



101 Crest Road, Albion Park (EPBC 2017/8048)
EPBC compliance report

FINAL REPORT

Prepared for Cavi Developments and Partners Pty Ltd

10 May 2021

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- Rebecca Dwyer (assistance in the field).
- Lauren Harley (mapping).

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Glossary

BC Act	<i>NSW Biodiversity Conservation Act 2016</i>
Biosecurity Act	<i>Biosecurity Act 2015</i>
CBD	Central Business District
CEEC	Critically Endangered Ecological Community
DAWE	Department of Agriculture Water and the Environment
DPIE	NSW Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
GIS	Geographic Information System
LGA	Local Government Area
LLS	Local Land Services
NPW Act	<i>National Parks and Wildlife Act 1974</i>
NSW	New South Wales
Referral boundary	Boundary of the EPBC Referral of proposed action (Biosis 2019a, Biosis 2019b) as shown in Appendix 1, Figure 1
study area	Referral boundary on Lot 101 DP1238120 Crest Road in Albion Park, NSW
subject site	The area of impact for the proposed works
VMP	Vegetation Management Plan

1 Introduction

Biosis Pty Ltd was commissioned by Cavi Developments and Partners Pty Ltd (Cavi) to complete a compliance report for a low density residential 72 lot subdivision, including one environmental lot with dwelling provision (the project), located at Lot 101 DP1238120 Crest Road, Albion Park (the study area), in New South Wales (NSW). The subdivision is being developed under development application (DA) consent DA0040-2016 (DEE 2019). This compliance report for the project refers to the referral boundary within the study area (Appendix 1, Figure 1), which aligns with the EPBC Referral (EPBC 2017/8048) of proposed action (Biosis 2019a, Biosis 2019b). The objective of this compliance report is to address the EPBC approval conditions (EPBC 2017/8048) and compliance by Cavi for the period 20 April 2020 to 20 April 2021.

1.1 Project background

The vegetation within the study area consists of one Threatened Ecological Community (TEC) (Tozer et al. 2010), *Illawarra Lowlands Grassy Woodlands of the Sydney Basin Bioregion*, listed as Endangered under the NSW *Biodiversity Conservation Act 2016* (BC Act) and its equivalent, *Illawarra and south coast lowland forest and woodland ecological community* (ILFW), listed as a Critically Endangered Ecological Community (CEEC) under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPBC Act applies to developments and associated activities that have the potential to significantly impact on Matters of National Environmental Significance (NES) protected under the Act. Further, clearance and modification of the TEC requires offset obligations as stated in condition 8 of the DA consent (Shellharbour City Council 2019).

EPBC Act approval by the former Department of Environment and Energy (DEE), currently known as Department of Agriculture, Water and Environment (DAWE, here forth the Department), was granted to the former consent holder, Spinitu Pty Ltd (Spinitu) on 20 December 2019 for the project (EPBC 2017/8048). Cavi (ACN 614 341 561) purchased the consent from Spinitu (ACN 003 361 573) on 18 May 2020. The sale included biodiversity conditions outlined in EPBC 2017/8048 (DEE 2019). Cavi transferred the approval obligations from Spinitu via a deed of agreement by both parties on 13 November 2020 (see transfers in Appendix 4), supported by a compliance progress report prepared by Biosis (Biosis 2020) (Appendix 5).

As defined in the compliance progress report (Biosis 2020) (Appendix 5), the action is considered to have commenced 20 April 2020. Practical completion of the IFLW modification in the APZ occurred in March 2021 (Southern Habitat 2021a). Monitoring and reporting under the Vegetation Management Plan (VMP) (Biosis 2017) is to be undertaken for three years following practical completion. Construction is yet to commence.

1.2 Location of the study area

The study area is located approximately 2 kilometres west of Albion Park and approximately 25 kilometres south-west of Wollongong Central Business District. It encompasses 7.97 hectares of private land and the adjacent road reserves, including 7.26 hectares within the referral boundary. It is currently zoned E3 Environmental Management, R2 Low Density Residential and Deferred Matter. The study area is within the:

- Sydney Basin bioregion and Illawarra subregion.
- Lake Illawarra/Port Hacking catchment.
- South East Local Land Services (LLS) region.
- Shellharbour Local Government Area (LGA).

1.3 Description of activities

We refer to EPBC 2017/8048, as the project, Residential Subdivision, Crest Road, Albion Park, NSW, whereby we address EPBC approval conditions and compliance by Cavi for the period 20 April 2020 to 20 April 2021 (Table 1).

Table 1 EPBC approval details

Approval information	Detail
EPBC number	2017/8048
Project name	Residential Subdivision, Crest Road, Albion Park, NSW.
Approval holder and ACN or ABN	Cavi Developments and Partners Pty Ltd (ACN 614 341 561).
The approved action	Residential subdivision of Lot 101 DP1238120 and ancillary infrastructure on Lot 3 DP 1214606, Crest Road, Albion Park, NSW. See EPBC Act referral 2017/8048 and variations of the action approved on 30 November 2017, 4 December 2019 and 16 December 2019.
Location of the project	Lot 101 DP1238120 Crest Road, Albion Park NSW (Appendix 1, Figure 1).
Person accepting responsibility for the report	Jason Cavanagh, Director of Cavi Developments and Partners Pty Ltd, in line with the signed declaration of accuracy (Appendix 3).
Dates for the reporting period of the report	20 April 2020 to 20 April 2021. Note that 20 April 2020 to 23 October 2020 has been addressed previously (Biosis 2020) (Appendix 5), therefore 23 October 2020 to 20 April 2021 is included within the current report.
Date of submission of the report	10 May 2021

Activities undertaken during the period covered by the current report are addressed in the following locations:

- Results (Section 3).
- Compliance progress report (Biosis 2020) (Appendix 5).
- Interim Works Summary Report #1 November 2020 - April 2021 for Lot 73 (Southern Habitat 2021a) and Lot 101 (Southern Habitat 2021b) (Appendix 4).

2 Methods

2.1 Database and literature review

Prior to completing the field investigation, information provided by Cavi as well as other key information was reviewed, including:

- *Lot 101 DP 785139, Crest Rd, Albion Park - BioBanking Assessment* (Biosis 2012).
- Preliminary documentation: Residential development, Lot 101 DP 785139, Crest Road, Albion Park, NSW (Biosis 2019a).
- Referral of proposed action: Lot 101 DP 785139 Crest Road, Albion Park (Biosis 2019b).
- *EPBC compliance progress report for 101 Crest Road, Albion Park* (Biosis 2020) (Appendix 5).
- *Lot 101 DP 785139 Crest Road, Albion Park: Vegetation Management Plan* (Biosis 2017).
- Approval: Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048) (DEE 2019).
- Notice of Determination of Development Application 0040/2016: Lot 101 DP785139 Crest Road, Albion Park (Shellharbour City Council 2019).
- *Interim Works Summary Report #1 November 2020 - April 2021: Lot 73, DP 785139, Crest Rd, Albion Park* (Southern Habitat 2021a).
- *Interim Works Summary Report #1 November 2020 - April 2021: Lot 101, DP 785139, Crest Rd, Albion Park* (Southern Habitat 2021b).

The implications for the project were assessed in relation to key biodiversity legislation and policy including:

- *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
- *Environmental Planning and Assessment Act 1979* (EP&A Act).
- *Biodiversity Conservation Act 2016* (BC Act).
- *Local Land Services Act 2013* (LLS Act).
- *National Parks and Wildlife Act 1974* (NPW Act).
- NSW DPI *Biosecurity Act 2015* (Biosecurity Act) for Priority listed weeds for the South East Local Land Services (LLS) area.

2.2 Field investigation

A field investigation of the study area was undertaken on 21 April 2021 by Rebecca Dwyer. Vegetation within the study area was surveyed using the random meander technique (Cropper 1993) over one person hours to assess the project compliance against the EPBC approval conditions. Rebecca Dwyer's Curriculum Vitae is included in Appendix 5.

2.2.1 Permits and licences

The assessment was conducted under the terms of Biosis' Scientific Licence issued by the Environment, Energy and Science Group under the *National Parks and Wildlife Act 1974* (SL100758, expiry date 31 March

2021). Fauna survey was conducted under approval TRIM 17.892 from the NSW Animal Care and Ethics Committee (expiry date 31 January 2023).

3 Results

3.1 Approval conditions

The EPBC approval conditions and compliance by Cavi, as well as supporting evidence, is provided in Table 2. With reference to the EPBC approval details and conditions (Table 1, Table 2), the 'action' is defined as:

Residential subdivision of Lot 101 DP1238120 and ancillary infrastructure on Lot 3 DP 1214606, Crest Road, Albion Park, NSW.

Table 2 EPBC approval conditions and compliance

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
Part A – Conditions specific to the action			
1	<i>The approval holder must not clear more than 2.81 hectares of ILFW within the referral boundary shown at Attachment 1 and Attachment 2.</i>	Compliant	A site inspection was carried out by Biosis on 21 April 2021 to map cleared areas. See Appendix 1, Figure 1. A total of 2.67 hectares of ILFW has been cleared within the referral boundary.
2	<i>The approval holder must not clear more than 0.07 hectares of ILFW within the drainage easement at Lot 3 DP 1214606 shown at Attachment 1 and Attachment 2.</i>	Non-compliant	A site inspection was carried out by Biosis on 21 April 2021 to map cleared areas. See Appendix 1, Figure 1. A total of 0.11 hectares of ILFW has been cleared within the drainage easement at Lot 3 DP 1214606. The clearance either side of the drainage easement by Cavi is between 7 and 8 metres wide, compliant with the DA and FFA (Biosis 2016), but contrary to the miscalculated values in the biodiversity conditions (DEE 2019). The approved clearance of ILFW (DEE 2019) totals 2.88 hectares across the main site and drainage easement. The total cleared ILFW is 2.78 hectares, within the total allowable clearance. The Department was provided notification of non-compliance under the initial request on 23 October 2020, including mitigation (Biosis 2020) (Appendix 5). Revegetation, restoration and maintenance of the vegetation will continue over the next three years, using species outlined in Table 4 of the VMP (Biosis 2017).

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
3	<i>The approval holder must not permanently modify more than 1.09 hectares of ILFW in the Asset Protection Zone (APZ) shown at Attachment 1 and Attachment 2.</i>	Compliant	<p>A site inspection was carried out by Biosis on 21 April 2021 to map cleared areas. See Appendix 1, Figure 1 and Appendix 2, Photo 1.</p> <p>A total of 1.09 hectares of ILFW understorey has been slashed (modified) in the Environmental Management – Inner and Outer APZ.</p> <p>Actions under the VMP (Biosis 2017) commenced 15 October 2020. Activities are still performed in the APZ modification area.</p>
4	<i>To compensate for the clearance of 2.88 ha of ILFW and permanent modification of 1.09 ha of ILFW, the approval holder must, prior to the commencement of the action:</i>		
4a	<i>Retire 52 like-for-like credits for ILFW under BioBanking; or</i>	Compliant	The required 52 BioBanking credits The required like-for-like credits were purchased on 24 January 2020 and retired on 30 April 2020 (Biosis 2020) (Appendix 5).
4b	<i>Retire the equivalent of 52 like-for-like credits for ILFW under the Biodiversity Conservation Act 2016 (NSW), as converted by DPIE in a statement of assessment of reasonable equivalence of biodiversity credits. A copy of the statement of assessment of reasonable equivalence of biodiversity credits must be provided to the Department before the like-for-like credits are retired; or</i>	-	N/A – See 4a.
4c	<i>Fund a Biodiversity Conservation Action for ILFW under the Biodiversity Conservation Act 2016 (NSW) in accordance with the Biodiversity Conservation Regulation 6.2(2)(c) (NSW), which has been approved by DPIE. The variation rules under the Biodiversity Conservation Regulation 2017 (section 6.4) NSW must not be applied. Offset obligations for ILFW under the EPBC Act must not be discharged through payment into the Biodiversity Conservation Fund (NSW) unless the Minister approves this in writing.</i>	-	N/A – See 4a.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
5	<i>Prior to the commencement of the action, the approval holder must provide the Department with evidence that like-for-like credits have been retired and what mechanism was used to retire the like-for-like credits.</i>	Non-compliant	<p>The required like-for-like credits were purchased 24 January 2020 prior to commencement of the action (20 April 2020) and retired 30 April 2020, following commencement of the action.</p> <p>The credit retirement form was submitted on 23 March 2020 however the biobanking team had delays in processing the request. See emails in Appendix 4.</p> <p>Credits were secured through Biobanking as reported in the EPBC compliance progress report (Biosis 2020) (Appendix 5).</p> <p>This condition has been met but the credits were not retired prior to commencement of the action. The Department is provided this report as notification of non-compliance. Avoidance of recurrence is not possible as the condition is complete.</p>
6	<i>If Condition 4 is unable to be met, the approval holder must, no later than 8 months prior to the commencement of the action, submit an Offset Management Plan for approval by the Minister. The Offset Management Plan must be prepared by a suitably qualified person in accordance with the EPBC Act Environmental Offsets Policy. The approval holder must not commence the action until the Offset Management Plan has been approved in writing by the Minister. The Offset Management Plan must include:</i>	-	N/A – Condition 4 has been met.
6a	<i>A description and map (including shapefiles) to clearly define the location and boundaries of the offset area.</i>	-	N/A – Condition 4 has been met.
6b	<i>A discussion of how the offset and the Offset Management Plan address the principles of the EPBC Act Environmental Offsets Policy.</i>	-	N/A – Condition 4 has been met.
6c	<i>Details and a quantitative analysis of the baseline vegetation condition and habitat quality in the offset area prior to management.</i>	-	N/A – Condition 4 has been met.
6d	<i>Comprehensive baseline data on weeds, feral animals and other threats to ILFW present in the offset area.</i>	-	N/A – Condition 4 has been met.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
6e	<i>A description of the management measures (including timing, frequency and duration) that will be implemented in the offset area to improve the quality of ILFW in the offset area; including:</i>	-	-
6ei	<i>Prevention of clearing and alternate land use.</i>	-	N/A – Condition 4 has been met.
6eii	<i>Removal and exclusion of livestock.</i>	-	N/A – Condition 4 has been met.
6eiii	<i>Weed and feral animal management.</i>	-	N/A – Condition 4 has been met.
6f	<i>A discussion of how proposed management measures take into account any relevant Conservation Advice, Threat Abatement Plans and Recovery Plans.</i>	-	N/A – Condition 4 has been met.
6g	<i>A description and analysis of the potential risks to the successful implementation of the offset area, and contingency measures that will be implemented to mitigate against these risks.</i>	-	N/A – Condition 4 has been met.
6h	<i>Time-bound completion criteria and performance targets for evaluating the effectiveness of the implementation of the Offset Management Plan.</i>	-	N/A – Condition 4 has been met.
6i	<i>Triggers for when corrective actions are required and timeframes for implementing corrective actions.</i>	-	N/A – Condition 4 has been met.
6j	<i>A program to monitor, report on the review the effectiveness of the Offset Management Plan.</i>	-	N/A – Condition 4 has been met.
7	<i>If the Minister approves the ILFW Offset Management Plan, the approved ILFW Offset Management Plan must be implemented prior to commencement of the action and for the duration of this approval.</i>	-	N/A – Condition 4 has been met, which negates condition 6 and subsequently condition 7.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
8	<i>Offsets must be implemented and managed for conservation purposes prior to commencement of the action and for at least the duration of this approval.</i>	Non-compliant	<p>The required 52 BioBanking credits have been purchased and retired (Biosis 2020) (Appendix 5). The required like-for-like credits were purchased 24 January 2020 prior to commencement of the action (20 April 2020) and retired 30 April 2020, following commencement of the action.</p> <p>The credit retirement form was submitted on 23 March 2020 however the biobanking team had delays in processing the request. See emails in Appendix 4.</p> <p>This condition has been met but the offsets were not implemented prior to commencement of the action. The Department is provided this report as notification of non-compliance. Avoidance of recurrence is not possible as the transfer is complete.</p>
9	<i>Prior to the commencement of the action, the approval holder must provide the Department with shapefiles of the final areas of ILFW to be cleared and thinned within the referral boundary and shapefiles of the offset areas if Condition 4 is implemented.</i>	Compliant	Biosis provided mapping in the form of shapefiles with the EPBC referral EPBC 2017/8048.
Part B – Standard administrative conditions			
10	<i>The approval holder must notify the Department in writing of the date of commencement of the action within 10 business days after the date of commencement of the action.</i>	Compliant	Prior non-compliance was reported to the Department in October 2020 (Biosis 2020) (Appendix 5). There are no further non-compliance issues for this condition within the current reporting period. Recurrence has been avoided by incorporating notification requirement reminders into fortnightly duty schedule.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
11	<i>The approval holder must maintain accurate and complete compliance records.</i>	Compliant	Prior non-compliance issues were regarding this condition were reported to the Department on 23 October 2020 (Biosis 2020) (Appendix 5). There are no further non-compliance issues for this condition within the current reporting period. Records are maintained by the Project Manager of Cavi. Recurrence has been avoided by incorporating maintenance of compliance records into fortnightly duty schedule.
12	<i>If the Department makes a request in writing, the approval holder must provide electronic copies of compliance records to the Department within the timeframe specified in the request.</i>	Compliant	The current report is being prepared within the specified timeframe.
13	<i>The approval holder must:</i>		
13a	<i>Submit plans electronically to the Department for approval by the Minister.</i>	Compliant	Biosis provided mapping in the form of shapefiles with the EPBC referral EPBC 2017/8048.
13b	<i>Publish each plan on the website within 20 business days of the date the plan is approved by the Minister, unless otherwise agreed to in writing by the Minister.</i>	Compliant	Cavi did not have a website so the EPBC referral EPBC 2017/8048 was published on Biosis' website.
13c	<i>Exclude or redact sensitive ecological data from plans published on the website or provided to a member of the public.</i>	Compliant	Compliant as sensitive ecological data was redacted from published documents.
13d	<i>Keep plans published on the website until the end date of this approval.</i>	Compliant	Cavi did not have a website so the EPBC referral EPBC 2017/8048 was published on Biosis' website.
14	<i>The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under Condition 4 of this approval, is prepared in accordance with the Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department in accordance with the requirements of the plans.</i>	Compliant	Monitoring data obtained by Biosis 19 October 2020 (Biosis 2020) (Appendix 5) and 21 April 2021 (12 months). Further monitoring following major milestones, as well as at 24 months (20 April 2022), will be arranged by the Project Manager of Cavi, and will be conducted by an independent auditor. All monitoring data will be provided to the Department.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
15	<i>The approval holder may apply to the Minister for a variation to the management plan approved by the Minister under Condition 6, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the EPBC Act. If the Minister approves the revised management plan (RMP) then, from the date specified, the approval holder must implement the RMP in place of the previous management plan.</i>	-	N/A – Condition 4 has been met, negating the need to meet condition 6.
16	<i>The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or otherwise in accordance with an annual date that has been agreed to in writing by the Minister. The approval holder must:</i>	Compliant	The action commenced 20 April 2020. Annual compliance report required in April 2021, as reported herein.
16a	<i>Publish each compliance report on the website within 60 business days following the relevant 12 month period.</i>	Action Pending	The current report is yet to be published on the website. Cavi to comply following approval of the report by the Department.
16b	<i>Notify the Department by email that a compliance report has been published on the website and provide the weblink for the compliance report within five business days of the date of publication, and provide a link to the location of the published report.</i>	Action Pending	The current report is yet to be published on the website. Cavi to comply following approval of the report by the Department.
16c	<i>Keep all compliance reports publicly available on the website until this approval expires.</i>	Action Pending	The current report is yet to be published on the website. Cavi to comply following approval of the report by the Department.
16d	<i>Exclude or redact sensitive ecological data from compliance reports published on the website.</i>	Action Pending	The current report is yet to be published on the website. Cavi to comply following approval of the report by the Department.
16e	<i>Where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication.</i>	Action Pending	The current report is yet to be published on the website. Cavi to comply following approval of the report by the Department.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
17	<i>The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:</i>	Compliant	The Department was provided notification of prior non-compliance on 23 October 2020 (Biosis 2020) (Appendix 5). This report is provided as notification of non-compliance.
17a	<i>Any condition which is or may be in breach.</i>	Compliant	Biodiversity conditions outlined in EPBC 2017/8048 are addressed individually herein.
17b	<i>A short description of the incident and/or non-compliance.</i>	Compliant	Compliance matters are addressed in their relevant sections herein.
17c	<i>The location (including co-ordinates), date, and time of the incident and/or non-compliance.</i>	Compliant	Compliance matters are addressed in their relevant sections herein and relate to either administrative tasks or referring to 101 Crest Road, Albion Park.
18	<i>The approval holder must provide to the Department the details of any incident or noncompliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying:</i>	Compliant	The Department was provided notification of prior non-compliance on 23 October 2020 (Biosis 2020) (Appendix 5). This report is provided as notification of non-compliance.
18a	<i>Any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future.</i>	Compliant	Corrective actions (if relevant) are detailed in the relevant sections of this report.
18b	<i>The potential impacts of the incident or non-compliance.</i>	Compliant	Impacts (if relevant) are detailed in the relevant sections of this report.
18c	<i>The method and timing of any remedial action that will be undertaken by the approval holder.</i>	Compliant	Remedial actions (if relevant) are detailed in the relevant sections of this report.
19	<i>The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister.</i>	Compliant	An audit of compliance was conducted by Biosis on: <ul style="list-style-type: none"> • 19 October 2020 • 21 April 2021 The audit of compliance is reported herein.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
20	<i>For each independent audit, the approval holder must:</i>		
20a	<i>Provide the name and qualifications of the independent auditor and the draft audit criteria to the Department.</i>	Compliant	Compliance is reported herein. The name and qualifications of the independent auditor is shown in Appendix 5. Compliance audit criteria provided by the Department as biodiversity conditions in EPBC 2017/8048.
20b	<i>Only commence the independent audit once the audit criteria have been approved in writing by the Department.</i>	Compliant	Compliance audit criteria referred to in letter to Cavi dated 9 September 2020 and biodiversity conditions of EPBC 2017/8048.
20c	<i>Submit an audit report to the Department within the timeframe specified in the approved audit criteria. The approval holder must publish the audit report on the website within 10 business days of receiving the Department's approval of the audit report and keep the audit report published on the website until the end date of this approval.</i>	Compliant	Compliance report provided herein will be submitted to the Department on time. Publication on a website pending approval of the audit report by the Department.
21	<i>Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data.</i>	Action Pending	Approval conditions refer to the development footprint, as well as APZ modification of the CEEC (Appendix 1, Figure 1). Practical completion of the IFLW modification in the APZ occurred in March 2021 (Southern Habitat 2021a). Monitoring and reporting under the VMP (Biosis 2017) is to be undertaken for three years following practical completion. The Department was provided notification of completion of modification works on 3 May 2021 (Appendix 4). Cavi sought clarification from the Department on 3 May 2021 (Appendix 4) regarding definition of completion of the action and are awaiting a response. The compliance status for this condition is subject to Department response and further clarification.

3.2 Environmental risks

Environmental risks were observed within the study area (Appendix 1, Figure 1) within this first compliance reporting period, which included:

- Weed extent in the drainage easement was noted to be less than 5 % cover, however there are some small scattered areas of weed regrowth occurring. Large weed patch of Madeira Vine *Anredera cordifolia*, Cobblers Pegs *Bidens pilosa* and Lantana *Lantana camara* is still on site (Appendix 2, Photo 2).
- One pile of logs was recorded (Appendix 2, Photo 3).
- Three mulch piles remain in the site (Appendix 2, Photo 4).
- Two signs have been dumped inside the gate (Appendix 2, Photo 5).
- One sediment drain needs repairing (Appendix 2, Photo 6).

Dumped and stockpiled materials may be hampering regeneration efforts and should be addressed to prevent further impact. Cavi will commit to address the environmental risks (outlined above) in line with the VMP (Biosis 2017) according to recommendations outlined in Section 4 below.

3.3 Other information

Other items to note within the study area include (Appendix 1, Figure 1 and Appendix 4):

- The nest-boxes were installed in November 2020 and are functioning well (Appendix 2, Photo 7) (Southern Habitat 2021a, Southern Habitat 2021b).
- White-flowered Wax Plant *Cynanchum elegans* specimens located during the field investigation were inspected, and are noted to be in healthy condition (Appendix 1, Figure 1; Appendix 2, Photo 8) (Southern Habitat 2021a, Southern Habitat 2021b).
- The shrubs are caged and revegetation plantings in the drainage easement are healthy and showing growth and resilience (Appendix 2, Photo 9) with greater than 90 % survivorship (Southern Habitat 2021a, Southern Habitat 2021b).

4 Conclusion and recommendations

This compliance report has been prepared to address the EPBC approval conditions (EPBC 2017/8048) and compliance by Cavi for the period 20 April 2020 to 20 April 2021.

There were no compliance issues raised during the current reporting period, however there are matters where action is pending or an outcome from the Department is being sought (Table 2).

The following recommendations (Table 3) have been made with scope to further address the EPBC compliance conditions.

Table 3 EPBC compliance recommendations

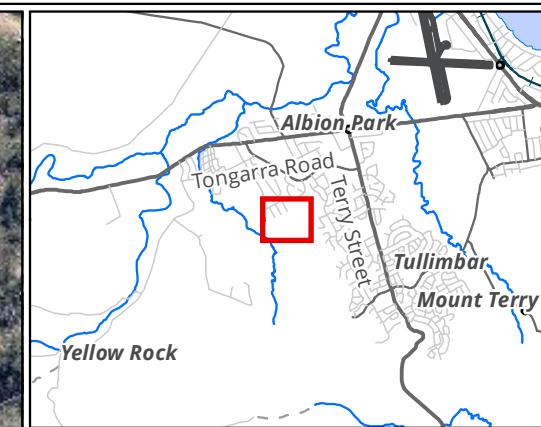
Item	Recommendations
ILFW clearance (condition 2)	<ul style="list-style-type: none"> Cavi to continue to regenerate the drainage easement, as per mitigation measures stated in the EPBC compliance progress report (Biosis 2020) (Appendix 5).
Timing of credit retirement (condition 5 and 8)	<ul style="list-style-type: none"> The current report is to be provided to the Department as notification of non-compliance.
Compliance report publication (condition 16a-16e)	<ul style="list-style-type: none"> The current report is yet to be published on a website. Cavi to comply following approval of the report by the Department.
Definition of the action (condition 21)	<ul style="list-style-type: none"> Cavi to provide Biosis clarification from the Department regarding definition of completion of the action to include in further reports and update compliance for condition 21.
Dumped signs	<ul style="list-style-type: none"> Dumped signs to be disposed of to prevent impact.
Stockpiled mulch and logs	<ul style="list-style-type: none"> Three stockpiles to be moved away from the regenerating areas to prevent impact.
Weed treatment	<ul style="list-style-type: none"> Continue management of NSW Priority and environmental weed species throughout the study area.
Sediment drain	<ul style="list-style-type: none"> Sediment drain to be repaired.

References

- Biosis 2012. *Lot 101 DP 785139, Crest Road, Albion Park - Biobanking Assessment*, Report for Martin Morris and Jones on behalf of Spinitu Pty Ltd. Authors: B Morrisey, N Garvey, Biosis Pty Ltd, Wollongong. Project no. 15634.
- Biosis 2016. *Stormwater upgrades for Crest Road, Albion Park: Flora and fauna assessment*, Report for MMJ Real Estate on behalf of Spinitu Pty Ltd. Misdale, M. & Dunne, C.. Biosis Pty Ltd, Wollongong, NSW. Project no. 22607.
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- Shellharbour City Council 2019. Notice of Determination of Development Application: Lot 101 DP 785139, Crest Road, Albion Park (0040/2016), Shellharbour City Council.
- Southern Habitat 2021a. *Interim Works Summary Report #1 November 2020 - April 2021: Lot 73, DP 785139, Crest Rd, Albion Park*, Report prepared for CAVI Developments Pty Ltd. Gilbert, M., Windsor, J. Southern Habitat.
- Southern Habitat 2021b. *Interim Works Summary Report #1 November 2020 - April 2021: Lot 101, DP 785139, Crest Rd, Albion Park*, Report prepared for CAVI Developments Pty Ltd. Gilbert, M., Windsor, J. Southern Habitat.
- Tozer M, Turner K, Keith D, Tindall D, Pennay C, Simpson C, MacKenzie B, & Beukers P 2010. 'Native Vegetation of Southeast NSW: A Revised Classification and Map for the Coast and Eastern Tablelands', *Cunninghamia*, 11: 359–406.

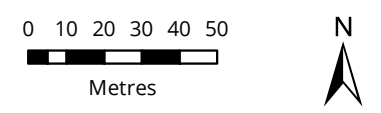
Appendices

Appendix 1 Figures



- Legend**
- Study area
 - Cleared area
 - Modified area
 - Referral boundary
 - Development - Drainage easement
 - Cynanchum elegans*
 - Nest boxes
 - Dumped signs
 - Log pile
 - Mulch piles
 - Hollow-bearing tree
 - Sediment drain in need of repair
- Weed mapping points**
- Madeira Vine
- Zone**
- Impact - APZ modification CEEC
 - Impact - removal CEEC
- Vegetation communities**
- Illawarra Lowlands Grassy
 - Woodlands EPBC Act (moderate condition class)
 - Scattered trees

Figure 1 Vegetation clearance and ecological features of the study area



Scale: 1:2,000 @ A3
 Coordinate System: GDA 1994 MGA Zone 56



Matter: 35100,
 Date: 30 April 2021,
 Checked by: CH, Drawn by: LH, Last edited by: Iharley
 Location: P:\35100s\35100\Mapping\35100_F1_EcoFeatures.mxd

Acknowledgements: Baseimap © Land and Property Information 2016; Imagery © Nearmap 2020

Appendix 2 Photos



Photo 1 Modified ILFW in Lot 73 Crest Road



Photo 2 Weeds in Lot 73 Crest Road



Photo 3 Dumped logs in Lot 73 Crest Road



Photo 4 Mulch pile in Lot 73 Crest Road



Photo 5 Dumped signs in Lot 73 Crest Road



Photo 6 Sediment drain in need of repair in Lot 101 Crest Road



Photo 7 Nest-box in Lot 73 Crest Road



Photo 8 White-flowered Wax Plant in Lot 73 Crest Road



Photo 9 Drainage easement and regeneration in Lot 101 Crest Road

Appendix 3 Declaration of accuracy

In making this declaration, I am aware that sections 490 and 491 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed Full name (please print)



Jason Cavanagh

Position (please print)

Director

Organisation

Cavi Developments and Partners Pty Ltd

(please print including ABN/ACN if applicable)

ACN 614 341 561

Date

10th May 2021

Appendix 4 Supporting documents

Supporting documents referred to in the document are attached and include:

- Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048) - Transfer of EPBC Act approval.
- Crest Road, Albion Park Interim Works Summary Report #1 November 2020 - April 2021 (Southern Habitat 2021a, Southern Habitat 2021b).
- Application to retire biodiversity credits (credit owner ID 685).
- EPBC 20178048 Lot 101 DP 1238120 Crest Road Albion Park NSW 2527 Completion of the Action (Condition 21).

Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048) - Transfer of EPBC Act approval



NOTICE OF TRANSFER OF APPROVAL

Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048)

This decision is made under (Section 145B) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed transfer of approval

Transferor (holder of approval) Spinitu Pty Ltd

(ACN: 003 361 573)

Transferee (person proposing to accept the transfer of approval)

Cavi Developments & Partners Pty Limited

(ACN: 614 341 561)

proposed action

Residential subdivision of Lot 101 DP1238120 and ancillary infrastructure on Lot 3 DP 1214606, Crest Road, Albion Park, New South Wales. [See EPBC Act referral 2017/8048 and variations of the action approved on 30 November 2017, 4 December 2019 and 16 December 2019].

Transfer Decision

Person to whom the approval is transferred

Cavi Developments & Partners Pty Limited

(ACN: 614 341 561)

Person authorised to make decision

Name and position

Dwaine McMaugh
Director
Post Approvals Section

Signature

Date of decision

13 November 2020



Elaine Robertson
Director
Spinitu Pty Ltd
Unit 20, Level 1
19-21 Central Road
MIRANDA NSW 2228

Dear Ms Robertson

**Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048) -
Transfer of EPBC Act approval**

Thank you for correspondence from Willis & Bowring to the Department dated 10 November 2020 requesting the transfer of this EPBC Act approval from Spinitu Pty Ltd (ACN: 003 361 573) (Transferor) to Cavi Developments & Partners Pty Limited (ACN: 614 341 561) (Transferee).

