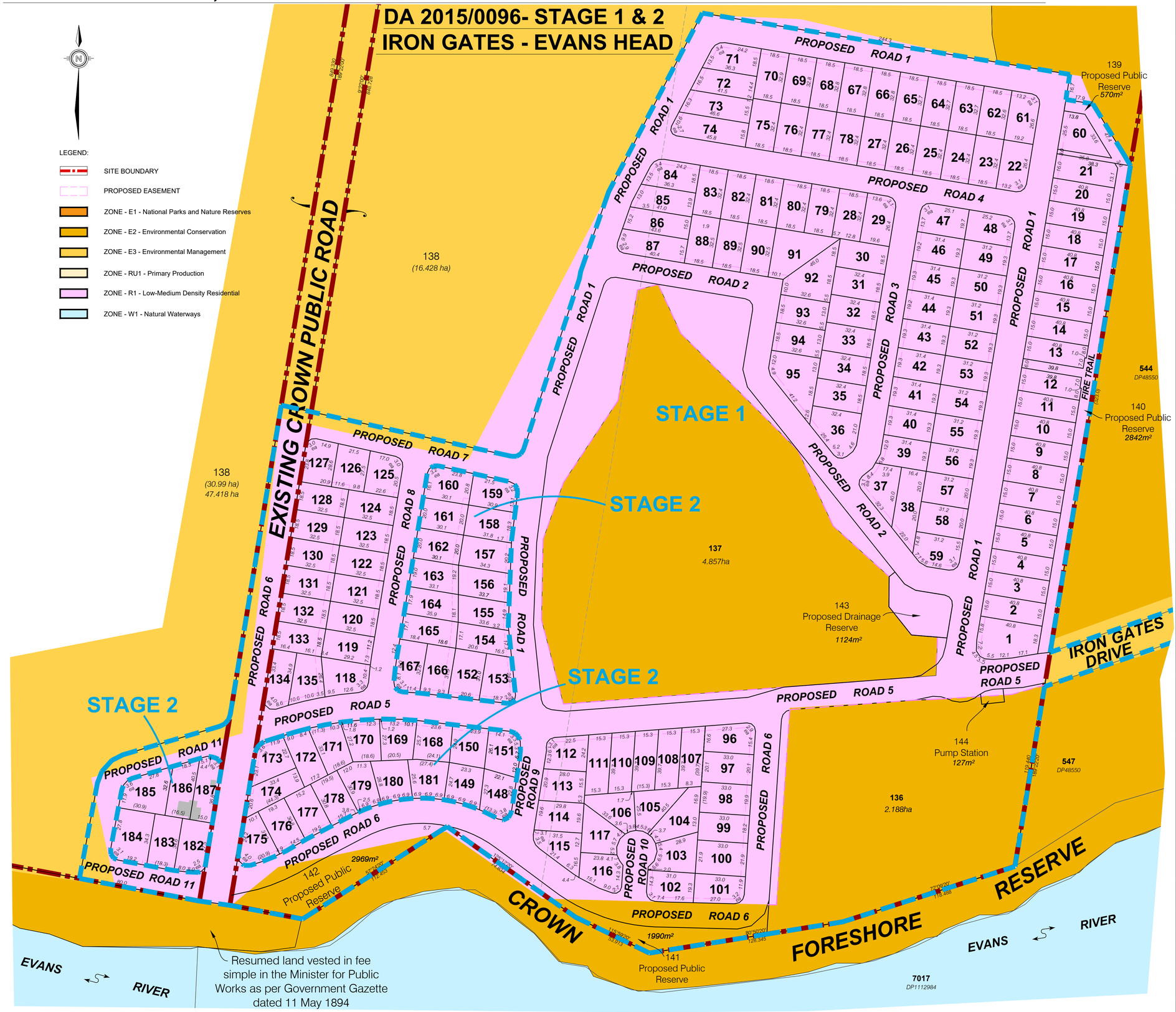
DA 2015/0096- STAGE 1 & 2
IRON GATES - EVANS HEAD



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0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

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CGW

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127	602 m²
128	602 m²
129	602 m²
130	602 m²
131	602 m²
132	602 m²
133	602 m²
134	614 m²
135	600 m²
136	2.188ha
137	4.857ha
138	47.418ha

Lot Table	
Lot	Area
148	600 m²
149	601 m²
150	600 m²
151	600 m²
152	647 m²
153	619 m²
154	603 m²
155	600 m²
156	646 m²
157	661 m²
158	626 m²
159	600 m²
160	639 m²
161	602 m²
162	602 m²
163	600 m²
164	618 m²
165	623 m²
166	604 m²
167	602 m²
168	600 m²
169	600 m²
170	600 m²
171	600 m²
172	600 m²
173	605 m²
174	600 m²
175	600 m²
176	601 m²
177	600 m²
178	600 m²
179	601 m²
180	601 m²
181	600 m²
182	665 m²
183	629 m²
184	834 m²
185	765 m²
186	603 m²
187	627 m²

LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
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- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
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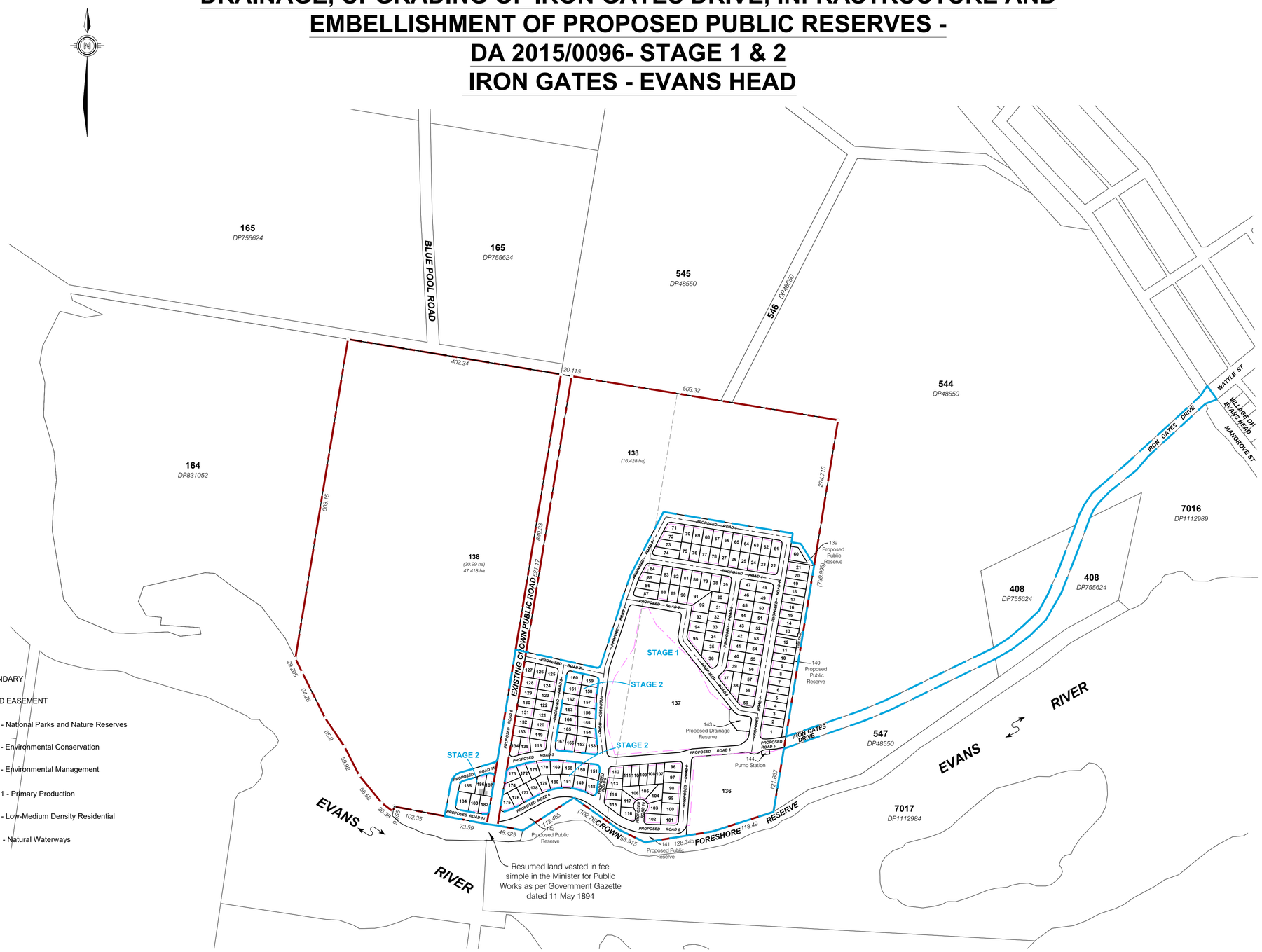

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

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Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m

SCALE 1:4000 @ A1

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bsi. ISO 9001 Quality Management

ISO 9001 FS 32061

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
DRAWN	CGW	DATE	19/07/2021
CHECKED	MEA	DATE	19/07/2021
APPROVED	CGW	DATE	19/07/2021
PLAN NUMBER	SHEET 1 OF 2 BRJD6396.100-55	REV	1

CGW

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CONCEPT PROPOSALS FOR SUBDIVISION, CLEARING, EARTHWORKS, ROADWORKS, DRAINAGE, UPGRADING OF IRON GATES DRIVE, INFRASTRUCTURE AND EMBELLISHMENT OF PROPOSED PUBLIC RESERVES - DA 2015/0096- STAGE 1 & 2 IRON GATES - EVANS HEAD

Lot Table	
Lot	Area
1	969 m²
2	612 m²
3	612 m²
4	612 m²
5	612 m²
6	612 m²
7	612 m²
8	612 m²
9	612 m²
10	612 m²
11	612 m²
12	605 m²
13	605 m²
14	612 m²
15	612 m²
16	612 m²
17	612 m²
18	612 m²
19	612 m²
20	612 m²
21	649 m²
22	615 m²
23	600 m²
24	600 m²
25	600 m²
26	600 m²
27	600 m²
28	600 m²
29	627 m²
30	600 m²
31	600 m²
32	600 m²
33	600 m²
34	600 m²
35	600 m²
36	788 m²
37	674 m²
38	775 m²
39	612 m²
40	604 m²
41	604 m²
42	604 m²
43	604 m²
44	604 m²
45	604 m²
46	604 m²
47	609 m²
48	605 m²
49	600 m²
50	600 m²
51	600 m²
52	600 m²
53	600 m²
54	600 m²
55	600 m²
56	600 m²
57	623 m²
58	623 m²
59	633 m²
60	632 m²
61	618 m²
62	604 m²
63	604 m²
64	605 m²
65	606 m²
66	606 m²
67	607 m²
68	607 m²
69	608 m²
70	609 m²

Lot Table	
Lot	Area
71	607 m²
72	608 m²
73	682 m²
74	766 m²
75	600 m²
76	600 m²
77	600 m²
78	600 m²
79	600 m²
80	601 m²
81	601 m²
82	601 m²
83	601 m²
84	608 m²
85	614 m²
86	634 m²
87	696 m²
88	602 m²
89	602 m²
90	602 m²
91	859 m²
92	856 m²
93	603 m²
94	603 m²
95	954 m²
96	616 m²
97	663 m²
98	657 m²
99	602 m²
100	723 m²
101	605 m²
102	609 m²
103	620 m²
104	714 m²
105	602 m²
106	604 m²
107	602 m²
108	602 m²
109	602 m²
110	602 m²
111	601 m²
112	600 m²
113	600 m²
114	600 m²
115	608 m²
116	601 m²
117	602 m²
118	644 m²
119	601 m²
120	601 m²
121	601 m²
122	601 m²
123	601 m²
124	601 m²
125	600 m²
126	601 m²
127	602 m²
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131	602 m²
132	602 m²
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163	600 m²
164	618 m²
165	623 m²
166	604 m²
167	602 m²
168	600 m²
169	600 m²
170	600 m²
171	600 m²
172	600 m²
173	605 m²
174	600 m²
175	600 m²
176	601 m²
177	600 m²
178	600 m²
179	601 m²
180	601 m²
181	600 m²
182	665 m²
183	629 m²
184	834 m²
185	765 m²
186	603 m²
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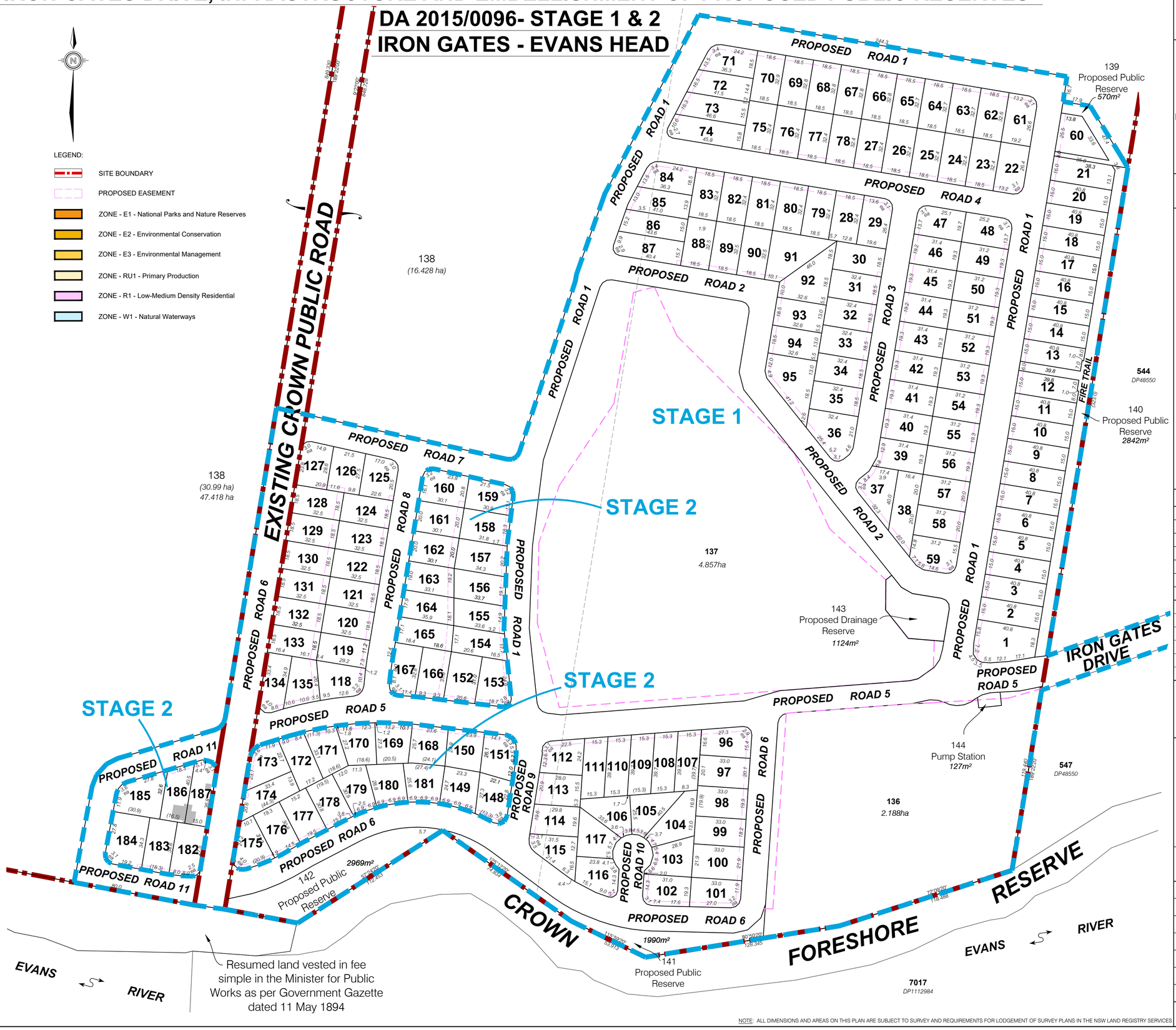

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

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ISO 9001 Quality Management

30 days in bloom

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
DRAWN	CGW	DATE	19/07/2021
CHECKED	MEA	DATE	19/07/2021
APPROVED	CGW	DATE	19/07/2021
PLAN NUMBER	SHEET 2 OF 2 BRJD6396.100-55	REV	1

CGW

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PLAN OF PROPOSED SUBDIVISION - DA 2015/0096- STAGE 1
IRON GATES - EVANS HEAD

Lot Table	
Lot	Area
1	969 m²
2	612 m²
3	612 m²
4	612 m²
5	612 m²
6	612 m²
7	612 m²
8	612 m²
9	612 m²
10	612 m²
11	612 m²
12	605 m²
13	605 m²
14	612 m²
15	612 m²
16	612 m²
17	612 m²
18	612 m²
19	612 m²
20	612 m²
21	649 m²
22	615 m²
23	600 m²
24	600 m²
25	600 m²
26	600 m²
27	600 m²
28	600 m²
29	627 m²
30	600 m²
31	600 m²
32	600 m²
33	600 m²
34	600 m²
35	600 m²
36	788 m²
37	674 m²
38	775 m²
39	612 m²
40	604 m²
41	604 m²
42	604 m²
43	604 m²
44	604 m²
45	604 m²
46	604 m²
47	609 m²
48	605 m²
49	600 m²
50	600 m²
51	600 m²
52	600 m²
53	600 m²
54	600 m²
55	600 m²
56	600 m²
57	623 m²
58	623 m²
59	633 m²
60	632 m²
61	618 m²
62	604 m²
63	604 m²
64	605 m²
65	606 m²
66	606 m²
67	607 m²
68	607 m²
69	608 m²
70	609 m²

Lot Table	
Lot	Area
71	607 m²
72	608 m²
73	682 m²
74	766 m²
75	600 m²
76	600 m²
77	600 m²
78	600 m²
79	600 m²
80	601 m²
81	601 m²
82	601 m²
83	601 m²
84	608 m²
85	614 m²
86	634 m²
87	696 m²
88	602 m²
89	602 m²
90	602 m²
91	859 m²
92	856 m²
93	603 m²
94	603 m²
95	954 m²
96	616 m²
97	663 m²
98	657 m²
99	602 m²
100	723 m²
101	605 m²
102	609 m²
103	620 m²
104	714 m²
105	602 m²
106	604 m²
107	602 m²
108	602 m²
109	602 m²
110	602 m²
111	601 m²
112	600 m²
113	600 m²
114	600 m²
115	608 m²
116	601 m²
117	602 m²

Lot Table	
Lot	Area
118	644 m²
119	601 m²
120	601 m²
121	601 m²
122	601 m²
123	601 m²
124	601 m²
125	600 m²
126	601 m²
127	602 m²
128	602 m²
129	602 m²
130	602 m²
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134	614 m²
135	600 m²
136	2.188ha
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145	9883 m²
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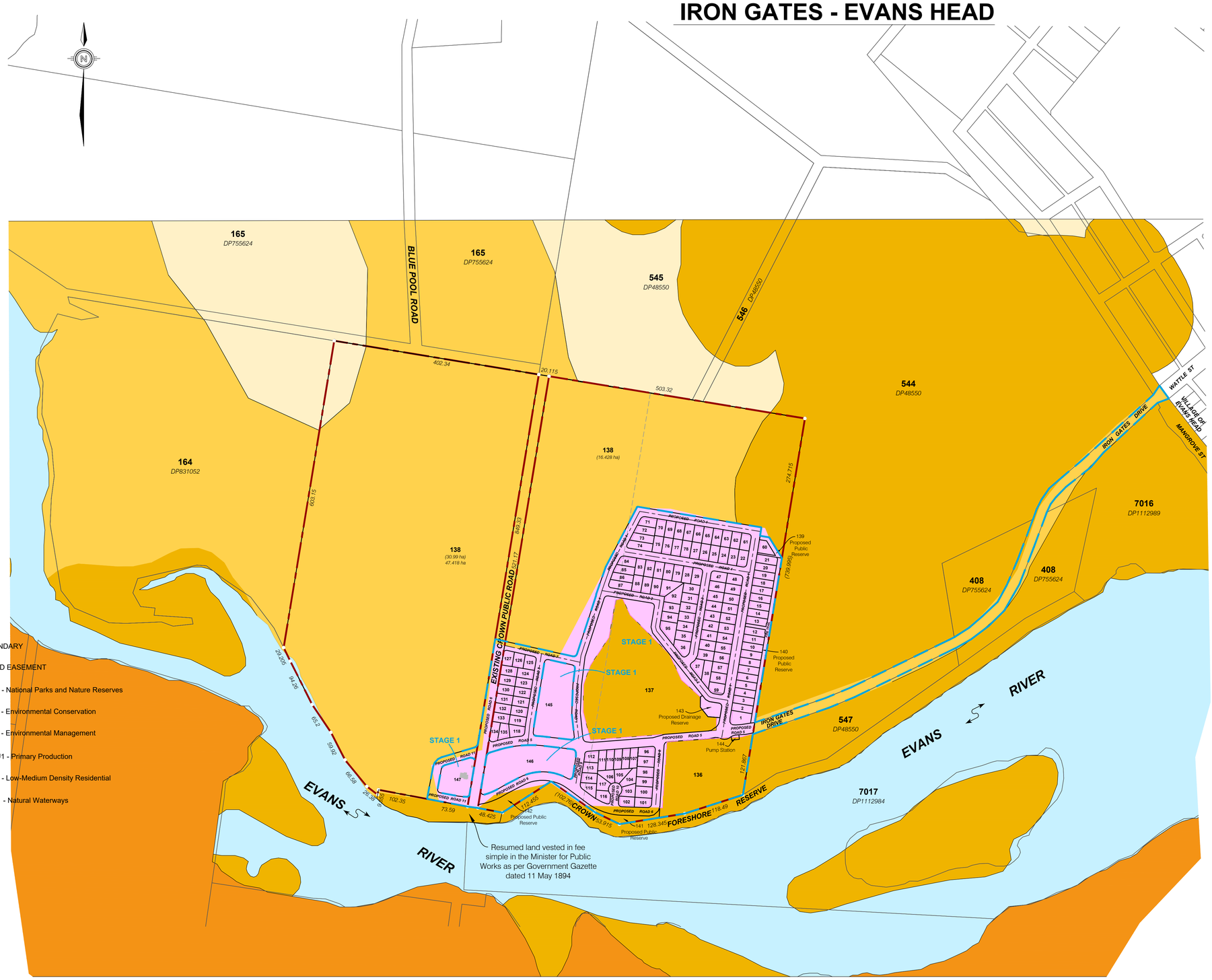

LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

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RICHMOND VALLEY

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ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m

SCALE 1:4000 @ A1

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LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
DRAWN	CGW	DATE	19/07/2021
CHECKED	MEA	DATE	19/07/2021
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PLAN NUMBER	SHEET 1 OF 2 BRJD6396.100-014	REV	T

CGW

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PLAN OF PROPOSED SUBDIVISION - DA 2015/0096- STAGE 1
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Lot Table	
Lot	Area
1	969 m²
2	612 m²
3	612 m²
4	612 m²
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10	612 m²
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13	605 m²
14	612 m²
15	612 m²
16	612 m²
17	612 m²
18	612 m²
19	612 m²
20	612 m²
21	649 m²
22	615 m²
23	600 m²
24	600 m²
25	600 m²
26	600 m²
27	600 m²
28	600 m²
29	627 m²
30	600 m²
31	600 m²
32	600 m²
33	600 m²
34	600 m²
35	600 m²
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41	604 m²
42	604 m²
43	604 m²
44	604 m²
45	604 m²
46	604 m²
47	609 m²
48	605 m²
49	600 m²
50	600 m²
51	600 m²
52	600 m²
53	600 m²
54	600 m²
55	600 m²
56	600 m²
57	623 m²
58	623 m²
59	633 m²
60	632 m²
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63	604 m²
64	605 m²
65	606 m²
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Lot	Area
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73	682 m²
74	766 m²
75	600 m²
76	600 m²
77	600 m²
78	600 m²
79	600 m²
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81	601 m²
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83	601 m²
84	608 m²
85	614 m²
86	634 m²
87	696 m²
88	602 m²
89	602 m²
90	602 m²
91	859 m²
92	856 m²
93	603 m²
94	603 m²
95	954 m²
96	616 m²
97	663 m²
98	657 m²
99	602 m²
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101	605 m²
102	609 m²
103	620 m²
104	714 m²
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Lot Table	
Lot	Area
118	644 m²
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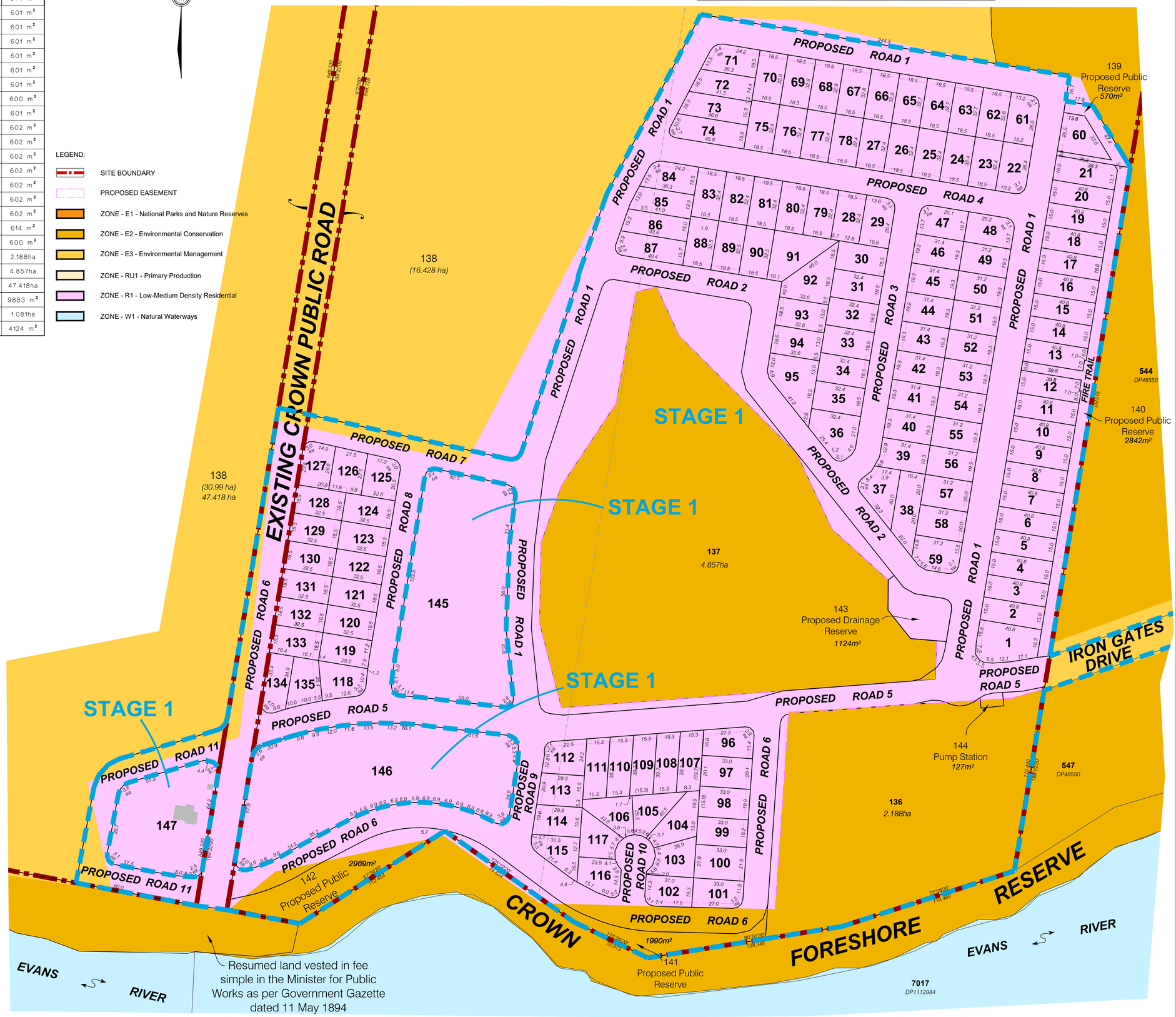

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ISO 9001 Quality Management

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PLAN NUMBER	SHEET 2 OF 2 BRJD6396.100-014	REV	T

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19	612 m²
20	612 m²
21	649 m²
22	615 m²
23	600 m²
24	600 m²
25	600 m²
26	600 m²
27	600 m²
28	600 m²
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44	604 m²
45	604 m²
46	604 m²
47	609 m²
48	605 m²
49	600 m²
50	600 m²
51	600 m²
52	600 m²
53	600 m²
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55	600 m²
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65	606 m²
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79	600 m²
80	601 m²
81	601 m²
82	601 m²
83	601 m²
84	608 m²
85	614 m²
86	634 m²
87	696 m²
88	602 m²
89	602 m²
90	602 m²
91	859 m²
92	856 m²
93	603 m²
94	603 m²
95	954 m²
96	616 m²
97	663 m²
98	657 m²
99	602 m²
100	723 m²
101	605 m²
102	609 m²
103	620 m²
104	714 m²
105	602 m²
106	604 m²
107	602 m²
108	602 m²
109	602 m²
110	602 m²
111	601 m²
112	600 m²
113	600 m²
114	600 m²
115	608 m²
116	601 m²
117	602 m²

Lot Table	
Lot	Area
118	644 m²
119	601 m²
120	601 m²
121	601 m²
122	601 m²
123	601 m²
124	601 m²
125	600 m²
126	601 m²
127	602 m²
128	602 m²
129	602 m²
130	602 m²
131	602 m²
132	602 m²
133	602 m²
134	614 m²
135	600 m²
136	2.188ha
137	4.857ha
138	47.418ha
145	9883 m²
146	1.081ha
147	4124 m²

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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LOTS	TOTAL AREA
Residential Lots (135)	14.4013ha
Super Lots (3)	2.4817ha
Residue Lots (3)	54.463ha
Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m

SCALE 1:4000 @ A1

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LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-21		
DRAWN	CGW	DATE	19/07/2021
CHECKED	MEA	DATE	19/07/2021
APPROVED	CGW	DATE	19/07/2021
PLAN NUMBER	SHEET 1 OF 2 BRJD6396.100-015	REV	Q

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CGW

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PLAN OF PROPOSED SUBDIVISION - DA 2015/0096- STAGE 1
IRON GATES - EVANS HEAD

Lot Table	
Lot	Area
1	969 m²
2	612 m²
3	612 m²
4	612 m²
5	612 m²
6	612 m²
7	612 m²
8	612 m²
9	612 m²
10	612 m²
11	612 m²
12	605 m²
13	605 m²
14	612 m²
15	612 m²
16	612 m²
17	612 m²
18	612 m²
19	612 m²
20	612 m²
21	649 m²
22	615 m²
23	600 m²
24	600 m²
25	600 m²
26	600 m²
27	600 m²
28	600 m²
29	627 m²
30	600 m²
31	600 m²
32	600 m²
33	600 m²
34	600 m²
35	600 m²
36	788 m²
37	674 m²
38	775 m²
39	612 m²
40	604 m²
41	604 m²
42	604 m²
43	604 m²
44	604 m²
45	604 m²
46	604 m²
47	609 m²
48	605 m²
49	600 m²
50	600 m²
51	600 m²
52	600 m²
53	600 m²
54	600 m²
55	600 m²
56	600 m²
57	623 m²
58	623 m²
59	633 m²
60	632 m²
61	618 m²
62	604 m²
63	604 m²
64	605 m²
65	606 m²
66	606 m²
67	607 m²
68	607 m²
69	608 m²
70	609 m²

Lot Table	
Lot	Area
71	607 m²
72	608 m²
73	682 m²
74	766 m²
75	600 m²
76	600 m²
77	600 m²
78	600 m²
79	600 m²
80	601 m²
81	601 m²
82	601 m²
83	601 m²
84	608 m²
85	614 m²
86	634 m²
87	696 m²
88	602 m²
89	602 m²
90	602 m²
91	859 m²
92	856 m²
93	603 m²
94	603 m²
95	954 m²
96	616 m²
97	663 m²
98	657 m²
99	602 m²
100	723 m²
101	605 m²
102	609 m²
103	620 m²
104	714 m²
105	602 m²
106	604 m²
107	602 m²
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129	602 m²
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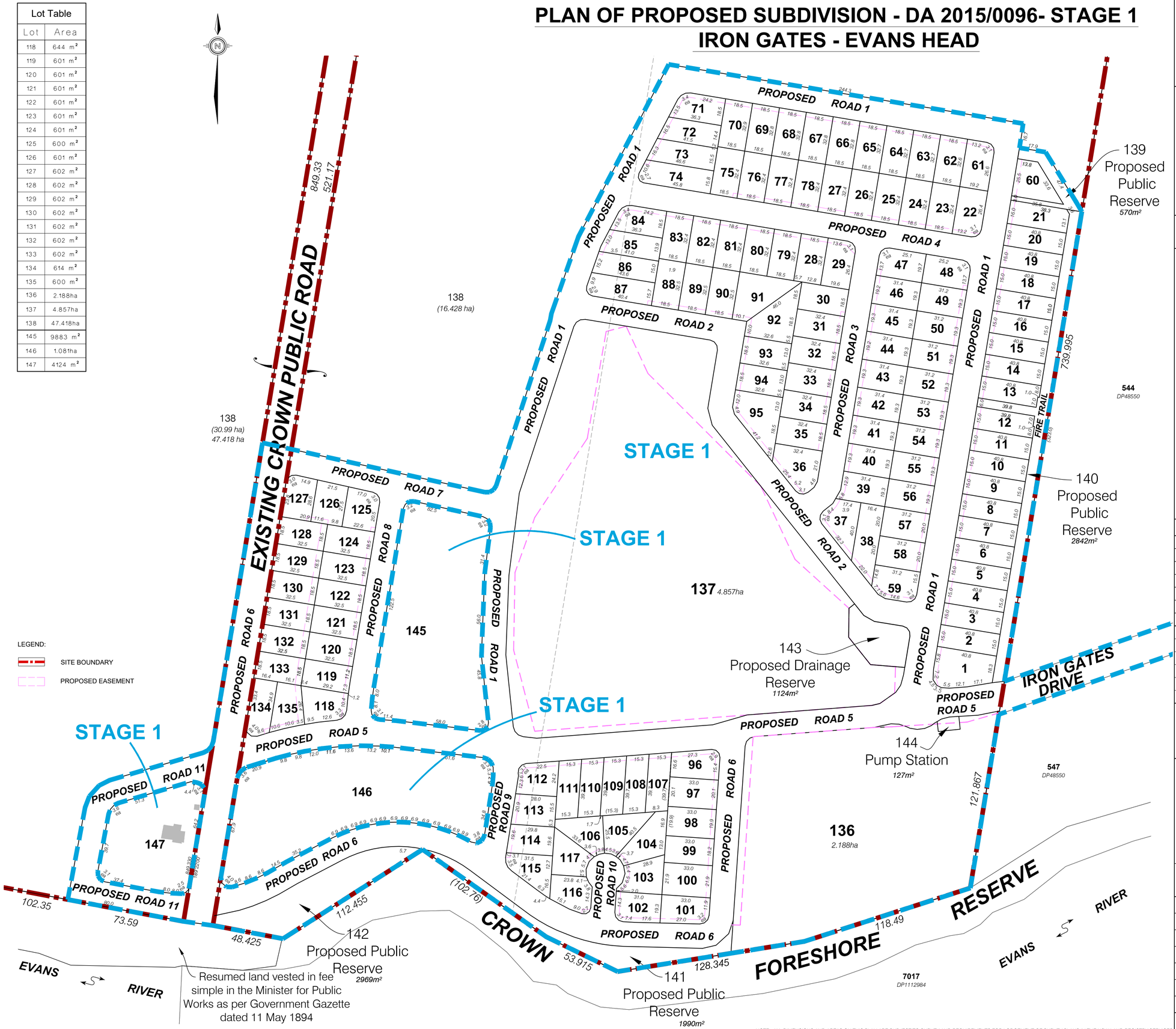
131	602 m²
132	602 m²
133	602 m²
134	614 m²
135	600 m²
136	2.188ha
137	4.857ha
138	47.418ha
145	9883 m²
146	1.081ha
147	4124 m²



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GOLDCORAL PTY LTD

PROJECT

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ADDITIONAL NOTES

SCALE BAR

0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

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CGW

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RESPONSE TO SUBMISSIONS

State Environmental Planning Policy No. 71 Coastal Protection
Master Plan
Iron Gates Development
Evans Head

Prepared By:

DAC PLANNING PTY LTD

Prepared For:

GOLDCORAL PTY LTD

March 2020

PIA Registered Planner
Planning Institute Australia

dacplanning.com.au

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ANNEXURE 10	**DoPIE (BCD) Letter Dated 20 November 2019 Regarding Ecology and Offsets**

1.0 INTRODUCTION

Following public exhibition of the State Environmental Planning Policy No. 71 (SEPP71) Master Plan (DAC Planning Pty Ltd, Revised October 2019), a total of 88 public submissions were received. 60 of the submissions support the proposed development and 28 submissions oppose the proposed development.

Key issues raised in the public submissions are addressed in Section 2.0 of this Report.

Submissions were also received from State Agencies including:

- Natural Resource Access Regulator (NRAR)/ Department of Planning, Industry and Environment (DoPIE) Water dated 23 January 2020.
- DoPIE, Biodiversity Conservation Division dated 20 November 2019.
- Natural Resource Commission dated 11 December 2019.
- DPI Fisheries dated 20 November 2019.
- DoPIE (Crown Lands) did not make a submission to the Draft Master Plan, however they did make a submission to DA2015/0096 on 19 December 2019. The submission was cc'd to the Department and raises issues relevant to the Master Plan. Those issues are also addressed in this Response.

The Department of Planning, Industry and Environment (DoPIE) arranged a meeting and site inspection at Evans Head with key State Agencies on 11 March 2020 in relation to the Draft Master Plan. Agencies invited to the meeting and those that attended are summarised in the following **Table 1**.

TABLE 1 – STATE AGENCY MEETING	
INVITED	**ATTENDANCES**
DoPIE	Jon Stone
Crown Lands	Did not attend. A telephone conference was held with Silas Sutherland.
Biodiversity Conservation Division	Did not attend.
Richmond Valley Council	Angela Jones, Tony McAteer, Pooja Chugh, RVC Consultant Malcolm Scott.
Rural Fire Service	Did not attend.
DPI Fisheries	Did not attend.
Natural Resource Commission	Did not attend.
Natural Resource Access Regulator	Did not attend.

The key outcomes of the meeting are discussed in the responses to relevant Agency submissions.

Key issues raised in the Agency submissions are addressed in Section 3.0 of this Report.

The final Management Plan is intended to inform the final subdivision design which is the subject of DA2015/0096. The Development Application was publicly exhibited from 18 November 2019 and the Draft Master Plan was exhibited from 6 November 2019 to 8 December 2019.

2.0 PUBLIC SUBMISSIONS

The key issues raised in the public submissions are summarised as follows, together with responses.

2.1 Sewerage System Capacity

Sewer capacity is addressed at Section 9.2 of the Engineering Services and Civil Infrastructure Report (ESCIR) prepared by Arcadis at Appendix 2 of the Statement of Environmental Effects (SEE). The capacity analysis has been prepared following extensive consultations with Richmond Valley Council (RVC) Officers and concludes that there are no capacity constraints subject to detailed design and analysis at the subdivision works stage.

2.2 Population

The ESCIR at Appendix 2 of the SEE estimates that there will be a total population of 563.5 persons based on 105 singles dwellings @ 2.3ppd and 140 dual occupancies @ 2.3ppd.

This equates to a nett density of 9.3 lot/hectare (based on the area of residentially zoned land at 18.86 hectares and 175 lots). It also equates to a density of approximately 12.7 dwellings/hectare, based on a total of 245 dwellings, including dual occupancy.

The lot/dwelling yield is consistent with the objectives of the R1 zone and the ultimate population reflects the optimal development potential of the site, having regard to relevant statutory planning controls and key site opportunities and constraints.

The proposal is also consistent with the provisions of the North Coast Regional Plan 2036 (NCRP) in that it will:

- Provide additional housing to meet the projected 2036 population (25,650 people) and dwellings (12,300).
- Delivery employment opportunities to Evans Head.
- Enhance the variety of housing options available in Evans Head.

2.3 Bushfire

The site has been zoned for residential development for approximately 30 years and is included in the Urban Footprint under the Far North Coast Regional Strategy 2006-2031 (FNCRS) and the NCRP2036. These Plans indicate that bushfire hazards are not an absolute constraint to development of the site for residential purposes.

Compliance with Planning for Bushfire Protection, 2006 is addressed in the Bushfire Assessments at Annexure 3 of the Draft Master Plan.

In addition, the Rural Fire Service (RFS) issued General Terms of Approval (GTAs) on 11 March 2020 for DA2015/0096 and therefore, it is concluded that bushfire hazards are not a significant issue.

2.4 Court Orders

A number of submissions to DA2015/0096 raised the issue of the status of previous Court Orders and the status of Iron Gates Drive. As indicated in the Statement of Environmental Effects for DA2015/0096 and the legal advices accompanying the Statement, Iron Gates Drive is a public road under the care, control and management of RVC. Whilst the submissions relate to the Development Application, they also have relevance to the Master Plan and the applicant's Lawyers, Mills Oakley, have advised as follows in relation to the submissions.

*"**Submission 498***

The identity of Goldcoral Pty Ltd as the applicant/proponent, and who its director is, is legally irrelevant to the determination of the development application.

This issue was comprehensively addressed by the Chief Judge of the Land and Environment Court in Jonah Pty Limited v Pittwater Council [2006] NSWLEC 99:

- *Planning and development consents are concerned with the acts done or to be done and the use, not the identity of the actor or user (at [34]).*
- *Development consents are not personal to the applicant and operate irrespective of who the owner of the land may be from time-to-time (at [34]).*
- *In undertaking the merit determination of whether to grant a development consent, it is irrelevant to enquire as to who is the current owner/operator, or who might be the future owner/operator, or whether the present owner/operator has in the past acted or used the land unlawfully, or whether the future owner/operator is likely in the future to act or carry out any approved use unlawfully (at [35]). Allegations of part unlawful use by the current owner not even relevant as a predictor of future unlawful use (at [34]). Mere unlawfulness of past use is not a relevant factor (at [37]).*

Issues about the personal character of an applicant and whether it/he/she is a fit and proper person is not something that can be lawfully considered (TL & TL Tradings Pty Ltd v Parramatta City Council [2016] NSWLEC 150 at [112]). Accordingly, the allegation about Goldcoral Pty Ltd and its director can simply be dismissed out-of-hand.

Submission 348

There are no proceedings in the Land and Environment Court on-foot concerning this site. Whether a company that no longer exists (Iron Gates Pty Ltd) has complied with orders of the Court is irrelevant. Given the age of the orders, and the fact that there is no party in existence to which they apply, they can have no relevance to the present determination of the application.

There is a claim that G A Ingles and P A Strawbridge are subject to orders of the Court as a result of Oshlack v Iron Gates Pty Ltd (number 40152 of 1996) [1997] NSWLEC 89. However, the online version of this judgment describes the orders as follows:

<u>Orders</u>
In accordance with the foregoing, I make the following orders:
1. *The first respondent shall remediate the land known as the Iron Gates site, being portions 276 and 277, Parish of Riley, in deposited plan 755624 ("the site") in accordance with the remediation plan annexed and marked "A".*
2. *The work referred to in order 1 shall commence immediately, be pursued as quickly as reasonably practical and shall be completed within two years of the date of this judgement.*
. *I grant liberty to all parties to apply on three days' notice.*
4. *I reserve the question of costs.*
. *The exhibits may be returned, with the exception of ex "M".*

We cannot see where the alleged extract from the 'orders' that appears in the submission has actually come from.

In any event, for reasons discussed above, these matters are irrelevant to the merit determination of the development application.

In terms of the Court order registered on title, a copy of the order (and the associated request) is attached.

We act for Goldcoral Pty Ltd (Goldcoral).

We understand that you have asked about the effect of the attached Court order registered on the title of the Goldcoral land.

The Court document comprises nine paragraphs.

Paragraphs 1-3 are declaratory and have no continuing effect.

Paragraphs 5-6 only apply to Iron Gates Pty Ltd. This corporation no longer exists.

Paragraphs 7-9 are administrative in nature and have no present significance.

This only leaves paragraph 4.

Paragraph 4 is an order that the Iron Gates Pty Ltd and its assigns be restrained from carrying out development under development consent 149/92. The order purports to prevent the current landowner of the Goldcoral land (as an 'assign') from acting on development consent 149/92.

Goldcoral is not proposing to act on development consent 149/92. Goldcoral is pursuing a new development consent (DA 2015/0096)."

2.5 Flood Concerns

Issues relating to flooding are addressed in Annexure 5 of the revised Master Plan (DAC Planning Pty Ltd, October 2019) and the Arcadis Response at **Annexure 6** of this Report.

2.6 Environmental Issues

The development has been designed based on an "avoid, mitigate, offset" strategy to reduce potential environmental impacts. A suite of Specialist Reports and Management Plans have been prepared to inform the design of the development and address potential impacts. Approved Management Plans for the construction phase can be required as a condition of consent to DA2015/0096 in accordance with normal practice, to ensure that potential impacts at this stage are managed and mitigated.

2.7 Ecological

The Ecological Reports, at Annexures 7 and 8 of the Draft Master Plan, address relevant statutory matters and proposed offsetting, where appropriate. The development site has been highly modified by previous work and has no significant ecological values.
In addition, the key State Agency responsible for ecological matters (DoPIE, Biodiversity Conservation Division) has not made a submission to the Draft Master Plan. The BDC did make a submission dated 13 November 2019 to DA2015/0096 stating that:

"We have reviewed the Statement of Environmental Effects (SEE) and attached appendices which include our correspondence that identifies a suitable offset for the proposed development. As such, we have no issues to raise about the submitted information being exhibited as part of the proposed development."

2.8 Aboriginal Cultural Heritage

Annexure 4 comprises an expert response to the submissions relating to Aboriginal cultural heritage. In summary, the Report concludes that issues raised in the submissions do not give rise to any matters that have not been addressed in the original Everick Aboriginal Cultural Heritage Assessment Report (2019). In addition, DoPIE (BCD) has issued General Terms of Approval for an AHIP.

2.9 Traffic

The ESCIR prepared by Arcadis at Annexure 5 of the Draft Master Plan includes a Traffic Report which concludes that:

*"**Conclusions***
Based on the assessment contained within this letter, it is considered that the proposed local road suitably designed to cater for the expected development traffic and there is to be suitable public transport infrastructure to cater for the needs of the local area."

RMS did not make a submission to the exhibited Draft Master Plan however the Service did make a submission dated 18 October 2019 to Development Application No. 2015/0096 (see **Annexure 8**). Arcadis has provided the following comments in relation to traffic issues raised in the private submissions.

"Traffic modelling and detailed analysis of the nearby intersections by an accredited consultant should be looked at in favour of anecdotal thoughts on the traffic network near to the site. The additional construction activity generated from the development should be considered within the 'normal activity' of local government roads, inclusive of earth-moving/trucking companies, residential construction activity and would be considered to be covered under the permits, taxes and rates paid by these businesses, contractors and future residents.

If there is a major concern for the existing road pavement quality, it is expected that the construction traffic would be a condition of approval, with a dilapidation survey required prior to commencement of works and any necessary repair works undertaken by the Contractor/Developer to return the road network to the prior standard.

Any upgrade costs of local roads would be well within the additional infrastructure charges paid to RVC as part of the plan sealing of the development, and would be the responsibility of the local government following the need for road upgrades as part of the infrastructure plan for the town. It is noted that any road upgrade would benefit all members of the community."

2.10 Impact on Evans River

The subdivision has been designed to minimise disturbance of the immediate riparian zone adjacent to the Evans River as a means of maintaining bank stability, minimising impacts on threatened species and native vegetation.

In addition, stormwater will be treated prior to discharge to the River and onsite detention is proposed to ensure that post development flows are essentially the same as pre development flows. Potential impacts on the Evans River are addressed in Section 2.5.

As indicated in Section 3.4 the Master Plan drawings have been amended to delete any work within the Evans River foreshore reserve.

3.0 STATE AGENCY SUBMISSIONS

3.1 NRAR/DoPIE Water (23 January 2020)

NRAR:

1. The Draft Master Plan for the Iron Gates Residential Release at Evans Head proposes a 10-metre setback from the mapped SEPP14 wetlands.
2. In accordance with the Guidelines for Riparian Corridors (NOW, 2012), wetlands are required to have a 40-metre Vegetated Riparian Zone setback.
3. The proposed Draft Master Plan for the Iron Gates Residential Release at Evans Head is not consistent with the Guidelines for Controlled Activities and NRAR recommends that the proposal be modified to include 40m setbacks.

The Project Ecologist (JWA Pty Ltd) has provided the following responses dated 4 March 2020.

Response to Item 1

*"As discussed in **SECTION 3.2.1** (pg. 17) and **SECTION 6.3** (pg. 123) of the Terrestrial Flora and Fauna Assessment (as amended July 2019 by JWA Pty Ltd) the northeast portion of the site contains a SEPP 14 Coastal Wetland area however, the extent of this wetland mapping does not reflect ground-truthed site vegetation.*

*The area mapped as SEPP 14 wetland occurring within the development footprint was determined to be regenerating acacia and/or cleared land. No permanent water exists in this location, and the area does not display characteristics of a wetland in terms of physical conditions or vegetation communities. The current SEPP 14 mapping also includes areas of Wet and Dry heath communities adjacent to the development footprint, in addition to a small patch of Swamp sclerophyll forest in the north-eastern corner of the site. Heath communities were excluded from original SEPP 14 mapping as they are rarely associated with bodies of standing water (Adam et al. 1985). An accurate/revised SEPP 14 map has therefore been prepared for the subject site (**ATTACHMENT 1**) and is restricted to Swamp sclerophyll forest in the north-eastern corner of the site approximately 125m from the proposed development. Whilst it is acknowledged that SEPP 14 Wetlands also occur on adjoining land to the north and east of the site, and were not ground-truthed during the assessment, a constructed drain occurs between the proposed development and these adjoining areas.*

It should be noted that:

- *The proposal does not impact on the SEPP wetland and the proposed filling of the eastern drainage line may assist in reducing draw down of the water table from within the mapped SEPP area.*
- *The proposed subdivision layout seeks to maintain the natural stormwater drainage regime across the site. The drainage feature in the north east of the site and occurring within the mapped wetland designation is retained and buffered from development.*
- *Bio-retention areas, ponds and gross pollutant traps are proposed to collect and manage stormwater before leaving the site.*
- *The Engineering Impact Assessment prepared to accompany the development application includes plans and commentary regarding the proposed stormwater management strategy for the site. It is understood that further detail will form part of the future Construction Certification applications.*

A Stormwater Management Plan and Erosion and Sediment Control Plan will be prepared prior to commencement of construction to ensure that there are no indirect impacts on nearby riparian land and waterways as a result of the proposed development."

Response to Item 2

"The Guidelines for Riparian Corridors (NOW 2012) were developed for controlled activities carried out in, on or under waterfront land that are regulated by the Water Management Act 2000 (WM Act). The guidelines define waterfront land as "the bed and bank of any river, lake or estuary and all land within 40 metres of the highest bank of the river, lake or estuary". The guidelines are therefore not necessarily automatically applicable to all SEPP 14 wetlands. The development does not occur on waterfront land and is not a controlled activity under the WM Act. Therefore, in this instance the guidelines are not relevant."

Response to Item 3

*"Whilst a 40m setback has not been provided to the mapped, or actual on ground extent, of the SEPP 14 wetland, the proponent engaged in extensive negotiations with the Biodiversity Conservation Division (BCD) of the NSW Department of Planning, Infrastructure and Environment (DPI&E), formerly the Office Environment and Heritage (OEH), over an 18 month period in relation to appropriate offsets for both the direct and indirect impacts (in lieu of providing additional setbacks/buffers) of the proposed development on retained vegetation on and adjoining the subject site. Details of the agreed Biodiversity Offset Package are provided in the Terrestrial Flora and Fauna Assessment (as amended July 2019 by JWA Pty Ltd). BCD subsequently prepared a Submission to DA2015/0096 dated 13 November 2019 (**ATTACHMENT 2**) which raises no ecological issues."*

DoPIE – Water

1. The Iron Gates development proposal site lies at a pinch point on the Evans River. A slight elevation is aligned approximately along an existing road easement west of Lot 276 DP 755624. The subdivision is located on the eastern flank of this elevation, extending into a SEPP 14 coastal wetland.
2. A flood study developed for the Evans River indicates likely inundation of the Iron Gates Road and potential floodwater storage within the development area. The development is likely to be isolated during floods, and climate change risks of increased flooding severity may pose some threat to part of the development area.
3. The Master Plan does not provide sufficient information for assessment of geomorphic risks arising from existing flood regimes or potential changes as climate change scenarios occur.
4. Geomorphic processes driving sediment transport and deposition are significant in a wave dominated delta estuary. Sediment accumulation may drive increased flood height or storm surge backwater storage in the SEPP 14 wetland and associated watercourses and drainage lines.
5. Geomorphic processes are not addressed in the documentation provided. Detailed assessment of estuarine geomorphic processes is required to account for likely and possible changes in flood flow behaviour resulting from climate change, leading to altered sediment transport and deposition processes in the Evans River estuary. This should form a basis for mitigation to flooding risk to the Iron Gates subdivision proposal and identify appropriate development limits to housing on the site.
6. Hydrologic linkages between the Richmond River estuary and the Evans River inlet through the Tuckmobile Canal below Woodburn require further detailed examination.
7. The risk of inundation and isolation of the Iron Gates proposal resulting from storm surge meeting flood wave travelling along the Evans River requires detailed explanation. The flood scenarios rely upon the WBM Evans River Flood Study, therefore the inundation and fringing flood zones adjacent to the development site should be assessed against the recommended flood protection elevation buffers for the lower Evans River.

8. Sedimentation storage and influence on flood surges into and along the lower Evans River should also be included in any such study. This must also address intrusion into the existing SEPP 14 wetland and development adjacent to an unnamed drainage line within Lot 544 DP 48550.

Response

The Arcadis Report at **Annexure 6** addresses the issues raised in this submission.

3.2 Natural Resource Commission (11 December 2019)

- *The proponent fully satisfy the biodiversity offset credit obligations, prior to commencing any work on either the proposed residential development or the Iron Gates Drive upgrade.*

DAC Response

Compliance with the obligation to pay biodiversity credits prior to the issue of a Subdivision Works Certificate can be achieved by imposing an appropriate condition on the Development Consent.

JWA Response (4 March 2020)

"It should be noted that at the time of the development application, the proposed Iron Gates development did not specifically trigger the requirement for offsets under the (now superseded) Threatened Species Conservation Act 1995 or the (current) Biodiversity Conservation Act 2016.