I have considered the request for transfer in accordance with section 145B of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act) and have, as delegate of the Minister for the Environment, decided to transfer the approval to Cavi Developments & Partners Pty Limited. The details of my decision are attached.

It should be noted that, although a transfer of approval has been granted under section 145B of the EPBC Act, the transfer does not affect the obligation of the approval holder to comply with any other law of the Commonwealth, State or Territory that is applicable to the action, or provide any right, title or interest that is required to access land or waters and to do the action.

Should you require any further information please contact Panna Patel, Post Approvals Section, on 02 6275 9299 or by email: post.approvals@environment.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dwaine McMaugh'.

Dwaine McMaugh
Director
Post Approvals Section
Assessments (WA, SA, NT) and Post Approvals Branch
Environment Approvals Division

13 November 2020

Att:



Jason Cavanagh
Director
Cavi Developments & Partners Pty Limited
Unit 5, 12-16 Mangrove Lane
TAREN POINT NSW 2229

Dear Mr Cavanagh

**Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048) -
Transfer of EPBC Act approval**

Thank you for correspondence from Willis & Bowring on your behalf to the Department dated 10 November 2020 requesting the transfer of this EPBC Act approval from Spinitu Pty Ltd (ACN: 003 361 573) (Transferor) to Cavi Developments & Partners Pty Limited (ACN: 614 341 561) (Transferee).

I have considered the request for transfer in accordance with section 145B of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (EPBC Act) and have, as delegate of the Minister for the Environment, decided to transfer the approval to Cavi Developments & Partners Pty Limited. The details of my decision are attached.

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Should you require any further information please contact Panna Patel, Post Approvals Section, on 02 6275 9299 or by email: post.approvals@environment.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Dwaine McMaugh', written over a white background.

Dwaine McMaugh
Director
Post Approvals Section
Assessments (Vic, Tas) and Post Approvals Branch
Environment Approvals Division

13 November 2020

Att:

Crest Road, Albion Park Interim Works Summary Report #1 November 2020 - April 2021



Interim Works Summary Report #1

Period: November 2020 - April 2021

Site: Crest Road, Albion Park

LOCATION: Lot 73, DP 785139, Crest Rd, Albion Park

CLIENT: Cavi Developments

REPORT DATE: 16th April 2021

PREPARED BY: Melissa Gilbert and Jay Windsor

PREPARED FOR: Shellharbour City Council (SCC)

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1. INTRODUCTION

The following report offers a summary of works conducted by Southern Habitat (NSW) Pty Ltd at Lot 73, DP 785139 Crest Road, Albion Park, from November 2020 to April 2021. This includes weed control, planting, and maintenance works carried out during this time.

Specifically, this interim report aims to provide an up-to-date summary of the following:

- Changing condition of resident vegetation since the commencement of restoration works.
- Restoration work activities, including a brief overview of restoration techniques and weed treatments employed on site.
- A breakdown of the number of hours used for site restoration.
- Establishment and health of installed plant material, if occurred.

This interim report covers the first block of 6-monthly maintenance, November 2020 – April 2021. The following dates apply to future reporting:

- Interim Reporting Period #2: May 2021 – October 2021
- Interim Reporting Period #3: November 2021 – April 2022
- Interim Reporting Period #4: May 2022 – October 2022
- Interim Reporting Period #5: November 2022 – April 2023
- Final Reporting Period #6: May 2023 – November 2023

2. PERFORMANCE CRITERIA

The Vegetation Management Plan (VMP) written by Biosis (2017) provides a set of performance criteria that must be addressed by the current restoration works and subsequent interim reports. These performance criteria (Biosis, 2017), as follows, represent both qualitative and quantitative measures to ensure the protection, enhancement and rehabilitation of site vegetation.

Management Zone 1 (MZ1) – Inner APZ (Figure 1):

- Canopy to be reduced via tree removal, if required, and maintained to maximum canopy coverage of 15%.
- Lower branches of retained trees to be removed to a height of 2m and should not form a direct canopy linkage.
- Hollow bearing trees will be retained.

- Removal of all fine fuels annually and maintenance of a low and green groundcover.
- Control of noxious and environmental weeds.

Management Zone 2 (MZ2) – Outer APZ (Figure 1):

- Canopy to be reduced through removal of trees, if required, and maintained to maximum canopy coverage of 30%.
- Lower branches of retained trees to be removed to a height of 2m and should not form a direct canopy linkage.
- Hollow bearing trees will be retained.
- Removal of all fine fuels annually and maintenance of a shrub cover of less than 20 per cent of the area.
- Control of noxious and environmental weeds.

Management Zone 3 (MZ3) – Retained Native Vegetation (Figure 1):

- Retain – Retain remnant indigenous vegetation. Conserving existing native vegetation should be the highest priority.
- Regenerate – where bushland remains but is degraded, regeneration should be the primary objective.
- Revegetate – where there is no regeneration potential, revegetation is then an option.
- Installation of fencing to separate MZ3 from the APZ (MZ1 & MZ2).

Threatened Species Monitoring (Across all Zones):

- Annual monitoring of threatened flora species (*Cynanchum elegans*) including photo monitoring, stem count and GPS locations.

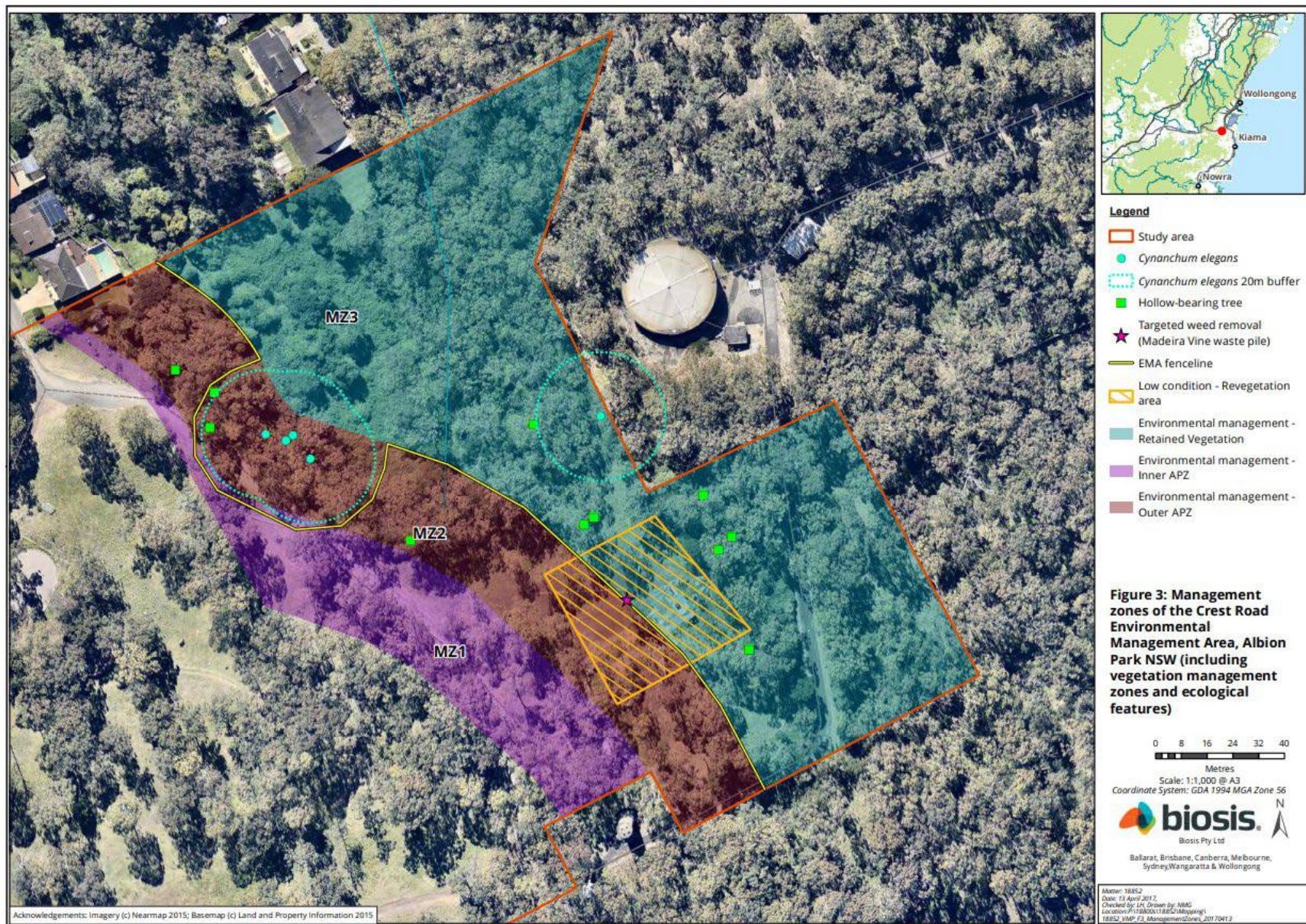


Figure 1 – Management Zones (Biosis, 2017).

3. SUMMARY OF ALLOCATED WORKS AND HOURS

Table 1 – Summary of works and allocated hours for each month.

Month	Hours	Activities
November 2020	248	<ul style="list-style-type: none"> • Monitoring of all installed nest boxes on site (see Section 6). • Primary weed control through MZ3. • Cut and paint targeting <i>Lantana camara</i> through eastern edge of site. • Isolation of native species in prep for Tritter works. Search for <i>Cynanchum</i> prior to tritter asnd mark-out to delineate exclusion zones. • Commenced clearance of rocks and debris from MZ1 to allow for future slashing activities. • Rocks gathered from area and placed into MZ3 as habitat and for future use as erosion control. • Tree clearance throughout MZ1 and MZ2 to comply with APZ specifications. All mulch material retained on-site. • Rubbish and green waste piled for collection.
December 2020	72	<ul style="list-style-type: none"> • <i>Cynanchum</i> monitoring throughout site. • Targeted herbicide spray to MZ1 and MZ2 to reduce weed flourish and prepare for slashing. • Slashed MZ1 and 2 areas.

Month	Hours	Activities
January 2021	68	<ul style="list-style-type: none"> Continued primary weed control throughout MZ3.
February 2021	106	<ul style="list-style-type: none"> Pick through MZ2 removing low lying surface rocks in prep for slashing. Rocks loaded into bobcat bucket and piled out of slashing area for future use in erosion control. GPS location of <i>Cynanchum</i> through MZ3 and beginning of monitoring requirements (see Section 7). Stem counts and photo points for identified locations of <i>Cynanchum elegans</i>. Primary works through MZ2, cut and paint targeting <i>Lantana camara</i> and <i>Senna pendula</i> through buffer zone around existing <i>Cynanchum elegans</i>.
March 2021	104	<ul style="list-style-type: none"> Primary weed control through MZ2. Cut and paint targeting <i>Lantana camara</i> and <i>Senna pendula</i> through <i>Cynanchum</i> buffer zone. All weeds treated by hand due to proximity of <i>Cynanchum elegans</i> through zone. Completed delineation of areas available for tritter works in prep for commencement later this week. Tritter and fence removal through southern edge of MZ2 targeting <i>Lantana camara</i>. Fence removal through area and all fence material stacked on site ready for pickup. Primary works through Buffer zone adjacent to MZ1. Cut and paint targeting <i>Lantana camara</i> and <i>Senna pendula</i> through <i>Cynanchum</i> buffer zone.

Month	Hours	Activities
April 2021	68	<ul style="list-style-type: none"> • Completed isolation of <i>Cynanchum</i> through MZ2 Buffer zone, remainder of zone ready for treatment. • Cut and paint targeting <i>Lantana camara</i> and <i>Senna pendula</i>. • Commenced treatment of located areas of <i>Cynanchum</i> through MZ3 in readiness for monitoring with stem counts and photos. • Cut and paint targeting <i>Lantana camara</i> and <i>Senna pendula</i>, hand removal targeting <i>Araujia sericifera</i> (Moth Vine) and <i>Delairea odorata</i> (Cape Ivy). • Progress photos taken.

4. PERFORMANCE ANALYSIS

As per the Performance Criteria provided in Section 2, we consider the following has been met or whether works is ongoing. In addition, these criteria have been aligned with the Tasks set by Biosis in Table 3 of their Vegetation Management Plan (2017), to provide additional clarification and evidence of criteria completion.

Management Zone 1 (MZ1)

Performance Criteria	Met or Ongoing	Future Actions or Comments	Task Alignment & Completion Record (Table 3 - Biosis, 2017)
Canopy to be reduced via tree removal and maintained to a maximum canopy coverage of 15%.	Met	Tree removal has resulted in a canopy cover of <15%. Tree growth will be monitored throughout the 36-month maintenance period to ensure this is maintained.	Task 3 Point 1 – Completed.
Lower branches of retained trees to be removed to a height of 2m and should not form a direct canopy linkage.	Ongoing	Trees remaining will be under pruned regularly throughout the 36-month maintenance period to ensure no direct canopy linkage occurs.	Task 3 Point 3 – Ongoing.
Hollow bearing trees will be retained.	Met	Hollow bearing trees have been retained.	Task 3 Point 1 – Completed.

Removal of all fine fuels annually and maintenance of a low and green groundcover.	Ongoing	Removal of rocks, fine fuels and maintenance of groundcover will continue to occur throughout the 36-month maintenance period.	Task 3 Point 2 – Ongoing. Task 3 Point 3 – Ongoing. Task 3 Point 4 – Ongoing.
Control of noxious and environmental weeds.	Ongoing	Weed control will continue to occur throughout the 36-month maintenance period.	Task 2 – Completed. Task 4 – Ongoing.

Management Zone 2 (MZ2)

Performance Criteria	Met or Ongoing	Future Actions or Comments	Task Alignment & Completion Record (Table 3 - Biosis, 2017)
Canopy to be reduced via tree removal and maintained to a maximum canopy coverage of 30%.	Met	Tree removal has resulted in a canopy cover of <30%. Tree growth will be monitored throughout the 36-month maintenance period to ensure this is maintained.	Task 3 Point 1 – Completed.
Lower branches of retained trees to be removed to a	Ongoing	Trees remaining will be under pruned regularly throughout the 36-month maintenance period to ensure no direct canopy linkage occurs.	Task 3 Point 4 – Ongoing.

height of 2m and should not form a direct canopy linkage.			
Hollow bearing trees will be retained.	Met	Hollow bearing trees have been retained.	Task 3 Point 1 – Completed.
Removal of all fine fuels annually and maintenance of a shrub cover of less than 20% of the area.	Ongoing	Removal of rocks, fine fuels and maintenance of groundcover will continue to occur throughout the 36-month maintenance period.	Task 3 Point 2 – Ongoing. Task 3 Point 4 – Ongoing. Task 3 Point 5 – Ongoing.
Control of noxious and environmental weeds.	Ongoing	Weed control will continue to occur throughout the 36-month maintenance period.	Task 2 – Completed. Task 7 – Ongoing.

Management Zone 3 (MZ3)

Performance Criteria	Met or Ongoing	Future Actions or Comments	Task Alignment & Completion Record (Table 3 - Biosis, 2017)
Retain remnant indigenous vegetation.	Met	Remnant indigenous vegetation has been retained.	N/A (no task number assigned).
Regeneration works.	Ongoing	Weed control will continue to occur throughout the 36-month maintenance period.	Task 2 & 6 – Ongoing.

		Habitat will be embellished by transferring cut stumps and branches to MZ3 for additional habitat.	Task 4 – Ongoing.
Hollow bearing trees will be retained.	Met	Hollow bearing trees have been retained.	N/A (no task number assigned).
If required, revegetation in areas where there is no regeneration potential.	Ongoing	Revegetation works have yet to be completed.	Task 5 – Ongoing.

Threatened Species Monitoring (Across all Zones)

Performance Criteria	Met or Ongoing	Future Actions or Comments	Task Alignment & Completion Record (Table 3 - Biosis, 2017)
Annual monitoring of threatened flora species (<i>Cynanchum elegans</i>) including photo monitoring, stem count and GPS locations (see Section 7).	Met	Location of <i>Cynanchum elegans</i> established.	MZ2 Task 1b – Completed. MZ2 Task 3 Point 3 – Completed. MZ3 Task 1b – Completed.
	Ongoing	Annual monitoring of threatened flora species will occur for the duration of the 36-month maintenance period.	MZ3 Additional Task – Ongoing.

Additional Tasks (not specified in Performance Criteria)

Performance Criteria	Met or Ongoing	Future Actions or Comments	Task Alignment & Completion Record (Table 3 - Biosis, 2017)
Establishment of monitoring points.	Met	Photo Monitoring Points Established.	MZ1 Task 1 – Completed. MZ2 Task 1a – Completed. MZ3 Task 1a – Completed.
Installation of Fencing	Ongoing	Fencing has yet to be installed.	MZ2 Task 8 – Ongoing. MZ3 Task 7 – Ongoing.
Erosion Control	Ongoing	Erosion control across all management zones will occur continuously throughout the 36-month maintenance period.	MZ2 Task 5 – Ongoing. MZ3 Task 3 – Ongoing.
Revegetation Works	Ongoing	Revegetation works have yet to be completed.	MZ2 Task 6 – Ongoing.
Habitat Nest Box Monitoring (see Section 6)	Ongoing	Nest boxes will be monitored bi-annually for the duration of the 36-month maintenance period.	MZ3 Additional Task – Ongoing.

5. PHOTO ANALYSIS

The following photos provide qualitative analysis for vegetation conditions as a result of restoration works conducted throughout the period of November 2020 to April 2021, with original pre-development photos from October 2020 for comparison.



Photo 1 (October 2020)



Photo 1 (April 2021)



Photo 2 (October 2020)



Photo 2 (April 2021)



Photo 3 (October 2020)



Photo 3 (April 2021)



Photo 4 (October 2020)



Photo 4 (April 2021)



Photo 5 (October 2020)



Photo 5 (April 2021)



Photo 6 (October 2020)



Photo 6 (April 2021)



Photo 7 (October 2020)



Photo 7 (April 2021)

6. HABITAT NEST BOX INFORMATION

The following information was recorded, and observations were made in November 2020. The next habitat nest box observations are due to occur in May 2021 (which will be reported in Interim Reporting Period #2).

Latitude	Longitude	NS1: ELE	NS1: Number (Figure 2)	NS1: CMT	NS1: SYM	Observation (11/11/20)
-34.49408	150.757646	123.631668	167	Crest bat box	Flag, Blue	No evidence of occupation.
-34.581123	150.766766	122.082771	168	Crest small opening box	Flag, Blue	No evidence of occupation. Readjustment required.
-34.581123	150.766708	126.962723	169	Crest bat box	Flag, Blue	No evidence of occupation.
-34.581859	150.767591	129.621964	170	Crest bat box	Flag, Blue	No evidence of occupation.
-34.581859	150.767909	128.772873	171	Crest medium opening box	Flag, Blue	Evidence of bush rats occupying box.
-34.581698	150.767863	128.278351	172	Crest bat box	Flag, Blue	No evidence of occupation

-34.581671	150.767862	127.41993	173	Crest medium opening box	Flag, Blue	No evidence of occupation, marking on opening to box
-34.58152	150.768141	127.867798	174	Crest bat box	Flag, Blue	No evidence of occupation, spiders observed.
-34.58152	150.768141	122.866547	175	Crest medium opening box	Flag, Blue	No evidence of occupation, nil scratching on opening.
-34.580685	150.766178	100.995407	176	Crest medium opening box	Flag, Blue	Minor scratching's on opening to box, no evidence of occupation.
-34.580514	150.76714	102.926865	177	Crest bat box	Flag, Blue	No evidence of occupation, spiders observed.
-34.580189	150.767348	110.270119	178	Crest bat box	Flag, Blue	No evidence of occupation.
-34.580586	150.767063	107.256302	179	Crest bat box	Flag, Blue	No evidence of occupation.
-34.580641	150.76704	103.244102	180	Crest bat box	Flag, Blue	No evidence of occupation, spiders observed.



Figure 2 – GPS location of habitat nest boxes taken in November 2020 (Southern Habitat, 2020).

7. LOCATION OF THREATENED FLORA

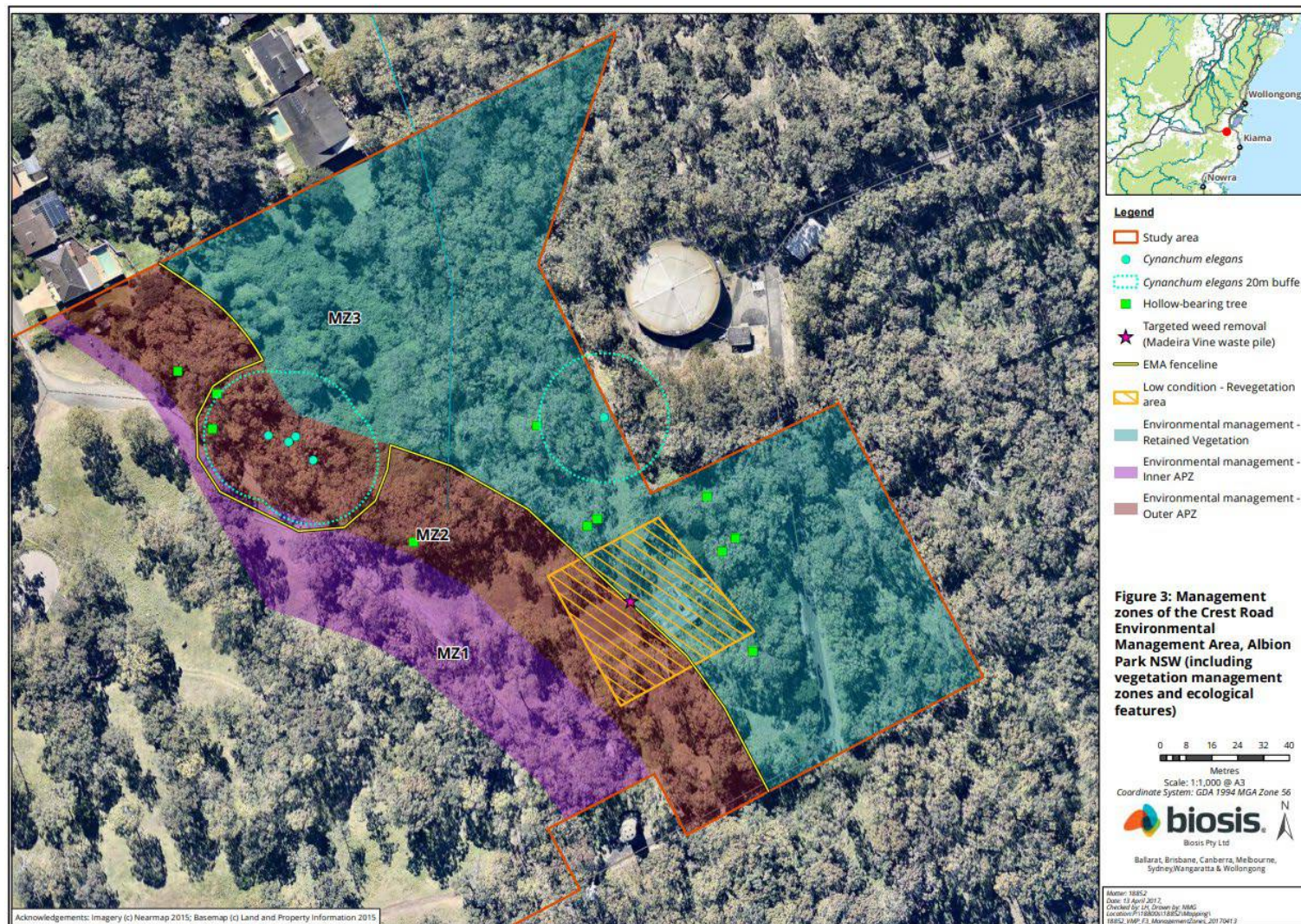


Figure 3 – Location of threatened flora, *Cynanchum elegans* (blue dots with 20m buffer zone indicated) (Biosis, 2017).

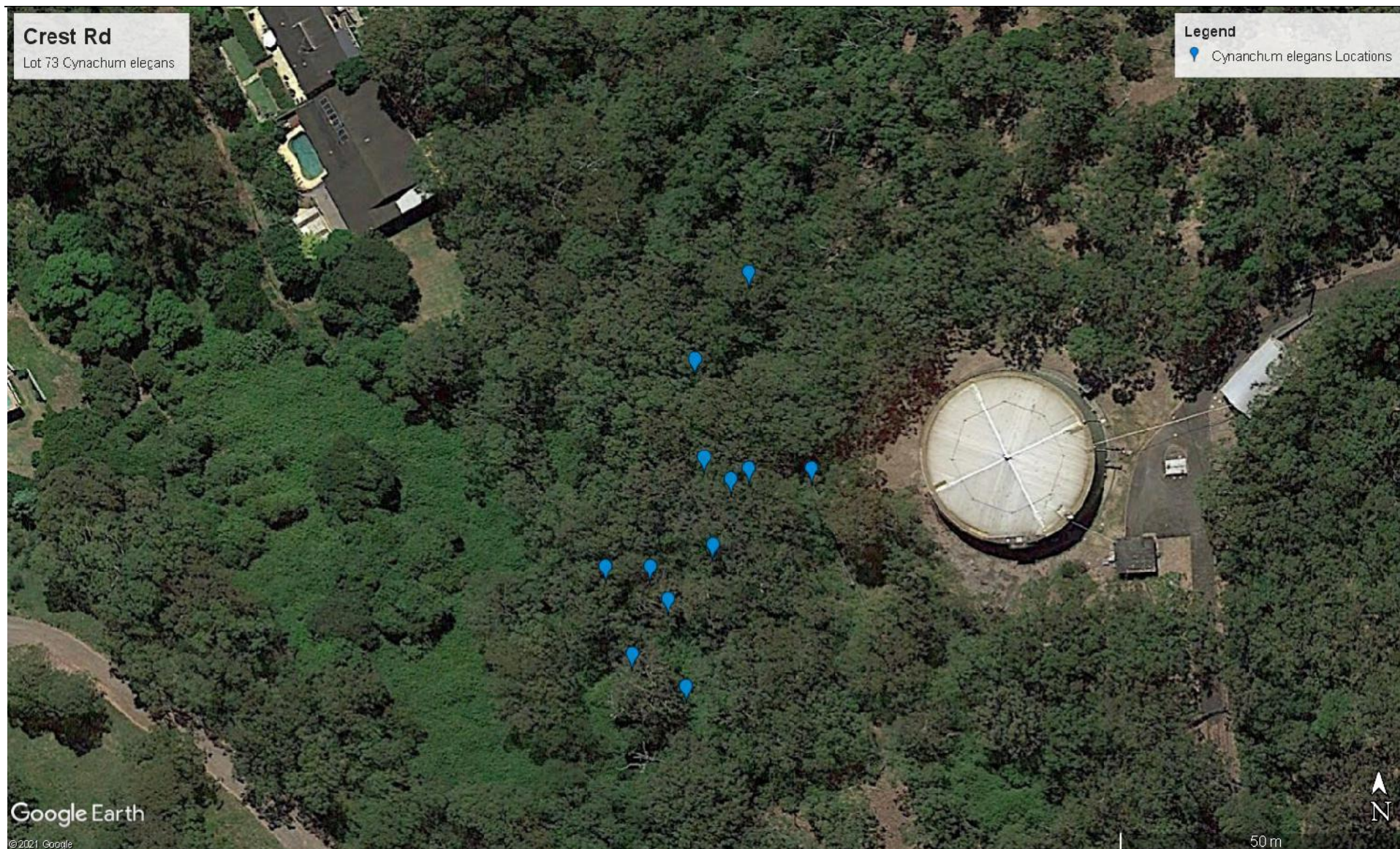


Figure 4 – Updated map showing location of additional threatened flora, *Cynanchum elegans* in MZ3 (Southern Habitat, 2021).

8. CONCLUSION

Overall, maintenance works including the implementation of a weed control program has improved environmental conditions throughout Lot 73, while adhering to APZ requirements.

We recommend continued weed management control measures be implemented throughout the area and for the duration of the three-year maintenance program, to ensure continued development of a fully structured planting composition. Completion of each task, as specified by Biosis (2017), will be addressed in each future interim report.

9. REFERENCES

Biosis. (2017). Lot 101 DP 785139 Crest Road, Albion Park: Vegetation Management Plan. Version 3. Report for Martin Morris and Jones. Author: M Misdale, Biosis Pty Ltd, Wollongong. Project no. 18852.



Interim Works Summary Report #1

Period: November 2020 - April 2021

Site: Crest Road, Albion Park

LOCATION: Lot 101, DP 785139, Crest Rd, Albion Park

CLIENT: Cavi Developments

REPORT DATE: 16th April 2021

PREPARED BY: Melissa Gilbert and Jay Windsor

PREPARED FOR: Shellharbour City Council (SCC)

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1. INTRODUCTION

The following report offers a summary of works conducted by Southern Habitat (NSW) Pty Ltd at Lot 101, DP 785139 Crest Road, Albion Park, from November 2020 to April 2021. This includes weed control, planting, and maintenance works carried out during this time.

Specifically, this interim report aims to provide an up-to-date summary of the following:

- Changing condition of resident vegetation since the commencement of restoration works.
- Restoration work activities, including a brief overview of restoration techniques and weed treatments employed on site.
- A breakdown of the number of hours used for site restoration.
- Establishment and health of installed plant material, if occurred.

This interim report covers the first block of 6-monthly maintenance, November 2020 – April 2021. The following dates apply to future reporting:

- Interim Reporting Period #2: May 2021 – October 2021
- Interim Reporting Period #3: November 2021 – April 2022
- Interim Reporting Period #4: May 2022 – October 2022
- Interim Reporting Period #5: November 2022 – April 2023
- Final Reporting Period #6: May 2023 – November 2023

2. PERFORMANCE CRITERIA

The Vegetation Management Plan (VMP) provides a brief set of performance criteria that must be addressed by the current restoration works and subsequent interim reports. These performance criteria represent both qualitative and quantitative measures to ensure the protection, enhancement and rehabilitation of site vegetation:

- The 95% eradication of all identified keystone weeds within the subject area.
- The 90% survivorship of revegetation.
- The site will be monitored, and a report provided every six (6) months over the three (3) year maintenance period.

3. SUMMARY OF ALLOCATED WORKS AND HOURS

Table 1 – Summary of works and allocated hours for each month.

Month	Hours	Activities
November 2020	12	<p>Weed control, maintenance and revegetation works:</p> <ul style="list-style-type: none"> Maintenance weed control through drainage easement. Methods used included hand weeding (to isolate native plants and herbicide spot spray application. Main targets – Fireweed, Bidens, Rhodes Grass, Fleabane. Hand watering to installed plant stock (with the addition of liquid fertiliser).
December 2020	14	<p>Weed control and maintenance:</p> <ul style="list-style-type: none"> Maintenance weed control through drainage easement. Methods used included hand weeding (to isolate native plants and herbicide spot spray application. Main targets – Fireweed, Bidens, Rhodes Grass, Fleabane
January 2021	13	<p>Weed control and maintenance:</p> <ul style="list-style-type: none"> Maintenance weed control through drainage easement. Methods used included hand weeding (to isolate native plants and herbicide spot spray application. <p>Main targets – Fireweed, Bidens, Moth Vine, Rhodes Grass.</p>
February 2021	12	<p>Weed control and maintenance:</p>

Month	Hours	Activities
		<ul style="list-style-type: none"> Maintenance weed control through drainage easement. Methods used included hand weeding (to isolate native plants and herbicide spot spray application. Main targets – Lantana, Fireweed, Bidens, Rhodes Grass, Fleabane.
March 2021	7	<p>Weed control and maintenance:</p> <ul style="list-style-type: none"> Maintenance weed control through drainage easement. Methods used included hand weeding (to isolate native plants and herbicide spot spray application. Main targets – Lantana, Fireweed, Bidens, Rhodes Grass, Fleabane.
April 2021	24	<p>Weed control and maintenance:</p> <p>Maintenance weed control through drainage easement. Methods used included hand weeding (to isolate native plants and herbicide spot spray application. Main targets – Lantana, Fireweed, Bidens, Rhodes Grass, Fleabane.</p> <ul style="list-style-type: none"> Installation of planting guards to vulnerable shrubs and tree stock.
Total	82	

4. PERFORMANCE ANALYSIS

As per the Performance Criteria provided in Section 2, we consider the following:

Performance Criteria (as per VMP)	Met or Ongoing	Future Actions
The 95% eradication of all identified keystone weeds within the subject area.	Ongoing	The weed control management plan will occur for the duration of the 36-month maintenance period.
The 90% survivorship of revegetation.	Met	No revegetation works were undertaken during this 6-month period. Previous revegetation has maintained a >90% survivorship.
The site will be monitored, and a report provided every six (6) months over the three (3) year maintenance period.	Met	First of six reports completed and submitted in April 2021. Five more reports will be completed in total, as outlined in Section 1 of this interim report.

5. PHOTO ANALYSIS

The following photos provide qualitative analysis for vegetation conditions as a result of restoration works conducted throughout the period of November 2020 to April 2021, with original pre-development photos from August 2019 for comparison.



Figure 1 – Crest Road Drainage Easement Photo Point Locations (SCC IntraMaps, 2019).



Photo Point 1a – Facing south-east (August 2019).



Photo Point 1a – Facing south-east (April 2021).



Photo Point 1b – Facing north-east (August 2019).



Photo Point 1b – Facing north-east (April 2021).



Photo Point 2 – Facing south-west (August 2019).



Photo Point 2 – Facing south-west (April 2021).



Photo Point 3 – Facing south-west (August 2019).



Photo Point 3 – Facing south-west (April 2021).



Photo Point 4 – Facing south-west (August 2019).



Photo Point 4 – Facing south-west (April 2021).



Photo Point 5 – Facing south to south-west (August 2019).



Photo Point 5 – Facing south to south-west (April 2021).



Photo Point 6 – Facing south to south-west (August 2019).



Photo Point 6 – Facing south to south-west (April 2021).



Photo Point 7 – Facing north (August 2019).



Photo Point 7 – Facing north (April 2021).



Photo Point 8 – Facing south (August 2019).



Photo Point 8 – Facing south (April 2021).

6. CONCLUSION

Overall, the mulching and weed management works have helped encourage native vegetation growth throughout the drainage easement. We recommend continued weed management control measures be implemented throughout the area and for the duration of the three-year maintenance program, to ensure continued development of a fully structured planting composition.

Application to retire biodiversity credits (credit owner ID 685)

Caragh Heenan

From: Stephanie Cerato <stephanie.cerato@ecoplanning.com.au>
Sent: Friday, 1 May 2020 9:37 AM
To: Diego @ Cavi
Cc: Lucas McKinnon
Subject: FW: Application to retire biodiversity credits (credit owner ID 685 Cavi developments & partners)
Attachments: 202004-RT-530-Cavi.pdf

Hi Diego,

If you haven't already received this email, attached is the completed credit retirement report from OEH.

Kind regards,
Steph

Stephanie Cerato
Ecologist
BSc Cons Bio (Hons I)



From: Denise Wallace **On Behalf Of** OEH ROGHD BioBanking Mailbox
Sent: Thursday, 30 April 2020 5:15 PM
To: Stephanie Cerato ; OEH ROGHD BioBanking Mailbox
Cc: Lucas McKinnon ; diego@cavidevelopments.com.au; Tara Murphy
Subject: RE: Application to retire biodiversity credits (credit owner ID 685 Cavi developments & partners)

Stephanie

Please find attached completed credit retirement report. My apologies for the delay in processing.

The invoice for the application fee of \$1545 will be processed in due course.

Tara – please process **retirement** fee of \$1545 using WBS: EX-6589-S10221.

Cheers
Denise

From: Stephanie Cerato <stephanie.cerato@ecoplanning.com.au>
Sent: Monday, 23 March 2020 9:55 AM
To: OEH ROGHD BioBanking Mailbox <biobanking@environment.nsw.gov.au>
Cc: Luke <lucas.mckinnon@ecoplanning.com.au>; diego@cavidevelopments.com.au
Subject: Application to retire biodiversity credits (credit owner ID 685 Cavi developments & partners)

Hi,

Please find attached an Application to Retire Biodiversity Credits and the associated Credit Retirement report.

If you have any questions or comments please let me know.

Kind regards,

Stephanie Cerato
Ecologist
BSc Cons Bio (Hons I)



This email is intended for the addressee(s) named and may contain confidential and/or privileged information.

If you are not the intended recipient, please notify the sender and then delete it immediately.

Any views expressed in this email are those of the individual sender except where the sender expressly and with authority states them to be the views of the NSW Office of Environment and Heritage.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL



Application to retire biodiversity credits

This form is used to apply for the retirement of biodiversity credits under the *Biodiversity Conservation Act 2016*. If you need help completing this form, contact the BioBanking Team at biobanking@environment.nsw.gov.au.

This is an interactive form – please click on boxes and type in responses (each field has unlimited characters). When completed, print the form and sign where appropriate..

Credit owner's details

Credit register ID:

How to indicate which biodiversity credits are to be retired

Complete the following steps to specify the credits that are to be retired:

Step 1 Go to the BioBanking public register at

www.environment.nsw.gov.au/bimsprapp/BiobankingPR.aspx

- a. Click on the 'Biodiversity credits register' link
- b. Select 'Search for credit holder'
- c. Enter credit owner's credit register ID in the box provided and click 'Search'
- d. Click on 'View credit retirement report as PDF' button
- e. Print the 'Credit(s) retirement report'.

Step 2 On the Credit(s) retirement report indicate the number of each ecosystem and/or species credit(s) to be retired from the owner(s) recorded in the credit register.

Step 3 Attach the completed Credit(s) retirement report to this application.

Purpose of credit retirement

This application is to retire credits to satisfy the requirements of BioBanking statement ID:

Click or tap here to enter text.

This application is to retire credits (specify below):

- to comply with a State significant development or State significant infrastructure project approval
- for conservation purposes
- other (please specify) To meet conditions of a Commonwealth approval

Note: Once credits have been retired, they are effectively removed from the market and cannot be transferred or further retired.

Total Fund Deposit

If any of the credits nominated for retirement have not previously been transferred (sold), payment of the relevant portion of the Total Fund Deposit must be made into the **Biodiversity Stewardship Payments Fund**. This only occurs if you are retiring credits created on your own biobank site and you have not yet met the full Total Fund Deposit specified in the BioBanking agreement.

<input checked="" type="checkbox"/> There are no credits being retired without first having been sold (proceed to section 5)
<input type="checkbox"/> There are credits being retired without first having been sold but the Total Fund Deposit has already been satisfied for BioBanking agreement ID: <i>Click or tap here to enter text</i> (proceed to section 5)
<input type="checkbox"/> There are credits being retired without first having been transferred (sold) and a cheque for the relevant portion of the Total Fund Deposit is attached. Payment can only be made by cheque payable to ' Biodiversity Stewardship Payments Fund '. <i>Fill in the table below to determine the amount to be paid.</i>

Specify all amounts below excluding GST.

A	BioBanking agreement ID	<i>Click or tap here to enter text.</i>
B	Total Fund Deposit specified in the BioBanking agreement	\$ <i>Click or tap here to enter text</i>
C	Total number of credits created at the biobank site	<i>Click or tap here to enter text.</i>
D	Number of credits sold in this transfer	<i>Click or tap here to enter text.</i>
E	Relevant portion of the Total Fund Deposit ($D \div C \times 100$)	<i>Click or tap here to enter text.</i> %
F	Relevant portion of the Total Fund Deposit	\$ <i>Click or tap here to enter text.</i>

Payment of the Total Fund Deposit can be made by EFT or cheque payable to the **Biodiversity Stewardship Payments Fund**.

For enquiries about the Total Fund Deposit contact the NSW Biodiversity Conservation Trust on 1300 992 688 or email bct@environment.nsw.gov.au.

Application fee for credit retirement

The application fee of \$1500 must be submitted with this form. The fee is payable to the Department of Planning, Industry and Environment.

<input type="checkbox"/> Fee for credit retirement to meet conditions in a BioBanking statement
<input type="checkbox"/> Fee for credit retirement without a BioBanking statement
<input type="checkbox"/> Fee for credit retirement without a BioBanking statement (credit card payment)

Note: Fees are exempt from GST by the Commonwealth Treasurer's Division 81 determination under A New Tax System (Goods and Services Tax) Act 1999.

Application fee payment method

- Cheque Please make cheque payable to the Department of Planning, Industry and Environment
- EFT Please complete the invoice raised to section below.
- Credit card Mastercard Visa

Card number [Click or tap here to enter text.](#)

Expiry date [Click or tap to enter a date.](#)

Cardholder's name [Click or tap here to enter text.](#)

Cardholder's signature [Click or tap here to enter text.](#)

Department of Planning, Industry and Environment will raise an invoice for the Application Fee for Biodiversity Credit Retirement. If the payer details differ from the credit owner details please complete below.

Invoice raised to		Receipt to (if different to invoice details)	
Name/Company	Cavi Ddevelopments & Partners Pty Ltd	Name/Company	Cavi Ddevelopments & Partners Pty Ltd
ABN	35 614 341 561	ABN	35 614 341 561
Mailing address	Unit 5, 16 Mangrove Lane, Taren Point NSW 2229	Mailing address	Unit 5, 16 Mangrove Lane, Taren Point NSW 2229
Email	diego@cavidevelopments.com.au	Email	diego@cavidevelopments.com.au
Phone	0412 478 371	Phone	0412 478 371

Signature of applicants

This application must be completed and signed by all the owners of the biodiversity credits that are being nominated for retirement, or by persons with the legal authority to sign. The various options for signing the form according to owner category are set out in the table below.

Owner category	Application is signed and certified by
<input type="checkbox"/> Individuals	All the individuals who are owners of the biodiversity credits to be retired
<input checked="" type="checkbox"/> Company	<input type="checkbox"/> the common seal being affixed in accordance with the <i>Corporations Act 2001</i> <input type="checkbox"/> two directors <input type="checkbox"/> a director and a company secretary <input checked="" type="checkbox"/> the director, if a proprietary company that has a sole director who is also the sole company secretary.
<input type="checkbox"/> A local council	<input type="checkbox"/> the general manager in accordance with s.377 of the <i>Local Government Act 1993</i> (LG Act) <input type="checkbox"/> the seal of the council being affixed in a manner authorised under the LG Act.
<input type="checkbox"/> A public authority other than a council	The Chief Executive officer of the public authority.

I/We hereby give consent for the retirement of the biodiversity credits listed in the credit retirement report attached to this application (all owners to sign).

Full name Jason Cavanagh

Position Director

Signature  Click or tap to enter a date.

Signature date 18/03/2020

Full name Click or tap to enter a date.

Position Click or tap to enter a date.

Signature Click or tap to enter a date.

Signature date Click or tap to enter a date.

Company seal (if required):

Note: The consent of all owners must be provided to complete the credit transaction. If you are signing on the owner's behalf you must state the nature of your legal authority and attach documentary evidence (e.g. power of attorney, executor, trustee, company director, etc).

Lodging the application

Once completed and signed, send the application with all attachments to the BioBanking Team.

Email – via biobanking@environment.nsw.gov.au

If the files are large then a data exchange site can be set up. Contact us via the mailbox to organise this.

Or by post:

The BioBanking Team
Conservation Programs Branch
Department of Planning, Industry and Environment
PO Box A290
Sydney South NSW 1232

Note: You will be notified when the credits have been retired and the public register will be updated to reflect the change in status of the credits specified in this application.

Office use only

Received date	Click or tap to enter a date.
Completed date	Click or tap to enter a date.
Confirmation issued	Click or tap here to enter text.
BOAMS transaction case ID	Click or tap here to enter text.
Invoice number for fee	Click or tap here to enter text.

**EPBC 20178048 Lot 101 DP 1238120 Crest Road Albion Park NSW 2527 Completion of the Action
(Condition 21)**

Caragh Heenan

From: Diego @ Cavi <diego@cavidevelopments.com.au>
Sent: Monday, 3 May 2021 5:28 PM
To: postapproval@awe.gov.au
Cc: Peter Blackwell; Sean Mitchell; EPBC Monitoring; Caragh Heenan; Rebecca Dwyer
Subject: EPBC 2017/8048 Lot 101 DP 1238120 Crest Road, Albion Park NSW 2527– Completion of the Action (Condition 21)
Attachments: EPBC 2017-8048_Letter-CAVI_Cond21_Completion of the Action.pdf; Report 33946.101.Crest.Road.Albion.Park.Offset.Advice.LR.FIN02.20201023.pdf

Hi Peter,

Thanks for your time over the phone.

Pursuant to clause 21 of the approval in subject, please find attached letter of notification stating condition 21 of the approval in subject has been reached.

As mentioned, we confirm completion of activities related to the construction and clearance of the action on the removal CEEC area, nevertheless we also would like to notify that management activities to preserve & revegetate endangered species in the APZ modification CEEC area are still under execution in line with the VMP. We would like to seek clarification whether these activities are/are not considered of part of the action?

In addition, we also note the EPBC 2017/8048 approval has effect until March 2039. Could you please clarify whether CAVI Developments is required to provide annual reports until March 2039 in accordance with condition 16 or whether it will be only required to provide reports to the Department as detailed in condition 14 (12 and 24 months after commencement of the action)?

Any question do not hesitate to contact me.

Thank you.

Kind Regards,

Diego Riano

BEng (civil), MEngSc (MCPM).
Project Manager



PO Box 2861 Taren Point NSW 2229

Email diego@cavidevelopments.com.au

Web www.cavidevelopments.com.au

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Date: 3rd May 2021

Department of Agriculture, Water and Environment
GPO Box 858 Canberra ACT 2601

Subject: EPBC 2017/8048 Lot 101 DP 1238120 Crest Road, Albion Park NSW 2527– Completion of the Action (Condition 21)

To whom it may concern,

We refer to the condition 21 outlined in EPBC 2017/8048 (DEE 2019). Condition 21 states as follows: *“within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data”*.

Cavi Developments confirms the completion of the actions ceased on the 31st of March 2021. In addition, we also would like to state that ongoing activities to preserve, maintain and re-vegetate endangered species in the APZ modified CEEC areas under the approval are still in progress.

Completion data and supporting documents have been drafted and will be submitted in accordance with the administrative standard condition of the EPBC approval and the compliance progress report prepared by BIOSIS Pty and submitted to the department on the 23rd October 2020.

Please let us know if you require any further information.

Best Regards,

Diego Riano
CAVI DEVELOPMENTS & PARTNERS PTY
diego@caviddevelopments.com.au

Appendix 5 EPBC compliance progress report (Biosis 2020)



23 October 2020

Jason Cavanagh
Director
Cavi Developments and Partners Pty Ltd
Unit 5/12-16 Mangrove Place
TAREN POINT NSW 2229

Dear Jason

Re: EPBC compliance progress report for 101 Crest Road, Albion Park
Project no. 33946

Biosis Pty Ltd was commissioned by Cavi Developments and Partners Pty Ltd (Cavi) to complete a compliance progress report associated with a low density residential 72 lot subdivision, including one environmental lot with dwelling provision, of Lot 101 DP1238120 Crest Road in Albion Park New South Wales (NSW) (the study area) under development application (DA) consent DA0040-2016 (the project) (DEE 2019). The project refers to the referral boundary within the study area (Appendix 1 Figure 1), in line with the EPBC Referral of proposed action (Biosis 2019a, Biosis 2019b).

The vegetation within the study area consists of one Threatened Ecological Community (TEC) (Tozer et al. 2010), *Illawarra Lowlands Grassy Woodlands of the Sydney Basin Bioregion*, listed as Endangered under the NSW *Biodiversity Conservation Act 2016* (BC Act) and *Illawarra and south coast lowland forest and woodland ecological community*, listed as a Critically Endangered under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The EPBC Act applies to developments and associated activities that have the potential to significantly impact on Matters of National Environmental Significance (NES) protected under the Act. Clearance and modification of the TEC requires offset obligations as stated in condition 8 of the DA consent (Shellharbour City Council 2019). EPBC Act approval by the Department of the former Environment and Energy, currently known as Department of Agriculture, Water and Environment (DAWE), was granted to the former consent holder, Spinitu Pty Ltd on 20 December 2019 for the project (EPBC 2017/8048).

Biosis understands that Cavi purchased the consent from Spinitu Pty Ltd (Spinitu) on 18 May 2020. The sale included biodiversity conditions outlined in EPBC 2017/8048 (DEE 2019). Cavi are required to transfer the approval obligations from Spinitu via a deed of agreement by both parties, with this report supporting the transfer.

Description of activities

We refer to EPBC 2017/8048, as the project 'Residential Subdivision, Crest Road, Albion Park, NSW', with the approved action 'residential subdivision of Lot 101 DP1238120 and ancillary infrastructure on Lot 3 DP 1214606, Crest Road, Albion Park, NSW'.

The current approval holder is Spinitu Pty Ltd (77 003 361 573). This compliance progress report has been prepared for Cavi for the period 20 December 2019 to 23 October 2020.

Biosis Pty Ltd
Wollongong

30 Wentworth Street
Port Kembla NSW 2505

Phone: 02 4201 1090

ACN 006 175 097
ABN 65 006 175 097

Email: wollongong@biosis.com.au

biosis.com.au

In line with communications from DAWE titled *Potential contraventions of the Environment Protection and Biodiversity Conservation Act 1999* on 11 August 2020 and 9 September 2020, DAWE are seeking information relating to two items, with Biosis' responses outlined below in Table 1.

Table 1 Items that require addressing under *Potential contraventions of the Environment Protection and Biodiversity Conservation Act 1999*

Item	Response
<p><i>In accordance with Section 134 (1A) of the EPBC Act, provide written evidence that Spinitu Pty Ltd authorised Cavi to undertake the approved action, including any correspondence between both parties where Spinitu advised Cavi of their obligations under the EPBC Approval 2017/8048.</i></p>	<p>In relation to the Department's request for written evidence Spinitu authorised Cavi in writing to undertake the approved action, Cavi responds as follows:</p> <ol style="list-style-type: none"> 1) Cavi has not been able to locate any written evidence of Spinitu authorising Cavi to undertake the approved action. 2) It was always the intention of Cavi and Spinitu that Cavi would be carrying out the approved action. This intention is clearly evidenced by the following: <ol style="list-style-type: none"> a) Cavi purchased lot 101 in deposited plan 1238120, being known as lot 101 Crest Road, Albion Park (study area/Land) from Spinitu subject to development consent DA0040-2016 granted by Shellharbour City Council on 3 May 2019 (Development Consent). Please refer to the attached front page and special conditions of the contract for the sale and purchase of the Land entered into by Spinitu as vendor and Cavi as purchaser dated 23 August 2019 (Land Sale Contract) (Appendix 2). In particular, we refer you to special condition 41. A copy of the Development Consent is also attached (Appendix 2). b) The Land Sale Contract was conditional on: <ol style="list-style-type: none"> i) The Department or the NSW Office of Environment & Heritage approving the number of biodiversity credits (Credits) required to satisfy the Development Consent; ii) Cavi entering into and completing a sale and purchase agreement for the purchase of the Credits; and iii) The purchase of the Credits by Cavi being completed and the Credits registered in Cavi's name. Please refer to special conditions 43 and 45 in the attached extract of the Land Sale Contract (Appendix 2). c) Spinitu located the seller of the Credits that were required as a condition of EPBC Approval 2017/8048 (Approval), negotiated the commercial terms for the purchase of the Credits from the Seller and introduced Cavi to the seller of the Credits. Please refer to the attached email from Spinitu's solicitor to Cavi's solicitor dated 23 May 2019 in this regard (Appendix 2). d) Cavi purchased the Credits from Edenvell Pty Ltd pursuant to a sale and purchase agreement entered into by Edenvell Pty Ltd as vendor and Cavi as purchaser dated 24 January 2020. Copies of the sale and purchase agreement (which was signed in counterparts) is attached (Appendix 2).

Item	Response
	<p>e) On completion of the purchase of the Credits, Cavi was registered as the holder of the Credits on the BioBanking Register maintained by the NSW Office of Environment & Heritage. A copy of the credit transfer report issued by NSW Office of Environment & Heritage (OEH) on registration of the transfer of the Credits, along with a credit search noting Cavi as the registered holder of the Credits, are attached (Appendix 2).</p> <p>f) Cavi was informed by Spinitu of the proposed conditions of the Approval, and the final conditions of the Approval once issued, as required by section 134(1A)(a) of the EPBC Act. In this regard:</p> <ul style="list-style-type: none"> i) The proposed Approval was provided to Cavi by Spinitu's co-selling agent for Cavi's information. ii) The variation to the proposed action was provided to Cavi's solicitor by Spinitu's solicitor for Cavi's information. iii) The final Approval was provided to Cavi's solicitor by Spinitu's solicitor for Cavi's information. <p>Please refer to the attached emails (Appendix 2) from:</p> <ul style="list-style-type: none"> • Spinitu's co-selling agent, One Agency, to Cavi dated 6 November 2019 regarding the proposed Approval. • Spinitu's solicitor to Cavi's solicitor dated 23 December 2019 regarding the variation to the proposed action. • Email from Spinitu's co-selling agent, One Agency, to Cavi dated 21 December 2019 regarding the final Approval. • Spinitu's solicitor to Cavi's solicitor dated 23 December 2019 regarding the final Approval. • Email from Spinitu's co-selling agent, One Agency, to Cavi dated 14 January 2020 regarding exchange and settlement. <p>3) In Cavi's view:</p> <ul style="list-style-type: none"> a) The sale of the Land by Spinitu to Cavi subject to the Development Consent; b) Spinitu assisting Cavi in locating a seller of the required Credits and assisting with the negotiation of the commercial terms for the purchase of the Credits by Cavi; and c) The purchase of the Land and the Credits by Cavi, clearly evidences it was the intention of Cavi and Spinitu that Cavi would be carrying out the development of the Land in accordance with the Development Consent. As the approved action was an essential component of the development of the Land, it is clear in Cavi's view that it was always the intention of both Cavi and Spinitu that Cavi would be carrying out the approved action in accordance with the Approval. <p>4) Cavi was of the understanding that the Approval ran with the Land and that Cavi would obtain the benefit of the Approval on completion of Cavi's purchase of the Land. Further, Cavi was not aware a formal transfer of the Approval from Spinitu to Cavi was required. Whilst Cavi is not able to speak for Spinitu, in Cavi's view it also appears Spinitu may have held a similar belief to Cavi as at no stage during the negotiations between the parties and the transactions</p>

Item	Response
	<p>entered into did the parties contemplate the need for a formal transfer of the Approval.</p> <p>5) In any event, and notwithstanding the above, there is no obligation in section 134(1A) of the EPBC Act for Spinitu's authorisation to have been in writing. Due to this, whilst Cavi has not been able to locate any written evidence of Spinitu authorising Cavi to undertake the approved action, it is clear from the above that:</p> <p>a) It was always intended by the parties that Cavi would be carrying out the approved action.</p> <p>b) By the actions of the parties set out above, there was an implied authorisation by Spinitu for Cavi to carry out the approved action.</p>
<p><i>The Environmental Audit Section has reviewed the scope of the referred action that was approved on 30 November 2017, including the variations that occurred on 4 December and 16 December 2019. Please provide information to the Department that the action currently being undertaken by Cavi is consistent with the action described under EPBC approval 2017/8048.</i></p>	<p>Refer to Table 2, which addresses the EPBC approval conditions and compliance.</p>

Table 2 EPBC approval conditions and compliance

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
Part A – Conditions specific to the action			
1	<p><i>The approval holder must not clear more than 2.81 hectares of Illawarra and south coast lowland forest and woodland (ILFW) within the referral boundary shown at Attachment 1 and Attachment 2.</i></p>	Compliant	<p>A site inspection was carried out by Biosis on 19 October 2020 to map cleared areas. See Appendix 1 Figure 1.</p> <p>2.67 hectares of ILFW has been cleared within the referral boundary.</p>
2	<p><i>The approval holder must not clear more than 0.07 hectares of ILFW within the drainage easement at Lot 3 DP 1214606 shown at Attachment 1 and Attachment 2.</i></p>	Non-compliant	<p>A site inspection was carried out by Biosis on 19 October 2020 to map cleared areas. See Appendix 1 Figure 1.</p> <p>0.11 hectares of ILFW has been cleared within the drainage easement at Lot 3 DP 1214606.</p> <p>The drainage easement required the removal of 5 metres either side of the upgrade stormwater line (10 metres total), as stated in the stormwater upgrade flora and fauna assessment</p>

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
			<p>(FFA) (Biosis 2016). The Development Application (DA) Conditions of Consent (DA0040-2016) included approval for an 8 metre clearance in line with condition 12 (Shellharbour City Council 2019) (Appendix 2). Design plans provided by Spinitu Pty Ltd, however, only included a 5 metre wide (total) easement. This resulted in a miscalculation of 0.07 hectares of ILFW to be cleared, which was consequently requested in the EPBC referral (Biosis 2019a, Biosis 2019b) and subsequently approved in the biodiversity conditions for EPBC 2017/8048 (DEE 2019).</p> <p>The clearance either side of the upgrade by Cavi is between 7 and 8 metres wide, compliant with the DA and FFA (Biosis 2016), but contrary to the miscalculated values in the biodiversity conditions (DEE 2019).</p> <p>The approved clearance of ILFW (DEE 2019) totals 2.88 hectares across the main site and drainage easement. The total cleared ILFW is 2.78 hectares, within the total allowable clearance.</p> <p>The Department is to be provided this report as notification of non-compliance under the initial request. The non-compliance has been rectified by the Project Manager of Cavi Pty Ltd, by commencing revegetation in line with the Vegetation Management Plan (VMP) developed pursuant to Condition 18 of the DA (DA0040-2016) (Southern Habitat 2020). Revegetation, restoration and maintenance of the vegetation will continue over the next three years, using species outlined in Table 4 of the VMP (Southern Habitat 2020).</p>
3	<p><i>The approval holder must not permanently modify more than 1.09 hectares of ILFW in the Asset Protection Zone (APZ) shown at Attachment 1 and Attachment 2.</i></p>	Compliant	<p>A site inspection was carried out by Biosis on 19 October 2020 to map cleared areas. See Appendix 1 Figure 1.</p> <p>None of the ILFW has been permanently modified in the Environmental Management – Inner and Outer APZ, to date.</p>

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
			Actions under the VMP (Biosis 2017) commenced 15 October 2020.
4	<i>To compensate for the clearance of 2.88 ha of ILFW and permanent modification of 1.09 ha of ILFW, the approval holder must, prior to the commencement of the action:</i>	Compliant	See Condition 4a.
4a	<i>Retire 52 like-for-like credits for ILFW under BioBanking; or</i>	Compliant	The required 52 BioBanking credits have been purchased and retired. Refer to Appendix 2.
4b	<i>Retire the equivalent of 52 like-for-like credits for ILFW under the Biodiversity Conservation Act 2016 (NSW), as converted by DPIE in a statement of assessment of reasonable equivalence of biodiversity credits. A copy of the statement of assessment of reasonable equivalence of biodiversity credits must be provided to the Department before the like-for-like credits are retired; or</i>	Compliant	N/A – See 4a.
4c	<i>Fund a Biodiversity Conservation Action for ILFW under the Biodiversity Conservation Act 2016 (NSW) in accordance with the Biodiversity Conservation Regulation 6.2(2)(c) (NSW), which has been approved by DPIE. The variation rules under the Biodiversity Conservation Regulation 2017 (section 6.4) NSW must not be applied. Offset obligations for ILFW under the EPBC Act must not be discharged through payment into the Biodiversity Conservation Fund (NSW) unless the Minister approves this in writing.</i>	Compliant	N/A – See 4a.
5	<i>Prior to the commencement of the action, the approval holder must provide the Department with evidence that like-for-like credits have been retired and what mechanism was used to retire the like-for-like credits.</i>	Compliant	The required like-for-like credits have been purchased and retired. Credits were secured through Biobanking. Refer to Appendix 2.
6	<i>If Condition 4 is unable to be met, the approval holder must, no later than 8 months prior to the commencement of the action, submit an Offset Management Plan for approval by the Minister. The Offset Management Plan must be prepared by a suitably qualified person in accordance with the EPBC Act Environmental Offsets Policy. The approval holder must not commence the action until the Offset Management Plan has been approved in writing by the Minister. The Offset Management Plan must include:</i>	Compliant	N/A – Condition 4 has been met.
6a	<i>A description and map (including shapefiles) to clearly define the location and boundaries of the offset area.</i>	Compliant	N/A – Condition 4 has been met.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
6b	<i>A discussion of how the offset and the Offset Management Plan address the principles of the EPBC Act Environmental Offsets Policy.</i>	Compliant	N/A – Condition 4 has been met.
6c	<i>Details and a quantitative analysis of the baseline vegetation condition and habitat quality in the offset area prior to management.</i>	Compliant	N/A – Condition 4 has been met.
6d	<i>Comprehensive baseline data on weeds, feral animals and other threats to ILFW present in the offset area.</i>	Compliant	N/A – Condition 4 has been met.
6e	<i>A description of the management measures (including timing, frequency and duration) that will be implemented in the offset area to improve the quality of ILFW in the offset area; including:</i>	-	-
6ei	<i>Prevention of clearing and alternate land use.</i>	Compliant	N/A – Condition 4 has been met.
6eii	<i>Removal and exclusion of livestock.</i>	Compliant	N/A – Condition 4 has been met.
6eiii	<i>Weed and feral animal management.</i>	Compliant	N/A – Condition 4 has been met.
6f	<i>A discussion of how proposed management measures take into account any relevant Conservation Advice, Threat Abatement Plans and Recovery Plans.</i>	Compliant	N/A – Condition 4 has been met.
6g	<i>A description and analysis of the potential risks to the successful implementation of the offset area, and contingency measures that will be implemented to mitigate against these risks.</i>	Compliant	N/A – Condition 4 has been met.
6h	<i>Time-bound completion criteria and performance targets for evaluating the effectiveness of the implementation of the Offset Management Plan.</i>	Compliant	N/A – Condition 4 has been met.
6i	<i>Triggers for when corrective actions are required and timeframes for implementing corrective actions.</i>	Compliant	N/A – Condition 4 has been met.
6j	<i>A program to monitor, report on the review the effectiveness of the Offset Management Plan.</i>	Compliant	N/A – Condition 4 has been met.
7	<i>If the Minister approves the ILFW Offset Management Plan, the approved ILFW Offset Management Plan must be implemented prior to commencement of the action and for the duration of this approval.</i>	Compliant	N/A – Condition 4 has been met, which negates condition 6 and subsequently condition 7.
8	<i>Offsets must be implemented and managed for conservation purposes prior to commencement of the action and for at least the duration of this approval.</i>	Compliant	The required 52 BioBanking credits have been purchased and retired. Refer to Appendix 2.
9	<i>Prior to the commencement of the action, the approval holder must provide the Department with shapefiles of the final areas of ILFW to be cleared and thinned within the referral boundary and shapefiles of the offset areas if Condition 4 is implemented.</i>	Compliant	Biosis provided mapping in the form of shapefiles with the EPBC referral EPBC 2017/8048.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
Part B – Standard administrative conditions			
10	<i>The approval holder must notify the Department in writing of the date of commencement of the action within 10 business days after the date of commencement of the action.</i>	Non-compliant	Action commenced 20 April 2020. No communication to the Department within 10 business days by Cavi, as identified by Biosis herein. The Department is to be provided this report as notification of non-compliance under the initial request. The Project Manager of Cavi was in communication with the Department following sale of the property on 20 July 2020. Recurrence will be avoided by incorporating notification requirement reminders into fortnightly duty schedule.
11	<i>The approval holder must maintain accurate and complete compliance records.</i>	Non-compliant	Some compliance records were made available, though not a complete record, as identified by Biosis herein. The Department is to be provided this report as notification of non-compliance under the initial request. A record will be kept from the date of this report onwards by the Project Manager of Cavi. Recurrence will be avoided by incorporating maintenance of compliance records into fortnightly duty schedule.
12	<i>If the Department makes a request in writing, the approval holder must provide electronic copies of compliance records to the Department within the timeframe specified in the request.</i>	Compliant	The current report is being prepared within the specified timeframe.
13	<i>The approval holder must:</i>	-	-
13a	<i>Submit plans electronically to the Department for approval by the Minister.</i>	Compliant	Biosis provided mapping in the form of shapefiles with the EPBC referral EPBC 2017/8048.
13b	<i>Publish each plan on the website within 20 business days of the date the plan is approved by the Minister, unless otherwise agreed to in writing by the Minister.</i>	Compliant	Cavi did not have a website so the EPBC referral EPBC 2017/8048 was published on Biosis' website.
13c	<i>Exclude or redact sensitive ecological data from plans published on the website or provided to a member of the public.</i>	Compliant	Compliant as sensitive ecological data was redacted from published documents.
13d	<i>Keep plans published on the website until the end date of this approval.</i>	Compliant	Cavi did not have a website so the EPBC referral EPBC 2017/8048 was published on Biosis' website.
14	<i>The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys,</i>	Compliant	Monitoring data obtained by Biosis 19 October 2020. Further monitoring

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
	<i>maps, and other spatial and metadata required under Condition 4 of this approval, is prepared in accordance with the Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department in accordance with the requirements of the plans.</i>		following major milestones, as well as at 12 months (20 April 2021) and 24 months (20 April 2022), will be arranged by the Project Manager of Cavi, and will be conducted by an independent auditor. All monitoring data will be provided to the Department.
15	<i>The approval holder may apply to the Minister for a variation to the management plan approved by the Minister under Condition 6, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the EPBC Act. If the Minister approves the revised management plan (RMP) then, from the date specified, the approval holder must implement the RMP in place of the previous management plan.</i>	Compliant	N/A – Condition 4 has been met, negating the need to meet condition 6.
16	<i>The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or otherwise in accordance with an annual date that has been agreed to in writing by the Minister. The approval holder must:</i>	N/A	N/A – Action commenced 20 April 2020. Compliance report required in April 2021. Compliance report not prepared previously.
16a	<i>Publish each compliance report on the website within 60 business days following the relevant 12 month period.</i>	N/A	N/A – See 16.
16b	<i>Notify the Department by email that a compliance report has been published on the website and provide the weblink for the compliance report within five business days of the date of publication, and provide a link to the location of the published report.</i>	N/A	N/A – See 16.
16c	<i>Keep all compliance reports publicly available on the website until this approval expires.</i>	N/A	N/A – See 16.
16d	<i>Exclude or redact sensitive ecological data from compliance reports published on the website.</i>	N/A	N/A – See 16.
16e	<i>Where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication.</i>	N/A	N/A – See 16.
17	<i>The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:</i>	Compliant	No communication to the Department regarding compliance on record previously. The Department is to be provided this report as notification of non-compliance under the initial request.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
17a	<i>Any condition which is or may be in breach.</i>	Compliant	Biodiversity conditions outlined in EPBC 2017/8048 are addressed individually herein.
17b	<i>A short description of the incident and/or non-compliance.</i>	Compliant	Non-compliance matters are addressed in their relevant sections of this report.
17c	<i>The location (including co-ordinates), date, and time of the incident and/or non-compliance.</i>	Compliant	Non-compliance matters are administrative, referring to 101 Crest Road, Albion Park.
18	<i>The approval holder must provide to the Department the details of any incident or noncompliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying:</i>	Compliant	No communication to the Department regarding compliance on record previously. The Department is to be provided this report as notification of non-compliance under the initial request.
18a	<i>Any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future.</i>	Compliant	Corrective actions are detailed in the relevant sections of this report.
18b	<i>The potential impacts of the incident or non-compliance.</i>	Compliant	Impacts (if relevant) are detailed in the relevant sections of this report.
18c	<i>The method and timing of any remedial action that will be undertaken by the approval holder.</i>	Compliant	Remedial actions are detailed in the relevant sections of this report.
19	<i>The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister.</i>	Compliant	Audit of compliance conducted by Biosis and reported herein.
20	<i>For each independent audit, the approval holder must:</i>	-	-
20a	<i>Provide the name and qualifications of the independent auditor and the draft audit criteria to the Department.</i>	Compliant	Compliance is reported herein. The name and qualifications of the independent auditors are listed in Appendix 3. Compliance audit criteria provided by the Department as biodiversity conditions in EPBC 2017/8048.
20b	<i>Only commence the independent audit once the audit criteria have been approved in writing by the Department.</i>	Compliant	Compliance audit criteria referred to in letter to Cavi dated 9 September 2020 and biodiversity conditions of EPBC 2017/8048.
20c	<i>Submit an audit report to the Department within the timeframe specified in the approved audit criteria. The approval holder must publish the audit report on the website within 10 business days of receiving the Department's approval of the audit report and keep the audit report published on the website until the end date of this approval.</i>	Compliant	Compliance report provided herein will be submitted to the Department on time. Publication on a website pending approval of the audit report by the Department.