However, in a show of good faith and as discussed above, and in addition to the proposed measures to avoid and minimise ecological impacts, the proponent engaged in extensive negotiations with the BCD over an 18 month period in relation to appropriate offsets. The direct and potential indirect impacts of the development on native vegetation communities will be offset in accordance with requirements of the Biodiversity Offsets Scheme (i.e. under the current Biodiversity Conservation Act 2016).
Details of the agreed Biodiversity Offset Package are provided in the Terrestrial Flora and Fauna Assessment (as amended July 2019 by JWA Pty Ltd) and include:

Rehabilitation works
- *The proponent proposes to rehabilitate the littoral rainforest patches and associated buffers (including site preparation, weed control and planting locally endemic species) at an estimated cost of $80,000 in accordance with an approved Management Plan.*
- *Fencing will be installed (post and rail/bollards) on the periphery of the Littoral rainforest patches to reduce potential impacts to the area at an estimated cost of $48,000.*

Protection in Perpetuity
- *The rehabilitated Littoral rainforest patches (totalling 8.83 ha) will be secured and managed under a stewardship agreement (under the Biodiversity Conservation Act 2016) entered into by the proponent.*
- *This will include a Total Fund Deposit of $371,538.*

Acquittal of additional offset credits
- *The rehabilitation works, and stewardship agreement discussed above will acquit 86 credits.*
- *The remaining 157 credits (243 credits- 86 credits) will be acquitted via payment to the Biodiversity Conservation Trust Fund by the proponent in an amount of $274,593.*

It is likely that a condition of development consent would require that the above rehabilitation works commence, the stewardship agreement is in place, and the financial settlement is made prior to commencement of clearing works.

Separate negotiations occurred with the BCD over a 4 month period in relation to appropriate offsets for the slight widening of the existing Iron Gates Drive (the entrance road to the development) necessary to comply with contemporary bushfire requirements. Agreement was reached with the BCD that the following offset credit obligations are generated by the proposed road widening:

- *21 Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions credits;*
- *eight (8) Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions credits; and*
- *three (3) Coastal Heath on Sands of the NSW North Coast Bioregion credits.*

It was noted by BCD that the credits should be retired as an offset prior to the removal of vegetation for the widening of the existing Iron Gates Drive.

*In addition to the above, BCD prepared a Submission to DA2015/0096 dated 13 November 2019 (**ATTACHMENT 2**) which raises no ecological issues."*

- *The master plan include collection and treatment of stormwater from the upgraded Iron Gate Drive to minimise potentially negative impact on water quality of the nearby SEPP 14 wetland.*

<u>DAC Response</u>

As indicated in the letter at Appendix 9 of the SEE for DA2015/0096 from Mills Oakley, the site is bushfire prone land. In order to implement a Bushfire Safety Authority, upgrading of Iron Gates Drive is required. The work will involve (along the whole stretch of Iron Gates Drive, other than the mapped SEPP14 wetland areas) the following:

- Clearing the full road reserve width (20m) of vegetation/trees (generally native plants other than SEPP14 areas);
- Widening the existing 6m to 6.5m pavement (ie. the carriageway for vehicles) to 8m;
- Installing traffic management devices such as reflective road markers and (in some locations) signage.
- Trim branches overhanging the road reserve in the SEPP14 areas (see letter from Mills Oakley dated 23 October 2016 at Appendix 9 of the SEE.)
- As indicated on the plans, the upgrade work is limited to shoulder widening and pavement sealing. No earthworks are proposed or required to widen the road formation and no widening of culverts is required.

Access to the site will be achieved via Iron Gates Drive. Iron Gates Drive was constructed in the road reserve in the mid 1990's.

Iron Gates Drive is entirely contained within the E3 Environmental Management zone under Richmond Valley Local Environmental Plan 2012 (RVLEP2012).

On 30 August 2016, an Officer of the Council advised that Richmond Valley Council (RVC) is the roads authority for the road, however, all construction within the road has never been formally accepted by Council as an asset.

Issues in relation to upgrading of Iron Gates Drive, trimming vegetation in the SEPP14 wetland and the legal status of Iron Gates Drive are addressed in the legal advice at Appendix 9 of the SEE. In summary, Mills Oakley advise that:

- Trimming of vegetation does not trigger SEPP14.
- The applicant can seek approval to carry out the upgrade works on Iron Gates Drive as part of the existing Development Application.
- In summary, the Wilson Case Orders and Gazettal date for Iron Gates Drive do not change their advice of 26 December 2016.

The potential impacts of the relatively minor upgrading of Iron Gates Drive are addressed in the Specialist Reports appended to the Statement of Environmental Effects, including Appendix 4 – Iron Gates Drive Engineering Plans and Annexures 4 and 5 of the Draft Master Plan.

In addition, the upgrade works are limited to the minimum required by the RFS to provide satisfactory access to the subdivision.

In summary, it is considered that the upgrade works avoid and mitigate potential impacts and where this is not possible, offsetting is proposed.

3.3 Department of Primary Industry Fisheries (20 November 2019)

The Project Ecologists (JWA Pty Ltd) have provided the following responses to the issues raised (see **Annexure 1**).

Key Fish Habitat

"A policy definition of the term 'Key Fish Habitat' (KFH) was developed by the Department in 2007 to guide a state-wide mapping project to define and identify KFH – those aquatic habitats that are important to the sustainability of the recreational and commercial fishing industries, the maintenance of fish populations generally and the survival and recovery of threatened aquatic species. Essentially KFH was defined to include all marine and estuarine habitats up to highest astronomical tide level (that reached by 'king' tides) and most permanent and semi-permanent freshwater habitats including rivers, creeks, lakes, lagoons, billabongs, weir pools and impoundments up to the top of the bank. Small headwater creeks and gullies (known as first and second order streams), that only flow for a short period after rain are generally excluded, as are farm dams constructed on such systems. Wholly artificial waterbodies such as irrigation channels, urban drains and ponds, salt and evaporation ponds are also excluded except where they are known to support populations of threatened fish or invertebrates.

Marine vegetation, such as saltmarsh, mangroves, seagrasses, and macroalgae (seaweeds) are protected under the Fisheries Management Act (FM Act). Harming of any marine vegetation triggers integrated development under s.205 of the FM Act, irrespective of where it is located. Any development that may affect marine vegetation by cutting, removing, destroying, transplanting, shading or damaging in any way (e.g. trimming mangroves) is classed as integrated development and requires a permit from DPI Fisheries.

DPI Fisheries were consulted during the preparation of the development application. No mangroves or saltmarsh vegetation, or any other marine plants, are proposed to be cleared or trimmed. Furthermore, as the proposed development will not involve any works that will directly impact upon the riverbank, or land within the intertidal zone (with an elevation less than 1 metre AHD), confirmation was received that in this instance DPI Fisheries would not deem the works area to be KFH for the purposes of s.201 of the FM Act and the works will therefore not be integrated development.

The Engineering Impact Assessment prepared to accompany the development application includes plans and commentary regarding the proposed stormwater management strategy for the site. It is understood that further detail will form part of the future Construction Certification applications.

To ensure that there are no indirect impacts on nearby riparian land and waterways as a result of the proposed development, including KFH, a Stormwater Management Plan and Erosion and Sediment Control Plan will be prepared and approved prior to commencement of construction."

Buffers to Key Fish Habitat

"Interestingly, as discussed above, DPI Fisheries were consulted during the development application process and did not raise buffers to KFH as an issue. It is understood that the DPI Fisheries response to Richmond Valley Council (RVC) when asked for comment was that "Fisheries has an arrangement with the Office of Water in circumstances where OW will be issuing a controlled activity approval for earthworks within 40 metres of a waterway. Unless the work will directly impact upon the riverbank, or land within the intertidal zone (with an elevation less than 1 metre AHD), Fisheries does not deem this to not be Key Fish Habitat for the purposes of section 201 and it will not be integrated development".

Regardless, the proposed development includes the enhancement and rehabilitation of approximately 1.23 ha of the Crown Foreshore Reserve that occurs between the development and the Evans River (to be completed in accordance with a Management Plan to be approved by Council and including a minimum 3 years of maintenance). The Crown Foreshore Reserve and adjoining esplanade road provide a minimum 50m buffer from the Evans River to proposed residential building envelopes.

It is also noted that the proposed foreshore park does not include any areas that need to be actively managed as bushfire Asset Protection Zones and that the Iron Gates Revised Biting Insect Impact Assessment (Mosquito Consulting Services Pty Ltd 2019) concludes that no specific riparian buffer requirements are necessary. Furthermore, works proposed within the Crown Foreshore Reserve (i.e. the installation of infrastructure, pathways etc.) have been designed to ensure that interruptions to lateral connectivity have been minimised."

Threatened Species

"The Oxleyan pygmy perch (OPP) appears only to be found in the swamps, streams and dune lakes that lie in the lowland, coastal 'wallum' heaths between north-eastern NSW and south-eastern Queensland (including Fraser, Stradbroke and Moreton islands). Their specific habitat requirements include fresh, acidic waters and abundant aquatic vegetation (NSW DPI 2005).

Targeted surveying for OPP were completed in the man-made drainage lines occurring on the eastern portions of the site. Survey works were completed by Planit Consulting in accordance with EPBCA's Survey Guidelines for Australia's Threatened Fishes and detected no OPP. It is also noted that DPI Fisheries records for OPP at Evans Head illustrates that no records occur on the subject site. It was determined that the OPP is an unlikely occurrence within drainage lines present on the site as both drainage lines lack dense vegetation and have restricted connectivity with external waterbodies. Water is supplied to both drainage lines via the water table and varies in salinity based on distance from the Evans River. The drainage line along the eastern boundary is tidally influenced in the southern extents.

It is proposed that the drainage lines within the acacia dominated regrowth community is to be filled. The drainage feature in the wet heath community is not affected by the proposal. The retention of the majority of the heath communities additionally buffers potential or "indicative" habitat areas on adjoining land to the north-east. Due to the lack of records of OPP on the site, no direct impacts are likely for the species. In order to ensure any potential indirect impacts on any potential OPP habitat in the locality are prevented, the site will be subject to an approved Stormwater Management Plan and Erosion and Sediment Control plan."

3.4 DPI Crown Lands (19 December 2019)

This submission was made to RVC in response to DA2015/0096, however a copy was forwarded to the DoPIE and accordingly we respond to the key issues as follows:

The Crown foreshore reserve is only accessible for able bodied persons on foot and is currently not embellished or usable, in any formal sense. The proposed development includes embellishment of part of the foreshore reserve and the provision of public road access such that it provides recreational opportunities for future residents as well as the wider community.

Absent the proposed development, it is highly unlikely that RVC or State Agencies would construct public road access and embellish part of the foreshore reserve to make it accessible and usable.

The foreshore embellishment includes picnic facilities, walkway/cycleways, public amenities and landscaping among other things. The estimated cost of the embellishment work, which will be funded by the developer, is $500,000 to $550,000 which represents a significant benefit to the wider community.

Moreover, RVC has advised that it does not want any additional foreshore land dedicated as a public reserve because Council does not have the resources to manage and maintain additional areas.
In relation to the buffer zone between the proposed residential development and the Evans River, the area of riparian vegetation immediately adjacent to the River has been retained to avoid potential impacts on flora and fauna, fish habitat and bank stability.

It should be noted that the bank of the Evans River has eroded over the years, as indicated on Plan No. BRJD6396-100-47, Rev 1, Land Partners, 6 March 2020 attached as **Annexure 2**.

As a result the width and area of the Evans River foreshore reserve available for public use has been reduced.

In relation to the midden within the foreshore reserve, representatives of the local Aboriginal community have agreed to its removal, in part and the DoPIE (BCD) have issued General Terms of Approval for an Aboriginal Heritage Impact Permit to remove part of the midden (see **Annexure 3**). The remainder of the midden will be retained on part of the foreshore reserve which is to remain undisturbed.

The issues raised by Crown Lands were discussed in the teleconference on 11 March 2020. In summary, Crown Lands maintained their concerns about the use and embellishment of the Evans River foreshore reserve (and potential related vegetation disturbance) to satisfy open space requirements.

To address these concerns, the Application Plans have been amended to remove all embellishment work (and vegetation disturbance) from the foreshore reserve.

It is a matter for Council and Crown Lands to determine whether or not the road reserve is transferred to RVC as the land is no longer required by Goldcoral Pty Ltd.

Amended Concept Plans of the revised embellishment work which will be located entirely on proposed Lots 181 and 182 (proposed public reserves) are contained at **Annexure 9**.

3.5 Rural Fire Service

The RFS did not make a submission to the Draft Master Plan. However, on 11 March 2020 the Service issued General Terms of Approval in relation to the Iron Gates Drive subdivision DA2015/0096 which is currently being processed by RVC. Therefore, by inference, the RFS has no objections to the Master Plan.

3.6 DoPIE – Biodiversity Conservation Division, 20 November 2019

In summary, the BCD raised no issues in relation to the Master Plan from an ecological or cultural heritage perspective.

On 28 January 2020, the BCD issued General Terms of Approval for an AHIP in relation to partial disturbance of the midden (DA2015/0096) and on 20 January 2010 the BCD advised that a clear summary of the biodiversity offsets is desirable. This can be required as a condition of consent to DA2015/0096.

4.0 CONCLUSION

In summary, the responses above address the key issues raised by members of the public and State Agencies.

In addition, the amended Plans of Proposed Subdivision at **Annexures 7** and **9** address Rural Fire Service and Crown Lands issues. It is intended that these plans will be submitted to RVC as the revised plans for DA2015/0096 following approval of the Master Plan.

ANNEXURE 1 Email from JWA Dated 4 March 2020 with Responses to NRC, NRAR & DPI - Fisheries

Iron Gates Development - Responses to NRAR and DPIF Submissions

Item	JWA Response
Natural Resources Access Regulator	
1. The Draft Master Plan for the Iron Gates Residential Release at Evans Head proposes a 10-metre setback from the mapped SEPP14 wetlands.	As discussed in **SECTION 3.2.1** (pg. 17) and **SECTION 6.3** (pg. 123) of the Terrestrial Flora and Fauna Assessment (as amended July 2019 by JWA Pty Ltd) the northeast portion of the site contains a SEPP 14 Coastal Wetland area however, the extent of this wetland mapping does not reflect ground-truthed site vegetation. The area mapped as SEPP 14 wetland occurring within the development footprint was determined to be regenerating acacia and/or cleared land. No permanent water exists in this location, and the area does not display characteristics of a wetland in terms of physical conditions or vegetation communities. The current SEPP 14 mapping also includes areas of Wet and Dry heath communities adjacent to the development footprint, in addition to a small patch of Swamp sclerophyll forest in the north-eastern corner of the site. Heath communities were excluded from original SEPP 14 mapping as they are rarely associated with bodies of standing water (Adam *et al.* 1985). An accurate/revised SEPP 14 map has therefore been prepared for the subject site (**ATTACHMENT 1**) and is restricted to Swamp sclerophyll forest in the north-eastern corner of the site approximately 125m from the proposed development. Whilst it is acknowledged that SEPP 14 Wetlands also occur on adjoining land to the north and east of the site, and were not ground-truthed during the assessment, a constructed drain occurs between the proposed development and these adjoining areas. It should be noted that: • The proposal does not impact on the SEPP wetland and the proposed filling of the eastern drainage line may assist in reducing draw down of the water table from within the mapped SEPP area. • The proposed subdivision layout seeks to maintain the natural stormwater drainage regime across the site. The drainage feature in the north east of the site and occurring within the mapped wetland designation is retained and buffered from development. • Bio-retention areas, ponds and gross pollutant traps are proposed to collect and manage stormwater before leaving the site. • The Engineering Impact Assessment prepared to accompany the development application includes plans and commentary regarding the proposed stormwater management strategy

Item	JWA Response
	for the site. It is understood that further detail will form part of the future Construction Certification applications. • A Stormwater Management Plan and Erosion and Sediment Control Plan will be prepared prior to commencement of construction to ensure that there are no indirect impacts on nearby riparian land and waterways as a result of the proposed development.
2. In accordance with the Guidelines for Riparian Corridors (NOW, 2012), wetlands are required to have a 40-metre Vegetated Riparian Zone setback	The Guidelines for Riparian Corridors (NOW 2012) were developed for controlled activities carried out in, on or under waterfront land that are regulated by the *Water Management Act 2000* (WM Act). The guidelines define waterfront land as "the bed and bank of any river, lake or estuary and all land within 40 metres of the highest bank of the river, lake or estuary". The guidelines are therefore not necessarily automatically applicable to all SEPP 14 wetlands. The development does not occur on waterfront land and is not a controlled activity under the WM Act. Therefore, in this instance the guidelines are not relevant.
3. The proposed Draft Master Plan for the Iron Gates Residential Release at Evans Head is not consistent with the Guidelines for Controlled Activities and NRAR recommends that the proposal be modified to include 40m setbacks.	Whilst a 40m setback has not been provided to the mapped, or actual on ground extent, of the SEPP 14 wetland, the proponent engaged in extensive negotiations with the Biodiversity Conservation Division (BCD) of the NSW Department of Planning, Infrastructure and Environment (DPI&E), formerly the Office Environment and Heritage (OEH), over an 18 month period in relation to appropriate offsets for both the direct and indirect impacts (in lieu of providing additional setbacks/buffers) of the proposed development on retained vegetation on and adjoining the subject site. Details of the agreed Biodiversity Offset Package are provided in the Terrestrial Flora and Fauna Assessment (as amended July 2019 by JWA Pty Ltd). BCD subsequently prepared a Submission to DA2015/0096 dated 13 November 2019 (**ATTACHMENT 2**) which raises no ecological issues.
Natural Resources Commission	
The Commission recommends: • The proponent fully satisfy the biodiversity offset credit obligations, prior to commencing any work on either the proposed residential development or the Iron Gates Drive upgrade.	It should be noted that at the time of the development application, the proposed Iron Gates development did not specifically trigger the requirement for offsets under the (now superseded) *Threatened Species Conservation Act 1995* or the (current) *Biodiversity Conservation Act 2016*. However, in a show of good faith and as discussed above, and in addition to the proposed measures to avoid and minimise ecological impacts, the proponent engaged in extensive negotiations with the BCD over an 18 month period in relation to appropriate offsets. The direct and potential indirect impacts of the development on native vegetation communities will be offset in accordance with requirements of the Biodiversity Offsets Scheme (i.e. under the current *Biodiversity Conservation Act 2016*).

Item	JWA Response
	Details of the agreed Biodiversity Offset Package are provided in the Terrestrial Flora and Fauna Assessment (as amended July 2019 by JWA Pty Ltd) and include: <u>Rehabilitation works</u> • The proponent proposes to rehabilitate the littoral rainforest patches and associated buffers (including site preparation, weed control and planting locally endemic species) at an estimated cost of $80,000 in accordance with an approved Management Plan. • Fencing will be installed (post and rail/bollards) on the periphery of the Littoral rainforest patches to reduce potential impacts to the area at an estimated cost of $48,000. <u>Protection in Perpetuity</u> • The rehabilitated Littoral rainforest patches (totalling 8.83 ha) will be secured and managed under a stewardship agreement (under the Biodiversity Conservation Act 2016) entered into by the proponent. • This will include a Total Fund Deposit of $371,538. <u>Acquittal of additional offset credits</u> • The rehabilitation works, and stewardship agreement discussed above will acquit 86 credits. • The remaining 157 credits (243 credits- 86 credits) will be acquitted via payment to the Biodiversity Conservation Trust Fund by the proponent in an amount of $274,593. It is likely that a condition of development consent would require that the above rehabilitation works commence, the stewardship agreement is in place, and the financial settlement is made prior to commencement of clearing works. Separate negotiations occurred with the BCD over a 4 month period in relation to appropriate offsets for the slight widening of the existing Iron Gates Drive (the entrance road to the development) necessary to comply with contemporary bushfire requirements. Agreement was reached with the BCD that the following offset credit obligations are generated by the proposed road widening:

Item	JWA Response
	• 21 Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions credits; • eight (8) Littoral Rainforest in the NSW North Coast, Sydney Basin and South East Corner bioregions credits; and • three (3) Coastal Heath on Sands of the NSW North Coast Bioregion credits. It was noted by BCD that the credits should be retired as an offset prior to the removal of vegetation for the widening of the existing Iron Gates Drive. In addition to the above, BCD prepared a Submission to DA2015/0096 dated 13 November 2019 (**ATTACHMENT 2**) which raises no ecological issues.
Department of Primary Industries - Fisheries	
Key Fish Habitat DPI Fisheries notes that some areas of KFH will be encroached on or impacted upon by the proposed works including the installation of foreshore access points. It is also possible that other construction works will result in either encroachment into KFH or indirect impacts to KFH or threatened fish species habitat. It should be noted that direct or indirect impacts to mangroves and saltmarsh, which are located along the site's riverfront, would not be supported by DPI Fisheries, and that all foreshore access points should be minimised in number and located in suitable locations such as at existing informal access points or other areas that are devoid of marine vegetation. To ensure that no areas containing KFH will be impacted upon as a result of the development, mitigation and management plans (i.e. sediment and erosion control plan, stormwater management plan, construction	A policy definition of the term 'Key Fish Habitat' (KFH) was developed by the Department in 2007 to guide a state-wide mapping project to define and identify KFH – those aquatic habitats that are important to the sustainability of the recreational and commercial fishing industries, the maintenance of fish populations generally and the survival and recovery of threatened aquatic species. Essentially KFH was defined to include all marine and estuarine habitats up to highest astronomical tide level (that reached by 'king' tides) and most permanent and semi-permanent freshwater habitats including rivers, creeks, lakes, lagoons, billabongs, weir pools and impoundments up to the top of the bank. Small headwater creeks and gullies (known as first and second order streams), that only flow for a short period after rain are generally excluded, as are farm dams constructed on such systems. Wholly artificial waterbodies such as irrigation channels, urban drains and ponds, salt and evaporation ponds are also excluded except where they are known to support populations of threatened fish or invertebrates. Marine vegetation, such as saltmarsh, mangroves, seagrasses, and macroalgae (seaweeds) are protected under the Fisheries Management Act (FM Act). Harming of any marine vegetation triggers integrated development under s.205 of the FM Act, irrespective of where it is located. Any development that may affect marine vegetation by cutting, removing, destroying, transplanting, shading or damaging in any way (e.g. trimming mangroves) is classed as integrated development and requires a permit from DPI Fisheries.

Item	JWA Response
management plan etc.) should be prepared, approved and implemented when and where necessary.	DPI Fisheries were consulted during the preparation of the development application. No mangroves or saltmarsh vegetation, or any other marine plants, are proposed to be cleared or trimmed. Furthermore, as the proposed development will not involve any works that will directly impact upon the riverbank, or land within the intertidal zone (with an elevation less than 1 metre AHD), confirmation was received that in this instance DPI Fisheries would not deem the works area to be KFH for the purposes of s.201 of the FM Act and the works will therefore not be integrated development. The Engineering Impact Assessment prepared to accompany the development application includes plans and commentary regarding the proposed stormwater management strategy for the site. It is understood that further detail will form part of the future Construction Certification applications. To ensure that there are no indirect impacts on nearby riparian land and waterways as a result of the proposed development, including KFH, a Stormwater Management Plan and Erosion and Sediment Control Plan will be prepared and approved prior to commencement of construction.
Buffers to Key Fish Habitat The protection and rehabilitation of the vegetated riparian corridor between the Evans River and the development footprint is important for maintaining the shape, stability and ecological functions of the river. It should be noted that DPI Fisheries will generally not approve developments or activities that do not incorporate foreshore buffer zones of 50-100 m width adjacent to TYPE 1 marine vegetation and at least 50 m width adjacent to TYPE 2 marine vegetation. Where a buffer zone of at least 50 m is physically unachievable due to land availability constraints, the available buffer width must be maximised to achieve protection of TYPE 1 and 2 marine vegetation (i.e. from edge effects, changes to water quality, flood protection and to allow for climate change adaptation). The buffer zone should not be used for other asset protection purposes (e.g. as a bushfire or mosquito buffer). It should be noted that foreshore buffer zones are measured from the outer	Interestingly, as discussed above, DPI Fisheries were consulted during the development application process and did not raise buffers to KFH as an issue. It is understood that the DPI Fisheries response to Richmond Valley Council (RVC) when asked for comment was that "Fisheries has an arrangement with the Office of Water in circumstances where OW will be issuing a controlled activity approval for earthworks within 40 metres of a waterway. Unless the work will directly impact upon the riverbank, or land within the intertidal zone (with an elevation less than 1 metre AHD), Fisheries does not deem this to not be Key Fish Habitat for the purposes of section 201 and it will not be integrated development". Regardless, the proposed development includes the enhancement and rehabilitation of approximately 1.23 ha of the Crown Foreshore Reserve that occurs between the development and the Evans River (to be completed in accordance with a Management Plan to be approved by Council and including a minimum 3 years of maintenance). The Crown Foreshore Reserve and adjoining esplanade road provide a minimum 50m buffer from the Evans River to proposed residential building envelopes. It is also noted that the proposed foreshore park does not include any areas that need to be actively managed as bushfire Asset Protection Zones and that the Iron Gates Revised Biting Insect Impact Assessment (Mosquito Consulting Services Pty Ltd 2019) concludes that no specific riparian buffer

Item	JWA Response
edge of tidal areas (e.g. highest astronomical tide level- generally 1.0 m AHD). DPI Fisheries will require the design of riparian buffer zones to incorporate the maintenance of lateral connectivity between aquatic and riparian habitat. The installation of infrastructure, terraces, retaining walls, cycle ways, pathways and grass verges within the riparian buffer zone that interrupt lateral connectivity should be avoided or minimised.	requirements are necessary. Furthermore, works proposed within the Crown Foreshore Reserve (i.e. the installation of infrastructure, pathways etc.) have been designed to ensure that interruptions to lateral connectivity have been minimised.
Threatened Species DPI Fisheries notes that no areas representing known or potential habitat for OPP will be directly impacted upon by the proposed development. However, as the proposed development is within close proximity to known and indicative habitat for OPP, DPI Fisheries encourages the proponent to consider whether any development works would involve indirect impacts to OPP habitat, and if so, ensure that such works include best management practice environmental impact mitigation measures, such as sediment and erosion control measures, to ensure that any foreseeable indirect impacts are avoided or minimised. It should be noted that any development works that are likely to have an impact on threatened species listed under the FM Act, either directly or indirectly, will need to be preceded by an assessment of significance. Further information on threatened species impact assessments under the FM Act can be found here: www.dpi.nsw.qov.au/fishinq/species-protection/legislation-and-approvals/impact-assessment.	The Oxleyan pygmy perch (OPP) appears only to be found in the swamps, streams and dune lakes that lie in the lowland, coastal 'wallum' heaths between north-eastern NSW and south-eastern Queensland (including Fraser, Stradbroke and Moreton islands). Their specific habitat requirements include fresh, acidic waters and abundant aquatic vegetation (NSW DPI 2005). Targeted surveying for OPP were completed in the man-made drainage lines occurring on the eastern portions of the site. Survey works were completed by Planit Consulting in accordance with EPBCA's Survey Guidelines for Australia's Threatened Fishes and detected no OPP. It is also noted that DPI Fisheries records for OPP at Evans Head illustrates that no records occur on the subject site. It was determined that the OPP is an unlikely occurrence within drainage lines present on the site as both drainage lines lack dense vegetation and have restricted connectivity with external waterbodies. Water is supplied to both drainage lines via the water table and varies in salinity based on distance from the Evans River. The drainage line along the eastern boundary is tidally influenced in the southern extents. It is proposed that the drainage lines within the acacia dominated regrowth community is to be filled. The drainage feature in the wet heath community is not affected by the proposal. The retention of the majority of the heath communities additionally buffers potential or "indicative" habitat areas on adjoining land to the north-east. Due to the lack of records of OPP on the site, no direct impacts are likely for the species. In order to ensure any potential indirect impacts on any potential OPP habitat in the locality are prevented, the site will be subject to an approved Stormwater Management Plan and Erosion and Sediment Control plan.