Condition number / reference	Condition	Is the project compliant with this condition?	Evidence / comments
21	<i>Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data.</i>	Action Pending	N/A – Approval conditions refer to the development footprint, as well as APZ modification Critically Endangered Ecological Community (CEEC) (Appendix 1 Figure 1), located to the east of Crest Road. Work has not yet been completed in this area. Therefore, the overall action is not yet complete.

I trust that this report is of assistance to you however please contact me if you would like to discuss any elements of this report further.

Yours sincerely



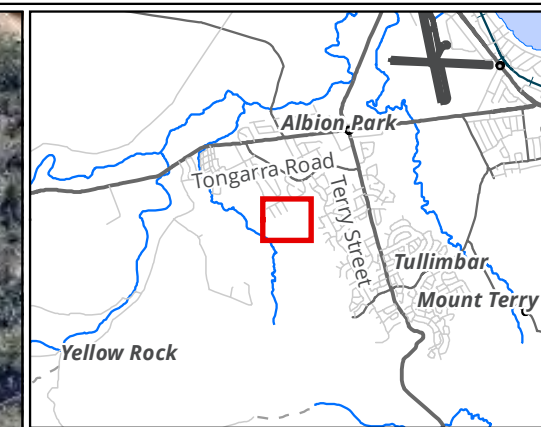
Caragh Heenan
Project Zoologist

References

- Biosis 2016. *Stormwater upgrades for Crest Road, Albion Park: Flora and fauna assessment*, Report for MMJ Real Estate on behalf of Spinitu Pty Ltd. Misdale, M. & Dunne, C.. Biosis Pty Ltd, Wollongong, NSW. Project no. 22607.
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- DEE 2019. Approval: Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048), Department of the Environment and Energy. Commonwealth of Australia.
- Shellharbour City Council 2019. Notice of Determination of Development Application: Lot 101 DP 785139, Crest Road, Albion Park (0040/2016), Shellharbour City Council.
- Southern Habitat 2020. *Vegetation Management Plan for Lot 101 DP 785139, Crest Road, Albion Park, NSW*, Report prepared for CAVI Developments Pty Ltd. Gilbert, M., Windsor, J. Southern Habitat.
- Tozer M, Turner K, Keith D, Tindall D, Pennay C, Simpson C, MacKenzie B, & Beukers P 2010. 'Native Vegetation of Southeast NSW: A Revised Classification and Map for the Coast and Eastern Tablelands', *Cunninghamia*, 11: 359–406.

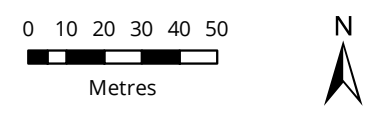
Appendices

Appendix 1 Figure 1



- Legend**
- Study area
 - Cleared area
 - Referral boundary
 - Development - Drainage easement
- Zone**
- Impact - APZ modification CEEC
 - Impact - removal CEEC
- Vegetation communities**
- Illawarra Lowlands Grassy
 - Woodlands EPBC Act (moderate condition class)
 - Scattered trees

Figure 1 Vegetation cleared within the study area



Scale: 1:2,000 @ A3
 Coordinate System: GDA 1994 MGA Zone 56



Matter: 33946,
 Date: 23 October 2020,
 Checked by: CH, Drawn by: LH, Last edited by: Iharley
 Location: P:\33900s\33946\mapping\33946_F1_VegCleared.mxd

Acknowledgements: Basemap © Land and Property Information 2016; Imagery © Nearmap 2020

Appendix 2 Supporting documents

Supporting documents referred to in Table 1 and Table 2 are attached and include:

- Front page and special conditions of the contract for the sale and purchase of the Land entered into by Spinitu as vendor and Cavi as purchaser dated 23 August 2019 (Land Sale Contract).
- DA00402016 Determination Consent Lot 101 Crest Road.
- Email from Spinitu's solicitor to Cavi's solicitor dated 23 May 2019.
- Copies of the sale and purchase agreement (which was signed in counterparts).
- Credit transfer report issued by NSW Office of Environment & Heritage (OEH) on registration of the transfer of the Credits.
- A credit search noting Cavi as the registered holder of the Credits.
- Credit retirement report.
- Email from Spinitu's co-selling agent, One Agency, to Cavi dated 6 November 2019 regarding the proposed Approval, including attachments:
 - Proposed decision brief attachment B – Notice.
 - Proposed decision brief attachment D1 – Letter to proponent.
- Email from Spinitu's solicitor to Cavi's solicitor dated 23 December 2019 regarding the variation to the proposed action, including attachments:
 - Variation 2 decision – Notice.
 - Variation 2 – Letter to proponent.
- Email from Spinitu's co-selling agent, One Agency, to Cavi dated 21 December 2019 regarding the final Approval, including attachments:
 - Final approval letter to proponent (signed).
 - Final approval decision notice (signed).
- Email from Spinitu's solicitor to Cavi's solicitor dated 23 December 2019 regarding the final Approval.
- Email from Spinitu's co-selling agent, One Agency, to Cavi dated 14 January 2020 regarding exchange and settlement, including attachment:
 - Letter from Watkins Tapsell Solicitors to Spinitu regarding the sale of Lot 101 Crest Road, Albion Park

Front page and special conditions of the contract for the sale and purchase of the Land entered into by Spinitu as vendor and Cavi as purchaser dated 23 August 2019 (Land Sale Contract)

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Contract for the sale and purchase of land 2018 edition

TERM	MEANING OF TERM	NSW Duty:
vendor's agent	PETER GREEN & CO REAL ESTATE AGENTS 180 Ocean Street Edgecliff NSW 2027	phone 02 9326 1972 fax 02 9326 1974 ref Peter Green
co-agent	ONE AGENCY – ELITE PROPERTY GROUP Shop 4, 7 Sophia Street Albion Park NSW 2527	phone 0434 588 905 ref Aaron Blackburn
vendor	SPINITU PTY LIMITED (ABN 24 736 583 704) 21 Central Road, Miranda NSW 2228	
vendor's solicitor	WATKINS TAPSELL Level 3, 550 Princes Highway, Kirrawee NSW 2232 email: conveyancing@watkinstapsell.com.au	phone (02) 9521 6000 fax (02) 9521 4168 ref ST:72622
date for completion	See special condition 35.1 (clause 15)	
land (address, plan details and title reference)	LOT 101, CREST ROAD, ALBION PARK NSW 2527 Registered Plan: Lot 101 in Deposited Plan 1238120 Folio Identifier 101/1238120	
improvements	<input checked="" type="checkbox"/> VACANT POSSESSION <input type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input checked="" type="checkbox"/> none <input checked="" type="checkbox"/> other: vacant land	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or numbered: <input type="checkbox"/> other documents:	

Office of State Revenue
 NSW Treasury
 Credit No: 00058350 971
 Duty: \$463373 Trans No: 9814430-001
 Asses details: TS

A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.

inclusions	<input type="checkbox"/> blinds <input type="checkbox"/> dishwasher <input type="checkbox"/> light fittings <input type="checkbox"/> stove <input type="checkbox"/> built-in wardrobes <input type="checkbox"/> fixed floor coverings <input type="checkbox"/> range hood <input type="checkbox"/> pool equipment <input type="checkbox"/> clothes line <input type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input type="checkbox"/> TV antenna <input type="checkbox"/> curtains <input type="checkbox"/> other:
exclusions	
purchaser	CAVI DEVELOPMENTS & PARTNERS PTY LIMITED (ABN 35 614 341 561) PO Box 2861, Taren Point NSW 2229
purchaser's solicitor	WILLIS & BOWRING 575 Kingsway, Miranda NSW 2228 email: bharris@willisboring.com.au
price	\$ 8,692,176.00 (inclusive of GST)
deposit	\$ 869,217.60 (the price is to be adjusted in accordance with special condition 46)
balance	\$ 7,822,958.40
contract date	23.3.19 (if not stated, the date this contract was made)

buyer's agent

Elaine Robertson

vendor

GST AMOUNT (optional)
 The price includes
 GST of: \$

witness

purchaser JOINT TENANTS tenants in common in unequal shares

Elaine Robertson
 sole director/sole secretary
 Authority: s127 Corporations Act.

witness

SPECIAL CONDITIONS TO THE CONTRACT FOR SALE OF LAND (2018 EDITION)

BETWEEN: SPINITU PTY LIMITED (ACN 003 361 573)

(AS VENDOR)

AND: CAVI DEVELOPMENTS & PARTNERS PTY LIMITED (ACN 614 341 561)

(AS PURCHASER)

32 ACKNOWLEDGMENTS BY THE PURCHASER

32.1 The Purchaser acknowledges that:

32.1.1 The property is sold in its present state of repair and condition, and with any and all latent and patent defects;

32.1.2 This Contract contains sufficient information for the form of transfer in accordance with clause 4.2;

32.1.3 These further provisions take priority over the clauses in the standard Contract to the extent of any inconsistency,

and the Purchaser will not make any requisition, objection or claim for compensation in relation thereto.

33 INCAPACITY OF A PARTY TO THIS CONTRACT

33.1 Where before completion a party (or any one of them):

33.1.1 If a natural person - dies, is found by a court of competent jurisdiction to be incapable of administering its estate or affairs, is declared bankrupt or enters into a scheme of arrangement or makes an assignment for the benefit of creditors; or

33.1.2 If a company - resolves to go into liquidation, has a summons or application presented or an order made for its winding up, has an official manager or administrator appointed or receiver appointed over the whole or part of its assets or undertaking, or enters into a deed of arrangement, assignment or composition for the benefit of creditors;

then the other party may rescind this Contract and clause 19 will apply.

34 VENDOR'S AGENT

34.1 The Purchaser warrants that it was not introduced directly or indirectly to either the Vendor or the property by any person other than the Vendor's agent or co-agent as specified in this Contract. The Purchaser indemnifies and will keep indemnified the Vendor against any claim or demand for commission or remuneration by any person other than the Vendor's agent or co-agent arising from a breach of this warranty.

34.2 Rights under this clause continue after completion whether or not other rights continue.

35 COMPLETION

35.1 The date for completion will be the date being the later of:

35.1.1 28 days after written notification by a party to the other party of the satisfaction of the Biodiversity Credit Conditions; and

35.1.2 42 days after the date of this Contract.

35.2 If a party is unable to complete by the date for completion the other party may serve a Notice to Complete making the time for completion essential. The Notice to Complete will require completion not less than 14 days' notice after the day it is served. Completion will take place at such time and place nominated by the party giving the Notice to Complete. The Notice to Complete will be deemed both at law and in equity sufficient notice notwithstanding that the party serving the notice has not made any previous request or demand for completion.

35.3 If completion does not take place on or before the date for completion otherwise than as a result of the default by the Vendor, the Purchaser must pay interest at the rate of 7% per annum on the balance of the price and any other money payable under this Contract calculated on a daily basis from the date for completion specified on page 1 of this Contract until and including the day that completion occurs. It is an essential provision of this Contract that the interest be paid on completion. The Vendor reserves the right to claim damages for losses arising out of the Purchaser's failure to complete on or before the date for completion, and where such losses exceed the interest payable under this clause.

35.4 If completion does not take place on or before the date for completion otherwise than as a result of the default by the Vendor, the Purchaser must pay the Vendor's additional legal fees of \$550.00 (including GST) associated with the Purchaser's failure to complete on time. It is an essential provision of the Contract that the additional legal fees be paid on completion.

35.5 On completion the Purchaser will accept a discharge, withdrawal, surrender or request executed and in registrable form, of any registered encumbrance or caveat affecting the title (other than an encumbrance to which this contract is subject) together with an allowance for the registration fee.

36 AMENDMENTS TO THE CONTRACT

This Contract is deemed to be amended as follows:

36.1 Clause 1 the definition of "bank" is amended by deleting "a building society or a credit union".

36.2 Clause 7.1.1 is amended by deleting "5% of the price" and inserting "\$1.00" in its place.

BH-430734-4-68-V2

- 36.3 Clause 16.3 is amended by:
 - 36.3.1 deleting "Normally"; and
 - 36.3.2 inserting "including any registered caveat" after the word "interest".
- 36.4 Clause 16.5 is amended by deleting "plus another 20% of that fee".
- 36.5 Clause 16.8 is amended by deleting "\$10" and inserting "\$5" in its place.
- 36.6 Clause 28.2 is deleted.

37 FURTHER AMENDMENTS REGARDING THE DEPOSIT

- 37.1 The Deposit under this Contract is 10% of the price and as an essential condition of this Contract must be paid as follows:
 - 37.1.1 \$470,000.00 on the making of this Contract; and
 - 37.1.2 the balance of the 10% Deposit upon the earlier of:
 - 37.1.2.1 the date for completion specified in this Contract; or
 - 37.1.2.2 the date that completion of this Contract occurs (together with payment of the balance of the price).

38 CLEARANCE CERTIFICATE

- 38.1 This clause applies if there is a clearance certificate annexed to this Contract. The Purchaser acknowledges that a clearance certificate within the meaning of s14-220 of Schedule 1 to the Taxation Administration Act 1953 (Cth) (TA Act) is attached to this Contract and the Purchaser is not required to withhold any part of the purchase price pursuant to s14-D of Schedule 1 to the TA Act.

39 AUTHORITY TO SOLICITOR/CONVEYANCER

- 39.1 The Vendor and the Purchaser by this Contract authorise their solicitor/conveyancer to amend or cause to be amended the terms of this Contract after the Contract has been signed by the Vendor or the Purchaser (as applicable), without further authority being required.
- 39.2 This clause takes priority over the clauses in the standard Contract to the extent of any inconsistency.
- 39.3 The provisions of this clause are essential.

40 **REQUISITIONS ON TITLE**

The Purchaser may raise form of general requisitions on title including in the form annexed to this Contract.

41 **DEVELOPMENT CONSENT**

41.1 In this Contract, these terms (in any form) mean:

“Council” means Shellharbour City Council.

“Development Application” means development application DA0040/2016 lodged by the Vendor with Council.

“Development Consent” means the notice of determination of the Development Application granted by the Council dated 3 May 2019 incorporating and including the Plans and Documents and being number DA0040/2016.

“Plans and Documents” means the plans and documents lodged by the Vendor or on behalf of the Vendor and included in the Development Application.

“Proposed Easement” means the easement to drain water proposed over the land comprised in certificate of title folio identifier 3/1214606 being more particularly described in the letter and plan from Allam Property Group on behalf of Balmoral Parade Pty Limited (ACN 602 674 484) a copy of which is annexed and marked "A".

41.2 The Vendor by this Contract upon completion and without additional consideration, transfers all its right, title and interest in the Development Consent and the Plans and Documents to the Purchaser. The Vendor warrants that it is the sole owner of the Development Consent and of the Plans and Documents and no money is due and owing by it to any third party in relation to them.

41.3 The Vendor indemnifies the Purchaser from completion against any losses, damages, costs or expenses that may arise as a result of any employee, agent or consultant of the Vendor or any other third party making a claim or demand or commencing proceedings in relation to the ownership of, or any moneys owing in relation to, the Development Consent and/or the Plans and Documents. The provisions of this clause do not extend to contributions or payments required by the Council or any other authority as conditions of or in relation to the Development Consent or in regard to the Proposed Easement. This clause will not merge on completion.

41.4 The Purchaser acknowledges that:

41.4.1 It has viewed the Plans and Documents as lodged with the Council and satisfied itself as to them and any matters arising from them;

41.4.2 It has reviewed and accepts the terms and conditions of the Development Consent and satisfied itself as to them and any matters arising from them;

- 41.4.3 It accepts that the Council requires the Proposed Easement to be granted and formalised as a condition of the Development Consent;
 - 41.4.4 The Vendor will not be providing any further documents other than as specified in this clause;
 - 41.4.5 Subject to clause 41.5, the Vendor will not be paying any additional money to the Council or any other party; and
 - 41.4.6 The Purchaser will be responsible for obtaining and paying for the Biodiversity Credits as provided in this Contract.
- 41.5 The Vendor warrants that all monies payable to the Council and any other third parties in relation to the lodgement, assessment and determination of the Development Application required to obtain the Development Consent have been paid and that no money is due and owing by the Vendor. The Vendor indemnifies the Purchaser from completion against any losses, damages, costs or expenses that may arise as a result of a breach of this clause by the Vendor. This clause will not merge on completion. The provisions of this clause 41.5 do not include any monies payable to the Council for a construction certificate, or to obtain the Proposed Easement, or in regard to the acquisition of the Biodiversity Credits or any application to transfer the Biodiversity Credits.
- 41.6 The Purchaser will make no objection requisition or claim nor delay completion in regard to the provisions of this clause or anything arising under it. The Vendor is not required to obtain any easement (including the Proposed Easement) nor to make any contribution or payment or to undertake any works to the property.

42 TRIPARTITE DEED

42.1 In this Contract, these terms (in any form) mean:

"Deed of Mutual Release" means the deed of mutual release between the Vendor and Villa World dated 3 May 2019 a copy of which is annexed and marked "C".

"Tripartite Deed" means the tripartite deed between the Vendor, Ozton Pty Limited (ACN 003 435 130), and Villa World dated 22 December 2016 a copy of which is annexed and marked "B".

"Villa World" means Villa World Properties Pty Limited (ACN 604 308 152).

42.2 The Purchaser acknowledges the following:

- 42.2.1 That the terms defined in the Tripartite Deed and the Development Deed where used in this Contract and commencing with a capital have a corresponding meaning and apply to this Contract;
- 42.2.2 That Villa World has caused to be constructed the Infrastructure Works and the Public Road on the Spinitu Land;
- 42.2.3 Villa World has not completed the two East-West road ways within the Spinitu Land to the Public Road, Road returns (corners) and

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intersections which are part of the works required under clause 2.6(c)(i) which indicates:

"Ozton will construct the connection points for two East-West road ways within the Spinitu Land to the Public Road, Road returns (corners) and intersections shall be constructed by Ozton and branched across the proposed Council strip to meet Spinitu's boundary:"

- 42.2.4 That the Vendor has settled matters with Villa World in accordance with the terms of the Deed of Mutual Release; and
 - 42.2.5 That the Purchaser will, at the Purchaser's cost, procure the construction of the two connection points for the East-West road ways and associated works within the Spinitu Land.
- 42.3 The Vendor will:
- 42.3.1 Do all things required of it from time to time to comply with the obligations under the Deed of Mutual Release; and
 - 42.3.2 From completion indemnify the Purchaser against any claims, demands, proceedings, losses, damages, costs or expenses made under the Tripartite Deed and/or the Deed of Mutual Release arising from:
 - 42.3.2.1 any act or omission on the behalf of the Vendor or Villa World occurring before or after the date of completion of this Contract; or
 - 42.3.2.2 the Vendor or Villa World not complying with its obligations under the Tripartite Deed and/or the Deed of Mutual Release before or after the date of completion of this Contract.
- 42.4 This clause 42 does not merge on completion.
- 42.5 Completion of this Contract is not dependent upon the execution of any document by Villa World acknowledging that the Purchaser is bound by the Tripartite Deed.

43 COMPLETION CONDITIONS

- 43.1 In this Contract, these terms (in any form) mean:
- 43.1.1 **"Biodiversity Conservation Act"** means the *Biodiversity Conservation Act 2016* (NSW);
 - 43.1.2 **"Biodiversity Credits"** means no less than the number of Illawarra and south coast lowland forest and woodland biodiversity credits required by the Commonwealth Government of Australia as a condition of its approval to be obtained pursuant to clause 45.1 and as administered by the NSW Office of Environment and Heritage

- 43.1.3 "Biodiversity Credit Conditions" means each of the conditions precedent set out in clause 45.1;
 - 43.1.4 "Biodiversity Credits Price" means the price payable by the Purchaser for the Biodiversity Credits pursuant to the Purchase Agreement;
 - 43.1.5 "Biodiversity Credits Vendor" means the seller of the Biodiversity Credits to the Purchaser under the Purchase Agreement, being at the contract date Edenvell Pty Ltd (ACN 091 153 687);
 - 43.1.6 "Biosis" means Biosis Pty Ltd (ACN 006 175 097);
 - 43.1.7 "Biosis Report" means the draft report prepared by Biosis and dated 12 April 2019, a copy of which is annexed and marked "D";
 - 43.1.8 "Conditions" means the Biodiversity Credit Conditions and the Vendor's Conditions;
 - 43.1.9 "Development Condition" means condition 8 of the Development Consent relating to biodiversity offset obligations;
 - 43.1.10 "DoEE" means the Department of the Environment and Energy;
 - 43.1.11 "Environment Agency Head" has the meaning given in the Biodiversity Conservation Act;
 - 43.1.12 "Estimated Biodiversity Credits Price" means \$673,000 Inc GST;
 - 43.1.13 "Purchase Agreement" means the biodiversity credits sale and purchase agreement, of which a copy of the initial draft is annexed and marked "E", to be entered into by the Purchaser for the purchase of the Biodiversity Credits in accordance with clause 45.1.2;
 - 43.1.14 "Sunset Date" means 30 September 2020; and
 - 43.1.15 "Vendor's Conditions" means each of the conditions precedent set out in clause 44.1.
- 43.2 The Purchaser is only obliged to complete the sale and purchase of the property under this Contract if all of the Conditions are satisfied (or waived) on the date for completion, and in any event prior to the Sunset Date.
- 43.3 A Condition may only be waived by the Purchaser in writing.
- 43.4 The parties may agree in writing at any time to extend the Sunset Date.
- 43.5 If any Condition is not satisfied or waived by the Sunset Date, either party may by notice in writing to the other party rescind this Contract and the provisions of clause 19 will apply.

- 43.6 For the avoidance of doubt, the parties acknowledge the Biodiversity Credit Conditions will not have been satisfied if the Biodiversity Credits Vendor does not agree to sell to the Purchaser at least the number of Illawarra and South Coast lowland forest and woodland biodiversity credits required by the Commonwealth Government of Australia as a condition of its approval to be obtained pursuant to clause 45.1.1.
- 43.7 The Purchaser acknowledges the following:
- 43.7.1 That it has satisfied itself as to the requirement to purchase the Biodiversity Credits;
- 43.7.2 That it is aware of the Biosis Report; and
- 43.7.3 That it will be responsible for the purchase of the Biodiversity Credits at its cost and as to finalising the purchase of them.
- 43.8 Subject to clause 45, the Vendor is released from any and all obligations and claims arising in regard to the Biosis Report, the Biodiversity Credits or the Purchase Agreement and the Purchaser will not make any objections, requisitions or claims nor be entitled to delay completion in regard to the provisions of this clause.

44 VENDOR'S CONDITIONS

- 44.1 The following Vendor's Conditions must be satisfied by the Vendor prior to the Sunset Date:
- 44.1.1 all costs and fees required to be paid by the Vendor to Villa World under the Tripartite Deed, the Deed of Mutual Release or otherwise have been paid in full or are paid at completion; and
- 44.1.2 registered caveat AM227892 by Villa World is withdrawn on or prior to completion.
- 44.2 The Vendor must use its reasonable endeavours to satisfy the Vendor's Conditions, or procure the satisfaction of the Vendor's Conditions, prior to the Sunset Date.
- 44.3 The Vendor must promptly notify the Purchaser in writing if it becomes aware that a Vendor's Condition is satisfied or becomes incapable of being satisfied.

45 BIODIVERSITY CREDIT CONDITIONS

- 45.1 The following Biodiversity Credit Conditions must be satisfied by the parties (or waived by the Purchaser) prior to the Sunset Date:
- 45.1.1 approval must be received in writing from DoEE or the NSW Office of Environment and Heritage approving the number of Biodiversity Credits required to be purchased to satisfy the Development Condition;

- 45.1.2 the Purchaser entering in to the Purchase Agreement with the Biodiversity Credits Vendor on terms acceptable to the Purchaser (acting reasonably);
- 45.1.3 the Purchase Agreement being completed in accordance with its terms, as soon as practicable, and at the expense of the Purchaser. This includes:
 - 45.1.3.1 an application for the registration of the transfer of the Biodiversity Credits from the Biodiversity Credits Vendor to the Purchaser being made to the Environment Agency Head in accordance with the Biodiversity Conservation Act; and
 - 45.1.3.2 the transfer of the Biodiversity Credits from the Biodiversity Credits Vendor to the Purchaser being registered by the Environment Agency Head in accordance with the Biodiversity Conservation Act; and
 - 45.1.3.3 to enable the registration of the transfer of the Biodiversity Credits the parties to the Purchase Agreement completing and lodging the application to transfer biodiversity credits with NSW Office of Environment and Heritage.
- 45.2 The Vendor and the Purchaser must use their reasonable endeavours to satisfy the Biodiversity Credit Conditions, or procure the satisfaction of the Biodiversity Credit Conditions, prior to the Sunset Date, and each party must as soon as practicable give notice to the other party of the satisfaction of a Biodiversity Credit Condition.
- 45.3 Each party must, when requested by the other party, provide prompt assistance to satisfy the Biodiversity Credit Conditions.
- 45.4 The Purchaser must promptly notify the Vendor in writing if it becomes aware that a Biodiversity Credit Condition is satisfied.
- 45.5 The parties acknowledge that:
 - 45.5.1 as at the contract date the Purchase Agreement has not been fully negotiated and agreed with the Biodiversity Credits Vendor;
 - 45.5.2 the Purchaser is responsible for negotiating the terms of the Purchase Agreement with the Biodiversity Credits Vendor;
 - 45.5.3 the Purchaser will attend to negotiating, finalising and entering into the Purchase Agreement with the Biodiversity Credits Vendor promptly after the contract date using reasonable endeavours;
 - 45.5.4 the terms of the Purchase Agreement are subject to the written approval of the Vendor, with such approval not to be unreasonably delayed or withheld; and

45.5.5 the Purchaser must progress and finalise the Purchase Agreement with the Biodiversity Credits Vendor in conjunction with the Vendor.

45.6 The Purchaser must use its reasonable endeavours to satisfy the Biodiversity Credit Conditions prior to the Sunset Date.

46 ADJUSTMENT OF PRICE

46.1 The price payable by the Purchaser for the purchase of the property pursuant to this Contract will be adjusted on completion as follows:

46.1.1 should the Biodiversity Credits Price be greater than the Estimated Biodiversity Credits Price, the price will be reduced by the amount (on a GST inclusive basis) that the Biodiversity Credits Price exceeds the Estimated Biodiversity Credits Price; and

46.1.2 should the Estimated Biodiversity Credits Price be greater than the Biodiversity Credits Price, the price will be increased by the amount (on a GST inclusive basis) that the Estimated Biodiversity Credits Price exceeds the Biodiversity Credits Price.

47 ACCESS TO PROPERTY

47.1 During the period commencing on the date of this Contract and ending on the date on which this Contract is:

47.1.1 completed;

47.1.2 rescinded; or

47.1.3 terminated,

the Purchaser may, subject to the conditions contained in this clause 47, have access to the property for itself and its agents, consultants and contractors to carry out inspections and investigations regarding the property, the Development Consent, the Plans and Documents and the Proposed Easement (for example the taking of samples, drilling for the purposes of geotechnical investigation or the assessment of environmental conditions or contamination, the inspection or observation of structures, services or environmental conditions).

47.2 Before entering the property or carrying out any activity on it, the Purchaser must give the Vendor details of:

47.2.1 the date or dates on which the Purchaser requires access to the property;

47.2.2 the name of the company or person to have access to the property;

47.2.3 the nature of any physical activities to be undertaken during such access; and

- 47.2.4 the Purchaser's, or the relevant agent, consultant or contractor's, public and property risk insurance policy for at least \$20 million.
- 47.3 The Purchaser and its agents, consultants and contractors:
 - 47.3.1 enter the property at their own risk;
 - 47.3.2 acknowledge that they must strictly comply with all directions of the Vendor and its representatives while accessing the property; and
 - 47.3.3 indemnify the Vendor against all damage caused to the property and all claims, costs and expenses for which the Vendor may become liable in relation to any death, personal injury, property damage or nuisance caused by any act or failure to act by the Purchaser or its agents, consultants and contractors or because of the Purchaser or its agents, consultants and contractors entering the property or carrying out any activity on the property.
- 47.4 In exercising its rights in clause 47.1, the Purchaser and its agents, consultants and contractors must:
 - 47.4.1 do all things reasonably practicable to minimise inconvenience and disruption to the Vendor; and
 - 47.4.2 reinstate the property or that part of the property where any inspections and investigations are carried out to its state prior to the inspections and investigations and must leave the property or that part of the property used in the exercise of Purchaser's power, clean and free of rubbish.
- 47.5 Exercise by the Purchaser of its rights under clause 47.1 does not constitute the Purchaser taking possession of the property.
- 48 GST
 - 48.1 To the extent that there is any inconsistency between clause 13 and this clause 48, the provisions of this clause 48 will prevail.
 - 48.2 Unless expressly stated otherwise:
 - 48.2.1 the price includes GST and the Vendor and the Purchaser agree that the margin scheme is to apply to the sale of the property; and
 - 48.2.2 all adjustments, other prices or sums payable or consideration to be provided under this Contract are exclusive of GST.
 - 48.3 The Vendor warrants that:
 - 48.3.1 at the contract date, the Vendor is registered for GST purposes and has a valid ABN;
 - 48.3.2 at completion, the Vendor will be registered for GST purposes and will have a valid ABN; and

48.3.3 the margin scheme is entitled to be applied to the sale of the property.

- 48.4 The Purchaser warrants that, at the contract date and at completion, the Purchaser is or will be registered for GST purposes and has a valid ABN.
- 48.5 The Purchaser acknowledges that no tax invoice is to be provided by the Vendor on completion and the Purchaser will not be entitled to claim an input tax credit in respect of the GST paid by the Vendor.
- 48.6 Any GST to be paid by the Vendor will, subject to clause 13.13, be paid by the Vendor as and when required by the GST Act.
- 48.7 If any of the Vendor's warranties in clause 48.3 are breached, the Purchaser is entitled to compensation from the Vendor for the breach of the warranty.
- 48.8 If any of the Purchaser's warranties in clause 48.4 are breached, the Purchaser is entitled to compensation from the Purchaser for the breach of the warranty.
- 48.9 Rights under this clause 48 continue after completion whether or not other rights continue.

49 VENDOR'S CONSENT

The Vendor must when requested by the Purchaser prior to completion promptly sign and deliver to the Purchaser any consents or documents provided by the Purchaser reasonably required in connection with the Development Consent or the creation of the Proposed Easement.

50 DIRECTORS' GUARANTEE

I Jason Cavanagh (Guarantor) being the sole director of Cavi Developments & Partners Pty Ltd (the Purchasing Company) in consideration of the Vendor at my request agreeing to sell the property described in this Contract to the Purchasing Company **HEREBY GUARANTEE** to the Vendor the due and punctual performance by the Purchasing Company of **ALL THE TERMS AND CONDITIONS** of this Contract and do further **COVENANT AND AGREE THAT I WILL INDEMNIFY** and keep the Vendor indemnified against any loss and damage howsoever arising which the Vendor may suffer in consequence of any failure of the Purchasing Company in performing its obligations under the within Contract.

The Guarantor acknowledges prior to execution that he has read and understood the terms and conditions of the Contract in its entirety and his obligations under this Guarantee, by signing below.

SIGNED by Jason Cavanagh)

in the presence of:)

DA00402016 Determination Consent Lot 101 Crest Road

- 6 MAY 2019

MMJ Wollongong
PO Box 1167
WOLLONGONG NSW 2500

luke.rollinson@mmj.com.au

Administration Centre
Shellharbour Civic Centre
76 Cygnet Avenue
(Cnr Cygnet & College Avenue)
Shellharbour City Centre NSW 2529

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NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Issued under the Environmental Planning and Assessment Act 1979 Section 81(1)(a)

Being the applicant of Development Application No. 0040/2016 for consent to the following development:

**STAGED TORRENS TITLE SUBDIVISION COMPRISING OF 72 LOTS INCLUDING
ONE PUBLIC RESERVE, DEMOLITION OF EXISTING STRUCTURES &
ASSOCIATED CIVIL WORKS**

LOT: 101 DP: 785139

CREST ROAD, ALBION PARK

Determination date of consent: 3 May 2019

Note: This Approval will lapse 5 years from the date of consent.

In accordance with section 80 of the Act the Development Application has been determined by the GRANTING OF CONSENT SUBJECT TO THE CONDITIONS DESCRIBED BELOW.

This development consent has been divided into different parts according to where, during the development process, each condition may be most relevant. Some conditions may be appropriate to more than one part. All conditions must be complied with.



Grant Meredith
Group Manager - City Development

On behalf of Carey McIntyre, General Manager

CC: Rural Fire Service – Team Leader Development Assessment & Planning
csc@rfs.nsw.gov.au

PART A – ADMINISTRATIVE CONDITIONS

1. Bushfire Authority, Controlled Activity Approval, Other Approval (NSW Rural Fire Service)

The NSW Rural Fire Service has issued a Bushfire Authority pursuant to section 100B of the *Rural Fires Act 1997*. The Approval is issued conditionally as detailed in Part G of this Development Consent.

2. Construction Certificate (Subdivision) & PCA Notification Environmental Planning & Assessment Act 1979 Section 81A

Before any site works, building or use is commenced, the person having the benefit of the development consent must:

- a. obtain a Construction Certificate from Shellharbour City Council or other accredited certifier,
- b. appoint a Principal Certifying Authority.

Note: For Torrens Title Subdivision, the appointed Principal Certifying Authority must be Shellharbour City Council.

3. Development in Accordance with Plans and Documents

The development must be in accordance with the following approved Development Application plans and documents as endorsed by Council's stamp. Where there is an inconsistency between the approved plans/documentation and conditions of consent, the conditions of consent take precedence to the extent of the inconsistency.

Name of Plan/Document	Prepared By	Drawing/Document No./Revision	Drawing/Document Date
Proposed Subdivision Plan	Land Team	206628, SUB01, E	07/04/2017
Overall Development Layout Plan	Land Team	206628, DA01, C	18/04/2017
Site Layout Plan	Land Team	206628, DA02, G	07/04/2017
Drainage Analysis Plan 1	Land Team	206628, DA10, H	20/11/2018
Bulk Earthworks Plan	Land Team	206628, DA12, F	07/04/2017
Services Plan	Land Team	206628, DA13, E	12/07/2017
Staging Plan	Land Team	206628, DA14, D	18/04/2017
Zoning Plan	Land Team	206628, DA15, A	12/07/2015
Demolition/Site Waste Minimization & Management Plan	Land Team	206628, VM01, D	07/04/2017
Vegetation Management Plan	Biosis	18852, Final Report, Version 3	13 April 2017
Drainage Analysis Plan 1	Land Team	206628, DA10, H	20/11/2018
Proposed Development and Ecological features for Crest Road drainage options	Biosis	24648	07 April 2017
Creation of easement – Lot 3 DP1214606	Allam Homes	-	30/10/2018
Concept Landscape Plan	Taylor Brammer	15-099W	10/02/2016
Flora & Fauna Assessment	Biosis	18852, Final Report, V03	13/04/2017
Flora & Fauna Assessment Report – Stormwater Easement	Biosis	24648	22/11/2018
Stage 1 - Contamination & Preliminary Geotechnical Assessment	Network Geotechnics	G09/1469-A	31 October 2014

4. Prescribed Conditions

This development consent is subject to the prescribed conditions made under the *Environmental Planning & Assessment Regulation 2000*.

5. Compliance with Notations on Drawings

Works must comply with any notations highlighted on the approved plans and specifications.

6. Vegetation Protection

All staff and contractors working on site must be informed of the sensitive nature of vegetation and presence and location of threatened species on the site. Council may request a signed written statement to be submitted by the site manager stating this information has been conveyed to staff and contractors.

7. Staging of Development

The development shall be staged as follows, unless otherwise approved by Council in writing:

Stage	Development
Stage 1	13 Residential Lots – Including 2 roads, Approximately 12780sqm in area
Stage 2	23 Residential Lots – Including 2 roads, Approximately 18020sqm in area
Stage 3	24 Residential Lots – Including 1 road, Approximately 19,660sqm in area
Stage 4	11 Residential Lots, 1 open space lot – Including 3 roads, Approximately 46,360sqm in area

All conditions of this consent apply to each stage, unless otherwise specified.

Each stage must not be occupied or used until the Principal Certifying Authority issues an Subdivision Certificate for that stage.

PART B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. Biodiversity Offsets under Environment Protection Biodiversity Conservation Act

Prior to the issue of the Construction Certificate evidence must be provided that all offset obligations under the Commonwealth Environment Protection Biodiversity Conservation Act for impacts on the Critically Endangered Ecological Community of Illawarra and South Coast Lowland Forest and Woodland have been satisfied.

9. Additional Agency Requirements

Prior to the issue of the construction certificate, all impacts on biodiversity required to fulfil other agency obligations (water, sewer) must be illustrated on plans and impacts avoided or minimised accordingly.

Further environmental assessment may be required. All impacts on biodiversity that are supplementary to those assessed as part of this consent must be assessed to Councils satisfaction under the NSW Biodiversity Conservation Act. All impacts associated with development under this consent will be considered cumulative. Amendments to this consent may also be required.

10. Utilities – Electricity Supply

Arrangements are to be made from the relevant electricity provider for the provision of electricity supply to the development. Written confirmation from the relevant electricity provider must be submitted to the Certifying Authority prior to the issue of the Subdivision Construction Certificate for the development.

11. Drainage Easement Design

Plans must be submitted that illustrate all works required within the drainage easement prior to the issue of the Construction Certificate. All works must be designed to minimise disturbance to the natural drainage line and surrounding vegetation during construction works, operation and maintenance activities. The most likely locations of scour and erosion must be identified and mitigation measures provided.

12. Drainage Easement

The drainage easement as per approved plans, is to be created on Lot 3, DP 1214606 benefitting Lot 101, DP 1238120. The easement is to be a minimum width of 8m for access and maintenance purposes.

13. Asset Protection Zone Establishment – Lot 73

Tree retention in the Asset Protection Zone must be considered in accordance with Planning for Bushfire Protection 2006. Amended plans showing trees to be removed and those to be retained must be submitted for Council approval prior to the issue of the Construction Certificate.

All trees to be removed for Asset Protection Zone purposes must be clearly marked. Only trees to be removed are to be marked.

The creation of bushfire asset protection zones within the Lots must prioritise retained trees in the following sequence:

1. Hollow-bearing trees.
2. Large DBH canopy tree (Forest Red Gum *Eucalyptus tereticornis* and Thin-leaved Stringybark *E. eugenoides*) over midstorey species of *Acacia*, *Melaleuca* and *Callistemon*.
3. Largest to smallest DBH.

All contractors working on the site must be notified that only marked trees in the APZ are to be removed.

14. Flora and Fauna Assessment recommendations

All recommendations provided in the Flora and Fauna Assessment (Biosis Final Version 03 18 April 2017) detailed below must be incorporated into plans and implemented accordingly:

- The retention and management for conservation of 2.71 hectares of native vegetation within the Environmental Management Area (EMA, E3 area on Lot 73), including 2.7 hectares of Illawarra Lowlands Grassy Woodland EEC, including up to 59 % of trees in the study area.
- Retention of 11 hollow-bearing trees within the EMA.
- The retention and management of all individuals of the White-flowered Wax Plant within the EMA.
- Management of the E3 land (Lot 73) according to a VMP.

- Installation of bushfire asset protection zones within the E3 zone prioritising retained trees in the following sequence:
 1. Hollow-bearing trees.
 2. Large DBH canopy tree (Forest Red Gum *Eucalyptus tereticornis* and Thin-leaved Stringybark *E. eugenoides*) over midstorey species of *Acacia*, *Melaleuca* and *Callistemon*.
 3. Largest to smallest DBH.
- Retention of hollow-bearing trees within the development area, where not occurring within development envelopes, roads, fence lines, stormwater infrastructure, and if safe to do so.

15. Flora and Fauna Assessment recommendations – Drainage easement

All recommendations provided by Biosis (Flora and Fauna Assessment for installation of stormwater easement at Lot 3 Exeter Place, Albion Park dated 22 November 2018) outlined below must be incorporated into plans and implemented accordingly.

- A description of significant ecological values in the site induction prior to the start of works to ensure all workers are aware of impact avoidance must be conducted.
- Clearly mark the retained vegetation as a 'no-go zone' (including the buffered area around Illawarra Zieria and TECs; Illawarra Lowlands Grassy Woodland and Illawarra Subtropical Rainforest. This area should be fenced with star pickets and high visibility para-webbing, with signage designating the ecologically sensitive area. No access is permitted by personnel, vehicles, or for storage of materials or stockpiles. No material (felled trees, soil, rocks, debris) is to be pushed down slope into these areas.
- Install no-go zones near recorded Illawarra Zieria to prevent trampling from personnel and / or machinery during construction.
- During site preparation and pipeline installation works, hollow-bearing trees should be protected in accordance with Australian Standard AS4970 – 2009 Protection of trees on development sites.
- Install sediment control measures to prevent soil sediments shifting downslope into drainage lines. Sediment traps should be inspected and maintained on a regular basis.
- Rehabilitate any exposed soil areas with appropriate revegetation and erosion management treatments.
- Remove trees taking care not to damage adjacent vegetation.

16. Tree Retention Plan

An amended plan must be submitted detailing tree retention within Asset Protection Zones on Lot 73; and within the area of impact in the drainage easement.

Trees must be retained across the subdivision wherever possible in accordance with Planning for Bushfire Protection 2006.

17. Habitat Boxes

Compensatory habitat must be provided at a ratio of 1:1 per hollow feature lost (there can be multiple hollows per tree) and must be species specific.

Prior to the issue of the Construction Certificate, a report is to be submitted to Council that outlines the number and type of habitat boxes to be installed, locations, target species and how the boxes will be managed in perpetuity.

The VMP for Lot 73 will require updating to include habitat box details.

18. Vegetation Management Plan – Drainage Easement on Lot 3 DP 1214606.

A Vegetation Management Plan must be prepared to Councils satisfaction prior to the issue of Construction Certificate. The VMP must include but is not limited to:

Vegetation Management Plan – Drainage Easement	
Section	What to include (at a minimum):
Project description	<ul style="list-style-type: none"> • Site description and constraints. • Objectives of the plan. • Describe environmental impacts identified.
Mapping	<ul style="list-style-type: none"> • Detailed site plan including management zones. • Detailed vegetation mapping including type & condition, conservation significance and recovery potential & location of threatened species. • Identify all trees to be removed. • Be conducted at a scale suitable to the size of the project site. • Identify location and type of fencing to be installed (short and long term). Fencing is to be fauna friendly.
Process/Procedures	<ul style="list-style-type: none"> • Implementation of the VMP is to commence following issue of the Consent & must be implemented by a suitably qualified professional. • Licencing details of staff that will be conducting regeneration works within the EEC. • Project tasks including staging of implementation, site preparation, weed removal/control methods and planting program following weed removal (planting is to replicate natural bushland conditions – mosaic planting with a variety of species in each vegetative layer). • Only trees identified on approved plans are to be removed. • A qualified Arborist is to be on site during tree felling works to ensure minimal damage to surrounding vegetation. Evidence of this must be provided in reporting to Council & the PCA. • If hollow bearing trees are to be removed an Ecologist must be on site to supervise removal or any other conditions prescribed in the approved VMP. Evidence must be provided that this person has been present during all works to establish the easement. • Trees to be removed are to be clearly marked. Only marked trees are to be removed. Photographic evidence of tree removal is to be provided in progress reports. • All tree removal works are to be conducted to ensure minimal damage to surrounding vegetation. Should surrounding vegetation be damaged, additional remediation works or offsets to those identified in the VMP may be required. • All works are to be conducted by hand where possible, including felling of trees.

Vegetation Management Plan – Drainage Easement	
Section	What to include (at a minimum):
Threatened Vegetation Protection	<ul style="list-style-type: none"> Clearly defined protection measures for the EEC during construction and future maintenance. Clearly defined protection measures for the Zieria granulata during construction & APZ establishment. Details on surveys for the threatened Cynanchum elegans and Zieria granulata during implementation works and protection measures should additional individuals be discovered. Details of briefing of all staff and contractors regarding the sensitive nature of vegetation and the presence and location of threatened species on the site. Inspection schedule for scour and erosion and ameliorative measures should this be observed.
Biodiversity Offsetting	<ul style="list-style-type: none"> Removal of native vegetation is to be offset by an appropriate level of regeneration and/or infill planting throughout the total easement area. This is to be clearly described and defined in the VMP. All plantings must be locally endemic species characteristic of the EEC and be listed in the VMP. Evidence of stock provenance is to be provided. Stock will require replacement should losses exceed 10%.
Maintenance, Monitoring and Reporting	<ul style="list-style-type: none"> The VMP will be implemented for a period of 3 years by the proponent, then by the land owner in perpetuity. Ongoing site specific maintenance schedule including access requirements and restrictions. Ongoing weed control methods. Management actions table including task details, management zone, priority, time frame and key personnel/management responsibilities. Performance criteria and measurement. Annual reports are to be submitted to Council for a period of 3 years following issue of Subdivision Certificate. Written documentation must be prepared by a suitably qualified person and submitted to Council and the PCA verifying all works have been carried out in accordance with the VMP. Full details must be provided or the Subdivision Certificate may be delayed.

Note: Implementation of the VMP for the drainage easement must commence upon completion of construction works.

VMP implementation must continue for a period of 3 years following issuing of the Subdivision Certificate. Progress reports are required to be submitted to Council every 12 months during this time.

A site inspection by Council must be arranged by the proponent every 12 months date of consent. A fee (as per Council's 2019/2020 fees and charges) will apply per annual inspection and reinspection for any outstanding works.

A site inspection by Council must be arranged by the proponent prior to issue of the Subdivision Certificate. A fee (as per Council's 2019/2020 fees and charges) will apply. The purpose of this inspection is to identify any outstanding issues that will require rectification prior to issuing the Subdivision Certificate. A verification report indicating that the VMP has been complied with must be submitted with the Compliance Certificate application.

19. Construction Environmental Management Plan

A Construction Environmental Management Plan (CEMP) must be prepared including but not limited to:

- Sediment and erosion controls;
- Management of fuels and chemicals,
- Contaminated lands unexpected finds protocols;
- Construction noise controls;
- Dust control measures;
- Native fauna protection measures; and,
- Retained native vegetation and threatened species protection measures.

20. Water Quality & Velocity

Prior to the issue of the Construction Certificate evidence must be shown that all stormwater leaving the site meets best practice water quality guidelines as outlined in Councils Development Control Plan. Best practice Water Sensitive Urban Design principles must be incorporated where possible.

All water leaving the site must be at pre-construction velocities.

21. Initial Geotechnical Report

A geotechnical report, prepared by a suitably qualified and experienced geotechnical engineer must be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

The report must cover, but no be limited to the following:

- a. extent and stability of proposed embankments including those acting as retarding basins,
- b. recommended Geotechnical testing requirements,
- c. level of geotechnical supervision for each part of the works as defined under AS 3798 - Guidelines on Earthworks for commercial and Residential Developments,
- d. an analysis of the level of risk to existing adjacent structures/buildings including the scenario of a construction contractor using vibratory rollers anywhere within the site the subject of these works. In the event that vibratory rollers could affect adjacent structures/buildings, high risk areas must be identified on a plan and indicate that no vibratory rollers shall be used within that zone,
- e. the impact of the installation of services on overall site stability and recommendations on short term drainage methods, shoring requirements and other remedial measures that may be appropriate during installation,
- f. the recommended treatment of nay unstable areas within privately owned allotments,
- g. requirement for subsurface drainage lines,

- h. overall assessment of the engineering plans for the proposed development and their suitability in relation to the site's geotechnical characteristics.

22. Soil and Water Management Plan (SWMP)

Prior to the issue of the Construction Certificate, the applicant must submit to and obtain the Certifying Authority approval of a Soil and Water Management Plan. The SWMP must clearly identify site features, constraints and soil types together with the nature of the proposed land disturbing activities and also specifies the type and location of erosion and sediment control measure. In addition, rehabilitation techniques that are necessary to deal with such activities should be referred to.

The SWMP must take into account the requirements of Landcom's publication Managing Urban Stormwater - Soils and Construction (2004) thus ensuring the following objectives are achieved, namely:

- a. minimise the area of soils exposed at any one time,
- b. conserve topsoil for reuse on site,
- c. identify and protect proposed stockpile locations,
- d. preserve existing vegetation and identify revegetation techniques and materials,
- e. control surface water flows through the development construction site on a manner that:
 - i. diverts clean run-off around disturbed areas.
 - ii. minimises slope gradient and flow distance within disturbed areas.
 - iii. ensures surface run-off occurs at non-erodible velocities.
 - iv. ensures disturbed areas are promptly rehabilitated.
- f. trap sediment on the site to prevent off site damage. Hay bales are not to be used as sediment control devices. To ensure regular monitoring and maintenance of erosion and sediment control measures and rehabilitation works until the site is stabilised (including landscaping),
- g. specifies measure to control dust generated as a result of construction activities on site,
- h. temporary sediment ponds must be fenced where the batter slope exceeds 1 vertical to 5 horizontal,
- i. design scour protection for the 10 year ARI event at all inlet and outlet structures.
- j. including measures to prevent the tracking of sediment off the site.

23. Soil and Water Management Plan (SWMP) Bond

The developer must lodge a bond to the amount of \$200.00 per lot to ensure compliance with erosion and sediment control measures incorporated in the approval Soil and Water Management Plan (SWMP). This bond must be in the form of an irrevocable bank guarantee made out in favour of Council, and must operate as follows:

- a. the bond must be submitted to Council prior to the release of the engineering plans for the subdivision,
- b. the bond must be held by Council until the expiration of the defects liability period for the subdivision, which commences at the completion of all engineering works, including placement of the final seal on all new roads,

- c. if Council is to advise the developer that maintenance work is required on the erosion and sediment control measures, remedial work must be substantially commenced within forty eight (48) hours from the time of advice. Failure to comply with this direction will give Council the right to employ an appropriate contractor, (which could include to Soil Conservation Service) to undertake such measures as deemed necessary and fund these works from the bond guarantee.

24. Road Design

The road design must comply with the following:

- a. the grading and layout of all roads and lots must not allow for trapped low points and in addition ensure that overland flow is passed safely over public land,
- b. the road pavement must be designed with one layer of asphalt having a minimum thickness of 40mm AC 10. The pavement design for the proposed roads must be carried out by a qualified Geotechnical/Civil engineer in accordance with AUSTRROADS Guide to Pavement Technology,
- c. all vertical and horizontal alignment of all streets and all street intersections within the development must have adequate sight distance provided in accordance with AUSTRROADS requirements,
- d. the geometric design of all roads, traffic facilities, intersection treatments, mid-block devices and entry features must be such as to permit a 19 m articulated vehicle to manoeuvre in order to enter and leave each road travelling in a forward direction and without leaving the carriageway and,
- e. the relevant drawings must be annotated and properly referenced showing compliance with this condition. The drawings must be submitted with application for a Construction Certificate for approval by the Certifying Authority.

25. Road and Drainage Plans

Road and drainage plans, must be prepared by a suitably qualified Engineer, in accordance with Council's Subdivision Design Code. The plans must be submitted to the Certifying Authority for approval prior to the release of the Subdivision Construction Certificate. All road and drainage work must then be constructed in accordance with Council's construction standards and approval at no cost to Council.

All stormwater pipes within the road reserves and within drainage easements intended to be dedicated to Council must be installed generally to the HS3 standard in accordance with the current edition of AS 3725 - Design for Installation of Buried Concrete Pipe.

26. Structural Design of Deep Pits

All pits deeper than 0.9 metres must be designed by a certified structural engineer and be in accordance with AS3600-2009. Pits deeper than 1.2 metres must have galvanised steel step irons (plastic coated black steel step irons will not be accepted) and pits deeper than 1.8 metres are to be reinforced concrete. Step irons at 300mm interval spacing from bottom of pit. Top step minimum 500mm below top surface level. Details to this effect shall be incorporated on the detailed drainage design that is submitted to the certifying authority for the Construction Certificate.

27. Stormwater Discharge to Natural Watercourse

Stormwater discharge point to the natural watercourse must be protected against erosion.

Plans are to be prepared by a suitably qualified engineer to appropriately manage expected flow rates, velocities and erosion for up to the 100 year ARI storm event.

Details are to be submitted and be to the satisfaction to the certifying authority prior to the release of the construction certificate.

28. Street Tree & Landscape Inspection Fee

The developer must lodge with Council prior to the issue of the construction certificate an inspection fee of \$147.00 per inspection in accordance with Council's *Fees and Charges* for:

- street tree/landscape/riparian Subdivision Certification inspection
- street tree/landscape/riparian handover inspection following completion of the maintenance period

29. Landscape Plan

A detailed landscape/street tree/riparian plan must be lodged with Council prior to any commencement of landscape works. In this regard one hard copy and an electronic copy of the landscape plans prepared by a Landscape Architect must be submitted to Council prior to the issue of the Construction Certificate. The landscape plan must be prepared in accordance with the Concept Landscape Plan, project number 15-099W prepared by Taylor Brammer and dated 10/02/2016.

30. Bond - Street Trees

A deposit of \$21,600 (72 x \$300) must be lodged with Council prior to the issue of the Construction Certificate to ensure that the new street trees are maintained for a six month period following the issue of the Occupation Certificate.

31. Sydney Water Servicing

A section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

Make an early appointment for the certificate, as there may be water and wastewater pipes to be built that can take some time. This can also impact on other services and buildings, driveways or landscape designs.

Applications must be made through an authorised Water Servicing Coordinator. For help either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 132092.

PART C - PRIOR TO COMMENCEMENT OF WORKS

32. Existing Drainage Easement, Drainage Reserve or Stormwater Drainage System Benefiting Council

There are Council drainage easements drainage reserve(s) or stormwater system either pass through or are adjacent to the site. No building or other structure must be placed over the drainage easement or stormwater system or within the zone of influence taken from the invert of any pipe.

The developer must determine the exact location, size and level details of all Stormwater Drainage Systems without causing any damage to the public system ensure its protection. The owner, principal contractor or owner builder must not obstruct or otherwise remove, disconnect or render inoperable the Stormwater Drainage System.

Works such as fences must not obstruct the natural floodway or alter the natural floodway in such a way as to direct or concentrate stormwater on to neighbouring properties.

Where the relocation or reconstruction of Council's drainage system is approved then all work carried out on assets which are under Council ownership will revert to the ownership, care, control or management of Council, in connection with the development to which this consent relates, must comply with Council's Construction of drainage and associated works - specifications"

The owner, principal contractor or owner builder must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or Local Government Act 1993 for works within Roads and other public places.

33. Construction Traffic Management Plan (CTMP)

Prior to the commencement of works, a CTMP detailing vehicle routes, number of trucks, hours of operation, access arrangements, impact on pedestrians and traffic control must be submitted to and approved by the Certifying Authority.

It is the developer's responsibility to adequately inform all construction workers, sub-contractors and supervisors to ensure that the Construction Traffic Management procedures are adhered to at all times.

34. Site Meeting

A site meeting with Council's Engineer, Assessment Planner and Environmental Officer, the applicant and the contractor must be held not less than 7 days prior to the commencement of work on site.

35. Building Plan Approval - Sydney Water

You must have your building plans stamped and approved before any construction is commenced. Approval is needed because construction/building works may affect Sydney Water's assets.

For further assistance please telephone 132092 or refer to the building over or next to assets page on the Sydney Water website.

36. Asset Protection Zones

Trees to be removed in Asset Protection Zones must be clearly marked. Hollow Bearing Trees detailed in the VMP must be preferentially retained, marked with an 'H' on the trunk and fenced to clearly indicate their retention.

Asset Protection Zones must be established in accordance with the native vegetation and fauna protection measures detailed in Flora and Fauna Assessment (Biosis 18 April 2017), Vegetation Management Plan (Biosis 13 April 2017) and Bushfire Assessment (Bushfire and Evacuation Solutions 16 November 2015).

37. Asset Protection Zone Maintenance

Maintenance of prescribed Asset Protection Zones on Lots 29, 57 and 73 is required in perpetuity and is to be conducted according to methods prescribed in the Bushfire assessment (Bushfire and Evacuation Solutions 16 November 2015) and the NSW RFS Planning for Bushfire Protection 2006.

38. Habitat Boxes

Habitat boxes as specified in the VMP must be installed (there can be multiple hollows per tree).

One month prior to removal of hollow bearing trees, suitable, purpose built microchiropteran, habitat boxes must be erected in a portion of the property that will be retained in perpetuity.

The location of the habitat boxes must be recorded using a Global Positioning System (GPS), and a map showing the position of these produced.

A project ecologist specialising in fauna is to be engaged prior to commencement of works.

39. Pre-clearance Fauna Survey

A pre-clearance survey must be conducted by the project ecologist one day prior to the commencement of vegetation clearing works. The purpose of this survey is to identify any additional roosting or nesting fauna (including drays) which are present within all trees and built structures proposed for removal. The ecologist must conduct a thorough inspection of all trees and built structures approved for removal and mark those which are observed to contain roosting or nesting fauna and will require supervision of the clearance works.

40. Unexpected Finds Contingency

Prior to the commencement of works an unexpected finds protocol for contamination must be prepared by a suitably qualified professional and submitted to the Principal Certifying Authority. The unexpected finds protocol should include procedures and protocols for managing risks should unexpected finds of contamination be identified at the site.

41. Soil and Water Management Plan Implementation (SWMP)

The measures required in the Soil and Water Management Plan approved by the Certifying Authority must be implemented prior to the commencement of works.

42. Subdivision Design Code Compliance

All works to be dedicated as a Council asset must be installed/constructed in accordance with Council's *Subdivision Design Code*.

43. Dilapidation Report

It is the applicant's responsibility to notify Council of any existing damage to public areas in the vicinity of the development site through the submission of a Dilapidation Report. The report must be supported with suitable photographic records. This information must be submitted to Council prior to the commencement of work.

PART D - DURING WORKS

44. Hours of Work

Noise generating activities, including excavation, demolition, construction and delivery of equipment and materials, must only be carried out between:

- 7am to 6pm Mondays to Fridays
- 8am to 1pm Saturdays.

Work must not be carried out on Sundays or public holidays.

45. Vegetation Management Plan

All recommended management actions in the approved Vegetation Management Plans must be implemented accordingly.

46. Tree Protection

Trees with habitat features (such as trees bearing hollows) are to be retained within the development area as they provide habitat for fauna.

Retained trees are to be protected using appropriate exclusion zoning that meet the following requirements:

- Boundaries for exclusion exceed the Tree Protection Zone (TPZ) of each tree. The TPZ is the drip line of the tree which is directly below the outer most branches.
- Temporary fencing is to be installed around retained trees, where structural change will occur, or where waste will be removed to minimise the indirect impacts the construction phase of development will have on retained trees.
 - Fencing must be installed prior to construction works and be maintained through the entire construction phase of the development.
- No equipment, materials or fill are to be stored within tree exclusion zones
- No fuel, paints, or other chemicals are to be stored within tree exclusion zones
- No excavation is to occur within tree exclusion zones

47. Tree Removal Identification – Residential Zone

A suitably qualified project arborist must be appointed to oversee all arboricultural related works during the construction phase and prior to any tree removal works.

The project arborist must confirm the felling or retainment of all trees within the development site. Trees identified as being retained that are within 5 meters of the work zone are required to have protective fencing installed prior to any earth works (protective fencing must exceed the TPZ).

In the event that any retained trees are damaged, a suitably qualified arborist must be contacted as soon as possible. The arborist is required to recommend and develop a remedial action plan so as to reduce any long term adverse impacts on the tree's health. Remedial actions should commence as soon as possible.

48. Tree Removal Procedures – Residential Zone & APZ

Trees and vegetation identified for removal must be felled prior to the commencement of construction works.

Trees and vegetation that are removed must be mulched and used to mulch the trees identified as retained except hollows and habitat features.

Noxious weeds must be removed from the site and disposed of in a waste facility. Noxious weeds must not be used for mulch.

An ecologist must be on site during removal of vegetation, particularly hollow bearing trees.