Attachment 1 – Revised SEPP 14 Wetland Mapping

LEGEND

- Subject Site
- Development footprint
- Native vegetation to be retained

SEPP14 Coastal Wetlands

- Revised SEPP 14 coastal wetlands
- 30m buffer to Revised SEPP 14 coastal wetlands

N

0 100m

1 : 3000

SOURCE: JWA Site Investigations Dec 2016; Planit Consulting (639600E0_EXT.dwg & 2014 FFA Fig4); Google Earth 2017 Aerial

SCALE: 1 : 3000 @ A3

JWA PTY LTD
Ecological Consultants

CLIENT
Goldcoral Pty Ltd

PROJECT
Lots 277 & 276 DP755624, Lot 163 DP831052 & Part of Lot 164 DP831052
240 Iron Gates Drive, Evans Head NSW
Richmond Valley Council LGA

ATTACHMENT 1

PREPARED: BW
DATE: 04 March 2020
FILE: N16006_Revised SEPP14.cdr

TITLE
BUFFER TO REVISED SEPP14 COASTAL WETLANDS

Attachment 2 – BCD Submission

Planning, Industry & Environment

Our Ref: DOC19/848690
Your Ref: DA 2015 0096

General Manager
Richmond Valley Council
Locked Bag 10
Casino NSW 2470

Attention: Mr Tony McAteer

Dear Mr Macdonald

RE: Revised Statement of Environmental Effects DA2015/0096 – Iron Gates Development.

Thank you for your e-mail dated 24 September 2019 about the Iron Gates development at Evans Head, seeking comments from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the Department of Planning, Industry and Environment. I appreciate the opportunity to provide input.

The BCD was formerly part of the Office of Environment and Heritage, but now forms part of a Group that has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), Aboriginal cultural heritage, National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

We have reviewed the Statement of Environmental Effects (SEE) and attached appendices which include our correspondence that identifies a suitable offset for the proposed development. As such, we have no issues to raise about the submitted information being exhibited as part of the proposed development.

However, we note that there is a lot of information provided and there is no single document which compiles all the environmental management and biodiversity offsets proposed in a clear summary.

Our agreement to the biodiversity offsets for the Iron Gates development is located at Attachment 7 of the Terrestrial Flora and Fauna Assessment which is Appendix 5 of the SEE. Our agreement to the biodiversity offsets for the road reserve leading into the Iron Gates development is located at Appendix 7 of the Amended Ecological Assessment which is Appendix 6 of the SEE.

We would be happy to assist in reviewing any conditions or approval documents to ensure the intent of our discussions and correspondence is appropriately articulated.

Please be advised that we will be providing our response to the request for General Terms of Approval for Aboriginal cultural heritage under separate cover, once we have received the public submission from you.

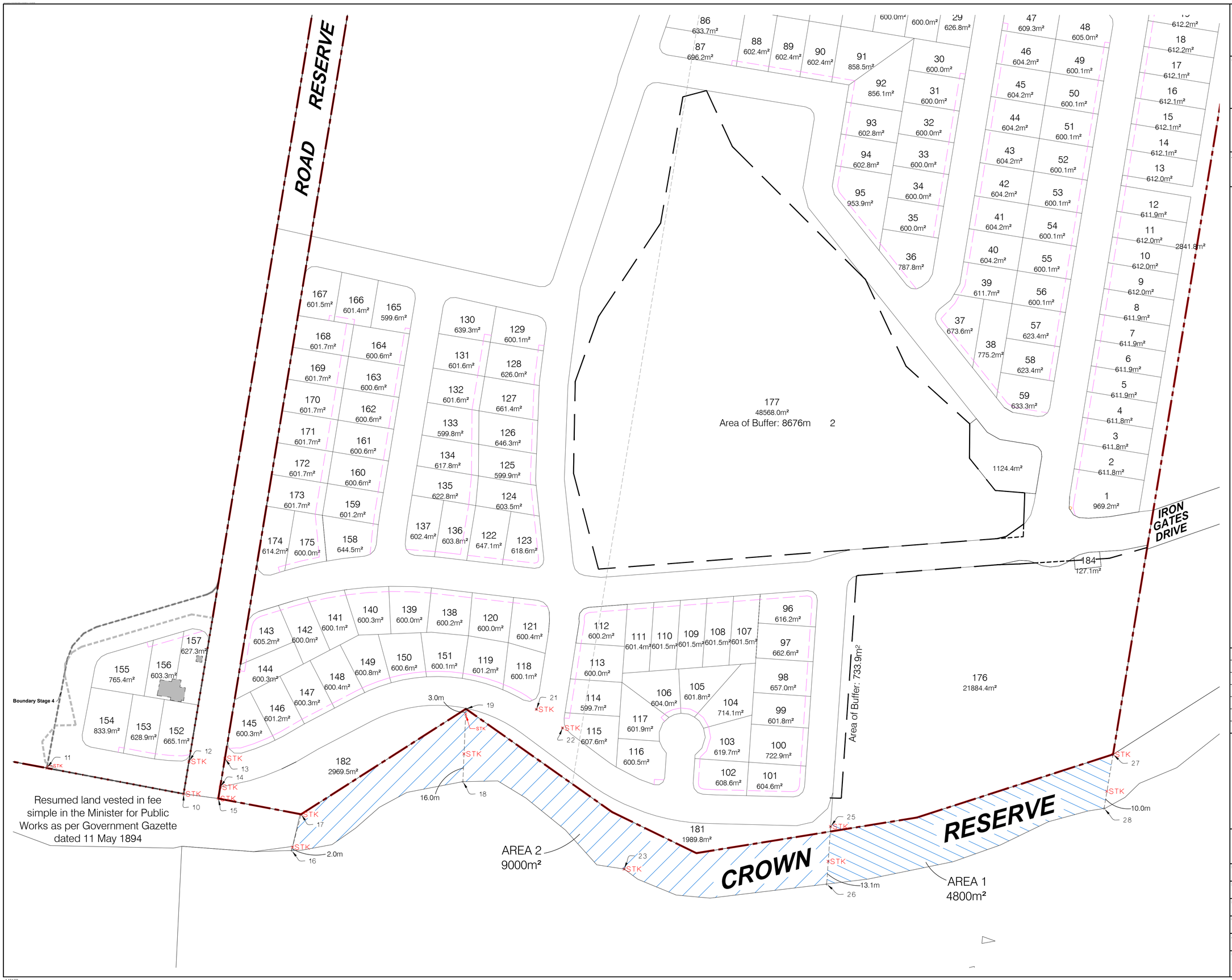
If you have any questions about this advice, please do not hesitate to contact me at dimitri.young@environment.nsw.gov.au or 6659 8272.

Yours sincerely

13 November 2019

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

ANNEXURE 2 Survey Plan, Drawing No. BRJP6393-100-47, Rev 1 – Land Partners, 6 March 2020



LOT LAYOUT

IRON GATES

CLIENT

GOLDCORAL PTY LTD

REAL PROPERTY DESCRIPTION

LOTS 163 AND 164 ON DP831052
AND LOTS 276 AND 277 ON DP755624

ASSOCIATED CONSULTANT

-

NOTES

47-1	CGW	06/03/20	ORIGINAL

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ISO 9001 Quality Management
AS NZS ISO 9001

HEIGHT DATUM: AHD	LOCAL AUTHORITY: RICHMOND VALLEY COUNCIL
HEIGHT ORIGIN: -	SCALE: 1:1000 (A1)
MERIDIAN: MGA	DRAWN: CGW — DATE: 06/03/2020
CO-ORD SYSTEM: LOCAL	CHECKED: SHL — DATE: 06/03/2020
AUTOCAD FILE: BRJD6396-100-47-1	APPROVED: CGW — DATE: 06/03/2020
PLAN NUMBER: BRJD6396-100-47	REVISION: 1

CGW

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ANNEXURE 3 **DPIE (Biodiversity Conservation Division) General Terms of Approval Dated 28 January 2020 in Relation to the Aboriginal Midden**

- 4 FEB 2020

SCANNED

- 4 FEB 2020

Doc. No. .....

NSW GOVERNMENT | Planning, Industry & Environment

Our Ref: DOC19/994530
Your Ref: DA 2015/0095

General Manager
Richmond Valley Council
Locked Bag 10
Casino NSW 2470

Attention: Mr Andy Edwards

Dear Mr Macdonald

RE: Integrated Development Application No. 2015/0096 – Section 90 of the National Parks and Wildlife Act 1974

Thank you for your letter of 26 September 2019 seeking amended General Terms of Approval for the above development application from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the Department of Planning, Industry and Environment (the Department) in accordance with s4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). I appreciate the opportunity to provide input.

The BCD understands that the amended proposed development includes the subdivision of land to create 184 lots and associated works and infrastructure, including the demolition of an existing dwelling and shed and the upgrading of Iron Gates Drive. We also note the we previously issued General Terms of approval for a previous version of this development application in correspondence from the former Office of Environment and Heritage on 7 January 2016.

We have reviewed the amended development application, the *Iron Gates Residential Subdivision Evans Head NSW revised Aboriginal cultural heritage assessment* (July 2019) and the public submissions for the proposed development. The documentation provided indicates the proposed subdivision will impact on Aboriginal objects. The documentation also details the measures to avoid harm to some Aboriginal objects by the proposed development.

The BCD continues to support the management recommendations to avoid impacting the two (2) known lithic Aboriginal objects and to leave the main concentration of the known midden undisturbed. We also still support the intention to maintain an appropriate setback from the Aboriginal cultural heritage on the foreshore area to assist in protecting that heritage.

We confirm the we have been in receipt of an Aboriginal Heritage Impact Permit (AHIP) application in relation this proposed development since July 2015. The AHIP application and supporting documentation reviewed to inform our General Terms of Approval responses both in 2016 and now is based on that information.

The AHIP application relates to one Aboriginal object in a proportion of the project area in the immediate vicinity of the known disturbed midden confined to the foreshore area of the project lands. It is for movement only of certain Aboriginal objects and community collection.

Based on this review, the BCD can issue General Terms of Approval for the proposal described in the AHIP application. These are provided in **Attachment 1**.

Please note that, as approval has not been sought for any harm to Aboriginal objects from the proposed subdivision and road upgrading works, our General Terms of Approval do not authorise any harm to Aboriginal objects arising from those works. The General Terms of Approval we are issuing only relate to harm arising from the movement of certain Aboriginal objects and community collection in the midden area along the foreshore of the Evans River as described in the supporting documentation.

If you have any further questions about this issue, Ms Rosalie Neve, Aboriginal Heritage Planning officer, Biodiversity and Conservation, Department of Planning Industry and Environment, can be contacted on 6659 8221 or at rosalie.neve@environment.nsw.gov.au

Yours sincerely

Dimitri Young 28 January 2020

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

Enclosure: Attachment 1 – The Department of Planning, Industry and Environment General Terms of Approval – Aboriginal Cultural Heritage – DA2015/0096.

Attachment 1

Biodiversity and Conservation Division
Department of Planning, Industry and Environment

GENERAL TERMS OF APPROVAL - Aboriginal Cultural Heritage

Issued under s4.47(2) of the *Environmental Planning and Assessment Act 1979*

Integrated Development Application DA 2015/0095 – 184 Lot Subdivision, associated works and infrastructure, demolition of existing dwelling and shed and upgrading of Iron Gates Drive.

Lot 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road Reserve between Lots 163 DP 831052 and Lot 276 DP 755724, Crown Foreshore Reserve and Iron Gated Drive, Evans Head NSW; 240 Iron Gates Drive, Evans Head.

1. An Aboriginal Heritage Impact Permit (AHIP) is to be obtained in accordance with Part 6 of the *National Parks & Wildlife Act 1974* prior to the commencement of any ground disturbance, or any other works associated with the development, that harm Aboriginal objects.

2. The AHIP application is to accord with the following guideline: *Applying for an Aboriginal Heritage Impact Permit: Guide for Applicants* (OEH May 2011) (http://www.environment.nsw.gov.au/resources/cultureheritage/20110280AHIPguideforapplicants.pdf).

3. The AHIP application is to be accompanied by sufficient information to demonstrate that consultation with the local Aboriginal community satisfies the Department's '*Aboriginal cultural heritage consultation requirements for proponents 2010* (http://www.environment.nsw.gov.au/resources/cultureheritage/commconsultation/09781ACHconsultreq.pdf).

4. Fair and reasonable opportunities are to be provided for registered Aboriginal parties to monitor initial ground disturbance works associated with the development. The monitoring should include all exclusion fencing around cultural heritage areas of sensitivity and any vegetation maintenance works on the foreshore buffer zone.

5. If additional Aboriginal objects are uncovered during the monitoring program, then such objects are to be recorded and managed in accordance with the requirements of sections 85A and 89A of the *National Parks & Wildlife Act 1974.*

6. If surface disturbance identifies a new Aboriginal object, then all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeological specialist and representatives of the local Aboriginal community must be contacted to determine the significance of the object(s) and to develop an appropriate management strategy. The management strategy shall comply with the provisions of the *National Parks & Wildlife Act 1974.* The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) and the management outcome for the site included in the information provided for such registration.

7. If human remains are located following surface disturbance, then all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact the Department's Environment Line on 131 555 and representatives of the local Aboriginal community. No works are to continue until the Department provides written notification to the applicant.

8. An Aboriginal Cultural Heritage Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the representatives of the Registered Aboriginal Parties.

ANNEXURE 4 Response to Submissions –Everick Heritage Consultants Pty Ltd, 24 March 2020

EVERICK HERITAGE

Iron Gates Residential Subdivision (DA2015/0096)

Expert Response to Submissions to the Department of Planning, Infrastructure and Environment

Prepared for Mr Graeme Ingles (Gold Coral Pty Ltd)

Everick Heritage Pty Ltd

Report Reference: Robins, T., T. Hill and R. Mazlin 2020 *Iron Gates Residential Subdivision- Expert Response to Department of Planning Submissions (March 2020)*. Everick Heritage Pty Ltd. Unpublished report prepared for Mr Graeme Ingles (Gold Coral Pty Ltd).

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Rev No.	Version	Author(s)	Amended Sections	Date	Authorised
1	Draft	T. Robins, T. Hill & R. Mazlin	All	19.03.2020	T. Robins
2	Final	R. Mazlin	None	24.03.2020	T. Robins

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DEFINITIONS

The following definitions apply to the terms used in this report:

Aboriginal object means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Aboriginal place means any place declared to be an Aboriginal place (under s.84 of the NPW Act) by the Minister administering the NPW Act, by order published in the NSW Government Gazette, because the Minister is of the opinion that the place is or was of special significance with respect to Aboriginal culture. It may or may not contain Aboriginal objects.

ACHAR means Aboriginal Cultural Heritage Assessment Report.

ACHCRP means the *Aboriginal Cultural Heritage Consultation Requirements for Proponents (DEECW 2010)* (NSW).

AHIMS means Aboriginal Heritage Information Management System.

AHIP means Aboriginal Heritage Impact Permit.

BCD means the Biodiversity Conservation Division.

Burra Charter means the International Council of Monuments and Sites ('ICOMOS') Burra Charter (2013).

CoPAI means the OEH *Code of Practice for Archaeological Conduct in New South Wales (2010)* (NSW).

DPI&E means the New South Wales Department of Planning, Infrastructure and Environment.

Heritage NSW means Heritage New South Wales and the NSW Heritage Council.

IDA means Integrated Development Application.

Iron Gates Development means the activities associated with the Development Application which may involve stripping of topsoil, levelling, cut and/ or fill for footings and services

Iron Gates Project Area means Lot 163 DP 831052, Lots 276 and 277 DP 755624, Crown Road Reserve between Lots 163 DP 831052 and Lot 276 DP 755724, Crown Foreshore Reserve and Iron Gates Drive, Evans Head NSW.

LALC means Local Aboriginal Land Council.

LEP means Local Environment Plan.

NPWS means NSW National Parks & Wildlife Service.

NPW Act means the *National Parks and Wildlife Act 1974* (NSW).

NPW Regulations means the *National Parks and Wildlife Regulations 2009* (NSW).

RVC means Richmond Valley Council.

The Consultant means qualified archaeological staff and/or contractors of Everick Heritage Pty Ltd.

1. INTRODUCTION

1.1 Background

This report has been prepared to address public submissions to the Department of Planning, Industry and Environment ('DPI&E') regarding cultural heritage management for the proposed Iron Gates Residential Development Application (DA 2015/0096). This report addresses comments specifically referencing cultural values (Section 2).

The intent of the Everick Aboriginal Cultural Heritage Assessment Report ('ACHAR') (2019) is to provide sufficient information with respect to the nature and extent of Aboriginal objects, the significance of those sites to the Bandjalang People and the recommendations to ensure that the sites are adequately managed throughout the Iron Gates Development. The four (4) main issues raised by the DPI&E submissions relate to the following:

- the adequacy of consultation with the Bandjalang People via the Bandjalang Aboriginal Corporation;
- the adequacy of the ACHAR to identify and address impacts to 'intangible values';
- the adequacy of the ACHAR to identify other archaeological sites including scarred trees, ceremonial sites and burial; and
- the adequacy of the ACHAR to consult with woman;

As the Iron Gates Project Area has been previously rezoned and determined to be an appropriate use of land, the ACHAR focussed on the management of Aboriginal cultural values as defined by the *National Parks and Wildlife Act 1974* ('NPW Act'). In this regard, it was concluded that the development as proposed would have very minimal impact on Aboriginal objects, being limited to the collection of culturally accessed shell, which will be redeposited in its original location. There will be no impact to any Aboriginal places. It is therefore considered that the only reasonable outcome of an assessment would be to support the development as proposed.

2. RESPONSES TO SUBMISSIONS ISSUES

2.1 Adequacy of Community Consultation (Submissions 59, 62, 68, 76, 79 and 88)

Consultation with the Aboriginal community is a requirement of the *National Parks and Wildlife Regulations* (2019) ('NPW Regulations') for all proposals where it has been determined that works will likely result in harm to Aboriginal objects, in this case the IG01 midden located on the northern bank of the Evans River. Consistent with the ACHCRP 2010 substantial consultation with the Aboriginal community has been undertaken with the Bandjalang Aboriginal Corporation as representatives of the Bandjalang People, for whom Native Title has been determined to exist around Evans Head, extending to a line roughly parallel to the Pacific Highway to the west. The NPW Regulations, section 60(3) makes the following comment on the process of consultation with the Aboriginal community in areas where Native Title has been determined to exist.

> ***60(3) Notification of Aboriginal persons—where relevant native title determined to exist.*** *If an approved determination of native title that native title exists in relation to the land on or in which the proposed activity that may be the subject of such an application is to be carried out, the proposed applicant must give notice of that proposed activity to—*
> *(a) the registered native title body corporate for that land, or*
> *(b) if no such body corporate exists, the native title holders of that land.*

It is noted that the Bandjalang #2 Native Title Determination is immediately south of the Iron Gates Development proposal and areas of land where Native Title has not been extinguished are in the immediately vicinity of the Iron Gates Development proposal to the east and north. Having consideration for the principles and practical application of Native Title rights in areas which have been subject to widespread extinguishment of Native Title Rights by conversion of land to freehold title, the Bandjalang Aboriginal Corporation is considered the most appropriate body for consultation. As such the Bandjalang Aboriginal Corporation are considered the most appropriate body with respect to consultation concerning the cultural significance of the IG01 midden and the adjacent lands and to provide advice on culturally appropriate management of the midden site as a condition of any Aboriginal Heritage Impact Permit ('AHIP').

Further, Everick Heritage has recently completed an ACHAR for a midden site at Byron Bay within the Bundjalung of Byron Bay ('Arakwal') determination area. The determination of this AHIP application by the BCD has been primarily with the Bundjalung of Byron Bay Aboriginal Corporation following the successful Native Title Determination in May 2019.

The ACHAR provides a summary of consultation with the Bandjalang Aboriginal Corporation as requested by the Bandjalang Aboriginal Corporation Directors. This approach acknowledges the rights of the Bandjalang people to retain cultural knowledge and restrict cultural information from external parties who may either not be entitled by Aboriginal tradition to receive cultural knowledge or who may utilise cultural knowledge for their own commercial purposes without the consent of the Bandjalang People. A complete updated consultation file will be made available on request to BCD in support of the ACHAR during the determination process.

It is Everick's view that the consultation to date substantially complies with the requirements of the NPW Regulations and specifically the requirements for consultation in an area where Native Title has been determined to exist. It is also noted that the consultation process in areas where Native Title does *not* exist typically results in the registration of numerous Aboriginal stakeholders ('Registered Aboriginal Parties') including the relevant Local Aboriginal Land Council ('LALC'). Under this process each RAP is provided equal opportunity to comment on the proposal and the comments of no one party are provided greater weight than the others. Further, the views of each RAP are considered in the context of the ACHAR and in particular the contribution of each RAP to establish the cultural significance of the sites and the appropriateness of the management recommendations. As such, there is no reason to conclude, based on the responses provided as part of the previous rezoning application or the current development application submission period, that any additional RAPs would either register or provide specific information that would change the outcome of the ACHAR.

Section 4 documents consultation with the Bandjalang Aboriginal Corporation undertaken for the 2015 Development Application. Consultation with Bandjalang Aboriginal Corporation is ongoing and will continue as until such times as the AHIP has received and all works have been completed.

2.2 Recognition of Intangible Values (59, 62, 68, 79, 85 and 88).

The ACHAR is provided in support of the development application as an integrated development for the purposes of documenting the potential harm to Aboriginal objects in compliance with the Code of Practice for the *Archaeological Investigation of Aboriginal Objects in New South Wales* ('CoPAI') (DEECW 2010). The ACHAR has been provided to the Bandjalang Aboriginal Corporation with an opportunity to provide comment on intangible cultural values, however additional intangible values have not been specifically raised by the correspondence. Further, the ethnographic literature which has been included within the ACHAR acknowledges the potential for intangible cultural sites to occur within the wider area, however there is not specific ethnohistorical reference for such sites within the Iron Gates Development. Specifically, the Iron Gates Development area is not a declared Aboriginal place or item of local significance identified on schedule 5 of the RVC LEP. It is not clear that any of the specific submissions that raise 'intangible

values' either specifically or indirectly identify the nature, extent or location of the intangible cultural site or identify themselves as being Aboriginal people with specific rights to own or hold knowledge that is not held or owned by the Bandjalang Aboriginal Corporation

The opportunity for the submission and consideration by RVC of 'intangible' heritage values within the Development consent process is acknowledged. Everick's experience is that typically intangible values are considered at the rezoning stage as amendments to land zoning within the LEPs and that this is a more appropriate stage in the planning system to consider and accommodate intangible values. These matters have been previously considered and ruled out by the rezoning which has logically led to the consideration of objects protected by the NPW Act.

Section 5.1 of the ACHAR confirms that the Iron Gates Project Area has not been declared an Aboriginal place under Part 6 of the NPW Act or has been listed as an item of environmental heritage on Schedule 5 of the Richmond Valley LEP. As such there is not a strict requirement of the proponent to manage 'intangible' heritage values.

Notwithstanding the above, the report addresses these matters in Section 4, Section 6 and Section 11. Furthermore, Section 12 of the ACHAR (Statement of Heritage Impact) clearly outlines:

> *"Based on the research undertaken to date and the preliminary results of the consultation with the Aboriginal community, it is the Consultants opinion that there are no places of particular intangible heritage significance that will be impacted by the Project. The consultation process confirmed that there was a nearby known intangible cultural heritage within the surrounding cultural landscape but not within the immediate Project Area. The proposed environmental buffer along the Evans River bank appears to provide sufficient mitigation to heritage impacts associated with development in relatively close proximity to the Gumigudah campsite complex." (p.76)*

The above also addresses the concerns of the Jali LALC, as referenced in one (1) of the submissions (76). The Iron Gates Project Area has not been declared an Aboriginal place under Part 6 of the NPW Act or has been listed as an item of environmental heritage on Schedule 5 of the Richmond Valley LEP. Further, it was noted during community consultation that the physical boundaries of the Gumigadah campsite and massacre location would not be impacted by the Iron gates Development.

2.3 Unidentified archaeological sites

The responses provide specific reference to the potential of the Iron Gates Project Area to contain the following archaeological sites:

- Massacre site (76, 79 and 85).
- The graves of two chiefs (59, 79 and 85).
- Ceremonial sites (85).
- Scar trees (59, 62, 68 and 85).

2.3.1 Massacre Site

The massacre site is known to have occurred along the southern bank of the Evans River (Medcalf 1989). However, there is no evidence of the massacre taking place on the Iron Gates Project Area. Further, the Directors of Bandjalang Aboriginal Corporation have not indicated that the residential development is fundamentally incompatible with the massacre as a 'cultural story'. As an example, the East Ballina Aboriginal Place provides a degree of recognition and protection of the residual areas of public land in an area of established residential development known to have been a 'massacre site'. As such, it is considered that the potential still exists to establish an Aboriginal place on the surrounding bushland to provide regulatory protection and recognition of the Evans Head massacre using the East Ballina Aboriginal Place as a model.

In the 2019 ACHAR, Everick considered the nature of the potential for adjacent development to impact on the significance of the Gumigudah campsite complex and the broader massacre area (see also p7 above). It was concluded that the proposed environmental buffer along the Evans River bank, when viewed in conjunction with the natural buffer of the Evans River, would provide an acceptable mitigation to heritage impacts. This view was supported by the majority of the Bandjalang consulted as part of the 2019 ACHAR assessment.

2.3.2 Graves of Chiefs

There is no evidence of the graves of the 'two chiefs' existing within the Iron Gates Development area as allegedly asserted by Ms Simone Barker and other submissions (59, 68, 79 and 85). The ACHAR has considered the potential of the Iron Gates Development to contain traditional burials and has concluded that the soils subject to development are typically not conducive to the preservation of skeletal material. There were two types of general soils assessed within the Project Area.

Elevated Soils: The elevated areas contain shallow, rocky soils which were subject to topsoil loss in the historic period. It is unlikely that this area would have been selected for pre-historic burial practises. The recorded examples in such soils are almost always subject to markers, such as stone cairns, blazed trees or 'bush graves.' No such evidence was observed within the Iron Gates Development area.

Sandy Soils: Burials are more commonly associated with sandy soils, which were easier to dig through using Traditional tools. The discovery of such burials is typically fortuitous, resulting from some form of exposure. Unfortunately, the level of historic ground disturbance across the sandy soils of the Project Area were such that there is no reasonable means of detecting burials, should they have been located there. Ground Penetrating Radar ('GPR') would no longer be effective in such an environment (see 2.2.2 below for further discussion on GPR).

This is further supported by knowledge holder John Roberts who during a recent site visit with the proponent indicated he did not believe that there were any graves at Iron Gates and he said that the only place that Aboriginals would bury their dead would be on a hilltop. This led to an inspection of the ridge feature where there was agreement that the substrate was comprised entirely of shale rock, and there was no way that there would be any burials on this hilltop (Attachment A). Mr Roberts confirmed that it was his understanding that there were no known burials at the Iron Gates property.

2.3.3 Ceremonial Sites

The submissions noted that the midden material may be associated with ceremonial activities. The ACHAR makes reference to the nature and extent of the midden material and has not concluded that there is sufficient cultural or archaeological evidence to directly associate the midden material with ceremonial activities. In this case credible association would require either corroborated statements of cultural significance from Bandjalang People or material evidence including ochre or ornate ceremonial objects or the presence of a ceremonial site such as an earthen bora ring or stone arrangement. While it is noted that ceremonies likely did take place on the Evans River generally, the assertion that the midden is associated with ceremony has not been substantiated.

2.3.4 Scarred Trees

With respect to the presence of 'scarred trees' within the Iron Gates Development area, the archaeological investigation has not identified any trees which have scarring which has been considered 'anthropogenic' or could be attributable to Aboriginal people (see Section 9). Field methods specifically allow for the identification of scarred trees (See Section 8.2). The results of archaeological investigation and analysis of historic aerial imagery suggest the only potential area containing mature vegetation is the E2 Zone, which will not be subject to development activities.

> *"There appear to be no old growth trees within the proposed development footprint, however trees of sufficient age do remain within the adjoining E2 environment zone." (p.43)*

Further, an account of the property condition and extent of vegetation removal published as a Letter to the Editor on 24 December 1991 in the Northern Star details that:

> *"During the month of August 1945, I rode to the farm at the request of the then owner, the late Mr Mick Milgate. I remember the state of the property well. I rode my horse all over it while mustering the cattle. A banana plantation was growing on the hill and practically the whole of the property was cleared and being used for grazing or crops. There were a few big trees left for shade, mostly bloodwood." - Tom McCormack 1991 (Attachment C).*

One (1) submission (62) claims there is footage depicting harm to scar trees, as well as a number of culturally scarred tress which remained standing. Should these trees remain within the Iron Gates Project Area, they would exist within this E2 Zone which will not be subject to development activities.

The presence of scar trees within the Iron Gates Development area has also been specifically commented on by the Bandjalang Directors and has not been raised as a matter for the ACHAR to address.

2.4 Harm Arising from Previous Ground Disturbance

Four (4) of the submissions (59, 62, 68 and 79) raise the issue of the harm that has arisen from previous ground disturbance and that the ACHAR has not considered the potential cultural significance of the midden prior to the previous ground disturbance. It is understood that the issue was reported to the Office of Environment and Heritage at the time. Regardless, the cultural significance assessment is documented in Section 11 of the ACHAR which has concluded that the midden is of significance to the Aboriginal community, based on consultation with the Bandjalang People. The assigning of 'scales' of significance to the Aboriginal community is specifically addressed in Section 11 of the ACHAR, however it is Everick's position that the Directors of the Bandjalang People are in the best position to make comment on the significance of Aboriginal objects in the Project Area.

However, as the management of remaining midden material is subject to an AHIP prior to commencement of works this specific matter will be subject to the determination of the ACHAR by the BCD as part of the Development Application process.

It should also be noted that the Project Area has been subject to a high degree of previous ground disturbance, as outlined in Section 7 of the ACHAR and corroborated by primary observations (Attachment C).

2.5 Inclusion of Women in Consultation Process

Four (4) of the submissions (59, 68, 79 and 88) suggest that no women were included in the consultation process, and that this calls into question the adequacy of the consultation outcomes. Section 4 of the

ACHAR outlines the consultation process stating that substantial consultation with the Aboriginal community has been undertaken with the Bandjalang Aboriginal Corporation as representatives of the Bandjalang People, for whom Native Title has been determined to exist around Evans Head. It is understood that the Bandjalang Aboriginal Corporation includes female members. It is therefore reasonable to assume the extensive consultation with the Bandjalang Aboriginal Corporation would have necessitated the engagement of female input. Furthermore, additional consultation undertaken under the the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010) resulted in the following stakeholder register as put forward in the ACHAR:

> *"A Stakeholders Register was finalised on 21 October 2015 included the following stakeholder parties (in alphabetical order):*
>
> *a) The Bandjalang Directors;*
>
> *b) Anthony Wilson;*
>
> *c) Doug Wilson;*
>
> *d) Daniel Wilson;*
>
> *e) Simone Barker;*
>
> *f) Jali LALC; and*
>
> *g) Cook Family."*

Women were included in the Stakeholder Register, affording the opportunity for the perspectives of women in the assessment process

2.6 Use of Ground Penetrating Radar

The application of Ground Penetrating Radar ('GPR') has been considered however was not included in the assessment based on the following:

- The absence of credible information regarding the location of gravesites or burials.
- The rocky nature of the soils on the ridge line which make identification of burials difficult using a GPR.
- The highly disturbed nature of sandy soils, mixing subsurface strata and rendering GPR ineffective.
- The history of previous ground disturbance which makes the interpretation of GPR signatures difficult.

The ridge feature within the Iron Gates Project Area consists of shale-dominated substrate. As such, burials considered to be highly unlikely. This is further supported by knowledge holder John Roberts who during a recent site visit with the proponent indicated he did not believe that there were any graves at the Iron Gates Project Area and he said that the only place that Aboriginals would bury their dead would be on a hilltop. This led to an inspection of the ridge feature where there was agreement that the substrate was comprised entirely of shale rock, and that there was no way there would be any burials on this hilltop (Attachment A). John confirmed that it was his understanding that there were no known burials at the Iron Gates property.

It is acknowledged that the GPR is a suitable non-invasive archaeological technique, however in this instance there is not sufficient historical or community knowledge to develop a GPR program for the Iron Gates Project Area.

The GPR is primarily applied to identify human skeletal remain which are typically excluded from any future consent or AHIP and as such the practical application of the NPW Act and Regulations does not require detailed consideration of burials as a management issue. As indicated in the previous section, the matter of the compatibility of the proposed residential subdivision with Aboriginal burials was specifically considered at the rezoning stage where it was determined that burials could reasonably be managed during construction.

2.7 The 'Iron Gates' as a Pathway

The ACHAR provides comment on the 'Iron gates' in Section 14. Further assessment of this geological feature has not been provided as the Iron Gates residential proposal will not impact on the 'site'. In the context of the ACHAR, the presence of the Iron Gates is not considered to significantly influence the nature and extent of archaeological sites as the complexity of use around this geological feature has been significantly altered as a result of historic settlement, and namely the removal of the land bridge to provide for river transport. For example, if the Iron Gates were of spiritual or ceremonial significance it is likely that this would be a cultural 'barrier' to large or permanent occupation sites and the deposition of complex stratified middens. This would account for the relatively low densities of shell on the immediate river banks when compared to other locations within the lower estuary and near the headland.

The use of the 'Pathway' as a concept has been progressed as a means of predicting the location of sites, and typically identifies landscape features which provide strategic advantage, typically ridge lines, which area easier to move along. The logic of the pathway models when applied to the Iron Gates do not easily incorporate other modes of transport- such as the use of canoes for coastal travel- or the restrictions placed within dangerous places within the landscape.

3. BIBLIOGRAPHY

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ATTACHEMENT A – GRAEME INGLES FILE NOTE FROM THE 13TH NOVEMBER 2019

File note 13th November 2019

I was contacted some days prior to this date by Bill Drew and he told me that Tony Wilson and John Roberts from the Bundjalung Nation would like to come to Iron Gates and inspect the midden. He told me that John Roberts was a highly respected Bundjalung Elder who was also looked up to by the Bandjalang.

At 11am (NSW Time) on the 13th November 2019 I met with Bill Drew, Tony Wilson and John Roberts at the entrance to Iron Gates.

We proceeded onto the property and I showed them shell scatters from the midden in the long grass near the riverbank.

I told John Roberts that I was annoyed about unsubstantiated claims of there being graves on the site. John Roberts said that he did not believe that there were any graves at Iron Gates and he said that the only place that Aboriginals would bury their dead would be on a hilltop and he pointed to the only hill that is in the footprint of the development.

I told John that the hill was all rock not suitable for burials even by today's standards. He said he would like to inspect the hill and we all drove to the top of the hill. John Roberts kicked the ground with his shoe and poked it with a stick and he said I agree with you, this is all rock and there is no way that there would be any burials on this hilltop.

He confirmed that it was his understanding that there were no known burials at the Iron Gates property.

After this discussion we all left the property.

ATTACHEMENT B – TOM MCCORMACK

XPT DELAYED BY ROCK GROUP.

From December 27 - January 2, a $5 million track upgrading programme on the Central Coast will affect all northern XPT services.

NO TRAINS BETWEEN HORNSBY AND WYONG

No trains will run between Hornsby and Wyong as the track upgrading will block both lines.

COACHING INSTEAD OF TRAINING

In place of our XPTs, we're going to run a fleet of XPCs (Xplorer Passenger Coaches).

HEADING NORTH

If you're travelling on the Brisbane or Murwillumbah XPTs, you'll ride from Sydney by XPC to Maitland, where you'll join the XPT for the remainder of your journey.

HEADING NORTH-WEST

If you are going to Tamworth or a destination further north-west, you will travel all the way by XPC.

SOME DELAYS

You could experience a delay of about 30 minutes. Sorry.

MORE INFORMATION PLEASE

If you'd like more information, visit or call the Countrylink Travel Centre at Lismore station (066) 21 1751.

10 THE NORTHERN STAR, TUESDAY, DECEMBER 24, 1991

Letter to the Editor

Historical view of Iron Gates property

[illegible]

Mr Milgate had requested that a drover be sent to help him muster 25 head of cattle from the herd of over 100 to be sold at our fortnightly cattle sale at Casula.

I was that drover and after we mustered the stock I had them dipped at Taylors Dip and drove them to sale at Casula for Mr Milgate.

I remember the state of the property well. I only saw fencing all over at while mustering the cattle.

A Bahama plantation was growing on the hill and periodically the whole of the property was cleared and being used for grazing of sheep.

There were a few big trees left for shade, mostly thinkbaud. If all these were put into sawn logs they would yield about 80 percent of the [illegible]. Another 20 percent was small suckers and the balance cleared.

Therefore of the vegetation standing today some 80 percent of it is aged between two years and 40 years old. A further 20 percent is under ten years old and the remainder of 10 percent of other trees are spread around the property.

The small stand of "Bunyat rainforest" remnants which was known to some old timbermen as "Bunyat scrub". This particular stand had previously been logged and parts cleared and fenced when I was there in 1945.

Words like "pristine" and old growth and "ancient forest" being used by some people are a complete misrepresentation of the true nature of the Iron Gates property.

They are not applicable to this land and the continued use of such terms by these people about Iron Gates in light of the above information would be dishonest.

I had the privilege of knowing the late Mrs Livingstone (nee Gertie Cribb) who was reared on the property. She told me that her late father had cleared it with his bare hands and an axe, a shovel and many boxes of matches.

He toured the family by the sweat of his brow and they grew just about every crop known at that time. There was no dole then, just hard work.

I don't wonder that some people have expressed concern, when I hear and read some of the false information being bandied about.

I would recommend to anyone who has concern, that they contact my brother Sam and get the true facts.

The company has spent hundreds of thousands of dollars on studies and reports on all environmental aspects.

Sam is as proud of our local heritage as I am. He is keen to see local people take up residence there and help to preserve the natural assets and local heritage.

To knockers I would say 'get back to where you came from and let the locals get on with the job of securing their children's future prosperity'.

T McCORMACK,
Ballina.

CINEMA LISMORE Northern Star

Candy Bar Characters

POPCORN Candy Bar

A B C

GIVE A NAME TO OUR ELEPHANT, MONKEY AND BULL IN CINEMA LISMORE/NORTHERN STAR CANDY BAR CHARACTERS COMPETITION AND WIN!

NAME
ADDRESS
AGE

HEY KIDS, help us name our fantastic new candy bar characters and you could win one of 10 Double Theatre passes plus Coke and popcorn.

Ten of the best named entries will be selected from each Birch, Carroll and Coyle Theatre and go into a draw to win a new bike plus Gold movie passes for the whole family.

So hurry and get your entries in now, at any Northern Star Office or post to PO Box 433, Lismore. Entries close 30/12/91.

ANNEXURE 5 Iron Gates Drive Stormwater Management Plan – Arcadis, 20 March 2020

ARCADIS Design & Consultancy for natural and built assets

IRON GATES DRIVE

STORMWATER MANAGEMENT PLAN

20 MARCH 2020

Incorporating Hyder

IRON GATES DRIVE

STORMWATER MANAGEMENT PLAN

Author	Gerard Dick	
Checker	Darlan Castro	
Approver	Lachlan Prizeman	
Report No	F0007-10027302 -AAR	
Date	20/03/2020	
Revision Text	01	

This report has been prepared for Gold Coral Pty Ltd in accordance with the terms and conditions of appointment for Vantage, Evans Head dated March 2019. Arcadis Australia Pacific Pty Limited (ABN 76 104 485 289) cannot accept any responsibility for any use of or reliance on the contents of this report by any third party.

REVISIONS

Revision	Date	Description	Prepared by	Approved by
01	20/03/2020	Issued for Approval	GD	LP

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1 EXECUTIVE SUMMARY

Gold Coral Pty Ltd has commissioned Arcadis to prepare a Stormwater Management Plan (SMP) for the road widening proposed for the Iron Gates Drive which provides access from Evans Head to the Iron Gates Residential Development.

This report forms an addendum to the existing Engineering Services and Civil Infrastructure Report (ESCIR) previously submitted for the Development Application. (ESCIR) Sections 7 Water Quality and Section 8 Sediment and Erosion Control deal with the Water Quality Management for the development both during construction and on establishment of the Development.

This report applies to the proposed road widening which will be constructed and operated in accordance with The Northern Rivers Local Government - Development Design and Construction Manuals - Erosion Control and Stormwater Management and general Water Sensitive Urban Design (WSUD) requirements of Council. The primary objectives of this SMP are achieved as follows:

Lawful Point of Discharge (LPoD)

The road widening construction proposes to maintain the existing LPoD, being 2x2100x750 box culverts under Irongates Drive. The site proposes to maintain the discharge of stormwater to the existing stormwater infrastructure using enhanced quality treatment via a sediment trap at the entrance to each of the culvert headwalls.

Stormwater Quality

Due to limitations using the 'Model for Urban Stormwater Improvement Conceptualisation (MUSIC)' for the modelling of the road pavement widening site, a Risk Assessment based evaluation has been undertaken. A stormwater quality feasibility assessment undertaken which demonstrates that specially tailored treatment systems will be best suited in order to meet the Water Quality objectives during the operational phase of the proposed road widening. The proposed treatment system features enhanced bio-retention swales and a small sediment trap construction prior to the culvert inlet. All the stormwater quality controls proposed in this document are contained within the road reserve of Iron Gates Drive and will remain above the existing water table levels. Regular maintenance of the treatment devices will be undertaken to ensure the continuing performance of the stormwater quality treatment train.

Erosion and Sediment Control

Construction phase sediment control devices are to be implemented during construction works. An Erosion and Sediment Control Plan will form part of the documents submitted for the Construction approvals. In general, The E&SC Plan will include the following strategies:

1.Site works will not start until the erosion and sediment control works outlined in clauses 2 & 3, below, are installed and functional.

2. The entry to and departure of vehicles from the site will be confined to one stabilised point. Sediment or barrier fencing will be used to restrict all vehicular movements to that point. Stabilisation will be achieved by constructing a stabilised site access or other suitable technique approved by the Council.

3. Sediment fences and barrier fences will be installed along the perimeter of the road widening construction zone.

4. Topsoil from the work's area will be stripped and stockpiled for later use in landscaping the site.

5. All stockpiles will be placed in the locations to be shown on the ESCP and at least 2 metres clear of all areas of possible concentrated water flow, including the existing culverts.

6. Land on the opposite side of the road widening and, on the footpath, will not be disturbed during works except where essential. Where works are necessary, they will be undertaken in such a way to minimise the occurrence of soil erosion, even for short periods. They will be rehabilitated (grassed) as soon as possible.

7. Topsoil will be respread, and all disturbed areas will be stabilised within 20 working days of the completion of works.

8. All erosion and sediment controls will be checked at least weekly and after rain to ensure they are maintained in a fully functional condition.

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2 EXISTING SITE CHARACTERISTICS

2.1 SITE DESCRIPTION

The existing Iron Gates Drive is just on 1000 metres in Length, with 6.5 to 7.5m sealed bitumen carriageway with gravel shoulders. The proposed widening to facilitate the Iron Gates residential development will be undertaken over 460 metres in length.

The total area of the existing pavement is approximately 7-7500m^2 the area widening is approximately 690m^2.

The road is raised approximately 1 to 1.5m from above the surrounding terrain, which is described as sandy, silty- sandy soils, exhibiting pervious characteristics typical of the sandy soils.

Figure 2-1 Iron Gates Drive Existing Imagery

2.2 EXISTING TOPOGRAPHY

The road topography consists of low grading slopes (<1%). The site generally grades towards the Evans River to the South East. The road has a high point of approximately RL3.2m and low point of RL2.3m. Drainage from the upstream catchment discharges to the Evans River South East mainly through the major waterway adjacent to Mangrove Street. Two smaller culvert structures convey smaller flows beneath Iron Gates Drive, at chainages 600 and 800.

Figure 2-2 Iron Gates Drive Stormwater Culverts

3 STORMWATER QUALITY

3.1 OBJECTIVES

The water quality objectives are set out as follows:

- Protect natural ecosystems;
- Integrate stormwater treatment into the urban landscape;
- Protect water quality;
- Reduce runoff and peak flows; and
- Add value while minimising development costs.

3.2 PROPOSED STORMWATER TREATMENT DEVICES

WSUD aims to minimise the impact of a development on the natural water cycle by reducing the export of pollutants, sediments and nutrients from the site into the natural watercourse. In order to treat the stormwater runoff from the road widening, the proposed treatment devices can be integrated into the overall design of the road widening layouts, road cross sections, existing stormwater construction without interfering with the areas outside the existing road reserve. Stormwater from each installation will provide for a stormwater quality treatment train prior to discharge from the site, which will ensure compliance with the water quality objectives.

The below nominated treatment devices are shown in the attached Access Road Stormwater Plan in Appendix A.

3.2.1 SWALE DRAIN PLANTING AREAS

A bio-retention area is a vegetated region where runoff is filtered through a filter media layer (e.g. sandy loam) as it percolates downwards to receiving underlying drainage. Specific vegetation will be incorporated into the landscaping of swale drains areas which will effectively reduce nutrient loads. The existing sandy soils will provide the required filtration.

3.2.2 SEDIMENT TRAP FOREBAY

A sediment trap forebay will be constructed upstream of the culvert headwall discharging underneath Iron Gates Drive. The sediment trap forebay will be installed to capture any suspended sediments from the existing swale drains flows. Construction will be in accordance with the Development Design Specification D7 – Erosion Control and Stormwater Management section D7.12.

The removal of sediments prior to discharge will provide enhanced Water Quality treatment to the existing Road runoff.

3.3 MODELLING OF THE DEVELOPED SITE (MUSIC)

Modelling of the site was not undertaken using the ‘Model for Urban Stormwater Improvement Conceptualisation (MUSIC)’ due to restrictions within the software. However the following impacts and site conditions are noted.

The existing shoulder to the roadway is currently exposed to rainfall and runoff, the road widening and sealing of this area will reduce the sediment runoff from this area.

The existing terrain and surrounding sandy soil conditions do not generate high runoff flows nor erosive conditions. The existing grassed verges already provide excellent stormwater Quality Treatment to the existing bitumen road carriageway.

3.4 COMPLIANCE

To comply with the water quality objectives mentioned above and reduce the water quality impacts associated with the Iron Gates Drive road widening works, the following can be seen:

- Reduction of exposed gravel shoulder areas and potential sediment runoff will be achieved by the sealing of the pavement widening – i.e bitumen surface in place of existing exposed gravel.
- Reduction of total nutrient pollutants will be achieved by enhanced planting in the table drain approaches to the culvert inlets.
- Reduction of total suspended solids will be achieved by the installation of a sediment trap forebay entry to the existing culvert inlet.
- Reduction of sediment and pollutant runoff during construction by the implementation of the site based Erosion and Sediment Control Plan.

4 STORMWATER QUALITY CONSTRUCTION PHASE

4.1 WATER QUALITY OBJECTIVES

Table 4-1 Construction Phase Quality Objectives

Pollutant	Criteria
Drainage Control	Design life and design storm of temporary drainage works: **1.** Disturbed area open for <12 months—1 in 2 ARI; **2.** Disturbed area open for 12-24 months—1 in 5 ARI; **3.** Disturbed area open for > 24 months—1 in 10 ARI;
Erosion Control	**4.** Minimise exposure of disturbed soils at any time; **5.** Avoid or minimise large construction activities in the wet season; **6.** Divert water run-off from undisturbed areas around disturbed areas; and **7.** Use erosion risk ratings to determine appropriate erosion control measures.
Sediment Control	Use soil loss rates to determine appropriate sediment control measures Design storm for sediment control basins should be based on retaining the maximum sediment quantity for the maximum volume of water run-off Site discharge during sediment basin dewatering should not exceed 50 mg/L TSS and pH between 6.5–8.5
Stormwater Drainage / Flow Management	Hydraulics and hydrology—Take all reasonable and practicable measures to minimise significant changes to the natural waterway hydraulics and hydrology from: • peak flow for the one-year and 100-year ARI event (respectively for aquatic ecosystems and flood protection); • run-off frequency and volumes entering receiving waters; and • Uncontrolled release of contaminated stormwater.
Water Quality Outcomes	Stormwater flows from undisturbed and disturbed areas—manage to help protect environmental values Coarse sediment—coarse sediment is retained on site Fine sediment—Site discharge during sediment basin dewatering has a TSS concentration less than 50 mg/L Turbidity—Site discharge during sediment basin dewatering has a turbidity (NTU) less than 10% above receiving waters turbidity— measured immediately upstream of the site Nutrients (N & P)—Nitrogen and phosphorus are managed through sediment control. pH—Site discharge during sediment basin dewatering has a pH range 6.5–8.5 Litter and other waste—Prevent litter/waste entering the site, the stormwater system or watercourses that discharge from the site. Also minimise or sufficiently contain on-site litter and waste production and regularly clear waste bins Hydrocarbons and other contaminants—Hydrocarbons and other contaminants are prevented from entering the stormwater system or internal watercourses that discharge from the site. Wash down water—Wash down water is prevented from entering the stormwater system or internal watercourses that discharge from the site Cations and anions—Cations and anions including aluminium, iron and Sulfate are managed as required under an approved acid Sulfate soil management plan

4.2 EROSION AND SEDIMENT CONTROL PLAN PURPOSE

During the construction phase it shall be the Principal Contractor's responsibility to ensure the objectives of Table 4-1 are achieved.

The following section of this report provides a suggested framework for an Erosion and Sediment Control Plan. This includes recommended actions and responses for specific activities; monitoring and reporting; and construction of specifically designed site-specific sediment basins.

4.3 SPECIFIC ACTIVITIES

4.3.1 EROSION AND SEDIMENT CONTROL OF DISTURBED LAND

During the construction phase it shall be the Principal Contractor's responsibility to ensure the following:

- Diversion of any clean water runoff that may interfere with land disturbance by the use of earth bunds, or other control devices deemed appropriate by a suitable supervisor;
- Reduction of sediment migration from disturbed land parcels by implementing silt fences, sediment basins or other control devices as deemed appropriate by a suitable supervisor;
- Where cut to fill operations produce a spoil it is recommended that the excess material be placed upstream of the excavation location to ensure any sediment runoff is directed back into the trench. Earth bunds or sediment fences may be required to control direction of sediment flow should the spoil be placed on the downstream side of the excavation site;
- Control measures such as a gully pit sediment barrier (see Arcadis drawings attached) shall be installed around inlet pits where required reducing the potential for sediment discharge into the surrounding stormwater system;
- Any sediment deposited from construction vehicles will be swept up and removed; and
- Erosion and sediment control devices may only be removed once disturbed lands which they are protecting are rehabilitated and capable of resisting further erosion.

4.3.2 SPOIL AND STOCKPILE MANAGEMENT

It shall be the Principal Contractor's responsibility to oversee the following controls during the construction phase unless otherwise specified:

- The placement of spoil and stockpile material shall be kept at a maximum distance from stormwater inlets, gutters and stormwater pipes to reduce unnecessary sediment migration into nearby infrastructure;
- Spoil and stockpile material shall be placed in a way that reduces the likelihood of sedimentation, erosion and slippage. Advice from an appropriate project manager/representative shall be sought in this instance;
- Spoil or stockpile material that is deemed a contaminant shall be placed on a designated zone of either fill material, plastic or concrete with the installation of appropriate containment devices. Advice from an appropriate project manager/representative shall be sought in this instance as the resulting control will be highly dependent on the severity of contamination; and
- It shall be the Project Manager's responsibility to foresee and develop appropriate control measures to prevent the impacts of spoil and stockpile material prior to construction

activities. Monitoring and reporting shall also be required during the implementation of any given device associated with spoil and stockpile management.

4.3.3 EROSION CONTROL

It shall be the Principal Contractor's responsibility to oversee the following controls during the construction phase:

- Traffic of any type shall be kept away from areas of rehabilitation to promote stabilisation of the zone;
- Where wind and water are acknowledged as potential erosion sources temporary protection shall be installed. Such measures only apply to zones of spoil, stockpile and land disturbance which are unlikely to receive works within a period of 6-8 weeks. Further advice from an appropriate project manager/representative shall be sought in this instance as the resulting control will be highly dependent on the disturbance type and erosion source; and
- Once viable, final landscaping shall be undertaken on applicable zones to increase stability.

4.3.4 PERSONNEL TRAINING

It shall be the Principal Contractor's responsibility to oversee the following training protocols during the construction phase:

- Environmental management and incident reporting is to be included on all site induction courses; and
- All personnel are to receive adequate training in; work place health and safety issues, environmental management, best practice erosion and sediment control practices, incident reporting procedures and where applicable site inspection and maintenance procedures.

4.3.5 MISCELLANEOUS

- It is the Principal Contractor's responsibility to ensure erosion and sediment controls are operated and maintained in an effective operational condition. These structures are not allowed to accumulate sediment volume in excess of 70% sediment storage design capacity as per Section 6 of the Urban Stormwater Quality Planning Guidelines 2010;
- Sediment removed from control measures must be disposed of in a manner approved by the local Council that does not cause pollution and forms part of the Contractor's obligation;
- Any chemicals, fuel or oil stored on site shall be stored under cover in a bounded area or placed sufficiently above ground level to prevent contamination of surface water;
- A waste concrete receptor (disposal area) must be established if significant concreting is to occur on site. The site must be surrounded by perimeter bunds and be clearly signed; and
- A general waste collection area shall be established which is to include appropriate pollutant runoff controls, dependent on the nature of the waste.

4.4 PROJECT PERSONNEL RESPONSIBILITIES

A description of the key personnel involved with implementing the Erosion and Sediment Control Plan are listed in Table 4-2. It is recommended that all parties involved attend a pre-construction

conference to discuss and clarify all issues associated with sediment and erosion control as well as this plan.

Table 4-2 Project Personnel Responsibilities

Project Role	Responsibilities
Superintendent	• Authorisation of this plan; and • Review and monitoring of this plan.
Contractor / Site Manager	• Implementation of this plan; • Monitoring of this plan; • Supervising any activities or requirements required by this plan; • Ensuring all personnel are aware of the contractual agreements associated with this plan.
All Personnel	• Ensuring they are aware of the contractual agreements associated with this plan; and • Informing appropriate personnel of any issues that may arise with respect to the desired sediment and erosion control measures.

4.5 MONITORING AND RESPONSIBILITY

4.5.1 ALL PERSONNEL

It is the obligation of all personnel to report any failures in the erosion and sediment control works utilised during the projects life cycle. Any identified errors within the sediment and erosion control system shall be reported in writing to a relevant project manager. A formal inquiry shall be undertaken in accordance with the reported issue as well as the relevant party procedures (i.e. Principal Contractor).