Immediately prior to the clearing of vegetation the project ecologist must conduct an inspection of any suitable ground debris, shrubs and accessible hollows. These inspections must be conducted to determine, and collect if possible, any sheltering or nesting animals.

All trees to be removed must be felled by a qualified arborist.

Non hollow-bearing vegetation, shrubs and so forth should be cleared 48 hours prior to the felling of the hollow-bearing trees. The clearing of this vegetation should result in the hollow-bearing trees becoming 'exposed' and isolated'.

Hollow bearing trees and stags must be felled by an arborist in one to two metre sections, beginning at the top of the crown and lowered to the ground for inspection by the ecologist on site. Lengths cut from the tree shall be in a manner that will preserve the hollow(s). Once felled, the ecologist must inspect all hollows for sheltering animals.

Any animals present within the tree hollows must be collected and released on dusk, or under conditions that equate to the life cycle requirements of the species collected, within those portions of the site that are to be retained in perpetuity.

WIRES must be contacted in the instance of injured wildlife.

Any suitable hollow limbs present in association with the felled trees must be collected and located within those portions of the site that are to be retained in perpetuity.

Relocated natural hollows must be included, GPS'ed, mapped and incorporated in the ongoing habitat box monitoring outlined in the amended Vegetation Management Plan.

The project ecologist will provide Council with a Letter Report confirming that the procedures specified have been complied with, along with notes on any fauna encountered and the outcome of salvage.

49. Existing Built Structures

Existing structures not containing fauna should be removed first.

No existing built structures that fauna species inhabit should be cleared 48 hours prior to the felling of the hollow-bearing trees. The clearing of surrounding vegetation should result in the existing built habitat structures becoming 'exposed' and isolated'.

The project ecologist will provide Council with a Letter Report confirming that the procedures specified have been complied with, along with notes on any fauna encountered and the outcome of salvage.

50. Ecological Impact Management

The following mitigation and management measures must be incorporated into the proposed development during construction to ensure that flora and fauna impacts are addressed:

- Storage areas should be located away from drainage lines to minimise risk of pollution and adverse impact to aquatic ecosystems
- A sterile cover-crop should be used to stabilise soil once earthworks have been completed
- Installation of sediment and runoff control measures to prevent runoff entering adjacent bush land areas consistent with the Landcom Blue Book (Landcom, 2004)
- Weeds within the construction site should be controlled appropriately according to their class
- Clearing vegetation must only be conducted within the designated impact area
- Fencing will be used to prevent damage to the root zones of trees to be retained
- Wash down machinery before entering the site to limit weed spread
- Ongoing weed control should be undertaken along the length of the works and around the residential development to reduce the impacts of edge effects on adjacent vegetation.

Environmental protection works and measures are to be established and monitored to ensure that land and associated vegetation within the E3 zone is protected during construction.

51. Monitoring of Nest Boxes

Nest boxes must be monitored twice per year (Nov/Dec & June) using non-invasive measures such as a scope camera. These times would allow for breeding and sheltering observations.

Details recorded must include but not be limited to:

- Date
- Location
- Box number
- Orientation/Aspect
- Height of nest box
- Tree Species
- Canopy Cover
- Location of closest branch
- Photo of each nest box (close-up and full tree)
- Target Species
- Species inhabiting (evidence from scats, fur etc or actual animals)
- Breeding Success where appropriate
- Condition of box
- Box replacement

- Presence of invasive species (European Honeybee, Common Myna, Common Starling and House Sparrow) and action taken to exclude them

Habitat box details above must be incorporated into the Vegetation Management Plan and included in the 6 monthly update reports during construction and 12 monthly reports thereafter for a period of 3 years following issue of the Subdivision Certificate.

52. Demolition - WorkCover, AS2601 & Work Health and Safety Act 2011

Demolition work must:

- a. be carried out in accordance with the requirements, of the WorkCover Authority of New South Wales
- b. be carried out in accordance with the Work Health and Safety Act 2011
- c. be carried out by a WorkCover licensed contractor where demolition work involves the removal of any materials containing asbestos, and
- d. be carried out in accordance with the provisions of AS 2601-2001: The Demolition of Structures (or subsequent edition/s).

53. Drainage Easement - Scour

Observation for scour and erosion in the drainage easement must be undertaken monthly during construction. Where evidence of scour or erosion is evident, Council must be notified and remediation works discussed.

Should remediation works be required, these will be designed to Council specification and implemented by the proponent at the proponents cost.

54. Construction Noise & Disruption

To minimise disruption to the surrounding community during construction works, construction noise levels must be managed according to the EPA *Interim Construction Noise Guidelines*.

Approved work hours determined by the Guidelines are:

- Monday – Friday 7am – 6pm
- Saturday 8am – 1pm
- Construction work is prohibited on Sundays and Public Holidays

Other disruptions to the community during construction works includes the creation of dust from the development site. The following actions are suggested to minimise the creation of dust in a development site:

- Minimising the clearance of unnecessary land
- Covering cleared land using tarps or other materials
- Covering of stockpiled building materials that could create dust in the instance of wind (i.e. gravel) using tarps or other materials
- Hosing of cleared land

55. Contamination - Unexpected Finds Contingency

Should any contamination or suspect material be encountered during site preparation, earth works, construction or any other stage of the development, then works must cease immediately and a suitably qualified consultant engaged to conduct a thorough contamination assessment.

In the event that contamination remediation is required, all works must cease and the Council must be notified immediately. The contamination assessment must be submitted to Council for Approval.

All recommendations provided in the contamination assessment must be followed as stipulated.

56. Spill Kits

Suitable industry and use specific spill kits must be available on site at all times. Spill kits are to be maintained as per industry standards.

57. Maintenance of Erosion & Runoff Controls

The soil and water management controls must be maintained at all times and checked for adequacy daily. The controls must not be removed until the development is completed and the disturbed areas have been stabilised.

Maintenance must include but is not limited to ensuring:

- a. all sediment fences, sediment traps and socks are properly placed and are working effectively
- b. drains, gutters and roads must be maintained clear of sediment at all times.

It is an offence under the *Protection of the Environment Operations Act 1997* to allow soil or other pollutants to fall or be washed into any waters or be placed where it is likely to fall or be washed into any waters. Substantial penalties may be issued for any offence.

58. Road Construction and Road Drainage Construction

The site manager must arrange for a satisfactory inspection by Shellharbour City Council of the following works:

- a. all road drainage works prior to backfilling of the work and,
- b. all road construction inspections as per Council's *Subdivision Design Code*

59. Water and Utilities - Bush Fire Hazard Management

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply: Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bushfire Protection 2006'.

60. Subdivision Construction

The site manager must arrange for inspections by Shellharbour City Council of all construction works as per Council's *Subdivision Design Code*.

61. Lots and Site Filling

All lot and site filling must be performed under level 1 Geotechnical supervision in accordance with AS 3798-2007 or subsequent amendments.

62. Imported Fill Material

The only fill material that may be received at the development site is:

- a. virgin excavated natural material (within the meaning of the *Protection of the Environment Operations Act 1997*), or
- b. any other waste derived material the subject of a resource recovery exemption under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005* that is permitted to be used as fill material.

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

The intent of this requirement is to ensure that imported fill is of an acceptable standard for environmental protection purposes.

The application of waste derived material to land is an activity that may require a licence under the *Protection of the Environment Operations Act*. However, a licence is not required by the occupier of land if the only material applied to land is virgin excavated natural material or waste derived material the subject of a resource recovery exemption under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2005*.

63. Impact of Below Ground (Sub-surface) Works – Aboriginal Artefacts

If any Aboriginal archaeological artefacts are encountered during construction works, all ground disturbance in the area of the find must cease and the Office of Environment and Heritage (OEH) be contacted immediately to determine an appropriate course of action in line of relevant legislation.

64. Contamination

Should any suspect materials be encountered during any stage of works including earth works/ site preparation/ construction, then all works must cease until a qualified environmental consultant contacted and a contamination assessment undertaken.

In the event that contamination has been identified as a result of this assessment and remediation is required, site works must cease in the vicinity of the contamination and the Consent Authority notified immediately.

All recommendations provided in the contamination assessment (Douglas Partners, January 2018) must be implemented accordingly.

65. Geotechnical Testing - Drainage

Geotechnical testing must be carried out and results submitted to the Certifying Authority to verify that the pipe trench bedding and backfill complies with the requirements outlined in Australian Standard AS 3725 - Design for Installation of Buried Concrete Pipe. Geotechnical testing must verify that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill must be performed at the rate of one test per 50m of pipeline with not less than one test per section of pipeline.

66. Traffic Committee - Signposting and Line Marking Plan

Prior to the implementation of the Signposting and Line Marking Plan, the plan must be lodged with the City of Shellharbour Traffic Committee for written approval. This plan must detail all facilities, signage and line marking required within and surrounding the development.

67. Street Lighting

The developer must submit a Public Lighting Design Brief to Council for approval for the provision of street lighting on all new public roads dedicated to Council. A street lighting design plan must be prepared by an accredited service provider for contestable works in NSW and submitted to the Energy provider for approval prior to construction. All street lighting must comply with the electricity service provider Street Lighting Policy and illumination requirements. All costs associated with the installation of street lighting must be borne by the developer.

PART E - PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE (TORRENS TITLE SUBDIVISION)

68. Section 94 Contributions

A contribution of \$1,420,000, subject to annual indexation, must be paid to Council towards the provision of public amenities and public services prior to the issue of the Subdivision Certificate for each stage as shown in the table below. This amount has been calculated in accordance with Shellharbour City Council's *Section 94 Contributions Plan 2013* dated 18 December 2013 in the following manner:

Stage	Precinct 7, Albion Park	Benefit Area 8, Cooback Catchment	Shortfall due to \$20,000 cap (Ministers S94E Direction)	Total Section 94 Contribution
1 – 13 lots	\$235,970.05	\$49,317.66	(\$25,287.71)	\$260,000
2 – 23 lots	\$417,485.47	\$69,538.67	(\$27,024.14)	\$460,000
3 – 24 lots	\$435,637.01	\$75,867.39	(\$31,504.40)	\$480,000
4 – 11 lots	\$199,666.97	\$51,528.85	(\$31,195.82)	\$220,000
Total	\$1,288,759.50	\$246,252.57	(\$115,012.07)	\$1,420,000

The contribution amount contained in this condition is the base rate indexed to the date the consent is issued. The contribution amount will be adjusted in accordance with the indexation methods detailed in the *Contributions Plan*. Current indexed rates are available from Council.

The *Contributions Plan* may be inspected or a copy purchased at the Customer Service Counter at Council's offices, or downloaded from www.shellharbour.nsw.gov.au

69. Final Plan of Subdivision

Prior to the release of the final plan of subdivision, it will be necessary to obtain a Subdivision Certificate. In this regard, it will be necessary to submit:

- an application for a Subdivision Certificate,
- five paper prints of the final plan of subdivision,
- the original and two paper copies of the 88B Instrument and Administration Sheet,
- fees appropriate at the time of submission of the application, and

- e. an electronic copy of the subdivision linework. The electronic copy should be in Map Grid of Australia 1994 Zone 56 (GDA94) coordinates and must contain closed linework of boundaries and easements. It must be submitted in DWG or DXF format on cd-rom or by email to traffic&subdivision@shellharbour.nsw.gov.au. The email and the electronic copy should be named "Subdivision Title & Stage - DA No/Year Street Address Final Plan".

All sections of the plan, 88B Instrument and Administration Sheet including the original and copies, (except for the General Manager's date and signature) must be completed prior to lodging the plan.

70. Works As Executed Plans - Subdivision

Works As Executed plans must be submitted to the Principal Certifying Authority by a Registered Surveyor with the Subdivision Certificate application. The Works As Executed dimensions and levels must be shown in red on a copy of the approved Construction Certificate plans. As a minimum the plan must show:

- a. compliance with the approved design plans of all drainage works within council land, road reserve and drainage easements including connection into the subject lot/s, surface and invert levels of all pits, invert levels and sizes of all pipelines,
- b. certification from a registered surveyor that all storm water pipes and other services are wholly within an appropriate easement,
- c. compliance with the approved design plans of paved areas within rights of carriageway and road reserve,
- d. the extent, depth and final levels of filling,
- e. the location of all underground service conduits, and
- f. all deviations from the approved Civil Engineering Plans.

All levels must relate to Australian Height Datum.

71. Services & 88B Instrument

Lots affected by new or existing utility services must be burdened with easements and restrictions on the use of land to the satisfaction of the Principal Certifying Authority and the relevant utility provider.

72. Registrations on Title

The following must be registered on the title of Lot 73:

- **Vegetation Management Plan – Lot 73**

The Vegetation Management Plan for Lot 73 must be implemented, at the land owners cost, in perpetuity. The owner must contact Council regarding implementation of the Vegetation Management Plan upon purchase of the Lot.

- **Asset Protection Zones – 73**

The APZ on Lot 73 must be maintained according to the VMP, at the land owners cost, in perpetuity.

The following must be registered on LOT: 3 DP: 1214606:

- **Vegetation Management Plan – Drainage Easement Lot 3, DP 1214606**

The Vegetation Management Plan for the drainage easement across Lot: 3 DP: 1214606 must be implemented, at the land owners cost, in perpetuity.

The following animal restrictions must be registered:

- No livestock are permitted to be kept on Lot 73.
- No Cats are permitted to be kept on any part of the development
- Dogs can only be kept on Lot 73 if secured in a dog run. Dogs are not permitted to roam freely in bushland areas.

73. Final Geotechnical Report

A final geotechnical report prepared by a suitably qualified and experienced geotechnical consultant must be submitted to the Certifying Authority prior to the issue of the Subdivision Certificate. The report must include, but is not necessarily limited to:

- a. all earthwork operations,
- b. a fill plan showing extent and depth of fill,
- c. certification that all earthworks within the site have complied with the Subdivision Design Code. This must include appropriate test results, test location diagram and date of testing,
- d. certification that all recommendations contained in the geotechnical reports lodged in support of this development have been satisfied,
- e. The exact extent of any restricted building zones or any other restrictions affecting any of the allotments.
- f. identification of all land affected by landslip or instability constraints (if applicable),
- g. verification that the pipe trench bedding and backfill complies with the requirements for HS3 bedding/backfill.

74. Lot Creation Geotechnical Report

A Geotechnical Engineer's report must be submitted to the Principal Certifying Authority with the Subdivision Certificate application. The report must be prepared by a Chartered Professional Engineer with professionally recognised geotechnical experience and must include:

- a. the classification of the proposed lot in accordance with the Australian Standard 2870 - Residential Slabs and Footings or subsequent amendments,
- b. the classification of the lot in relation of risk of slope instability,
- c. the required site preparation and construction constraints within the building envelope of the lot appropriated to the assessed risk of slope stability.

75. Road Dedication

Prior to issue of the Subdivision Certificate, Benkelman beam testing must be undertaken on all roads proposed for dedication as road reserve. Testing must be carried out in accordance with the current version of the Shellharbour City Councils Subdivision Design Code at the time of issue of this consent. The acceptance criteria will be based on the tolerable deflections as specified by AUSTRROADS at the time of issue of this consent.

76. Service Conduits

Services conduits must be placed across carriageways prior to the placing of any pavement material. In this regard, a copy of the services plans must be submitted to the Principal Certifying Authority prior to the placement of pavement material. Alternatively, the services crossings must be under bored.

77. Inspection of Stormwater Pipes

All stormwater pipes within road reserves and within drainage easements intended to be dedicated to Council must be inspected by CCTV. The CCTV must be carried out after all earthworks and road pavement works within the locality of the pipelines has been completed. A copy of the CCTV inspection must be recorded and submitted to the Principal Certifying Authority prior to the release of the Subdivision Certificate. Damaged pipes must either be replaced or repaired to the Principal Certifying Authority's satisfaction prior to the issuing of a Subdivision Certificate.

78. Compliance Certificate

Prior to the issue of a Compliance Certificate by the Certifying Authority, the Applicant must submit satisfactory Works As Executed Plans, CCTV of stormwater drainage and evidence of all other testing and construction works in accordance with the approved Construction Certificate Plans and Council's Subdivision Code.

79. Vegetation Management Plan

A site inspection by Council is to be arranged by the proponent prior to issue of the Subdivision Certificate. The purpose of this inspection is to identify any outstanding issues that will require rectification prior to issuing the Subdivision Certificate. A verification report indicating that the VMP has been complied with must be submitted with the subdivision certificate application.

All recommended management actions in the approved Vegetation Management Plan must be implemented accordingly.

A fee (as per Council's 2019/2020 fees and charges) will apply per inspection and re-inspections.

80. Verification of Vegetation Clearance

Verification must be provided by a qualified ecologist outlining the methodology and results of the pre-clearance survey and vegetation clearance supervision works to the Principal Certifying Authority prior to the issue of a Subdivision Certificate.

81. Stormwater Quality & Velocity

Prior to the issue of the Subdivision Certificate evidence must be provided that stormwater leaving the site meets best practice guidelines as outlined in Councils Development Control Plan.

Evidence must also be provided that all stormwater leaving the site via the drainage easement to the south meets pre-development velocities.

82. Creek Protection

Should any erosion occur along the creek or at the base of the drainage easement (confluence with Hazelton Ck) the proponent will prepare and implement an appropriate armouring strategy to Council satisfaction.

An inspection by Council of the confluence with Hazelton Creek must be arranged prior to the issue of the subdivision certificate. Should any works be outstanding they must be conducted prior to the issue of the Subdivision Certificate. Remediation works will be designed to Council specification and implemented by the proponent at the proponents cost.

A fee (in accordance with Councils 2019/2020 fees and charges will apply per inspection and re-inspection).

83. Asset Protection Zone Signposting

Prior to the issue of the Subdivision Certificate the Asset Protection Zone will be clearly and permanently marked with appropriate signposting.

84. Utilities - Electricity, Gas & Telephone

- a. Electricity must be provided to all proposed lots. The developer must submit written advice to the Principal Certifying Authority from relevant electricity provider that all requirements for the supply of electricity to the proposed allotments have been satisfied. This advice must be submitted with the Subdivision Certificate application.
- b. Telephone services must be provided to all proposed lots. In this regard, the developer must submit written advice to the Principal Certifying Authority from a Telstra Australia accredited contractor that all requirements for the supply of telephone services to the proposed allotments have been satisfied. This advice must be submitted with the Subdivision Certificate application.
- c. The developer must submit written advice to the Principal Certifying Authority from a natural gas accredited contractor that all requirements for the supply of gas services to the proposed allotments have been satisfied. This advice must be submitted with the Subdivision Certificate application.

85. Street Names

Proposed street names for all new roads and/or public reserve names must be submitted for Council's consideration.

The submission must include the:

- a. reasons for/or background/history to the names and estate theme,
- b. an A4 size plan of the street/reserve layout with proposed names and road numbers if applicable, and
- c. fees in accordance with Council's *Fees & Charges*.

Street names and/or public reserve names must be finalised prior to release of the Subdivision Certificate.

86. Sydney Water Section 73 Compliance Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Coordinator. Please refer www.sydneywater.com.au

Building and Developing > Developing your Land > Water Servicing Coordinator or telephone 13 2092 for assistance. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

87. Local Park

The land to be dedicated as open space has been classified as a local park and must be embellished in accordance with the requirements for this category of park as contained in Appendix G of Shellharbour City Council's *Section 94 Contributions Plan 2013*. Details of all proposed embellishment works must be submitted to Council for approval prior to the release of the Subdivision Construction Certificate.

88. Street Trees

Prior to the issue of works certification (Practical Completion) certificate, one tree per lot must be planted at the centre point of the residential lot on the Council footpath reserve, as follows:

- a. **75lt *Waterhousia floribunda***
- b. trees should be set back a **minimum** 900mm from the back of the kerb or midway between the footpath and kerb. Where the tree is less than 900mm from the footpath, root barriers must be installed.
- c. timber edging installed at the base of the tree constructed from the back of the kerb
- d. 2 x hardwood stakes with 50mm Hessian ties, fixed in a figure 8, to support each tree
- e. minimum 75mm depth of organic mulch applied a minimum 600mm diameter surrounding the base of the trunk

89. Street Tree/Landscape/Revegetation Inspection

All street trees and/or landscape must be inspected by Council prior to the issue of the Works Certification Certificate. It is the responsibility of the developer to notify Council for the street tree/landscape inspection.

90. Street Tree Maintenance Period

To ensure establishment of the street trees, the completed street tree installation works must be maintained for a 6 month period following the issue of the Subdivision Certificate. It is the responsibility of the developer to ensure that any defective street tree installations shall be rectified/replaced at the conclusion of the maintenance period in accordance with the approved landscape plan.

91. Landscape Maintenance Period

To ensure establishment of the landscape, the completed landscape works must be maintained for a 12 month period following the issue of the Works Certification Certificate. It is the responsibility of the developer to ensure that any defective landscaping shall be rectified/replaced at the conclusion of the maintenance period in accordance with the approved landscape plan.

92. Repairs to Public Infrastructure

Any damage to public infrastructure including Crest Road, other than that previously noted in the Dilapidation Report (refer Part C), is the responsibility of the developer. All damage must be repaired and reinstated prior to the issue of the Occupation Certificate. This work must be carried out by Council, or Council approved contractor, at the developer's expense.

93. Release of Certificate

The Subdivision Certificate must not be released until all works required for the development, subject of this consent, have been completed.

PART F - AFTER ISSUE OF OCCUPATION CERTIFICATE/DURING OCCUPATION

94. Vegetation Management Plan

The implementation of all VMP's must commence upon issuing of Operation Consent and continue for a period of 3 years following issuing of the Subdivision Certificate by the proponent. Progress reports are required to be submitted to Council every 12 months during this time.

Following the 3 year period, all VMP's must be implemented in perpetuity by the land owner.

All recommended management actions in the approved Vegetation Management Plan must be implemented accordingly. Council may request evidence of VMP implementation at any time.

All requirements of Asset Protection Zones must be implemented by the landowner in perpetuity.

A fee (in accordance with Councils fees and charges) will apply per inspection and re-inspection.

95. Habitat Box Monitoring

Erected habitat boxes and relocated hollows must be monitored twice per year for a period of 3 years by the applicant.

Annual monitoring reports must be submitted to Council and the Principal Certifying Authority for 3 years following issue of the Subdivision Certificate.

Any damaged nesting boxes, or those occupied by exotic species must be replaced during the 3 year period.

96. Drainage Easement

Observation for scour and erosion in the drainage easement must be undertaken monthly for a period of 12 months following completion of construction of the easement. The purpose of regular inspections is to ensure that any scour and erosion is addressed quickly. The armouring strategy must be implemented to Councils satisfaction.

The proponent must book an inspection with Council Environment and Engineering staff every 12 months for the maintenance period of 3 years. Reports detailing inspections and any remediation works conducted must be submitted to Council every 12 months.

Remediation works must be designed to Council specification and implemented by the proponent at the proponents cost.

A fee (in accordance with Councils 2019/2020 fees and charges will apply per inspection and re-inspection).

97. Asset Protection Zone

The part of the lot burdened as an Asset Protection Zone shall be maintained in accordance with the requirements of *Planning for Bush Fire Protection 2006* and is the sole responsibility of the owner

98. Subdivision - Maintenance Period

All roads and drainage, must be maintained for a minimum period of 12 months commencing from the date of the issue of the Subdivision Certificate, unless otherwise agreed to in writing by Council. The developer must ensure that any defective works shall be rectified and/or replaced during the maintenance period in accordance with the approved construction certificate plans. All costs arising during the maintenance period must be borne by the developer.

All roads and drainage works must be maintained in its original construction condition for this liability period. The developer must notify Council for a re-inspection at the end of the maintenance period.

99. Street Tree Bond Refund

The street tree bond will be refunded following a 6 month maintenance period commencing from the date of the issue of the Occupation Certificate, provided the street trees remain in a satisfactory condition. In the event that any street tree/s are found damaged, dying or removed, Council will have the option to retain the whole or part of the bond. The developer/Certifying Authority must notify Council for a reinspection of the street trees.

PART G – OTHER APPROVALS

Rural Fire Service

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Telephone: 1300 NSW RFS
e-mail: csc@rfs.nsw.gov.au

Headquarters
Locked Bag 17
Granville NSW 2142

Facsimile: 8741 5433



The General Manager
Shellharbour City Council
Locked Bag 155
SHELLHARBOUR CITY CENTRE NSW 2529

Your Ref: DA0040/2016
Our Ref: D16/0644
DA16030100933 JM

ATTENTION: Victoria Nicholson

22 November 2016

Asset Protection Zones

1. At the issue of a subdivision certificate, and in perpetuity, Lots 1 to 72 shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

2. At the issue of a subdivision certificate a suitable instrument(s) shall be created over lot 73 pursuant to section 88 of the 'Conveyancing Act 1919' which requires the lot to be managed as an inner protection area (IPA) and outer protection area (OPA) as shown in the plan titled 'Proposed Subdivision Plan' prepared by LandTeam with Drawing No. 206628 SUB01 Issue D dated 30/6/2016. These shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. Shellharbour City Council shall be nominated as the prescribed authority for variation or removal of the instrument(s).
3. At the issue of a subdivision certificate a suitable instrument(s) shall be created over lots 1 to 5, 23 to 25, 29 to 31, 55 to 57 and 73 pursuant to section 88 of the 'Conveyancing Act 1919' which prohibits the construction of dwellings within the asset protection zones (APZs) shown in the plan titled 'Proposed Subdivision Plan' prepared by LandTeam with Drawing No. 206628 SUB01 Issue D dated 30/6/2016. Shellharbour City Council shall be nominated as the prescribed authority for variation or removal of the instrument(s).
4. At the issue of a subdivision certificate a suitable instrument(s) shall be created over lots 57 to 72 pursuant to section 88 of the 'Conveyancing Act 1919' which prohibits the construction of dwellings within 10 metres of the south-eastern boundary of the lots. The instruments may be removed if the adjoining land is developed. Shellharbour City Council shall be nominated as the prescribed authority for variation or removal of the instrument(s).

Water and Utilities

5. The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

6. Public road access shall comply with section 4.1.3 (1) of 'Planning for BushFire Protection 2006'.

Design and Construction

7. Prior to the issue of a subdivision certificate, a 1.8 metre high radiant heat shield (fence) be constructed along the south-eastern boundary of lots 57 to 72. The shield shall be made from non-combustible materials and all posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.

Controlled Activity Approval

Approval for the project must be acquired from the Federal Department of Environment and Energy.

REASONS FOR THE IMPOSITION OF CONDITIONS

1. To minimise any possible adverse environmental impacts of the proposed development.
2. To ensure that the amenity and character of the surrounding area is protected.
3. To ensure that the design and siting of the development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
4. To ensure that the development does not conflict with the public interest.

Advisory Notes – General

Obstacle Height Limitation - Airport

There are height limitations relating to the operation of the airport for developments/activities/construction that may involve cranes, plant or machinery in the Shellharbour Local Government Area. Further details can be obtained from Council concerning the obstacle height limitations.

SafeWork NSW

The requirements of SafeWork NSW must be satisfied at all times.

Right to Appeal

If you are dissatisfied with this decision, Part 8, Division 8.3, section 8.7 of the *Environmental Planning & Assessment Act 1979* gives you the right to appeal to the Land & Environment Court within six months after the date on which you receive this notice.

Review of Determination

If you are dissatisfied with this decision, Part 8, Division 8.2 of the *Environmental Planning & Assessment Act 1979* provides that you may request Council to review its determination. The request cannot be made after the time limit for making of an appeal under section 97 expires.

Division 8.2 of the *Environmental Planning & Assessment Act 1979* does not apply to:

- a. a determination to issue or refuse to issue a complying development certificate
- b. a determination in respect of designated development
- c. a determination in respect of integrated development
- d. a determination made by the Council under Division 4 in respect of an application made by the Crown.

To Vary Development Consent

The plans and/or conditions of this consent are binding and may only be varied upon application to Council under section 4.55 of the *Environmental Planning & Assessment Act 1979*. The appropriate fee shall accompany the application and no action shall be taken on the requested variation unless and until the written authorisation of Council is received by way of an amended consent.

Prescribed Payment System Tax Obligations

You may have a taxation obligation under the Prescribed Payment System. For more information, contact the Australian Taxation Office on telephone 132866.

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au <<http://www.1100.com.au/>> or telephone on 1100 before excavating or erecting structures (this is the law in New South Wales). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

Development Application No. DA0040/2016
Lot 101 DP 785139, Crest Road ALBION PARK NSW 2527

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the *Criminal Code Act 1995* (Commonwealth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on 1800810443.

Development within Vicinity of a High Pressure Gas Main

Contact Dial Before You Dig on 1100 or www.dialbeforeyoudig.com.au
<<http://www.dialbeforeyoudig.com.au/>> Proposed works in the vicinity of any high pressure gas main must be directed to:

Jemena Asset Management Pty Ltd
PO Box 6507
SILVERWATER NSW 2128

Attention: Land Services Department

Notes – OEH

Biodiversity

EPBC Act listing of *Illawarra and south coast lowland forest and woodland ecological community*

The *Illawarra and south coast lowland forest and woodland ecological community* (aligned to the NSW Listed Illawarra Lowlands Grassy Woodland TEC) has recently been listed as a critically endangered ecological community under the EPBC Act (listing effective 16 September 2016). This requires that the significant impact criteria for Critically Endangered Communities needs to be assessed and a potential referral to the Commonwealth Department of Environment be made. The listing information can be found here: <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/144-conservation-advice.pdf>

Aboriginal Cultural Heritage

Ensure that the AHIMS search is regularly updated so that the results on which the due diligence assessment relies are less than 12 months old. AHIMS can be accessed via the OEH website at <http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm>.

We also recommend that the following requirements for unexpected discovery of Aboriginal objects are included in the Construction Environmental Management Plan (CEMP) or equivalent:

- If Aboriginal objects are identified during construction work you must stop work immediately and notify OEH by calling 131 555. If harm to the objects cannot be avoided then you will need to apply for an Aboriginal Heritage Impact Permit (AHIP). AHIP applications must comply with the OEH guidelines listed below.
- If human remains are identified during works you must stop work immediately and call the NSW Police. OEH must be notified by calling 131 555 if the human remains are likely to be Aboriginal ancestral remains.

OEH Guidelines:

- *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW*. OEH 2011. Available online at:
<http://www.environment.nsw.gov.au/resources/cultureheritage/20110263ACHguide.pdf>

Development Application No. DA0040/2016
Lot 101 DP 785139, Crest Road ALBION PARK NSW 2527

- *Code of practice for archaeological investigation of Aboriginal objects in New South Wales*, DECCW 2010. Available online at:
<http://www.environment.nsw.gov.au/resources/cultureheritage/10783FinalArchCoP.pdf>
- *Aboriginal cultural heritage consultation requirements for proponents 2010*. DECCW 2010. Available online at:
<http://www.environment.nsw.gov.au/resources/cultureheritage/commconsultation/09781ACHconsultreq.pdf>
- *Due diligence code of practice for the protection of Aboriginal objects in New South Wales*, DECCW 2010. Available online at:
<http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf>
- *Applying for an Aboriginal Heritage Impact Permit guide for applicants, OEH (2011)*. Available online at:
<http://www.environment.nsw.gov.au/resources/cultureheritage/20110280AHIPguideforapplicants.pdf>

END OF NOTICE

Email from Spinitu’s solicitor to Cavi’s solicitor dated 23 May 2019

From: [Peter Rusbourne](#)
To: [Ben Harris](#)
Subject: RE: CAVI DEVELOPMENTS & PARTNERS P/L PURCHASE FROM SPINITU P/L
Date: Thursday, 23 May 2019 5:23:13 PM
Attachments: [image001.png](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)
[image008.jpg](#)
[image009.jpg](#)
[image010.jpg](#)
[image012.jpg](#)
[lbawinnerlogoedd59e](#)
[wta50yearslogof5bf2a](#)
[wta%20Is%20logo2c0f48](#)
[watkinslogo0ec006](#)
[wtawatshappening756568](#)
[wtalinkedinb10313](#)
[wtatwitter70184a](#)

Dear Ben

Thank you for your email. We note that the consent included the requirement to obtain biodiversity credits. We have made enquiries and have arrangements for biodiversity credits to be purchased. The biodiversity credits purchase proposal is as follows:

82 of Illawarra and South Coast lowland forest and woodland forest and woodland credits.
Price: \$984,000 plus GST.