4.5.2 CONTRACTOR/CONTRACTOR'S FOREMAN

It shall be the responsibility of the Contractor and Contractor's Foreman to monitor and report on the erosion and sediment control measures utilised in the construction phase. Inspections are to be undertaken:

- On a daily basis during earthworks, land disturbance, spoil or stockpile activities and rain events;
- Weekly during site inactivity; and
- Within 24 hours prior to expected rainfall and 18 hours prior to intense rainfall events.

The following shall be inspected or reported on:

- Erosion and sediment control devices are in the correct location and are working as defined by this plan;
- Drainage systems both internal and external to the site are operating effectively or to pre-construction efficiencies;
- Spilled material is removed if it can potentially mobilise via stormwater runoff or wind;
- Stabilisation of disturbed land parcels has been undertaken in an effective manner;
- Excess sediment has been removed from erosion and sediment measures appropriately if the device is operation ineffectively or requires decommissioning.; and
- It is understood that repairs, maintenance or reinstallation may be required if any control measures are operating inadequately, or if infrastructure is damaged due to inefficient operation of the outlined measures.

4.5.3 ENVIRONMENTAL REPRESENTATIVE

It shall be the responsibility of the environment representative to periodically inspect and report on the effectiveness of the erosion and sediment controls during the construction phase of the project. Technical advice shall be given to personnel outlying any uncertainty with regards to the; applicability, installation, operation, maintenance, removal or rehabilitation of any sediment and erosion control.

5 CONCLUSION

This SMP has been prepared to provide a design proposal and guide to the stormwater quality management techniques for the site of the Iron Gates Drive.

The primary objectives of this Stormwater Management Plan (SMP) are achieved as follows:

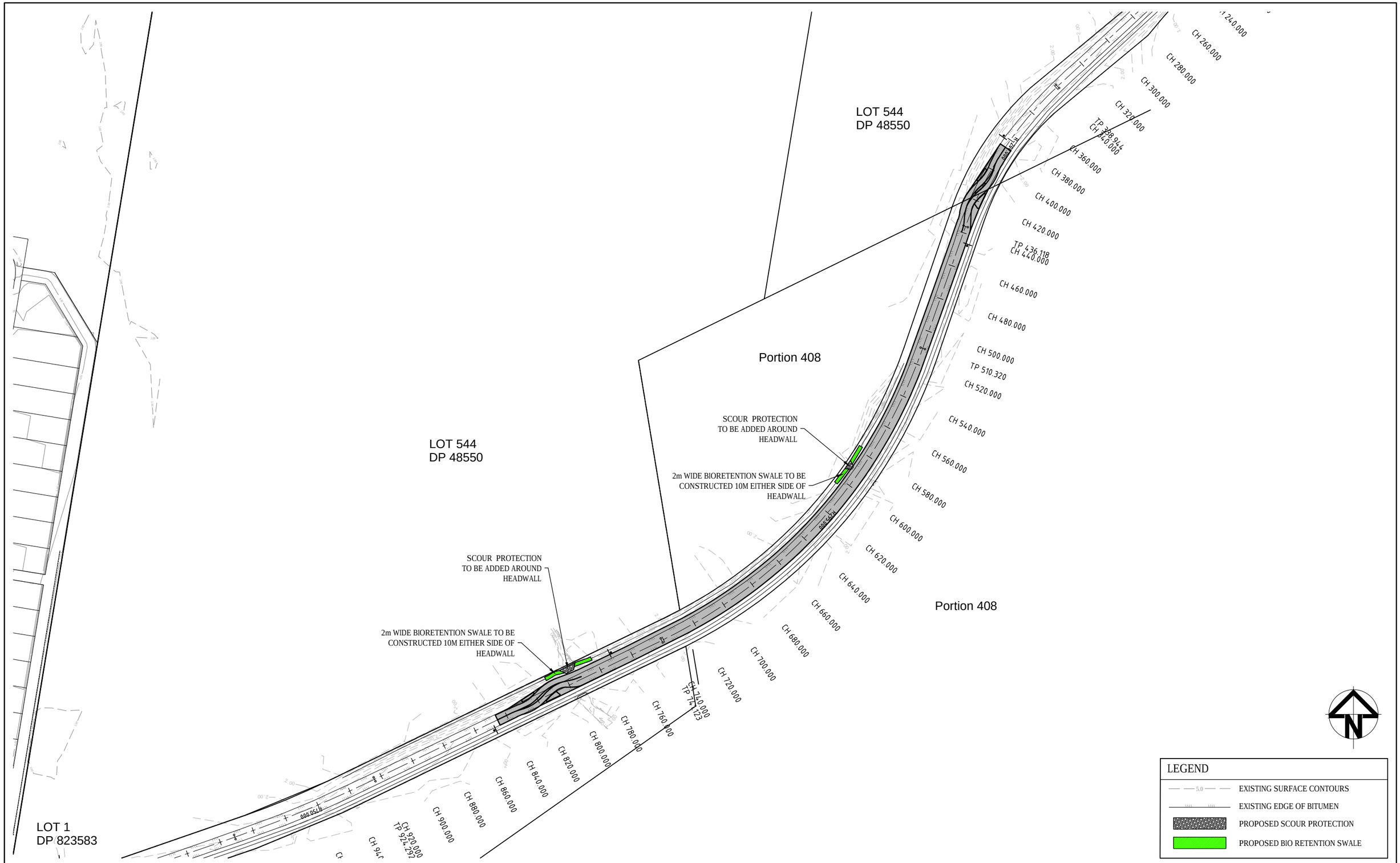
Stormwater Quality

A stormwater quality assessment is provided which demonstrates that a specially tailored treatment system will be required in order to minimise the impacts of the Road widening, in comparison to the existing site runoff scenario. This treatment system is demonstrated in Appendix A.

Erosion and Sediment Control

Construction phase sediment control devices are to be implemented during construction works in accordance with requirements associated with Type 3 sediment discharge zones, comprising of a vehicle shakedown, sediment fences and culvert inlet protection.

APPENDIX A – ENGINEERING PLANS



Issue	Description	By	Ckd	RPEQ	Date
01	ORIGINAL ISSUE	SH	LP		20.03.20

100mm on Original

Scale

0 10 20 40 60 80 100m

1 : 1000

Surveyor

ROBERT A HARRIES
SURVEYOR

Architect

Filename K220-AA007094-GCD-00-ACCESS ROAD STORMWATER PLAN.dwg

Client

GOLDCORAL PTY LTD

Status

PRELIMINARY
NOT TO BE USED FOR CONSTRUCTION

Approved

R.P.E.Q No :

Scales	1:1000	Original Issue Signatures	
Original Size	A1	Drawn S. HEYWARD	
Height Datum	AHD	Designed L. PRIZEMAN	
Grid		Project Manager G. DICK	

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Project

LOT 277 IRON GATES ROAD
EVANS HEAD
ACCESS ROAD

Title

ACCESS ROAD STORMWATER PLAN

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Drawing No.	Project No.	Issue
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ANNEXURE 6 Response to NSW State Agency Comments – Arcadis, 20 March 2020

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20/03/2020

A0004-10027302-AAL-01

Iron Gates Residential Development Draft SEPP71 Master Plan (DAC Planning, October 2019) – Response to NSW State Government Agency Comments

Dear Darryl,

We refer to the NSW State Government Letters received providing commentary on the Iron Gates Residential Development Draft Master Plan, issued by the Natural Resources Commission (NRC) and the Natural Resources Access Regulator (NRAR) on the 11th December 2019 and 23rd January 2020 respectively. Please find below the State Agency comments (in black font) followed by Arcadis' response (in orange font) relevant to Civil Engineering and our scope of services.

Natural Resources Commission

Item 2 – Commission's Advice

The Commission recommends the Master Plan include collection and treatment of stormwater from the upgraded Iron Gates Drive to minimise potentially negative impact on water quality of the nearby SEPP 14 wetland.

The attached Stormwater Management Plan F0007-10027302 prepared by Arcadis Australia Pacific demonstrates the proposed stormwater quality improvement methods which will be implemented to minimise the impact on the downstream water quality of the SEPP 14 wetland of the Iron Gates Drive road widening.

The improvement methods will include additional bio-swale vegetation planting along the existing road side swales and the construction of a sediment trap forebay upstream of the existing stormwater culverts. Additionally, the area of exposed gravel producing significant volumes of suspended solids will be reduced through the sealing of the surface through the bitumen carriageway widening.

Department of Planning, Industry and Environment – Water

Item 1

The Iron Gates development proposal site lies at a pinch point on the Evans River. A slight elevation is aligned approximately along an existing road easement west of Lot 276 DP755624. The subdivision is located on the eastern flank of this elevation, extending into a SEPP 14 coastal wetland.

Noted.

Item 2

A flood study developed for the Evans River indicates likely inundation of the Iron Gates Road and potential floodwater storage within the development area. The development is likely to be isolated during floods, and climate change risks of increased flooding severity may pose some threat to part of the development area.

It is acknowledged that Iron Gates Drive is susceptible to flooding in the current day 100 year ARI flood event. However, only a very minor area of the site is inundated and would provide storage in the regional catchment. Whilst development site will be isolated for a period of time during floods, all development lots have been proposed to be situated above the 100 year ARI climate change flood level to reduce the risk of flooding severity, with 500mm freeboard to floor levels. All roads internal to the development site will also be located above the 100 year ARI climate change flood level.

Item 3

The Master Plan does not provide sufficient information for assessment of geomorphic risks arising from existing flood regimes or potential changes as climate change scenarios occur.

It is both Arcadis' and WBM BMT's position that the requirement of a geomorphic study and risk assessment of a natural river (The Evans River) is an unreasonable and onerous requirement to be expected to be undertaken by a single proposed development site, particularly when the proposed development does not impact on the function of the natural river.

An assessment of the Evans River which looks at the geomorphic processes and the potential changes and risks associated with climate change scenarios and sediment transportation and deposition is the responsibility of the Local and State Government agencies as the outcomes of the study will affect all properties and residents in the catchment. Additionally, any mitigation works associated with the risk of climate change and sediment transportation would be undertaken by Council or State for the benefit of the region.

The Master Plan looks to protect the inhabitants of the Iron Gates development by providing flood immunity to all roads and minimum 500mm freeboard to building floor levels from the climate change 100 year ARI flood level.

The BMT WBM Flood Report at Appendix C of the ESCIR addresses potential flood impacts in the context of the proposed development and concludes as follows:

"The following key conclusions have been made from this study:

- *The dominant source of flooding to the upper Evans River (Tuckombil area) is from overflows from the Richmond River.*
- *At Evans Head the main flood risk is from storm surge. However, much of Evans Head is at elevations sufficient to be above the 100 year ARI storm surge level.*
- *Peak 100 year ARI flood elevations at Evans Head typically range between 2.0m AHD and 2.3m AHD.*
- *Silver Sands Holiday Park within Evans Head and low lying parts of South Evans Head along Ocean Drive and Bundjalung Road are at risk from flooding in a 100 year ARI event.*
- *A climate change assessment was undertaken with a 10% increase in rainfall intensity and a 0.9m rise in sea level. This showed that whilst flood depths increased significantly in the Evans River, the overall 100 year ARI flood extent within Evans Head did not notably change with*

the exception of some additional inundation along Ocean Drive and Bundjalung Road.

- *A local, short duration, high intensity rainfall event across the Evans River does not result in higher flood levels than for when a Richmond River event passes through the Evans River catchment.*
- *The approximate travel time of a significant flood peak (100 year ARI event) between the Tuckombil Weir and Evans Head is around 5 hours.*
- *A sensitivity assessment of lowering the Tuckombil Weir level from 0.94m AHD to 0.74m AHD showed that the change in elevation was insignificant on the flooding response of the river for the 20 year ARI event."*

Item 4

Geomorphic processes driving sediment transport and deposition are significant in a wave dominated delta estuary. Sediment accumulation may drive increased flood height or storm surge backwater storage in the SEPP 14 wetland and associated watercourses and drainage lines.

This Item is addressed in the response to Item 3.

Item 5

Geomorphic processes are not addressed in the documentation provided. Detailed assessment of estuarine geomorphic processes is required to account for likely and possible changes in flood flow behaviour resulting from climate change, leading to altered sediment transport and deposition processes in the Evans River estuary. This should form a basis for mitigation to flooding risk to the Iron Gates subdivision proposal and identify appropriate development limits to housing on the site.

This Item is addressed in the response to Item 3.

Item 6

Hydrologic linkages between the Richmond River estuary and the Evans River inlet through the Tuckmobile Canal below Woodburn require further detailed examination.

This Item is addressed in the response to Item 3.

Item 7

The risk of inundation and isolation of the Iron Gates proposal resulting from storm surge meeting flood wave travelling along the Evans River requires detailed explanation. The flood scenarios rely upon the WBM Evans River Flood Study, therefore the inundation and fringing flood zones adjacent to the development site should be assessed against the recommended flood protection elevation buffers for the lower Evans River.

The existing Evans River Flood Study prepared by WBM BMT (Appendix C of the ESCIR) includes an analysis of climate change and storm surge, providing a peak flood level within the lower Evans River catchment by creating a coinciding event of individual flooding elements. The proposed development does not create any additional risk of inundation at the development site, with all roads proposed above the 100 year ARI climate change flood level, and all lots providing 500mm freeboard to this same level.

The development proposal does not modify the Evans River catchment hydraulics or storage within the larger regional catchment. As such, the flooding conditions and required protection within the fringing flood zones adjacent to the development site will not change as a result of the Iron Gates Master Plan.

Item 8

Sedimentation storage and influence on flood surges into and along the lower Evans River should also be included in any such study. This must also address intrusion into the existing SEPP 14 wetland and development adjacent to an unnamed drainage line within Lot 544 DP 48550.

As previously mentioned, Arcadis do not believe that a study to assess the potential future impacts of sedimentation storage and climate change flood surge within the Evans River should be prepared by a single applicant.

The proposed Master Plan looks to mitigate any impacts to the SEPP 14 wetland area by avoiding development in the area, and only proposes minimal area of fill in the highest portion of the current 100 year ARI flood extents. A central portion of the site remains in it's natural state, discharging toward the Evans River. All runoff from the developed areas of the site will be controlled through stormwater quality improvement devices, limiting peak flows and sediment runoff.

Yours sincerely,

Lachlan Prizeman
Civil Engineer
07 5503 4804

ANNEXURE 7 Amended Plan of Proposed Subdivision – Land Partners Pty Ltd, 23 March 2020

Lot Table	
Lot	Area
1	969 m²
2	612 m²
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29	627 m²
30	600 m²
31	600 m²
32	600 m²
33	600 m²
34	600 m²
35	600 m²
36	788 m²
37	674 m²
38	775 m²
39	612 m²
40	604 m²
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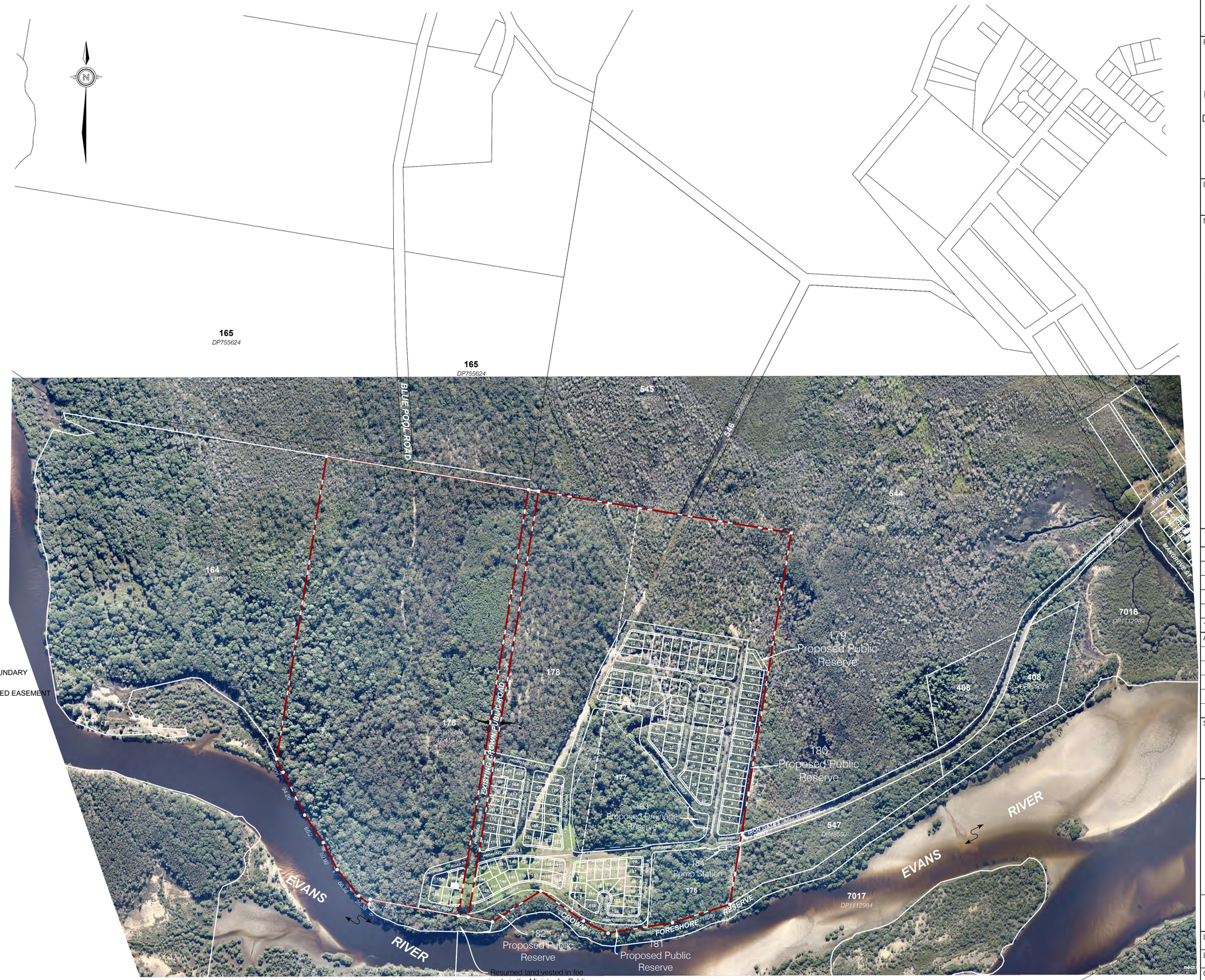

Resumed land vested in fee simple in the Minister for Public Works as per Government Gazette dated 11 May 1894

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PROJECT

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LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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Aerial Photography sourced from Nearmap 13-3-2019.
Date of photography - 03/07/2012

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Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR
40m 0 80 200m
SCALE 1:4000 @ A1

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LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-17		
DRAWN	CGW	DATE	23/03/2020
CHECKED	CMJ	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020
PLAN NUMBER	SHEET 1 OF 2 BRJD6396.100-013	REV	i

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

CGW

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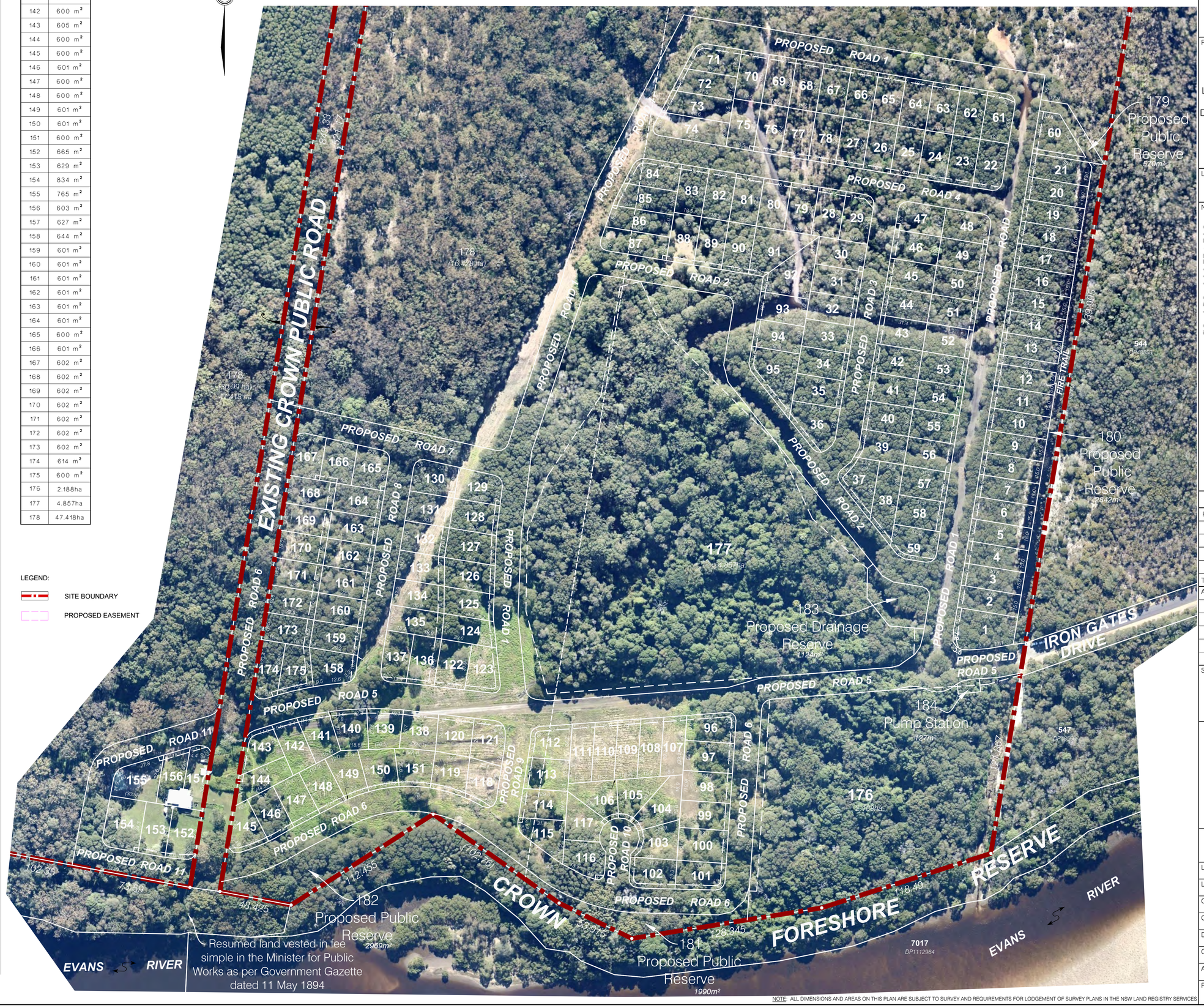
LEGEND:

SITE BOUNDARY

PROPOSED EASEMENT



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LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

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PLAN NUMBER	SHEET 2 OF 2 BRJD6396.100-013	REV	i

CGW

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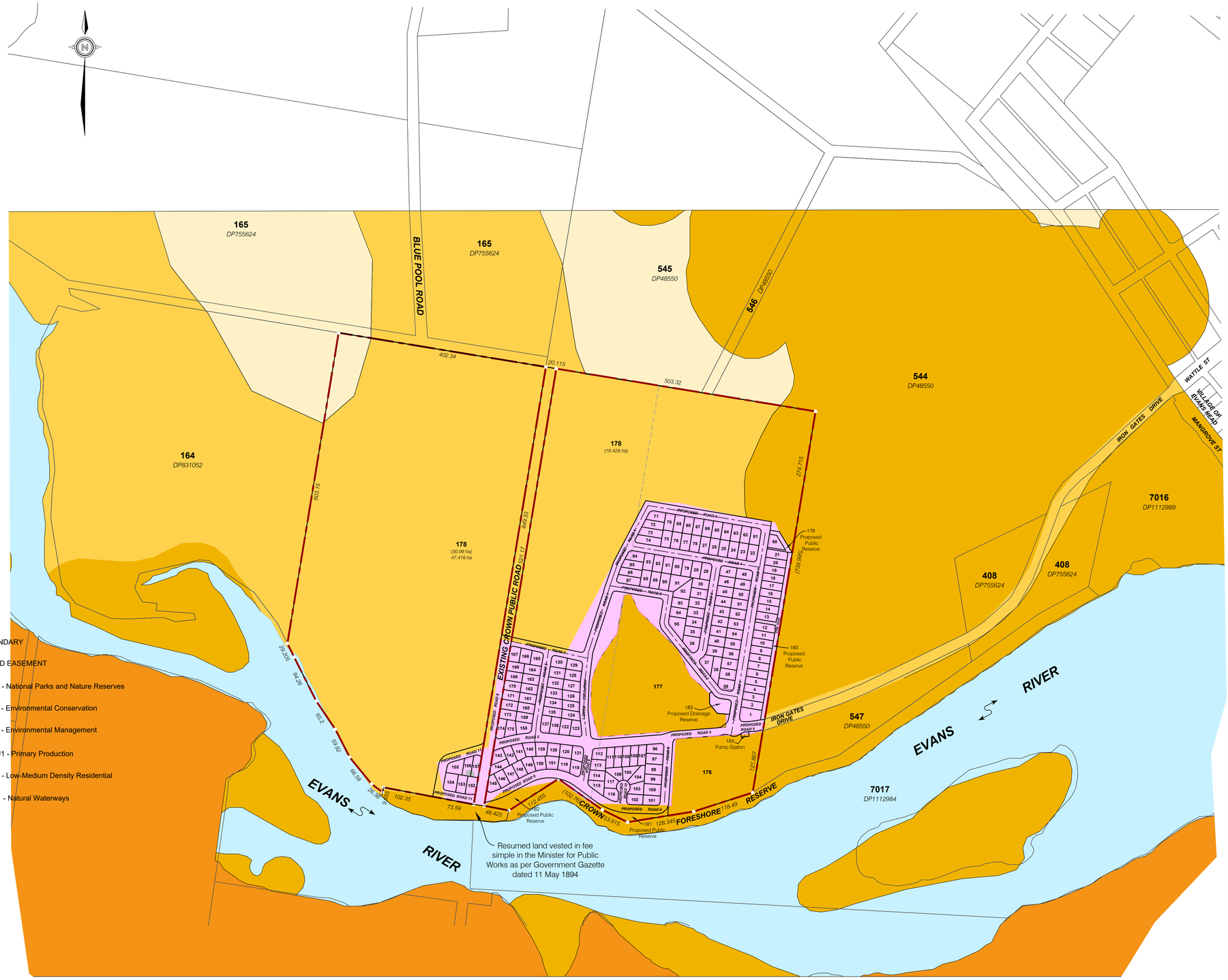
LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways



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34	600 m²
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36	788 m²
37	674 m²
38	775 m²
39	612 m²
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Lot Table	
Lot	Area
71	607 m²
72	608 m²
73	682 m²
74	766 m²
75	600 m²
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121	600 m²
122	647 m²
123	619 m²
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151	600 m²
152	665 m²
153	629 m²
154	834 m²
155	765 m²
156	603 m²
157	627 m²
158	644 m²
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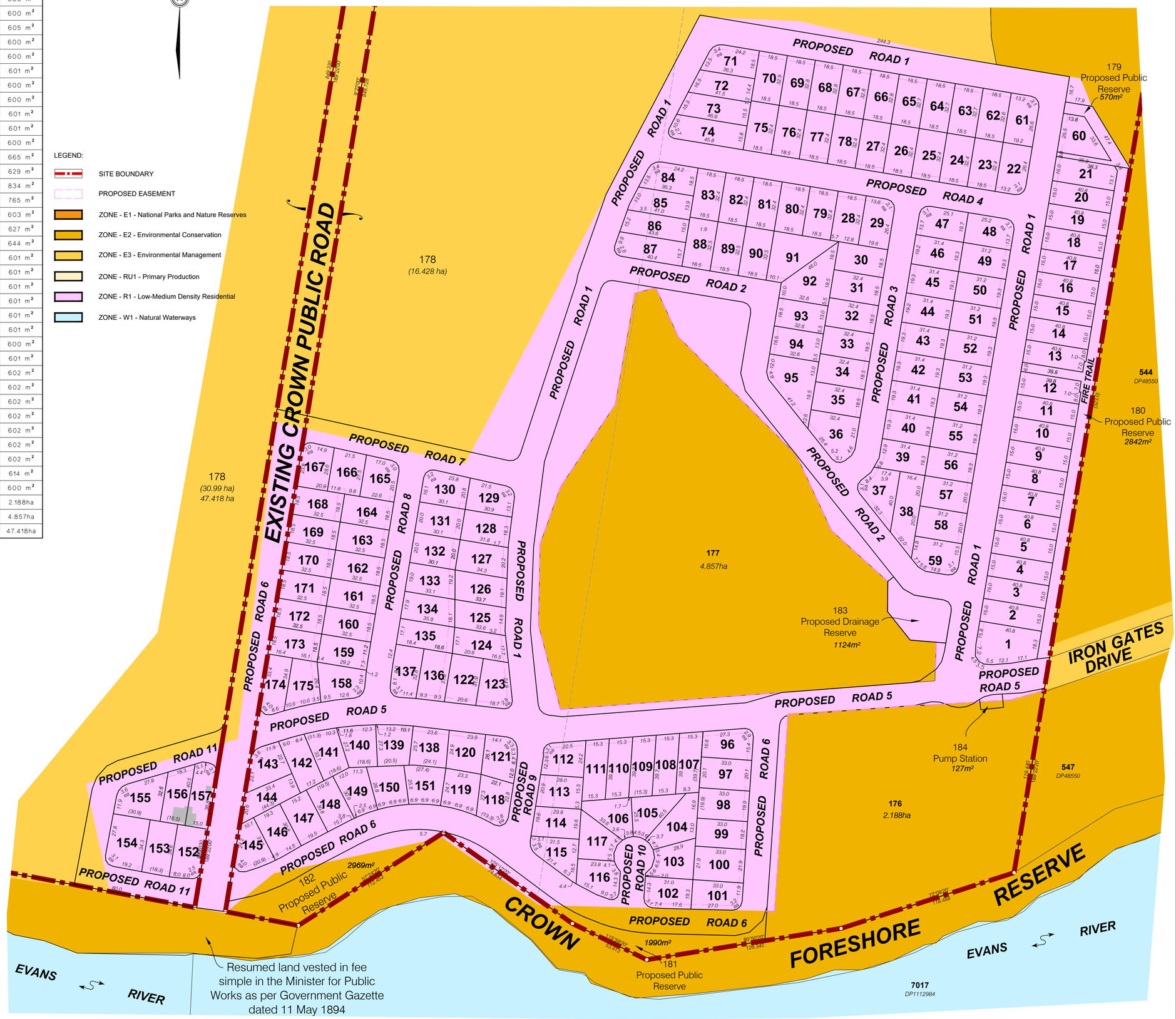
171	602 m²
172	602 m²
173	602 m²
174	614 m²
175	600 m²
176	2.188ha
177	4.857ha
178	47.418ha

LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- ZONE - E1 - National Parks and Nature Reserves
- ZONE - E2 - Environmental Conservation
- ZONE - E3 - Environmental Management
- ZONE - RU1 - Primary Production
- ZONE - R1 - Low-Medium Density Residential
- ZONE - W1 - Natural Waterways



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GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

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Public Reserves (4)	0.8379ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR

0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

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LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-17		
DRAWN	CGW	DATE	23/03/2020
CHECKED	CMJ	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020
PLAN NUMBER	SHEET 2 OF 2 BRJD6396.100-014	REV	P

CGW

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20	612 m²
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27	600 m²
28	600 m²
29	627 m²
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GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

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ADDITIONAL NOTES

SCALE BAR

40m 0 80 200m

SCALE 1:4000 @ A1

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LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-17		
DRAWN	CGW	DATE	23/03/2020
CHECKED	CMJ	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020
PLAN NUMBER	SHEET 1 OF 2 BRJD6396.100-015	REV	N

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

CGW

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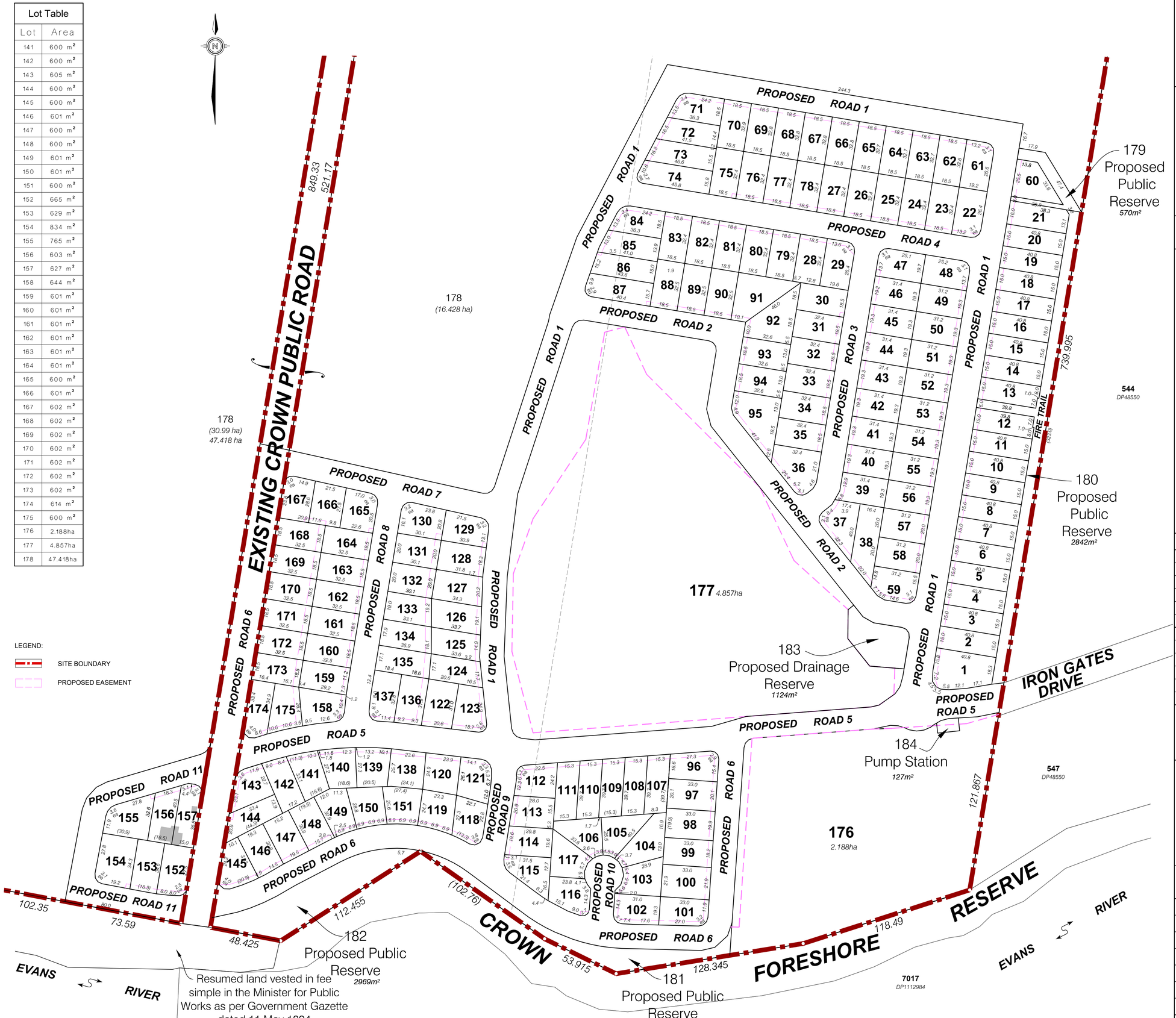

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GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

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SCALE BAR

0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

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bsi. ISO 9001 Quality Management FS 563 / FS 32063

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-33-17		
DRAWN	CGW	DATE	23/03/2020
CHECKED	CMJ	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020

PLAN NUMBER BRJD6396.100-015 — SHEET 2 OF 2 — REV N

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

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PROJECT PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

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STAGE	No. OF LOTS	NEW ROAD	AREA OF PARK	TOTAL AREA
-	-	-	-	-
TOTAL				

SCALE BAR

50m 0 50 100m

SCALE 1:2500 @ A3

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ISO 9001: FS 530063

LEVEL DATUM	NA		
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CONTOUR INTERVAL	NA		
DRAWN	CGW	DATE	23/03/2020
CHECKED	MEA	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020

UDN BRJD6396-100-38-5 SHEET 1 OF 1

CGW

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PROJECT

BUSHFIRE SETBACK PLAN OVER PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

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SCALE 1:2500 @ A3

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bsi. ISO 9001 Quality Management
ISO 9001: FS 530063

LEVEL DATUM	NA		
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CONTOUR INTERVAL	NA		
DRAWN	CGW	DATE	23/03/2020
CHECKED	MEA	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020

UDN BRJD6396-100-45-2

SHEET 1 OF 1

CGW

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ANNEXURE 8 Roads & Maritime Services Submission to DA2015/0096

Transport
Roads & Maritime Services

File No: NTH15/00084/03
Your Ref: DA2015/0096

The General Manager
Richmond Valley Council
Locked Bag 10
CASINO NSW 2470

Attention: Andy Edwards
council@richmondvalley.nsw.gov.au

Dear Sir,

Re: Development Referral – Iron Gates Subdivision of 184 lots, DA2015/0096
240 Iron Gates Drive, Evans Head.

I refer to your letter dated 26 September 2019 requesting comment from Roads and Maritime Services in relation to the abovementioned development application.

Roles and Responsibilities
The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure and the integration of land use and transport.

Iron Gates Drive is not a classified road. It is a public (local) road under the *Roads Act 1993* (Roads Act) and Richmond Valley Council (Council) is the roads authority for this road. Council is responsible for setting standards and determining priorities. In accordance with Section 138 of the *Roads Act 1993* Council's approval is required prior to works being undertaken on this road. Roads and Maritime's concurrence is not required for unclassified roads.

Roads and Maritime Advice
Roads and Maritime has reviewed the referred information and provides the following comments to assist the consent authority in making a determination. It is noted that the Joint Regional Planning Panel is the determining authority.

1. Reference is made to previous correspondence from Roads and Maritime dated 1 March 2016. In particular, the following comment is still considered relevant: '... *the residential proposal is of a scale, and located such, that traffic generation will likely have a minimal impact on road network efficiency*, [however], *the road safety impacts of the proposal should be considered*...'

2. It was recommended in our previous advice that a Traffic Impact Assessment (TIA) be provided. While we note that traffic and road infrastructure is addressed in the Engineering Services & Civil Infrastructure Report, the Report does not address a number of factors that would be included in a TIA, such as:
   - The total impact of the existing and proposed development on the road network with consideration for a 10 year horizon.
   - The volume and distribution of traffic generated.
   - Intersection sight distances at key intersections.
   - Details of proposed improvements to road intersections with consideration for the current Austroads Guidelines, Australian Standards and Roads and Maritime Supplements.
   - Traffic Management for construction and operational phases of the proposed development.
   - Impact on public transport (public and school bus routes) and consideration for alternative transport modes such as walking and cycling.
   - Pedestrian, cycle and vehicle safety should be the main focus of management of the road network supporting the proposal.

Document Set ID: 1481396
Versio[redacted]

Should Council decide to see further traffic assessment as part of this application (or any subsequent staging of the development), the TIA should take into account the key issues relevant to the scale of this proposal as set out in Table 2.1 of the Roads and Traffic Authority's current 'Guide to Traffic Generating Developments". It is recommended that current traffic data be used.

3. The impact of construction traffic on the roads identified as part of the haulage route should be considered; particularly truck movements associated with delivery of fill to the site. It is noted that the Regional road – the Woodburn to Evans Head Road is part of the haulage route. The potential for damage to these roads should be considered and provisions put in place to address any such impact.

4. Roads and Maritime would support Council requesting a Driver's Code of Conduct for haulage operators, to address road safety issues on the key haulage route/s. Any Code of Conduct could include, but not be limited to:

   a. A map of the primary haulage routes highlighting critical locations.

   b. Safety initiatives for haulage through residential areas and/or school zones.

   c. An induction process for vehicle operators and regular toolbox meetings.

   d. A complaint resolution and disciplinary procedure.

   e. Any community consultation measures proposed for peak haulage periods.

Upon determination of the application it would be appreciated if Council could forward a copy of the approval for our records. If you have any further enquiries regarding the above comments please do not hesitate to contact Cheryl Sisson, Development Assessment Officer on (02) 6640 1362 or via email at: development.northern@rms.nsw.gov.au

Yours faithfully,

Matt Adams
Manager Land Use Assessment, Northern
18 October 2019

Document Set ID: 1481396
Versio[redacted]

ANNEXURE 9 **Amended Evans River Foreshore Embellishment Plan – Land Partners Pty Ltd, 19 March 2020**

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

(i) This plan was prepared for the purpose and exclusive use of THE INGLES GROUP to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation. LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (ii) or (iii) hereof.

(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

(iii) This plan may not be copied unless these notes are included.

Aerial Photography sourced from Nearmap 17-03-2020.
Date of photography - 03/07/2012

LOTS	TOTAL AREA
Residential Lots (175)	16.884ha
Residue Lots (3)	54.463ha
Public Reserves (4)	0.8366ha
Drainage Reserve (1)	0.1124ha
Pump station lot (1)	0.0127ha
TOTAL	72.309ha

ADDITIONAL NOTES

SCALE BAR
10m 0 20 40m
SCALE 1:750 @ A1

LANDPARTNERS built environment consultants

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bsi. ISO 9001 Quality Management
SQ 1004 FS 51043

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-50-2		
DRAWN	CGW	DATE	19/03/2020
CHECKED	MEA	DATE	19/03/2020
APPROVED	CGW	DATE	19/03/2020
PLAN NUMBER	SHEET 1 OF 4 BRJD6396-100-50	REV	2

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

CGW

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LEGEND

- DISTURBED COMMUNITIES- OPEN PADDOCK/CLEARED LAND
- DISTURBED COMMUNITIES- ACACIA REGROWTH
- EUCALYPT FOREST- CORYMBIA INTERMEDIA, E.PLANCHONIANA, E.TERETICORNIS, E.SIGNATA & OTHER EUCALYPTS
- EUCALYPT FOREST- E.TERETICORNIS
- LITTORAL RAINFOREST

Source: Figure 4, Terrestrial Flora and Fauna Assessment, JWA July 2019.

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

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10m 0 20 40m
SCALE 1:750 @ A1

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LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-50-2		
DRAWN	CGW	DATE	19/03/2020
CHECKED	MEA	DATE	19/03/2020
APPROVED	CGW	DATE	19/03/2020
PLAN NUMBER	SHEET 2 OF 4 BRJD6396-100-50	REV	2

CGW

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LEGEND

- SHELL MIDDEN AREA
- AMENITIES BUILDING
- SHELTER AND PICNIC AREA
- PLAYGROUND
- BOARDWALK ACROSS SWALE
- 2.0m PATH
- TURFED BIO SWALE

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

CLIENT

GOLDCORAL PTY LTD

PROJECT

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bsi. ISO 9001 Quality Management
SQ 1004 FS 51043

LEVEL DATUM	AHD		
LEVEL ORIGIN	-		
CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-50-2		
DRAWN	CGW	DATE	19/03/2020
CHECKED	MEA	DATE	19/03/2020
APPROVED	CGW	DATE	19/03/2020
PLAN NUMBER	SHEET 3 OF 4 BRJD6396-100-50	REV	2

CGW

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LEGEND

- DISTURBED COMMUNITIES- OPEN PADDOCK/CLEARED LAND
- DISTURBED COMMUNITIES- ACACIA REGROWTH
- EUCALYPT FOREST- CORYMBIA INTERMEDIA, E.PLANCHONIANA, E.TERETICORNIS, E.SIGNATA & OTHER EUCALYPTS
- EUCALYPT FOREST- E.TERETICORNIS
- LITTORAL RAINFOREST

Source: Figure 4, Terrestrial Flora and Fauna Assessment, JWA July 2019.

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

CLIENT

GOLDCORAL PTY LTD

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

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LEVEL DATUM	AHD		
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CONTOUR INTERVAL	-		
COMPUTER FILE	BRJD6396-100-50-2		
DRAWN	CGW	DATE	19/03/2020
CHECKED	MEA	DATE	19/03/2020
APPROVED	CGW	DATE	19/03/2020
PLAN NUMBER	SHEET 4 OF 4 BRJD6396-100-50	REV	2

CGW

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ANNEXURE 10 DoPIE (BCD) Letter Dated 20 November 2019 Regarding Ecology and Offsets

Planning, Industry & Environment

Our Ref: DOC19/997718
Your Ref: Draft Master Plan Re-exhibition

Director, Northern Region
Planning and Assessment Group
Locked Bag 9022
Grafton NSW 2460

Attention: Mr Jon Stone

Dear Mr Gray

RE: Re- exhibition of Draft Master Plan – Iron Gates Residential Release – Evans Head

Thank you for your letter dated 5 November 2019 about the re-exhibition of the Draft Master Plan for the Iron Gates development at Evans Head, seeking comments from the Biodiversity and Conservation Division (BCD) of the Environment, Energy and Science Group in the Department of Planning, Industry and Environment. I appreciate the opportunity to provide input.

The BCD was formerly part of the Office of Environment and Heritage, but now forms part of a Group that has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), Aboriginal cultural heritage, National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

We have reviewed the Draft Master Plan and its appendices, which include our correspondence that identifies a suitable biodiversity offset for the proposed development. As such, we have no issues to raise about the Draft Master Plan for the proposed development.

However, we note that there is no single document which compiles all the environmental management and biodiversity offsets proposed in a clear summary. For example, our agreement to the biodiversity offsets for the Iron Gates development is located at Attachment 7 of the Terrestrial Flora and Fauna Assessment which is Appendix 5 of the SEE, whist our agreement to the biodiversity offsets for the road reserve leading into the Iron Gates development is located at Appendix 7 of the Amended Ecological Assessment which is Appendix 6 of the SEE.

Following the exhibition period, we would be happy to assist in reviewing any conditions or approval documents to ensure the intent of our discussions and correspondence with the council and the proponent is appropriately articulated.

Please be advised that we have received a request from the Richmond Valley Council for General Terms of Approval for Aboriginal cultural heritage and will be providing our response to this under separate cover, once we have received the public submission from the council.

If you have any questions about this advice, please do not hesitate to contact me at dimitri.young@environment.nsw.gov.au or 6659 8272.

Yours sincerely

Dimitri Young 20 November 2019

DIMITRI YOUNG
Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

Lot Table	
Lot	Area
1	967 m²
2	612 m²
3	612 m²
4	612 m²
5	612 m²
6	612 m²
7	612 m²
8	612 m²
9	612 m²
10	612 m²
11	612 m²
12	612 m²
13	612 m²
14	612 m²
15	612 m²
16	612 m²
17	612 m²
18	612 m²
19	612 m²
20	612 m²
21	649 m²
22	615 m²
23	600 m²
24	600 m²
25	600 m²
26	600 m²
27	600 m²
28	600 m²
29	627 m²
30	600 m²
31	600 m²
32	600 m²
33	600 m²
34	600 m²
35	600 m²
36	788 m²
37	674 m²
38	775 m²
39	612 m²
40	604 m²
41	604 m²
42	604 m²
43	604 m²
44	604 m²
45	604 m²
46	604 m²
47	609 m²
48	605 m²
49	600 m²
50	600 m²
51	600 m²
52	600 m²
53	600 m²
54	600 m²
55	600 m²
56	600 m²
57	623 m²
58	623 m²
59	835 m²
60	632 m²
61	618 m²
62	604 m²
63	604 m²
64	605 m²
65	608 m²
66	606 m²
67	607 m²
68	607 m²
69	608 m²
70	609 m²

Lot Table	
Lot	Area
71	607 m²
72	608 m²
73	682 m²
74	766 m²
75	600 m²
76	600 m²
77	600 m²
78	600 m²
79	600 m²
80	601 m²
81	601 m²
82	601 m²
83	601 m²
84	608 m²
85	614 m²
86	634 m²
87	696 m²
88	602 m²
89	602 m²
90	602 m²
91	859 m²
92	858 m²
93	603 m²
94	603 m²
95	954 m²
96	618 m²
97	683 m²
98	857 m²
99	602 m²
100	723 m²
101	605 m²
102	609 m²
103	620 m²
104	714 m²
105	602 m²
106	604 m²
107	602 m²
108	602 m²
109	602 m²
110	602 m²
111	601 m²
112	613 m²
113	607 m²
114	600 m²
115	606 m²
116	601 m²
117	602 m²
118	601 m²
119	601 m²
120	600 m²
121	602 m²
122	647 m²
123	619 m²
124	603 m²
125	600 m²
126	646 m²
127	661 m²
128	628 m²
129	600 m²
130	639 m²
131	602 m²
132	602 m²
133	600 m²
134	618 m²
135	623 m²
136	604 m²
137	602 m²
138	600 m²
139	600 m²
140	600 m²

Lot Table	
Lot	Area
141	600 m²
142	600 m²
143	605 m²
144	600 m²
145	600 m²
146	601 m²
147	600 m²
148	600 m²
149	601 m²
150	601 m²
151	600 m²
152	2969 m²
153	665 m²
154	528 m²
155	834 m²
156	765 m²
157	603 m²
158	627 m²
159	644 m²
160	601 m²
161	601 m²
162	601 m²
163	601 m²
164	601 m²
165	601 m²
166	600 m²
167	601 m²
168	602 m²
169	602 m²
170	602 m²
171	602 m²
172	602 m²
173	602 m²
174	602 m²
175	614 m²
176	600 m²
177	2842 m²
178	570 m²
179	2.201ha
180	4.942ha
181	1990 m²
182	47.415ha

Note:

- *Road numbers are those used by the civil engineer*
- *Development is to be undertaken in four stages as outlined on the face of the plan*

LEGEND:

- SITE BOUNDARY
- PROPOSED EASEMENT
- PREVIOUS STAGE BOUNDARY

CLIENT

THE INGLES GROUP

PROJECT

PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624 AND LOTS 163 ON DP831052

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

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STAGE	No OF LOTS	NEW ROAD	AREA OF PARK	TOTAL AREA
1	59	-	-	5.542ha
2	36	-	-	3.662 ha
3	34	-	7.32ha	11.24ha
4	46	-	0.2909ha	4.45ha
Balance				47.415ha
TOTAL	175		7.5169ha	72.309ha

ADDITIONAL NOTES

SCALE BAR

0 5 10 20 30 50 80m

SCALE 1:1250 @ A1

LANDPARTNERS built environment consultants

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LEVEL DATUM	AHD
LEVEL ORIGIN	-
CONTOUR INTERVAL	-
COMPUTER FILE	6396100H7
DRAWN ABS	DATE 06/04/2018
CHECKED DB	DATE 06/04/2018
APPROVED -	DATE -
PLAN NUMBER BRJD6396.100-015	SHEET 1 OF 2 / REV F

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE NSW LAND REGISTRY SERVICES

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Sandra Anderson

Subject: FW: HPE CM: RE: DA2015/0096 - Proposed Urban Subdivision at Lot 163 DP 831052, Lots 276 & 277 DP755624 and Crown Road Reserves/Foreshore Reserves, Iron Gates, Evans Head - DAC File No. GOL 16/174

Attachments: DOC15 111255 Response to Richmond Valley Council - DA 2015.096 Iron Gates subdivision.pdf; nla.news-article222337519.3.pdf

---

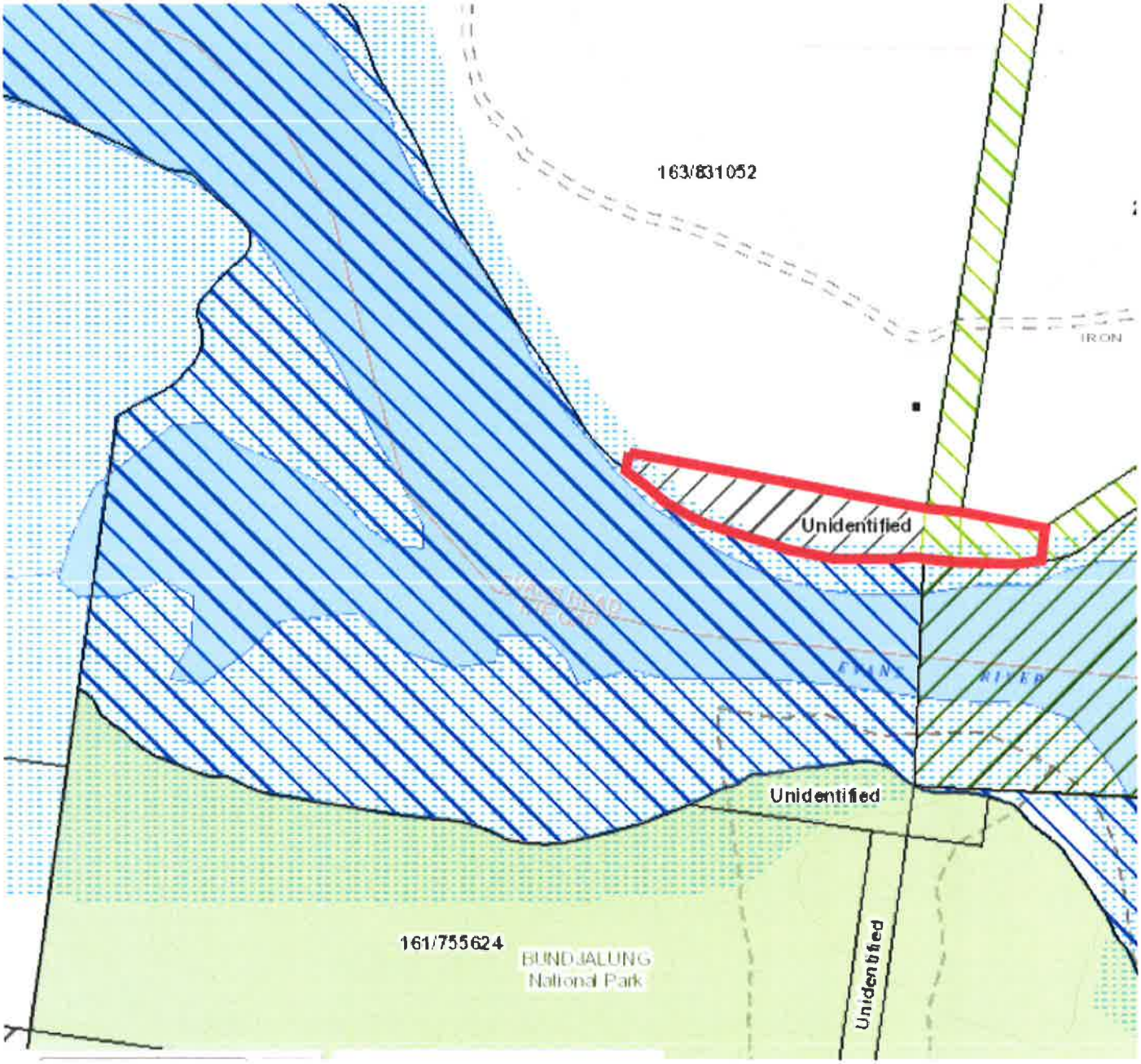
From: Peter Baumann [mailto:peter.baumann@crownland.nsw.gov.au]
Sent: Friday, 29 March 2019 4:33 PM
To: Jenny – Secretary to Darryl Anderson
Subject: RE: HPE CM: RE: DA2015/0096 - Proposed Urban Subdivision at Lot 163 DP 831052, Lots 276 & 277 DP755624 and Crown Road Reserves/Foreshore Reserves, Iron Gates, Evans Head - DAC File No. GOL 16/174

Hi Darryl

Sorry I missed your call on Thursday and also apologies for the extended delay in getting back to you regarding this matter.