We are negotiating the sale on the basis of assisting your client should they proceed as they would bear the purchase price in addition to the purchase price of the land. We are instructed that this is the required number of biodiversity credits to satisfy the requirements of the Consent. Please let us know whether this condition is an acceptable and whether the balance of the DA is acceptable to your client. We are awaiting the confirmation from the Federal Government confirming the biodiversity credits required. The report will be provided to you in due course.

We await your reply.

Regards

Peter Rusbourne

Partner

Accredited Specialist: Business Law and Property Law; Public Notary

D: (02) 9545 7207

T: (02) 9521 6000

F: (02) 9521 4168

E: Peter.Rusbourne@watkinstapsell.com.au

W: www.watkinstapsell.com.au

All correspondence to PO Box 88 Sutherland NSW 1499



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From: Ben Harris [<mailto:bharris@willisbowring.com.au>]

Sent: Thursday, May 23, 2019 2:19 PM

To: Peter Rusbourne

Cc: Joanne Brown

Subject: RE: CAVI DEVELOPMENTS & PARTNERS P/L PURCHASE FROM SPINITU P/L

Hi Peter

We refer to your email below and the development consent determined by Shellharbour City Council on 3 May 2019 (**Consent**).

We are instructed by our client that a condition of the Consent is for biodiversity offset credits to be acquired prior to the issue of a construction certificate (**Condition**). The Condition was not anticipated by our client and will potentially impose a substantial cost on the development of the land in accordance with the Consent.

Please obtain instructions from your client as to whether it is aware of the cost, and the number, of the biodiversity offset credits that will be need to be acquired to satisfy the Condition.

We look forward to hearing from you.

Kind regards,

Ben

Ben Harris

Solicitor

SOLICITORS & ATTORNEYS

575 Kingsway, Miranda NSW 2228

P: 02 9525 8100 **F:** 02 9526 1182

E: bharris@willisbowring.com.au

W: www.willisbowring.com.au

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From: Peter Rusbourne [mailto:Peter.Rusbourne@watkinstapsell.com.au]

Sent: Monday, 13 May 2019 4:43 PM

To: Joanne Brown

Subject: RE: CAVI DEVELOPMENTS & PARTNERS P/L PURCHASE FROM SPINITU P/L

Dear Joanne

Please see the copy of the DA attached. I await your comments.

Regards

Peter Rusbourne

Partner

Accredited Specialist: Business Law and Property Law; Public Notary

D: (02) 9545 7207

T: (02) 9521 6000

F: (02) 9521 4168

E: Peter.Rusbourne@watkinstapsell.com.au

W: www.watkinstapsell.com.au

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From: Joanne Brown [<mailto:JBrown@willisbowring.com.au>]
Sent: Friday, May 10, 2019 10:16 AM
To: Peter Rusbourne
Cc: Dean Stell
Subject: CAVI DEVELOPMENTS & PARTNERS P/L PURCHASE FROM SPINITU P/L
Importance: High

Hi Peter,
We refer to the above matter and note that you advised Dean of our office that the DA has been received.
Can you please provide us with a copy of the DA for our information and records.

Regards

Joanne Brown

Assistant to Ben Harris & Ron Tosolini

SOLICITORS & ATTORNEYS

575 Kingsway, Miranda NSW 2228

P: 02 9525 8100 **F:** 02 9526 1182

E: jbrown@willisbowring.com.au

W: www.willisbowring.com.au

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taken or omitted to be taken in
reliance on it, is prohibited and may be unlawful.

⌘ Fraud Warning: Please be aware that there is significant risk posed by cyber fraud, specifically relating to email accounts and bank account details.

Our bank account details will never change during the course of a transaction, and we will never change our bank account details via email.

Please check account details with us in person. We will not accept responsibility if you transfer money into an incorrect account.



Vote for us at the 2019 Sutherland Shire Local Business Awards

Copies of the sale and purchase agreement (signed in counterpart)

Sale and Purchase Agreement

Date

29 January, 2020

Parties

Name **Edenvell Pty Ltd**
ABN 30 091 153 687
Short form name **Vendor**
Notice details PO Box 1767 Wollongong DC , NSW 2500.
Email: richard@clifforddevelopments.com.au
Attention: Richard Clifford

Name **Cavi Developments & Partners Pty Limited**
ABN 35 614 341 561
Short form name **Purchaser**
Notice details PO Box 2861, Taren Point NSW 2229
Email: jason@cavidevelopments.com.au
Attention: Jason Cavanagh

Background

- A The Vendor holds a 100% interest in the Subject Biodiversity Credits.
- B The Vendor has agreed to sell and the Purchaser has agreed to purchase the Subject Biodiversity Credits on the terms and conditions set out in this Agreement.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this agreement:

Agreement means this sale and purchase agreement.

Biobanking Trust Fund has the same meaning given to that term by section 127 of the TSC Act.

Biodiversity Credit has the same meaning given to that term by section 127 of the TSC Act now under the *Biodiversity Conservation Act 2016* (NSW) (being the current legislation).

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney.

Commencement Date means the day on which this Agreement is executed by all of the parties.

Consideration has the meaning given in clause 3.1.

Encumbrance means any restrictions, liens, security interests or mortgages, or any other encumbrance on title.

GST Amount means \$62,400.

Purchase Price means \$624,000 plus GST.

Registration Date means the date on which the Transfer Application is registered under Part 7A of the TSC Act.

Subject Biodiversity Credits means the following Biodiversity Credits: *52 Illawarra and south coast lowland forest and woodland forest and woodland credits*, being NSW Plant Community Type PCT 838 Forest Red Gum-Thin-leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion.

Sunset Date means 31 March 2020.

TSC Act means the *Threatened Species Conservation Act 1995* (NSW) (repealed).

Total Fund Deposit has the same meaning as in clause 26(1) of the *Threatened Species Conservation (Biodiversity Banking) Regulation 2008* (NSW).

Total Fund Deposit Payment means the payment that must be paid into the Biobanking Trust Fund to satisfy the Total Fund Deposit associated with the sale of the Subject Biodiversity Credits.

Transfer Application means the formed titled 'Application to transfer biodiversity credits' issued by the NSW Office of Environment and Heritage.

Transfer Application Fee means the application payable to the NSW Office of Environment and Heritage for the transfer of the Subject Biodiversity Credits, which at the date of this Agreement is \$1,545.

2. Sale and purchase

2.1 Sale and purchase

The Vendor, as legal and beneficial owner, agrees to sell to the Purchaser, and the Purchaser agrees to buy from the Vendor, the Subject Biodiversity Credits:

(a) for the Consideration; and

(b) free from any Encumbrances,

subject to the provisions of this Agreement.

2.2 Title

As between the parties title to, property in and all risks in respect of the Subject Biodiversity Credits:

- (a) until the Registration Date, remain solely with the Vendor; and
- (b) subject to the provisions of this Agreement, pass to the Purchaser with effect on and from the Registration Date.

2.3 Date of transfer of interest

The Purchaser does not obtain any legal or beneficial right or interest in the Subject Biodiversity Credits until the Registration Date.

3. Consideration

3.1 Amount

The consideration for the Subject Biodiversity Credits comprises the:

- (a) Purchase Price, being \$624,000; and
- (b) GST Amount, being \$62,400,

(Consideration).

3.2 Payment

- (a) The Purchaser must pay the Consideration to the Vendor, or as the Vendor directs, in accordance with clause 4.2(c) upon completion and lodgement of the Transfer Application pursuant to clause 4.2.
- (b) The Vendor must provide the Purchaser with a tax invoice for the Consideration payable by the Purchaser on the Commencement Date.

4. Transfer of Subject Biodiversity Credits

4.1 Obligations of the Purchaser

The Purchaser must on the Commencement Date:

- (a) deliver the Transfer Application, with *Section 2 (Details of the person(s) to whom credits will be transferred)* completed, to the Vendor; and
- (b) pay the Transfer Application Fee to the Vendor (in a manner and form as directed by the Vendor).

4.2 Obligations of the Vendor

- (a) Within ten (10) Business Days after receipt of the Transfer Application and the Transfer Application Fee from the Purchaser in accordance with clause 4.1, the Vendor must complete and execute the Transfer Application.
- (b) The Vendor must notify the Purchaser on the day that the Transfer Application is duly completed and executed by the Vendor.
- (c) Upon receipt of notification by the Vendor pursuant to clause 4.2(b), the Purchaser must within five (5) Business Days pay the Consideration to the Vendor or, if the Vendor so directs, pay:
 - (i) the Purchase Price to the NSW Office of Environment and Heritage; and
 - (ii) the GST Amount to the Vendor.
- (d) The Purchaser must notify the Vendor of the payment of the Consideration on the date the Consideration is paid.
- (e) The Vendor must, upon receipt of notification by the Purchaser pursuant to clause 4.2(d):

- (i) immediately lodge the Transfer Application with the NSW Office of Environment and Heritage; and
 - (ii) provide the Purchaser with evidence of lodgement of the Transfer Application and payment of the Transfer Application Fee.
- (f) If the Purchaser pays the Consideration to the Vendor directly, the Vendor must immediately pay to the NSW Office of Environment and Heritage the Total Fund Deposit Payment, together with any other amounts required for the transfer of the Subject Biodiversity Credits to be registered.
- (g) If the Purchaser pays the Purchase Price to the NSW Office of Environment and Heritage in accordance with clause 4.2(c)(i), the Vendor must immediately pay to the NSW Office of Environment and Heritage:
- (i) any shortfall in the Total Fund Deposit; and
 - (ii) any other amounts required for the transfer of the Subject Biodiversity Credits to be registered.
- (h) Between the Commencement Date and the Registration Date, the Vendor must not (nor authorise, agree or commit to):
- (i) take steps to cancel, suspend or retire the Subject Biodiversity Credits; or
 - (ii) assign, transfer, encumber, declare itself a trustee of or otherwise deal with or dispose of the Subject Biodiversity Credits.

4.3 Rescission of Agreement

- (a) If the Chief Executive of the NSW Office of Environment and Heritage:
- (i) refuses to register the Transfer Application for any reason; or
 - (ii) has not registered the Transfer Application by the Sunset Date,
- then either party may by notice in writing to the other party rescind this Agreement.
- (b) The right to rescind this Agreement pursuant to clause 4.3(a) will immediately lapse on registration of the Transfer Application by the Chief Executive of the NSW Office of Environment and Heritage.
- (c) If this Agreement is terminated pursuant to clause 4.3(a):
- (i) the Transfer Application Fee (if refundable) must be returned to the Purchaser;
 - (ii) the Consideration and any other money paid by the Purchaser under this Agreement must be refunded to the Purchaser;
 - (iii) any money paid by the Vendor pursuant to clauses 4.2(f) and 4.2(g) must be refunded to the Vendor;
 - (iv) this Agreement will have no further effect; and
 - (v) neither party will be liable to the other party except in respect of any breach of this Agreement occurring or any right or claim arising before rescission or as otherwise agreed between them.
- (d) Notwithstanding a rescission of this Agreement pursuant to clause 4.3(a), clauses 4.3(c), 5, 6 and 7 will continue in full force and effect.

5. Warranties

5.1 Warranties by the Vendor

The Vendor warrants to the Purchaser that:

- (a) the Vendor is solely responsible for the payment of the Total Fund Deposit Payment, and acknowledges and agrees that the Purchaser is not required to pay any amount other than the Consideration and the Transfer Application Fee;

- (b) the Vendor is the holder of a 100% legal and beneficial interest in the Subject Biodiversity Credits and the Vendor has full capacity and power to hold and transfer those interests;
- (c) at the Commencement Date, there are be no Encumbrances over or affecting the Vendor's interest in the Subject Biodiversity Credits and the Vendor is not party to any agreement to grant any Encumbrance over the Subject Biodiversity Credits; and
- (d) there are no agreements, arrangements or understandings in force requiring the Vendor's interest in the Subject Biodiversity Credits to be shared with or made available to any person.

5.2 Exclusion of other representations and warranties

Except as expressly stated in this Agreement, the Vendor gives no other representations or warranties.

5.3 Indemnity

The Vendor indemnifies the Purchaser against any damages, loss, costs, expenses or liabilities which may be suffered or incurred by the Purchaser as a result of a breach of the Vendor's warranties provided in clause 5.1.

6. Confidentiality

6.1 Terms of Agreement are confidential

- (a) The parties must treat as confidential, and keep confidential, the terms of this Agreement.
- (b) The parties may not disclose or permit to be disclosed either directly or indirectly the terms of this Agreement except:
 - (i) with the written consent of the other party;
 - (ii) to a party's legal or other professional advisers on a confidential basis;
 - (iii) as part of court proceedings to which the Vendor and the Purchaser are parties;
 - (iv) to the extent required by any applicable law, regulatory requirement (including those of a stock exchange) or any applicable accounting standard; or
 - (v) for the purpose of enforcement of its terms.

7. Miscellaneous

7.1 Whole agreement

- (a) This Agreement embodies the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any prior negotiation, arrangement, understanding or agreement with respect to the subject matter or any term of this Agreement.
- (b) Any statement, representation, term, warranty, condition, promise or undertaking made, given or agreed to in any prior negotiation, arrangement, understanding or agreement, has no effect except to the extent expressly set out or incorporated by reference in this Agreement.

7.2 Continuing indemnities and survival of indemnities

- (a) Each indemnity contained in this Agreement is a continuing obligation despite a settlement of account or the occurrence of anything, and remains in full force and effect until all money owing, contingently or otherwise, under an indemnity has been paid in full.
- (b) Each indemnity contained in this Agreement:
 - (i) is an additional, separate and independent obligation of the party giving the indemnity and no one indemnity limits the generality of any other indemnity;
 - (ii) is unconditional and irrevocable; and

(iii) survives the termination of this Agreement.

7.3 Further assurance

Each party will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this Agreement and the transactions contemplated by this Agreement.

7.4 Governing law and jurisdiction

- (a) This Agreement is governed by the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

7.5 Time of the essence

Time is of the essence for all matters required to be done under this Agreement.

7.6 No merger

Nothing in this Agreement merges, extinguishes, postpones, lessens or otherwise prejudicially affects any right, power or remedy that a party may have against another party or any other person at any time.

7.7 Cumulative rights

The powers, rights and remedies of a party under this Agreement are in addition to and do not exclude any other power, right or remedy provided by law or otherwise.

7.8 No Assignment or Novation

A party may not assign or novate this Agreement or otherwise transfer the benefit of this Agreement or an obligation, right or remedy under it, without the prior written consent of the other parties.

7.9 Counterparts

- (a) This Agreement may be executed in any number of counterparts. Each counterpart when executed is deemed to be an original and all counterparts taken together constitute one document.
- (b) A party may execute this Agreement by signing any counterpart.
- (c) This Agreement is binding on the parties on exchange of counterparts. A copy of a counterpart sent by facsimile machine or that is electronically scanned and emailed:
 - (i) must be treated as an original counterpart;
 - (ii) is sufficient evidence of the execution of the original; and
 - (iii) may be produced in evidence for all purposes in place of the original.

7.10 Legal Advice

Each party acknowledges that they have received legal advice in respect of this Agreement or have had the opportunity of receiving legal advice about this Agreement.

7.11 Costs

Unless expressly provided otherwise in this Agreement, each party must bear its own costs arising out of the preparation, negotiation, amendment and execution of this Agreement or any other agreement or document contemplated under this Agreement.

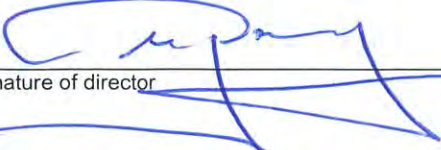
7.12 Attorneys

A person executing this Agreement under power of attorney states that he or she has no notice of the revocation of the power of attorney.

Signing page

EXECUTED as an agreement.

Executed by Edenvell Pty Ltd (ACN 091 153 687) in accordance with section 127 of the *Corporations Act 2001* (Cth) by



Signature of director

ROBERT DAURY

Name of director



Signature of director/secretary

RICHARD CLIFFORD

Name of director/secretary

Executed by Cavi Developments & Partners Pty Limited (ACN 614 341 561) in accordance with section 127 of the *Corporations Act 2001* (Cth) by

Signature of sole director/secretary

Name of sole director/secretary

Sale and Purchase Agreement

Date 24 JANUARY 2020

Parties

Name **Edenvell Pty Ltd**
ABN 30 091 153 687
Short form name **Vendor**
Notice details PO Box 1767 Wollongong DC , NSW 2500.
Email: richard@clifforddevelopments.com.au
Attention: Richard Clifford

Name **Cavi Developments & Partners Pty Limited**
ABN 35 614 341 561
Short form name **Purchaser**
Notice details PO Box 2861, Taren Point NSW 2229
Email: jason@cavidevelopments.com.au
Attention: Jason Cavanagh

Background

- A The Vendor holds a 100% interest in the Subject Biodiversity Credits.
- B The Vendor has agreed to sell and the Purchaser has agreed to purchase the Subject Biodiversity Credits on the terms and conditions set out in this Agreement.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this agreement:

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Biodiversity Credit has the same meaning given to that term by section 127 of the TSC Act now under the *Biodiversity Conservation Act 2016* (NSW) (being the current legislation).

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney.

Commencement Date means the day on which this Agreement is executed by all of the parties.

Consideration has the meaning given in clause 3.1.

Encumbrance means any restrictions, liens, security interests or mortgages, or any other encumbrance on title.

GST Amount means \$62,400.

Purchase Price means \$624,000 plus GST.

Registration Date means the date on which the Transfer Application is registered under Part 7A of the TSC Act.

Subject Biodiversity Credits means the following Biodiversity Credits: *52 Illawarra and south coast lowland forest and woodland forest and woodland credits*, being NSW Plant Community Type PCT 838 Forest Red Gum-Thin-leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion.

Sunset Date means 31 March 2020.

TSC Act means the *Threatened Species Conservation Act 1995* (NSW) (repealed).

Total Fund Deposit has the same meaning as in clause 26(1) of the *Threatened Species Conservation (Biodiversity Banking) Regulation 2008* (NSW).

Total Fund Deposit Payment means the payment that must be paid into the Biobanking Trust Fund to satisfy the Total Fund Deposit associated with the sale of the Subject Biodiversity Credits.

Transfer Application means the form titled 'Application to transfer biodiversity credits' issued by the NSW Office of Environment and Heritage.

Transfer Application Fee means the application payable to the NSW Office of Environment and Heritage for the transfer of the Subject Biodiversity Credits, which at the date of this Agreement is \$1,545.

2. Sale and purchase

2.1 Sale and purchase

The Vendor, as legal and beneficial owner, agrees to sell to the Purchaser, and the Purchaser agrees to buy from the Vendor, the Subject Biodiversity Credits:

(a) for the Consideration; and

(b) free from any Encumbrances,

subject to the provisions of this Agreement.

2.2 Title

As between the parties title to, property in and all risks in respect of the Subject Biodiversity Credits:

- (a) until the Registration Date, remain solely with the Vendor; and
- (b) subject to the provisions of this Agreement, pass to the Purchaser with effect on and from the Registration Date.

2.3 Date of transfer of interest

The Purchaser does not obtain any legal or beneficial right or interest in the Subject Biodiversity Credits until the Registration Date.

3. Consideration

3.1 Amount

The consideration for the Subject Biodiversity Credits comprises the:

- (a) Purchase Price, being \$624,000; and
- (b) GST Amount, being \$62,400,

(Consideration).

3.2 Payment

- (a) The Purchaser must pay the Consideration to the Vendor, or as the Vendor directs, in accordance with clause 4.2(c) upon completion and lodgement of the Transfer Application pursuant to clause 4.2.
- (b) The Vendor must provide the Purchaser with a tax invoice for the Consideration payable by the Purchaser on the Commencement Date.

4. Transfer of Subject Biodiversity Credits

4.1 Obligations of the Purchaser

The Purchaser must on the Commencement Date:

- (a) deliver the Transfer Application, with *Section 2 (Details of the person(s) to whom credits will be transferred)* completed, to the Vendor; and
- (b) pay the Transfer Application Fee to the Vendor (in a manner and form as directed by the Vendor).

4.2 Obligations of the Vendor

- (a) Within ten (10) Business Days after receipt of the Transfer Application and the Transfer Application Fee from the Purchaser in accordance with clause 4.1, the Vendor must complete and execute the Transfer Application.
- (b) The Vendor must notify the Purchaser on the day that the Transfer Application is duly completed and executed by the Vendor.
- (c) Upon receipt of notification by the Vendor pursuant to clause 4.2(b), the Purchaser must within five (5) Business Days pay the Consideration to the Vendor or, if the Vendor so directs, pay:
 - (i) the Purchase Price to the NSW Office of Environment and Heritage; and
 - (ii) the GST Amount to the Vendor.
- (d) The Purchaser must notify the Vendor of the payment of the Consideration on the date the Consideration is paid.
- (e) The Vendor must, upon receipt of notification by the Purchaser pursuant to clause 4.2(d):

- (i) immediately lodge the Transfer Application with the NSW Office of Environment and Heritage; and
 - (ii) provide the Purchaser with evidence of lodgement of the Transfer Application and payment of the Transfer Application Fee.
- (f) If the Purchaser pays the Consideration to the Vendor directly, the Vendor must immediately pay to the NSW Office of Environment and Heritage the Total Fund Deposit Payment, together with any other amounts required for the transfer of the Subject Biodiversity Credits to be registered.
- (g) If the Purchaser pays the Purchase Price to the NSW Office of Environment and Heritage in accordance with clause 4.2(c)(i), the Vendor must immediately pay to the NSW Office of Environment and Heritage:
- (i) any shortfall in the Total Fund Deposit; and
 - (ii) any other amounts required for the transfer of the Subject Biodiversity Credits to be registered.
- (h) Between the Commencement Date and the Registration Date, the Vendor must not (nor authorise, agree or commit to):
- (i) take steps to cancel, suspend or retire the Subject Biodiversity Credits; or
 - (ii) assign, transfer, encumber, declare itself a trustee of or otherwise deal with or dispose of the Subject Biodiversity Credits.

4.3 Rescission of Agreement

- (a) If the Chief Executive of the NSW Office of Environment and Heritage:
- (i) refuses to register the Transfer Application for any reason; or
 - (ii) has not registered the Transfer Application by the Sunset Date,
- then either party may by notice in writing to the other party rescind this Agreement.
- (b) The right to rescind this Agreement pursuant to clause 4.3(a) will immediately lapse on registration of the Transfer Application by the Chief Executive of the NSW Office of Environment and Heritage.
- (c) If this Agreement is terminated pursuant to clause 4.3(a):
- (i) the Transfer Application Fee (if refundable) must be returned to the Purchaser;
 - (ii) the Consideration and any other money paid by the Purchaser under this Agreement must be refunded to the Purchaser;
 - (iii) any money paid by the Vendor pursuant to clauses 4.2(f) and 4.2(g) must be refunded to the Vendor;
 - (iv) this Agreement will have no further effect; and
 - (v) neither party will be liable to the other party except in respect of any breach of this Agreement occurring or any right or claim arising before rescission or as otherwise agreed between them.
- (d) Notwithstanding a rescission of this Agreement pursuant to clause 4.3(a), clauses 4.3(c), 5, 6 and 7 will continue in full force and effect.

5. Warranties

5.1 Warranties by the Vendor

The Vendor warrants to the Purchaser that:

- (a) the Vendor is solely responsible for the payment of the Total Fund Deposit Payment, and acknowledges and agrees that the Purchaser is not required to pay any amount other than the Consideration and the Transfer Application Fee;

- (b) the Vendor is the holder of a 100% legal and beneficial interest in the Subject Biodiversity Credits and the Vendor has full capacity and power to hold and transfer those interests;
- (c) at the Commencement Date, there are no Encumbrances over or affecting the Vendor's interest in the Subject Biodiversity Credits and the Vendor is not party to any agreement to grant any Encumbrance over the Subject Biodiversity Credits; and
- (d) there are no agreements, arrangements or understandings in force requiring the Vendor's interest in the Subject Biodiversity Credits to be shared with or made available to any person.

5.2 Exclusion of other representations and warranties

Except as expressly stated in this Agreement, the Vendor gives no other representations or warranties.

5.3 Indemnity

The Vendor indemnifies the Purchaser against any damages, loss, costs, expenses or liabilities which may be suffered or incurred by the Purchaser as a result of a breach of the Vendor's warranties provided in clause 5.1.

6. Confidentiality

6.1 Terms of Agreement are confidential

- (a) The parties must treat as confidential, and keep confidential, the terms of this Agreement.
- (b) The parties may not disclose or permit to be disclosed either directly or indirectly the terms of this Agreement except:
 - (i) with the written consent of the other party;
 - (ii) to a party's legal or other professional advisers on a confidential basis;
 - (iii) as part of court proceedings to which the Vendor and the Purchaser are parties;
 - (iv) to the extent required by any applicable law, regulatory requirement (including those of a stock exchange) or any applicable accounting standard; or
 - (v) for the purpose of enforcement of its terms.

7. Miscellaneous

7.1 Whole agreement

- (a) This Agreement embodies the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any prior negotiation, arrangement, understanding or agreement with respect to the subject matter or any term of this Agreement.
- (b) Any statement, representation, term, warranty, condition, promise or undertaking made, given or agreed to in any prior negotiation, arrangement, understanding or agreement, has no effect except to the extent expressly set out or incorporated by reference in this Agreement.

7.2 Continuing indemnities and survival of indemnities

- (a) Each indemnity contained in this Agreement is a continuing obligation despite a settlement of account or the occurrence of anything, and remains in full force and effect until all money owing, contingently or otherwise, under an indemnity has been paid in full.
- (b) Each indemnity contained in this Agreement:
 - (i) is an additional, separate and independent obligation of the party giving the indemnity and no one indemnity limits the generality of any other indemnity;
 - (ii) is unconditional and irrevocable; and

- (iii) survives the termination of this Agreement.

7.3 Further assurance

Each party will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this Agreement and the transactions contemplated by this Agreement.

7.4 Governing law and jurisdiction

- (a) This Agreement is governed by the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

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Nothing in this Agreement merges, extinguishes, postpones, lessens or otherwise prejudicially affects any right, power or remedy that a party may have against another party or any other person at any time.

7.7 Cumulative rights

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- (a) This Agreement may be executed in any number of counterparts. Each counterpart when executed is deemed to be an original and all counterparts taken together constitute one document.
- (b) A party may execute this Agreement by signing any counterpart.
- (c) This Agreement is binding on the parties on exchange of counterparts. A copy of a counterpart sent by facsimile machine or that is electronically scanned and emailed:
 - (i) must be treated as an original counterpart;
 - (ii) is sufficient evidence of the execution of the original; and
 - (iii) may be produced in evidence for all purposes in place of the original.

7.10 Legal Advice

Each party acknowledges that they have received legal advice in respect of this Agreement or have had the opportunity of receiving legal advice about this Agreement.

7.11 Costs

Unless expressly provided otherwise in this Agreement, each party must bear its own costs arising out of the preparation, negotiation, amendment and execution of this Agreement or any other agreement or document contemplated under this Agreement.

7.12 Attorneys

A person executing this Agreement under power of attorney states that he or she has no notice of the revocation of the power of attorney.

Signing page

EXECUTED as an agreement.

Executed by Edenvell Pty Ltd (ACN 091 153 687) in accordance with section 127 of the *Corporations Act 2001* (Cth) by

Signature of director



Signature of director/secretary



Name of director

Name of director/secretary

Executed by Cavi Developments & Partners Pty Limited (ACN 614 341 561) in accordance with section 127 of the *Corporations Act 2001* (Cth) by



Signature of sole director/secretary



JASON CAVANAGH

Name of sole director/secretary

Credit transfer report issued by NSW Office of Environment & Heritage (OEH) on registration of the transfer of the Credits



Credit transfer report

Effective date: 25-February-2020

Transaction number: 202002-TF-515

Sellers' details:

Seller ID: 280

Name of seller: Edenvell Pty Ltd

Other owner(s):
No other owners

Buyers' details:

Buyer ID: 685

Name of buyer: Cavi Developments & Parnters Pty Limited



Ecosystem credit(s) transferred

Number of credits	Credit profile ID	Agreement ID	Vegetation code	Vegetation type	CMA subregion	% surrounding vegetation	Patch size	Vegetation formation(see key)	Price per credit
52	2,304	221	SR545	SR545/Forest Red Gum - Thin-leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion	Illawarra	>70%	>100 ha	GRW	\$12,000.00
Total sale price (excluding GST)									\$624,000.00

Key to vegetation formations

Code	Vegetation formation
ALP	Alpine complex
ASA	Arid shrublands (Acacia)
ASC	Arid shrublands (Chenopod)
DSG	Dry sclerophyll forests (shrub/grass)
DSS	Dry sclerophyll forests (shrubby)
FRW	Forested wetlands
FWW	Freshwater wetlands
GLD	Grasslands
GRW	Grassy woodlands
HLD	Heathlands
MES	Miscellaneous ecosystems
RFT	Rainforests
SAW	Saline wetlands
SWG	Semi-arid woodlands (grassy)
SWS	Semi-arid woodlands (shrubby)
WSG	Wet sclerophyll forests (grassy)
WSS	Wet sclerophyll forests (shrubby)

The credit register provides further information about credit holdings and reports about credit trading activity. To view this information, please visit the public register website at www.environment.nsw.gov.au/bimspr/index.htm

For more information, please contact the BioBanking Scheme Manager - phone (02) 9995 6753; email biobanking@environment.nsw.gov.au

A credit search noting Cavi as the registered holder of the Credits

Search results for credit owner ID

Credit register ID - 685

matched 1 records

Credit owner(s): Cavi Developments & Partners Pty Limited

Ecosystem credits

Agreement ID	Credit ID	Vegetation Code	CMA subregion	Surrounding vegetation	Patch size	Vegetation formation	Credit Status	Available Credits
221	2,304	SR545	Illawarra	>70%	>100 ha	GRW	Issued	52

Credit retirement report



Credit retirement report

Effective date: 30-April-2020

Transaction number: 202004-RT-530

Credit owners' details

Credit owner ID: 685

Name of credit holder: Cavi Developments & Partners Pty Limited

Other owner(s):
No other owners

Reason for retirement: meet conditions of a Commonwealth approval



Ecosystem credit(s) retired

Number of credits	Credit profile ID	Agreement ID	Vegetation code	Vegetation type	CMA subregion	% surrounding vegetation	Patch size	Vegetation formation(see key)
52	2,304	221	SR545	SR545/Forest Red Gum - Thin-leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion	Illawarra	>70%	>100 ha	GRW

Key to vegetation formations

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ALP	Alpine complex
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WSG	Wet sclerophyll forests (grassy)
WSS	Wet sclerophyll forests (shrubby)

The credit register provides further information about credit holdings and reports about credit trading activity. To view this information, please visit the public register website at www.environment.nsw.gov.au/bimspr/index.htm

For more information, please contact the BioBanking Scheme Manager - phone (02) 9995 6753; email biobanking@environment.nsw.gov.au

Email from Spinitu's co-selling agent, One Agency, to Cavi dated 6 November 2019 regarding the proposed Approval

From: Matthew Crockett <matthewcrockett@oneagency.com.au>
Sent: Wednesday, 6 November 2019 11:07 AM
To: Diego @ Cavi
Cc: Jason @ Cavi; Aaron Blackburn
Subject: Fwd: FW: approval decision timing [SEC=OFFICIAL]
Attachments: Proposed Decision-Brief-Att B-Notice-SCANNED.pdf; Proposed Decision-Brief-Att D1-Letter to proponent-SIGNED.pdf

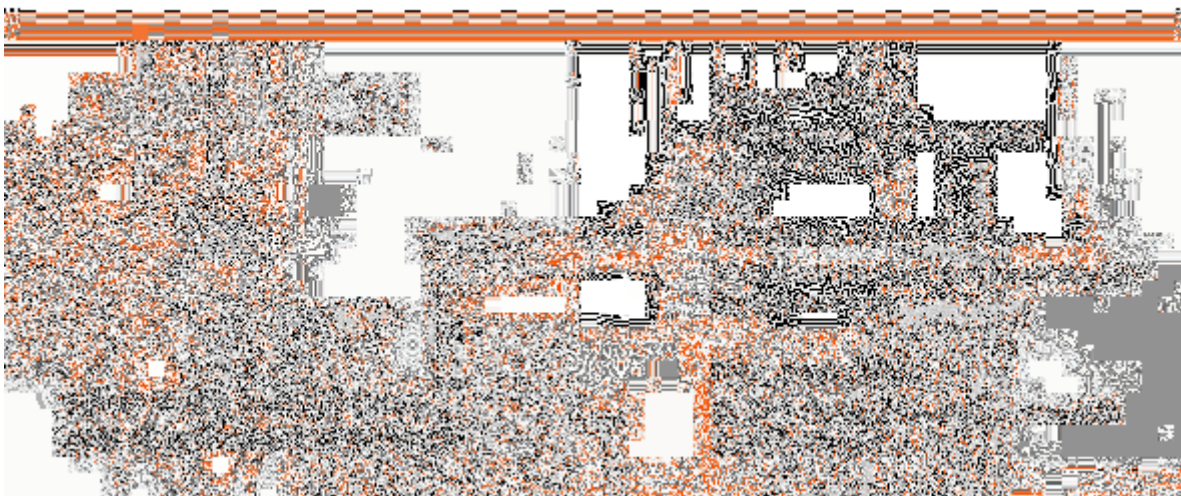
Hi Diego,

Proposed decision attached. I think a response is needed within 10 Days.