The initial response of the department to the Iron Gates development proposal by Planit was based on misleading land status records which showed a Crown road along the bank of the river in front of Lot 163 DP 831052 and Lots 276 & 277 DP 755624.

I have conferred with my colleague who looked into the land status anomalies in collaboration with Mike Perkins of Richmond Valley Council. Investigation of historic records confirms the resumption of the land shown by red outline on the diagram below under the Public Works Act 1888 in connection with "Drainage Works at Tuckombil Creek" as per notification in the Government Gazette Friday 11 May 1894 Folio 3086 (copy attached).



The area shown by red outline on the above diagram is an interpretation of the gazette description based on cadastral boundaries shown on the digital cadastral database. According to our status branch the extent of the Crown roads should be 47.775metres east of the western boundary of Portion 276. The Crown road should not be shown west of this point.

The resumed land was vested in fee simple in the Minister for Public Works as Constructing Authority in accordance with the gazette notification.

It is noted that Richmond River County Council now owns the Tuckombil Canal component of the original drainage project and may therefore be able to clarify current ownership and control of the red outline area.

With respect to the Crown road on the balance of the foreshore, the concerns raised in our initial submission (copy attached) remain relevant;

1. Capacity of the proposed foreshore offset area including the existing public lands to function as an effective environmental buffer, and
2. Future management of the proposed foreshore offset area

It would be our preference that the foreshore Crown road be transferred to Council control to facilitate future integrated management of the foreshore reserve area.

It will aid our consideration of land owners consent to lodgement if the above points are effectively addressed in the DA.

Please don't hesitate to contact me if your need any further assistance with this matter.

Regards
Peter

Peter Baumann | Natural Resource Management Project Officer
NSW Department of Industry – Lands & Water
Level 3 | 49-51 Victoria Street | GRAFTON | NSW 2460
PO Box 2185 | DANGAR NSW 2309
T: (02) 6642 9201 | F: (02) 6642 5375 E: peter.baumann@crownland.nsw.gov.au
W: www.crownland.nsw.gov.au | www.industry.nsw.gov.au

From: Jenny – Secretary to Darryl Anderson <jenny@dacplanning.com.au>
Sent: Thursday, 21 March 2019 1:51 PM
To: Peter Baumann <peter.baumann@crownland.nsw.gov.au>
Cc: Graeme Ingles <graeme@inglesgroup.com.au>
Subject: HPE CM: RE: DA2015/0096 - Proposed Urban Subdivision at Lot 163 DP 831052, Lots 276 & 277 DP755624 and Crown Road Reserves/Foreshore Reserves, Iron Gates, Evans Head - DAC File No. GOL 16/174

Hi Peter

Could you please advise when we might have a response to the email below?

Regards

DARRYL ANDERSON
Director/Principal Town Planner
0438 233 611

DAC PLANNING PTY LTD
TOWN PLANNING & DEVELOPMENT CONSULTANTS

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Our Ref: 15/00855
Your Ref:

24 February 2014

The General Manager
Richmond Valley Council
Locked Bag 10
CASINO NSW 2470

Attention: Stephen McCarthy

Dear Sir

Re: DA No: 2015.096 Iron Gates subdivision – Lot 163 DP 831052, Lots 276 & 277 DP 7555624 at Evans Head

Thank you for referring the above development proposal to Crown Lands for comment.

A Crown Public road separates Lot 163 DP 831052 from Lot 276 DP 7555624 and also runs along the foreshore of the Evans River on the southern boundary of Lot 163 DP 831052 and Lots 276 & 277 DP 7555624. The subject roads are held under Enclosure Permit 40019 issued to the Goldcoral Pty Ltd the owner of the adjoining lands.

The proposed development envelope incorporates use of the Crown Public road network which raises a number of issues;

The southern half of the Crown road separating Lot 163 from Lot 276 is proposed to be constructed as part of the road network servicing the proposed subdivision. Crown Lands requires that all Crown roads to be constructed are transferred to Council control pursuant to Section 151 – Roads Act 1993 on approval of the development.

It is noted that the constructed Crown road will terminate at the Crown road reserve on the bank of the Evans River. The Crown foreshore road provides public access to the river and has significant recreational and environmental values. Enhanced public access to the river in this part of the estuary will be a major feature of the proposed development with provision of foreshore recreational opportunities for prospective residents as well as the wider community.

The subdivision design utilises the Crown road as a buffer zone between the residential development and the Evans River, particularly the component on the southern side of Iron Gates Road. It is also noted that the cultural heritage assessment has identified a midden within the road reserve.

In our view the DA does not adequately address the anticipated pressure of public foreshore use and the potential impacts this may have on the capacity of the Crown road to be an effective environmental buffer to the estuary. It is considered that the area of open space designed as Lot 183 does not contribute sufficient offset to the foreshore Crown road reserve and estuary and should be expanded to provide a larger area that has the capacity to function both as a sustainable environmental buffer and a passive foreshore recreation area in line with public expectations and the level of usage anticipated in the DA.

It should be noted Crown Lands has not provided owners consent to lodgement of the development application in so far as the Crown roads are involved.

Future management of the foreshore road reserve has not been effectively addressed with the DA stating that consent to landscaping works by the Crown can be a condition of consent. In the short term there are no problems in principle with incorporating the Crown road reserve in an environmental management plan covering the proposed open space and environmental offset areas. However it may be preferable to consider how best the proposed open space, environmental retention areas and foreshore Crown road can be managed in a more integrated basis into the future.

Options for the future of the foreshore road reserve include retention as public road reserve and managed under the Roads Act 1993, either maintained as a Crown public road or under Council control. Alternatively the road could be closed and set aside as a public reserve managed under the Crown Lands Act 1989 or closed and purchased by the developer to be subsequently dedicated to Council for management under the Local Government Act 1993 in conjunction with the other proposed open space and environmental offsets.

If you require any further clarification or assistance with this matter please don't hesitate to contact me by telephone: (02) 66429201.

Yours sincerely

Peter Baumann
Natural Resource Management Project Officer
Crown Lands Grafton

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE DEPARTMENT.

CLIENT

GOLDCORAL PTY LTD

PROJECT: PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY: RICHMOND VALLEY

NOTES

(i) This plan was prepared for the purpose and exclusive use of GOLDCORAL PTY LTD to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation.
LandPartners Pty Ltd accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses (ii) or (iii) hereof.

(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

(iii) This plan may not be copied unless these notes are included.

STAGE	No. OF LOTS	NEW ROAD	AREA OF PARK	TOTAL AREA
-	-	-	-	-
TOTAL				

SCALE BAR

50m 0 50 100m

SCALE 1:2500 @ A3

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bsi. ISO 9001 Quality Management

LEVEL DATUM	NA		
LEVEL ORIGIN	NA		
CONTOUR INTERVAL	NA		
DRAWN	CGW	DATE	23/03/2020
CHECKED	MEA	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020

UDN BRJD6396-100-38-5 SHEET 1 OF 1

CGW

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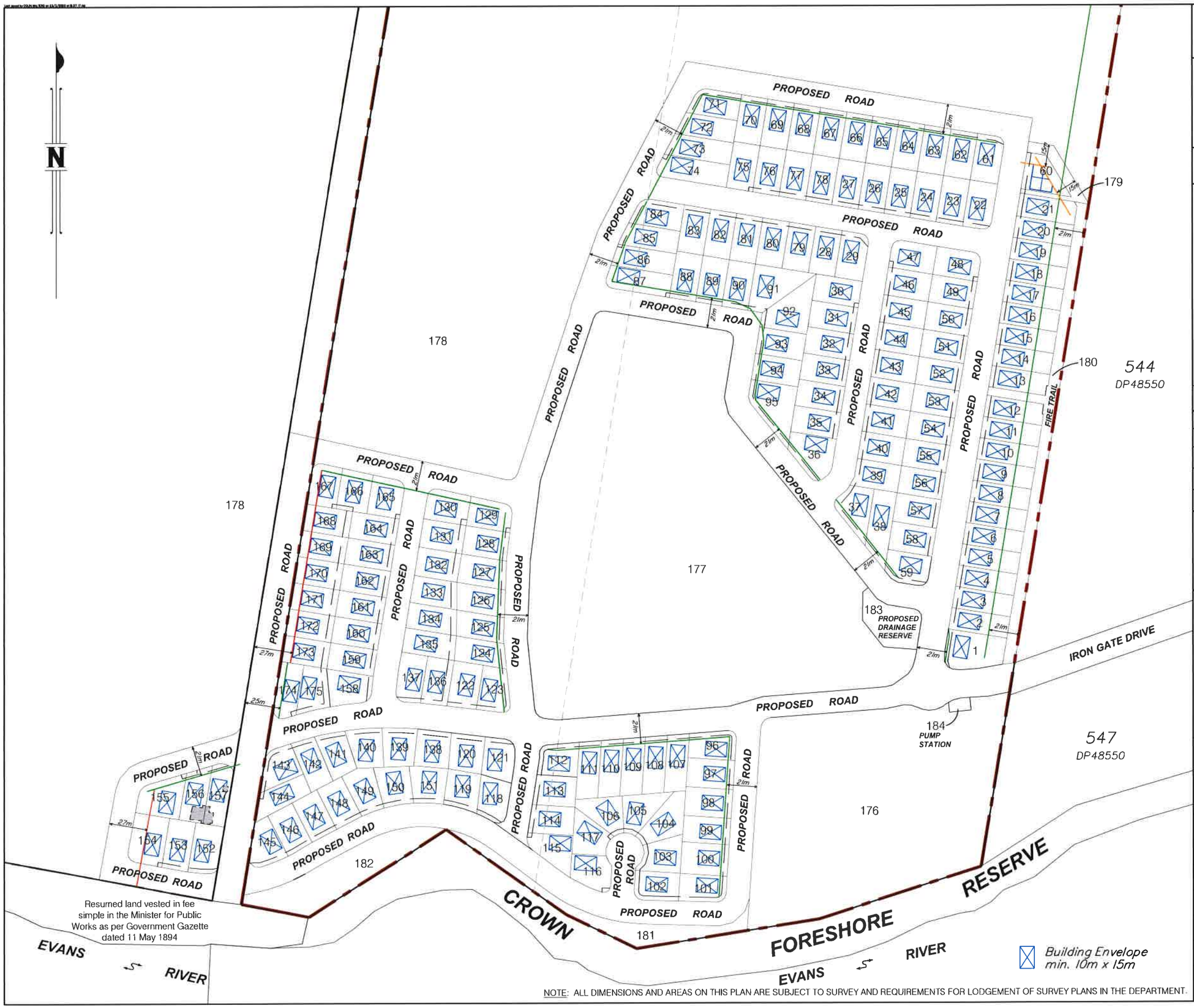

NOTE: ALL DIMENSIONS AND AREAS ON THIS PLAN ARE SUBJECT TO SURVEY AND REQUIREMENTS FOR LODGEMENT OF SURVEY PLANS IN THE DEPARTMENT.

CLIENT

GOLDCORAL PTY LTD

PROJECT

BUSHFIRE SETBACK PLAN OVER PROPOSED SUBDIVISION OF LOTS 276 & 277 ON DP755624, LOT 163 ON DP831052, CROWN PUBLIC ROAD RESERVE (BETWEEN LOT 163 DP831052 AND LOT 276 DP755624) AND CROWN FORESHORE RESERVE (ADJACENT TO EVANS RIVER)

LOCAL AUTHORITY

RICHMOND VALLEY

NOTES

(i) This plan was prepared for the purpose and exclusive use of GOLDCORAL PTY LTD to accompany an application to RICHMOND VALLEY for approval to reconfigure the land described in this plan and is not to be used for any other purpose or by any other person or corporation.
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(ii) The dimensions, areas, number of lots, size and location of improvements & flood information (if shown) are approximate only and may vary.

(iii) This plan may not be copied unless these notes are included.

STAGE	No. OF LOTS	NEW ROAD	AREA OF PARK	TOTAL AREA
-	-	-	-	-
TOTAL				

SCALE BAR

50m 0 50 100m

SCALE 1:2500 @ A3

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bsi. ISO 9001 Quality Management

LEVEL DATUM	NA		
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DRAWN	CGW	DATE	23/03/2020
CHECKED	MEA	DATE	23/03/2020
APPROVED	CGW	DATE	23/03/2020

UDN BRJD6396-100-45-2

SHEET 1 OF 1

CGW

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14 July 2021

Privileged and confidential

Goldcoral Pty Ltd
PO Box 3441
AUSTRALIA FAIR QLD 4215

By email: graeme@inglesgroup.com.au

Attention: Graeme Ingles

Dear Graeme

Amendment of DA2015/0096 — Proposed Residential Subdivision at Iron Gates, Evans Head

You have informed us that you propose to vary the above development application as follows:

- You will request that the development application be treated as a concept development application under section 4.22(3) of the *Environmental Planning and Assessment Act 1979* (**the EP&A Act**).
- The variation will include a new drawing that sets out concept proposals for two stages of development.
- The development application will continue to include detailed proposals (based on existing documentation with a new proposed plan of subdivision).
- The detailed proposals will comprise the first stage of the development (as per section 4.22(2) and section 4.22(4)(b) of the EP&A Act). That is, development consent will be sought for:
  - the concept proposals for the whole site (including the first and second stages); and
  - the carrying out of the first stage of the development (so there is no need for further consent for that first stage).
- The first stage of the development (**stage 1**) is as follows:
  - completion of all subdivision work for the stage 1 and future stage 2 lots, including but not limited to:
    - clearing and earthworks;
    - roadworks and drainage;
    - sewer and water supply (including service connections to the stage 1 lots and future stage 2 lots); and
    - electricity and communications (including connections to the stage 1 lots and future stage 2 lots);
  - embellishment of the proposed public reserves adjacent to the Evans River foreshore;
  - creation of:
    - 135 residential lots (comprising lots 1 to 135);
    - four public reserve lots (comprising lots 139 to 142);

  - one sewer pump station lot (comprising lot 144);
  - one drainage reserve lot (comprising lot 143);
  - three super lots (comprising lots 145, 146 and147);
  - a residue lot (comprising lot 138);
  - two rainforest lots (comprising lots 137 and 136); and
- upgrading of Iron Gates Drive.

- The second stage of the development (**stage 2**) is the subdivision of certain super lots created in stage 1 (being lots 145,146 and147) to create 40 residential lots. No subdivision work is included for stage 2 as all necessary civil works will be provided in stage 1.

We understand that you will also be withdrawing the master plan that you have provided to the Minister for Planning and Public Spaces (**the Minister**) under clauses 20-21 of *State Environmental Planning Policy No 71—Coastal Protection* (**SEPP 71**). You will instead be seeking to include in your variation a 'Concept proposals outline' that will be closely based on the master plan most recently given to the Minister.

You require our opinion as to the answers to the following questions:

- **Question 1**: Can the subject development application be determined by the grant of development consent once the master plan is withdrawn?

- **Question 2**: Can the development application be varied as proposed under clause 55(1) of the *Environmental Planning and Assessment Regulation 2000* (**the EP&A Regulation**)?

Our opinion is set out below.

Summary advice

In our opinion:

- The requirement for a 'master plan' is now (as a matter of law), a requirement for a development control plan that deals with the matters as set out in clause 20(2) of SEPP 71.

- The requirement for a development control plan under clause 18(1) of SEPP 71 (as modified by the transitional provisions) may be satisfied by the grant of a development consent for concept proposals.

- The subject development application can be determined by the grant of development consent — even when the master plan is withdrawn — provided that the application is varied as you propose.

- In the circumstances of this application, the overall essence of the development remains as a residential subdivision within a generally consistent development area as already proposed in the development application.

- It would be lawful for the consent authority to agree to allow the variation under clause 55(1) of the Regulation.

- The development application can be varied as proposed under clause 55(1) of the EP&A Regulation.

Background

We understand and assume the relevant facts to be as follows:

- In October 2014, you lodged development application 2015/0096 (**the subject development application**) with Richmond Valley Council (**the Council**).

- The application proposes a residential subdivision, the construction of subdivision infrastructure, Evans River foreshore embellishment and road upgrades.

- On or about the same time, you requested that the Department of Planning waive the requirement for a master plan under clause 18(2) of SEPP 71. The Department declined to waive the requirement for a master plan.
- Subsequently, you submitted a further draft master plan dated July 2015 to the Department of Planning and Environment.
- In October 2019, you submitted a revised draft master plan to the Department of Planning, Industry and Environment (**the Department**).
- In July 2020, the Council agreed to amend the subject development application to include, among other things, a revised plan of proposed subdivision (dated 23 March 2020). This plan reflected the evolution of the draft master plan.
- You intend to withdraw the draft master plan.

Detailed advice

1. Can the subject development application be determined by the grant of development consent once the master plan is withdrawn?

1.1 SEPP 71 continues to apply in relation to the subject development application despite its repeal due to clause 21(1) of the *State Environmental Planning Policy (Coastal Management) 2018* (**the Coastal Management SEPP**).

1.2 Clause 18(1) of SEPP 71 relevantly says:

> (1) A consent authority must not grant consent for:
>
> (a) subdivision of land within a residential zone, or a rural residential zone, if part or all of the land is in a sensitive coastal location, or
>
> (b) subdivision of land within a residential zone that is not identified as a sensitive coastal location into:
>
> (i) more than 25 lots ….
>
> unless:
>
> (d) the Minister has adopted a master plan for the land …

The transitional provisions — overview

1.3 Clause 95 of schedule 1 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (**the EP&A Transitional Regulation**) is relevantly as follows:

> **95 Master plans under existing instruments**
>
> (1) This clause applies to any provision of an environmental planning instrument that is in force on the commencement of this clause and that **requires, before the grant of development consent, a master plan** (within the meaning of clause 92A of the *Environmental Planning and Assessment Regulation 2000* as in force before its amendment by the 2005 Amending Act) for the land concerned.
>
> (2) While that provision continues in force, **it is to be construed as requiring a development control plan under section 74D** (as inserted by the 2005 Amending Act) with respect to the matters required to be included in the master plan, and in accordance with the procedures provided for making the master plan, by the environmental planning instrument (bold added) …

1.4 This provision was formerly clause 95 of schedule 6 of the EP&A Act. It was transferred into the EP&A Transitional Regulation. The transfer does not affect the operation or meaning of the provision. This means that the provision is to be interpreted as if it had

not been so transferred (section 30A(2) of the *Interpretation Act 1987*; clause 5 of the EP&A Transitional Regulation).

1.5 The above clause 95 commenced on 1 August 2005 (Government Gazette No 96 of 29 July 2005, 4031).

1.6 Clause 289(7) of the EP&A Regulation extends the application of clause 95:

> **Master plans under epis made before 31 December 2005** A reference in clause 95(2) of Schedule 6 to the Act to a provision of an environmental planning instrument that requires, before the grant of development consent, a master plan for the land concerned extends to a provision of that kind in an environmental planning instrument that is made before 31 December 2005.

1.7 In short, clause 95 applies to relevant provisions of an environmental planning instrument that was made before 31 December 2005.

1.8 SEPP 71 was made on 1 November 2002. The provisions of SEPP 71 set out in section 1 of this advice were in force both:

(a) on 1 August 2005; and

(b) during the period before 31 December 2005.

The transitional provisions — clause 95(1)

1.9 Clause 95(1) says that clause 95 applies to an 'environmental planning instrument'. SEPP 71 is such an instrument.

1.10 It applies if a provision in the instrument requires a 'master plan' **within the meaning of clause 92A of the EP&A Regulation** before its amendment by the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Act 2005* in 2005.

1.11 Prior to this amendment, clause 92A relevantly said the following:

> **92A Preliminary planning: sections 79C (1) (a) (iv) and 80 (11) of the Act**
>
> (1) This clause applies to land if an environmental planning instrument made before or after the commencement of this clause provides, or **has the effect of providing, that consent is not to be granted to a development application relating to the land unless**: …
>
> (d) **there is a master plan for the land**.
>
> (2) Pursuant to section 80 (11) of the Act, a development application relating to land to which this clause applies must not be determined by the consent authority granting consent (unconditionally or subject to conditions) unless: …
>
> (d) there is a master plan for the land that has been available for inspection by the public since it was made or adopted …
>
> (4) For the purposes of section 79C (1) (a) of the Act, the provisions of any master plan for land to which this clause applies are prescribed as matters to be taken into consideration by the consent authority in determining a development application in respect of that land.
>
> (5) In this clause: …
>
> ***master plan*** means a plan, whether it is referred to as a master plan, a development plan, a precinct plan or otherwise (but not an environmental planning instrument, a development control plan or a contributions plan):
>
> (a) that makes provisions for or with respect to the development of land, and
>
> (b) that has been made or adopted by the Minister or a public authority (some bold added).

1.12 The master plan required under clause 18(1) of SEPP 71 was a master plan to which clause 92A applied, **prior to its amendment**. This means that clause 95(1) of the EP&A Transitional Regulation applies to the SEPP 71 requirement (and therefore the whole of clause 95 applies to the master plan regime under SEPP 71).

The transitional provisions — clause 95(2)

1.13 Clause 95(2) affects the interpretation of clause 18(1) of SEPP 71.

1.14 It requires the clause to be 'construed' (interpreted) as requiring a **development control plan** under (what was once known as) section 74D of the EP&A Act:

(a) with respect to the matters required to be included in the master plan; and

(b) in accordance with the procedures provided for making the master plan,

under SEPP 71.

1.15 This means that — as matter of legal form — the 'master plan' that was sought by you, if adopted, would have been made as a 'development control plan'.

1.16 The reference to 'section 74D' in clause 95(2) is a reference to the former section 74D of the EP&A Act. This provision remains in force and is now known as section 3.44. It relevantly says:

> **3.44 Development control plans required or authorised by environmental planning instruments (cf previous s74D)**
>
> (1) An environmental planning instrument **may require or permit a development control plan to be prepared before any particular development or kind of development may be carried out** (and make provision with respect to the preparation and content of any such plan).
>
> (2) Any such development control plan may outline the development of all the land to which it applies.
>
> (3) Any such development control plan may be prepared (and submitted to the relevant planning authority) by the owners of the land to which it applies or by such percentage of those owners as the environmental planning instrument concerned allows. A person authorised by those owners may act on their behalf for the purposes of this subsection.
>
> (4) The relevant planning authority may make a development control plan submitted to it under this section, including with such changes as it thinks fit (some bold added) …

1.17 The effect of clause 95(2) is that section 3.44(1) is now the statutory provision authorising the requirement for a 'master plan' imposed under clause 18(1) of SEPP 71. The requirement for a 'master plan' is now (as a matter of law), a requirement for a **development control plan** that deals with the matters as set out in clause 20(2) of SEPP 71. This provision is as follows:

> A draft master plan is to illustrate and demonstrate, where relevant, proposals for the following:
>
> (a) design principles drawn from an analysis of the site and its context,
>
> (b) desired future locality character,
>
> (c) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards,
>
> (d) the scale of any development and its integration with the existing landscape,
>
> (e) phasing of development,
>
> (f) public access to and along the coastal foreshore,
>
> (g) pedestrian, cycle and road access and circulation networks,

(h) subdivision pattern,

(i) infrastructure provision,

(j) building envelopes and built form controls,

(k) heritage conservation,

(l) remediation of the site,

(m) provision of public facilities and services,

(n) provision of open space, its function and landscaping,

(o) conservation of water quality and use,

(p) conservation of animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

(q) conservation of 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.

Concept development application as an alternative to a development control plan

1.18 Section 4.23 of the EP&A Act is relevantly as follows:

> **4.23 Concept development applications as alternative to DCP required by environmental planning instruments …**
>
> (2)…. [I]f an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, **that obligation may be satisfied by the making and approval of a concept development application in respect of that land**. …
>
> (3) Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations (some bold added).

1.19 This means that the requirement for a development control plan under clause 18(1) of SEPP 71 (as modified by the transitional provisions) **may be satisfied by the grant of a development consent for concept proposals**: *SJ Connelly CPP Pty Ltd v Byron Bay Council* [2010] NSWLEC 1182 at [35] and [41].

In short

1.20 The subject development application can be determined by the grant of development — even when the draft master plan is withdrawn — provided that the application is varied as you propose.

2. Can the development application be varied as proposed under clause 55(1) of the EP&A Regulation?

2.1 Clause 55(1)-(2) of the EP&A Regulation is as follows:

> **55 What is the procedure for amending a development application? (cf clause 48A of EP&A Regulation 1994)**
>
> (1) A development application **may be amended or varied by the applicant** (but only with the agreement of the consent authority) at any time before the application is determined, by lodging the amendment or variation on the NSW planning portal.
>
> (2) If an amendment or variation results in a change to the proposed development, the application to amend or vary the development application must include particulars sufficient to indicate the nature of the changed development (some bold added) …

2.2 The changes you propose involve:

(a) a new phasing of the development;

(b) an amended plan of subdivision; and

(c) the inclusion in the application for concept proposals that largely reflects the substance of what the application is already seeking.

2.3 You can rely on the decision of the Land and Environment Court in *Radray Constructions Pty Ltd v Hornsby Shire Council* [2006] NSWLEC 155. This decision adopts the description of the power to amend a development application given in *Ebsworth v Sutherland Shire Council* [2005] NSWLEC 603. The power is 'beneficial and facultative'.

2.4 In *Radray*, the Court said that the test for granting permission to amend is not to be regarded as so narrow as the power to modify a development consent that is contained in section 4.55 of the EP&A Act. There is no 'substantially the same' test. The Court said that an amended application will involve a changed development, but one which in essence remains the same (at [17]).

2.5 In a later decision, known as *Ambly Holdings Pty Limited v City of Sydney* [2016] NSWLEC 38 the Court said that clause 55(1) empowered the making of both 'amendments' and/or 'variations' to formalise the changed development (at [8]-[9]).

2.6 An 'amendment' constitutes tinkering with or adjustment of a development proposal by moving walls around and changing layouts and other things of that nature, being an amendment to that which is originally proposed (at [10]).

2.7 A 'variation', on the other hand, encompasses the possibility of more than a mere change in design, but a change in the nature of the development, provided its overall essence is capable of being regarded as the same (at [11]).

2.8 In the circumstances of this application, the overall essence of the development remains as a residential subdivision within a generally consistent development area as already proposed in the development application.

2.9 It would be lawful for the consent authority to agree to allow the proposed variation under clause 55(1) of the Regulation.

2.10 We also note that, if the application is appealed to the Land and Environment Court, the Court would have this power in lieu of the local council. The Court would be likely to agree to the variation, in the circumstances.

2.11 In short, the development application can be varied as proposed under clause 55(1) of the EP&A Regulation.

Please do not hesitate to contact me on (02) 8035 7858 if you have any queries regarding this advice.

Yours sincerely

Aaron Gadiel
Partner
Accredited Specialist—Planning and Environment Law