Looks like we are back on track.

Regards,

Matthew Crockett / Principal



Click here
for our
Instagram
Feed



Click here
for our
Facebook
Page



ABN: 87 600 490 837

Disclaimer : this email message is intended only for the addressee(s) and contains information which may be confidential. If you are not the intended recipient, please advise the sender by return email, do not use or disclose the contents and delete the message and any attachments from your system. Unless specifically indicated, this email does not constitute formal advice or commitment by the sender.

----- Forwarded message -----

From: **Spinitu Pty Ltd** <spinitu@idx.com.au>
Date: Wed, Nov 6, 2019 at 10:56 AM
Subject: FW: approval decision timing [SEC=OFFICIAL]
To: <matthewcrockett@oneagency.com.au>

Hi Mathew

Tony asked me to send this to you, we just received.

Lesley

From: Leanne Hayes [mailto:Leanne.Hayes@environment.gov.au]
Sent: Wednesday, 6 November 2019 10:34 AM
To: 'Spinitu Pty Ltd' <spinitu@idx.com.au>
Subject: RE: approval decision timing [SEC=OFFICIAL]

Hi Lesley

Please find attached the proposed approval and draft conditions for your comment. Please provide any comments on the conditions within 10 business days of the date of the attached letter. I will also send a copy to Shellharbour Council for comment during the same period.

Kind Regards

Leanne Hayes

From: Spinitu Pty Ltd [<mailto:spinitu@idx.com.au>]
Sent: Wednesday, 6 November 2019 8:37 AM
To: Leanne Hayes <Leanne.Hayes@environment.gov.au>
Subject: FW: approval decision timing [SEC=OFFICIAL]

Hi Leanne

How is the brief going any news yet?

Lesley

From: Spinitu Pty Ltd [<mailto:spinitu@idx.com.au>]
Sent: Thursday, 31 October 2019 11:26 AM

To: 'Leanne Hayes' <Leanne.Hayes@environment.gov.au>
Subject: RE: approval decision timing [SEC=OFFICIAL]

Thanks Leanne

Lesley

From: Leanne Hayes [<mailto:Leanne.Hayes@environment.gov.au>]
Sent: Thursday, 31 October 2019 11:23 AM
To: 'Spinitu Pty Ltd' <spinitu@idx.com.au>
Subject: RE: approval decision timing [SEC=OFFICIAL]

Hi Lesley

I will speak to my Director this afternoon when he is in – the brief is currently with our Branch Manager at the moment.

Leanne

From: Spinitu Pty Ltd [<mailto:spinitu@idx.com.au>]
Sent: Thursday, 31 October 2019 9:04 AM
To: Leanne Hayes <Leanne.Hayes@environment.gov.au>
Subject: RE: approval decision timing [SEC=OFFICIAL]

Hi Leanne

I am leaving today at 12 to attend a meeting and I don't work Fridays, do you have any time frame information for me yet?

Thanks

Lesley

From: Leanne Hayes [<mailto:Leanne.Hayes@environment.gov.au>]
Sent: Tuesday, 29 October 2019 10:36 AM
To: 'Spinitu Pty Ltd' <spinitu@idx.com.au>
Subject: RE: approval decision timing [SEC=OFFICIAL]

Hi Lesley

The briefing material for your project is currently with my Director for sign off, he was out of the office a bit last week. The letters will be sent via email to you and Council for comment on the draft conditions.

Sorry I will try to get an estimate on timing for you.

Cheers

Leanne

From: Spinitu Pty Ltd [<mailto:spinitu@idx.com.au>]
Sent: Tuesday, 29 October 2019 9:34 AM
To: Leanne Hayes <Leanne.Hayes@environment.gov.au>
Subject: RE: approval decision timing [SEC=OFFICIAL]

Hi Leanne

I know I spoke to you last Monday (21st) and thank you, I was wondering if you have received the last two signs off for our documentation, if so how are our documents sent to Council and us for comments, is this done thru the postal system or can you email them?

Thanks

Lesley

From: Spinitu Pty Ltd [<mailto:spinitu@idx.com.au>]
Sent: Thursday, 26 September 2019 11:01 AM
To: 'Tony Harding' <jharding333@bigpond.com>
Subject: FW: approval decision timing [SEC=OFFICIAL]

From: Leanne Hayes [<mailto:Leanne.Hayes@environment.gov.au>]
Sent: Thursday, 26 September 2019 10:40 AM
To: 'Spinitu Pty Ltd' <spinitu@idx.com.au>
Subject: approval decision timing [SEC=OFFICIAL]

Hi Lesley

Just letting you know that there might be a week or so delay in getting the proposed approval decision. I am just waiting on some internal comments on conditions and then the package will need to be signed off by our delegate. Apologies for this, but hopefully it won't be long before you can get the draft conditions to review. If we don't get any comment from you or Shellharbour Council on the conditions then we could finalise the approval before the 10 day consultation period on conditions finishes.

Regards

Leanne



PROPOSED APPROVAL

Residential subdivision Lot 101 DP 785139 Crest Road, Albion Park, NSW (EPBC 2017/8048)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Spinitu Pty Ltd
ACN or ABN of approval holder	77 003 361 573
Action	To develop a low density residential subdivision of Lot 101 DP 785139 Crest Road, Albion Park, New South Wales, associated public reserves, access roads and other public infrastructure and Asset Protection Zones (APZs) subject to the variation of the action accepted by the Minister under section 156B on Thursday, 30 November 2017

Proposed Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 31 March 2039

Decision-maker

Name and position

Declan O'Connor-Cox
A/g Assistant Secretary, Environment Approvals Division
Department of the Environment and Energy

Signature

PROPOSED DECISION DO NOT SIGN

Date of decision

PROPOSED DECISION - DO NOT DATE

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. The approval holder must not **clear** more than 2.81 ha of **Illawarra and south coast lowland forest and woodland (ILFW)** within the referral boundary shown at Attachment 1 and Attachment 2.
2. The approval holder must not **permanently modify** more than 1.09 ha of **ILFW** in the Asset Protection Zone (**APZ**) shown at Attachment 1 and Attachment 2.
3. To compensate for the removal of 2.81 ha of **ILFW** within the referral boundary and **permanent modification** to 1.09 ha of **ILFW** in the **APZ** shown in Attachment 2, the approval holder must, prior to the **commencement of the action**:
 - a) **retire** the equivalent of 51 **like-for-like credits for ILFW** under the *Biodiversity Conservation Act 2016* (NSW), as converted by **DPIE** in a **statement of assessment of reasonable equivalence of biodiversity credits**. A copy of the **statement of assessment of reasonable equivalence of biodiversity credits** must be provided to the Department before the **like-for-like credits** are **retired**; or
 - b) fund a Biodiversity Conservation Action for **ILFW** under the *Biodiversity Conservation Act 2016* (NSW) in accordance with the *Biodiversity Conservation Regulation 6.2(2)(c)* (NSW), which has been approved by **DPIE**.

The variation rules under the *Biodiversity Conservation Regulation 2017* (section 6.4) NSW must not be applied. Offset obligations for **ILFW** under the **EPBC Act** must not be discharged through payment into the Biodiversity Conservation Fund (NSW).

4. If Condition 3 is unable to be met, the approval holder must, no later than 8 months prior to the **commencement of the action**, submit an Offset Management Plan for approval by the **Minister**. The Offset Management Plan must be prepared by a **suitably qualified** person in accordance with the **EPBC Act Environmental Offsets Policy**. The approval holder must not **commence the action** until the Offset Management Plan has been approved in writing by the **Minister**. The Offset Management Plan must include:
 - a) a description and map (including **shapefiles**) to clearly define the location and boundaries of the offset area, accompanied by **offset attributes**, to compensate for the loss of 3.9 ha of **ILFW**;
 - b) a discussion of how the offset and the Offset Management Plan address the principles of the **EPBC Act Environmental Offsets Policy**;
 - c) details and a quantitative analysis of the baseline vegetation condition and habitat quality in the offset area prior to management;
 - d) comprehensive baseline data on weeds, feral animals and other threats to **ILFW** present in the offset area;
 - e) a description of the management measures (including timing, frequency and duration) that will be implemented in the offset area to improve the quality of **ILFW** in the offset area; including:

- i. prevention of **clearing** and alternate land use
 - ii. removal and exclusion of livestock
 - iii. weed and feral animal management
- f) a discussion of how proposed management measures take into account any relevant Conservation Advice, Threat Abatement Plans and Recovery Plans;
 - g) a description and analysis of the potential risks to the successful implementation of the offset area, and contingency measures that will be implemented to mitigate against these risks;
 - h) time-bound completion criteria and performance targets for evaluating the effectiveness of the implementation of the Offset Management Plan;
 - i) triggers for when corrective actions are required and timeframes for implementing corrective actions; and
 - j) a program to monitor, report on the review the effectiveness of the Offset Management Plan
5. The approval holder must not **commence the action** unless the **Minister** has approved the **ILFW** Offset Management Plan in writing. If the Minister approves the **ILFW** Offset Management Plan, the approved **ILFW** Offset Management Plan must be implemented prior to **commencement of the action** and for the duration of this approval.
 6. Offsets must be implemented and managed for conservation purposes prior to **commencement of the action** and for at least the duration of this approval.
 7. Prior to the **commencement of the action**, the approval holder must provide the **Department** with **shapefiles** of the final areas of **ILFW** to be **cleared** and **thinned** within the referral boundary and **shapefiles** of the offset areas if Condition 4 is implemented.

Part B – Standard administrative conditions

Notification of date of commencement of the action

8. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.
9. If the **commencement of the action** does not occur within 2 years from the date of this approval, then the approval holder must not **commence the action** without the prior written agreement of the **Minister**.

Compliance records

10. The approval holder must maintain accurate and complete **compliance records**.
11. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Preparation and publication of plans

12. The approval holder must:

- a) submit **plans** electronically to the **Department** for approval by the **Minister**;
- b) publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister**, unless otherwise agreed to in writing by the **Minister**;
- c) exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
- d) keep **plans** published on the **website** until the end date of this approval.

13. The approval holder must ensure that any monitoring data (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under Condition 4 of this approval, is prepared in accordance with the **Department's Guidelines for biological survey and mapped data** (2018) and submitted electronically to the **Department** in accordance with the requirements of the **plans**.

14. The approval holder may apply to the **Minister** for a variation to the management plan approved by the **Minister** under Condition 4, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves the revised management plan (RMP) then, from the date specified, the approval holder must implement the RMP in place of the previous management plan.

Annual compliance reporting

15. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:

- a) publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
- b) notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within five **business days** of the date of publication, and provide a link to the location of the published report;
- c) keep all **compliance reports** publicly available on the **website** until this approval expires;
- d) exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
- e) where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: **Compliance reports** may be published on the **Department's** website.

Reporting non-compliance

16. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:

- a) any condition which is or may be in breach;

- b) a short description of the **incident** and/or non-compliance; and
 - c) the location (including co-ordinates), date, and time of the **incident** and/or non-compliance..
17. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than **10 business days** after becoming aware of the **incident** or non-compliance, specifying:
- a) any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b) the potential impacts of the **incident** or non-compliance; and
 - c) the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

18. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
19. For each **independent audit**, the approval holder must:
- a) provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b) only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c) submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.

The approval holder must publish the audit report on the **website** within **10 business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

20. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

1. **APZ** means the Asset Protection Zone identified as "Impact - APZ modification CEEC" in Attachment 1. APZs will include an Inner Protection Area (IPA) of 30 metres and an Outer Protection Area (OPA) of 30 metres along the eastern boundary and an IPA of 25 metres along the western boundary. Within the APZs the native vegetation will be managed in order to achieve the performance requirements described in Planning for Bushfire Protection 2006 (RFS 2006).
2. **Biobanking** means the New South Wales Government's biodiversity credit and offset scheme of the name created under the *Threatened Species Conservation Act 1995 (NSW)* (now repealed)
3. **Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
4. **Clear, Cleared, Clearing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance)

5. **Commencement of the action/commence the action** means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:
 - i. undertake pre-clearance surveys or monitoring programs;
 - ii. install signage and /or temporary fencing to prevent unapproved use of the project area;
 - iii. protect environmental and property assets from fire, weeds and feral animals, and use/ maintenance of existing surface access tracks;
 - iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.
6. **Completion data** means an environmental report and spatial data information clearly detailing the date, location, and the approved and actual total areas of **IFLW cleared**. The **Department's** preferred spatial data format is **shapefile**.
7. **Completion of the action** means all specified activities associated with the action have permanently ceased.
8. **Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.
9. **Compliance reports** means written reports:
 - i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
 - ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
 - iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period; and
 - iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
10. **Construction** means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving) and/or clearing native vegetation the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage that do not require the clearing of native vegetation for placement.
11. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
12. **DPIE** means the New South Wales Department of Planning, Industry and Environment
13. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
14. **EPBC Act Environmental Offsets Policy** means the *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy (October 2012)* including the Offsets Assessment Guide, or any subsequent revised versions.
15. **Illawarra and south coast lowland forest and woodland (ILFW)** means Illawarra and south coast lowland forest and woodland ecological community, listed as critically endangered under the **EPBC Act**. In accordance with the *Approved Conservation Advice for Illawarra and south coast lowland forest and woodland ecological community*, **Illawarra and south coast lowland forest and woodland (ILFW)** wholly or partially corresponds to the following NSW Plant Community Types (PCT):

- PCT 838 Forest Red Gum-Thin-leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion; and
 - PCT 1326 Woollybutt-White Stringybark-Forest Red Gum grassy woodland on coastal lowlands, southern Sydney Basin Bioregion and South East Corner Bioregion.
16. **Incident** means any event which has the potential to, or does, impact on one or more **protected matter(s)**.
 17. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
 18. **Like-for-like credits** has the meaning given under the *Threatened Species Conservation Act 1995* (NSW) (now repealed), or the *Biodiversity Conservation Act 2016* (NSW).
 19. **Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.
 20. **Permanent modification/permanently modify** means the selective thinning of trees, and suppression of shrubs and tall ground covers to maintain low ground fuel levels within the **APZ**.
 21. **Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).
 22. **Protected matter** means **ILFW**
 23. **Retire/retired/retiring** means to change the status of a credit such that the credit can no longer be bought or sold.
 24. **Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.
 25. **Shapefile** means an ESRI Shapefile containing .shp, .shx, .dbf and prj files and other files capturing attributes of the area, including the shape (including specification of the projection or coordinate system), EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in .xls format.
 26. **Statement of assessment of reasonable equivalence of biodiversity credits** means a statement issued by DPIE under the Biodiversity Conservation (Savings and Transition) Regulation 2017 (NSW).
 27. **Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.
 28. **Thin/Thinning** means the pruning of trees, shrubs and understorey by the removal of branches and upper stems for the purposes of fuel reduction and bushfire hazard reduction within an **APZ**.
 29. **Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

ATTACHMENTS

Attachment 1: Proposed site layout, zoning and APZ areas (EPBC 2017/8048)

Attachment 2: Proposed areas of ILFW to be cleared for development and modified in the APZ areas (EPBC 2017/8048)

Attachment 1: Proposed site layout, zoning and APZ areas (EPBC 2017/8048)



Attachment 2: Proposed areas of ILFW to be cleared for development and permanently modified in the APZ areas (EPBC 2017/8048)





Ms Lesley Whiting
Spinitu Pty Ltd
PO Box 745
MIRANDA NSW 2228

Dear Ms Whiting

**Invitation to comment on proposed approval decision
Residential subdivision Lot 101 DP 785139 Crest Rd, Albion Park, NSW
(2017/8048)**

I am writing to you in relation to your proposal to develop a low density residential subdivision of Lot 101 DP 785139 Crest Rd, Albion Park, NSW (Proposed Action). The Proposed Action was referred and assessed under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for its impacts on listed threatened species and ecological communities.

I am proposing to approve the Proposed Action subject to conditions.

My proposed decision of approval is attached. In accordance with the EPBC Act, I invite you to provide comments on my proposed decision of approval, including the conditions which I propose to attach, within 10 business days of the date of this letter.

Please quote the title of the action and EPBC reference, as shown at the beginning of this letter, in any correspondence. You can send comments to:

by letter Southern NSW and ACT Assessments
 (Environment Approvals and Wildlife Trade Branch)
 Department of the Environment and Energy
 GPO Box 787
 CANBERRA ACT 2601

by email Leanne.Hayes@environment.gov.au

If you have any questions about this decision, please contact the project manager, Leanne Hayes, by email to Leanne.Hayes@environment.gov.au and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Declan O'Connor-Cox
A/g Assistant Secretary
Environment Approvals Division

4/11/2019

Email from Spinitu's solicitor to Cavi's solicitor dated 23 December 2019 regarding the variation to the proposed action

From: Peter Rusbourne <Peter.Rusbourne@watkinstapsell.com.au>
Sent: Monday, 23 December 2019 8:29 AM
To: Ben Harris
Cc: Sam Thatcher
Subject: Spinitu and Cavi Developments
Attachments: Variation 2 Letter to Proponent.pdf; Variation 2 Decicion Notice.pdf

Dear Ben

Please see attached. The variation was as to the title particulars to reflect the current title.

Regards



The Partners and Staff wish you the compliments of the season and advise that this office will close Monday 23 December 2019 at 5 pm and re-open Thursday 2 January 2020 at 9 am.

Peter Rusbourne

Partner
Accredited Specialist: Business Law and Property Law; Public Notary

D: (02) 9545 7207
T: (02) 9521 6000
F: (02) 9521 4168
E: Peter.Rusbourne@watkinstapsell.com.au
W: www.watkinstapsell.com.au
All correspondence to PO Box 88 Sutherland NSW 1499

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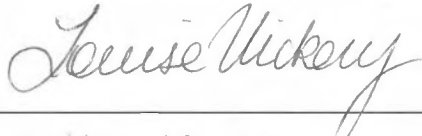


Notification of

VARIATION OF PROPOSAL TO TAKE AN ACTION — Residential Subdivision Crest Rd, Albion Park, New South Wales (EPBC 2017/8048)

This request to vary the proposal has been accepted in accordance with section 156B of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Proposed action

person proposing to take the action	Spinitu Pty Ltd ACN: 003 361 573
original proposal	Residential subdivision of Lot 101 DP 785139 and ancillary infrastructure on Lot 3 DP 1214606, Crest Road, Albion Park, New South Wales [see EPBC Act referral 2010/1324, variation dated 30 November 2017 and variation request dated 20 November 2019]
varied proposal	Residential subdivision of Lot 101 DP 1238120 and ancillary infrastructure on Lot 3 DP 1214606, Crest Road, Albion Park, New South Wales [see EPBC Act referral 2017/8048, variations dated 30 November 2017 and 4 December 2019 and variation request dated 9 December 2019]
variation	Change in Lot on plan number in description of proposed action from Lot 101 DP 785139 to Lot 101 DP 1238120.
decision	The varied proposal to take an action is accepted and takes effect from the date of this notice.
Person authorised to make decision	
name and position	Louise Vickery, Assistant Secretary, Environment Approvals and Wildlife Trade Branch
signature	
date of decision	16 / 12 / 2019



Mr Lesley Whiting
Spinitu Pty Ltd
PO Box 745
MIRANDA NSW 2228

Dear Ms Whiting

**Decision on variation of proposal to take an action —
Residential subdivision Crest Rd, Albion Park, NSW (EPBC 2017/8048)**

I am writing to you in response to your email of 9 December 2019, requesting a variation of the above proposed action under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). As a delegate of the Minister for the Environment, I have decided to accept Spinitu Pty Ltd's proposal to modify the proposed action as described in the variation request.

Given that the proposed changes are largely administrative in nature, I have decided to waive the fees in this instance.

A copy of the notice recording this decision is attached. This document, along with your request, will be published on the Department's website.

As a result of my decision, the provisions of Chapter 4 of the EPBC Act that ceased to apply in relation to the original proposal start to apply in relation to the varied proposal. For the purpose of the application of those provisions, anything done in relation to the original proposal is taken to have been done in relation to the varied proposal.

If you have any questions about this decision, please contact the project manager, Jamie Machin, by email to Jamie.machin@environment.gov.au, or phone 02 6274 2303 and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Louise Vickery
Assistant Secretary
Environment Approvals and Wildlife Trade Branch
16/12/2019

Email from Spinitu's co-selling agent, One Agency, to Cavi dated 21 December 2019 regarding the final Approval.

From: Matthew Crockett <matthewcrockett@oneagency.com.au>
Sent: Saturday, 21 December 2019 3:33 PM
To: Aaron Blackburn; Diego @ Cavi; Jason @ Cavi
Subject: Fwd: FW: Final Approval for EPBC 2017-8048 [SEC=OFFICIAL]
Attachments: Final approval-letter to proponent-SIGNED.pdf; Final approval-decision notice-SIGNED.pdf

Final approval boys.

----- Forwarded message -----

From: John Harding <jharding333@bigpond.com>
Date: Sat, 21 Dec 2019 at 2:51 pm
Subject: FW: Final Approval for EPBC 2017-8048 [SEC=OFFICIAL]
To: matthewcrockett@oneagency.com.au <matthewcrockett@oneagency.com.au>

Sent from [Mail](#) for Windows 10

From: [Spinitu Pty Ltd](#)
Sent: Saturday, 21 December 2019 2:40 PM
To: '[Peter Rusbourne](#)'
Cc: '[Tony Harding](#)'
Subject: FW: Final Approval for EPBC 2017-8048 [SEC=OFFICIAL]

For your info guys.

Lesley

From: Leanne Hayes [mailto:Leanne.Hayes@environment.gov.au]
Sent: Friday, 20 December 2019 5:28 PM
To: 'Spinitu Pty Ltd' <spinitu@idx.com.au>
Subject: Final Approval for EPBC 2017-8048 [SEC=OFFICIAL]

Hi Lesley

Please find attached a letter from the Department and Notice of Approval including conditions for EPBC 2017-8048 Residential subdivision Lot 101 DP 1238120 and Lot 3 DP 1214606 Crest Rd, Albion Park, NSW.

Regards

Leanne Hayes

--

Regards,

Matthew Crockett
Principal

One Agency - Elite property group
Shop 4/7 Sophia Street, Albion Park
NSW 2027 Australia

m: 0410 575 745

p: 02 42 574515

matthewcrockett@oneagency.com.au

www.oneagency.com

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Ms Lesley Whiting
Spinitu Pty Ltd
PO Box 745
MIRANDA NSW 2228

Dear Ms Whiting

Decision on approval – Residential Subdivision, Crest Rd, Albion Park, NSW

I am writing to you in relation to your proposal to develop a low density residential subdivision of Lot 101/1238120 Crest Rd, Albion Park, NSW. I have considered the proposal in accordance with Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and have decided to grant an approval to Spinitu Pty Ltd. The details of my decision are attached.

The proposal must be undertaken in accordance with the conditions specified in the approval. Please note, any plans required as conditions of approval will be regarded as public documents unless you provide sufficient justification to warrant commercial-in-confidence status.

Please note that this EPBC Act approval does not affect obligations to comply with any other laws of the Commonwealth, state or territory that are applicable to the action. Neither does this approval confer any right, title or interest that may be required to access land or waters to take the action.

The Department has an active audit program for proposals that have been referred or approved under the EPBC Act. The audit program aims to ensure that proposals are implemented as planned and that there is a high degree of compliance with any associated conditions. Please note that your project may be selected for audit by the Department at any time and all related records and documents may be subject to scrutiny. Information about the Department's compliance monitoring and auditing program is attached.

If you have any questions about this decision, please contact the project manager, Leanne Hayes, by email to Leanne.Hayes@environment.gov.au and quote the EPBC reference number shown at the beginning of this letter.

Yours sincerely

Declan O'Connor-Cox
Acting Assistant Secretary
Environment Approvals Division

20 / 12 / 2019



APPROVAL

Residential Subdivision, Crest Road, Albion Park, NSW (EPBC 2017/8048)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Spinitu Pty Ltd
ACN or ABN of approval holder	77 003 361 573
Action	Residential subdivision of Lot 101 DP1238120 and ancillary infrastructure on Lot 3 DP 1214606, Crest Road, Albion Park, New South Wales. [See EPBC Act referral 2017/8048 and variations of the action approved on 30 November 2017, 4 December 2019 and 16 December 2019].

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 31 March 2039

Decision-maker

Name and position	Declan O'Connor-Cox Acting Assistant Secretary, Environment Approvals Division Department of the Environment and Energy
Signature	
Date of decision	20/12/2019

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. The approval holder must not **clear** more than 2.81 ha of **Illawarra and south coast lowland forest and woodland (ILFW)** within the referral boundary shown at Attachment 1 and Attachment 2.
2. The approval holder must not **clear** more than 0.07 ha of **ILFW** within the drainage easement at Lot 3 DP 1214606 shown at Attachment 1 and Attachment 2.
3. The approval holder must not **permanently modify** more than 1.09 ha of **ILFW** in the Asset Protection Zone (**APZ**) shown at Attachment 1 and Attachment 2.
4. To compensate for the **clearance** of 2.88 ha of **ILFW** and **permanent modification** of 1.09 ha of **ILFW**, the approval holder must, prior to the **commencement of the action**:
 - a) **retire 52 like-for-like credits for ILFW** under **BioBanking**; or
 - b) **retire** the equivalent of 52 **like-for-like credits for ILFW** under the *Biodiversity Conservation Act 2016* (NSW), as converted by **DPIE** in a **statement of assessment of reasonable equivalence of biodiversity credits**. A copy of the **statement of assessment of reasonable equivalence of biodiversity credits** must be provided to the **Department** before the **like-for-like credits** are **retired**; or
 - c) fund a Biodiversity Conservation Action for **ILFW** under the *Biodiversity Conservation Act 2016* (NSW) in accordance with the *Biodiversity Conservation Regulation 6.2(2)(c)* (NSW), which has been approved by **DPIE**.

The variation rules under the *Biodiversity Conservation Regulation 2017* (section 6.4) NSW must not be applied. Offset obligations for **ILFW** under the **EPBC Act** must not be discharged through payment into the Biodiversity Conservation Fund (NSW) unless the **Minister** approves this in writing.

5. Prior to the **commencement of the action**, the approval holder must provide the **Department** with **evidence** that **like-for-like credits** have been **retired** and what mechanism was used to **retire** the **like-for-like credits**.
6. If Condition 4 is unable to be met, the approval holder must, no later than 8 months prior to the **commencement of the action**, submit an Offset Management Plan for approval by the **Minister**. The Offset Management Plan must be prepared by a **suitably qualified** person in accordance with the **EPBC Act Environmental Offsets Policy**. The approval holder must not **commence the action** until the Offset Management Plan has been approved in writing by the **Minister**. The Offset Management Plan must include:
 - a) a description and map (including **shapefiles**) to clearly define the location and boundaries of the offset area;
 - b) a discussion of how the offset and the Offset Management Plan address the principles of the **EPBC Act Environmental Offsets Policy**;
 - c) details and a quantitative analysis of the baseline vegetation condition and habitat quality in the offset area prior to management;

- d) comprehensive baseline data on weeds, feral animals and other threats to **ILFW** present in the offset area;
 - e) a description of the management measures (including timing, frequency and duration) that will be implemented in the offset area to improve the quality of **ILFW** in the offset area; including:
 - i. prevention of **clearing** and alternate land use
 - ii. removal and exclusion of livestock
 - iii. weed and feral animal management
 - f) a discussion of how proposed management measures take into account any relevant Conservation Advice, Threat Abatement Plans and Recovery Plans;
 - g) a description and analysis of the potential risks to the successful implementation of the offset area, and contingency measures that will be implemented to mitigate against these risks;
 - h) time-bound completion criteria and performance targets for evaluating the effectiveness of the implementation of the Offset Management Plan;
 - i) triggers for when corrective actions are required and timeframes for implementing corrective actions; and
 - j) a program to monitor, report on the review the effectiveness of the Offset Management Plan
7. If the Minister approves the **ILFW** Offset Management Plan, the approved **ILFW** Offset Management Plan must be implemented prior to **commencement of the action** and for the duration of this approval.
 8. Offsets must be implemented and managed for conservation purposes prior to **commencement of the action** and for at least the duration of this approval.
 9. Prior to the **commencement of the action**, the approval holder must provide the **Department** with **shapefiles** of the final areas of **ILFW** to be **cleared** and **thinned** within the referral boundary and **shapefiles** of the offset areas if Condition 4 is implemented.

Part B – Standard administrative conditions

Notification of date of commencement of the action

10. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.

Compliance records

11. The approval holder must maintain accurate and complete **compliance records**.
12. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Preparation and publication of plans

13. The approval holder must:

- a) submit **plans** electronically to the **Department** for approval by the **Minister**;
- b) publish each **plan** on the **website** within 20 **business days** of the date the **plan** is approved by the **Minister**, unless otherwise agreed to in writing by the **Minister**;
- c) exclude or redact **sensitive ecological data** from **plans** published on the **website** or provided to a member of the public; and
- d) keep **plans** published on the **website** until the end date of this approval.

14. The approval holder must ensure that any monitoring data (including **sensitive ecological data**), surveys, maps, and other spatial and metadata required under Condition 4 of this approval, is prepared in accordance with the **Department's Guidelines for biological survey and mapped data** (2018) and submitted electronically to the **Department** in accordance with the requirements of the **plans**.

15. The approval holder may apply to the **Minister** for a variation to the management plan approved by the **Minister** under Condition 6, or as subsequently revised in accordance with these conditions, by submitting an application in accordance with the requirements of section 143A of the **EPBC Act**. If the **Minister** approves the revised management plan (RMP) then, from the date specified, the approval holder must implement the RMP in place of the previous management plan.

Annual compliance reporting

16. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:

- a) publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
- b) notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within five **business days** of the date of publication, and provide a link to the location of the published report;
- c) keep all **compliance reports** publicly available on the **website** until this approval expires;
- d) exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and
- e) where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: **Compliance reports** may be published on the **Department's** website.

Reporting non-compliance

17. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:

- a) any condition which is or may be in breach;

- b) a short description of the **incident** and/or non-compliance; and
 - c) the location (including co-ordinates), date, and time of the **incident** and/or non-compliance..
18. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
- a) any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b) the potential impacts of the **incident** or non-compliance; and
 - c) the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

19. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
20. For each **independent audit**, the approval holder must:
- a) provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b) only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c) submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.

The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

21. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

1. **APZ** means the Asset Protection Zone identified as "Impact - APZ modification CEEC" in Attachment 1. APZs will include an Inner Protection Area (IPA) of 30 metres and an Outer Protection Area (OPA) of 30 metres along the eastern boundary and an IPA of 25 metres along the western boundary. Within the APZs the native vegetation will be managed in order to achieve the performance requirements described in Planning for Bushfire Protection 2006 (RFS 2006).
2. **BioBanking** means the NSW Government's biodiversity credit and offset scheme of that name created under the now-repealed *Threatened Species Conservation Act 1995*.
3. **Business day** means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.
4. **Clear, Cleared, Clearing, Clearance** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance)

5. **Commencement of the action/commence the action** means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:
 - i. undertake pre-clearance surveys or monitoring programs;
 - ii. install signage and /or temporary fencing to prevent unapproved use of the project area;
 - iii. protect environmental and property assets from fire, weeds and feral animals, and use/maintenance of existing surface access tracks;
 - iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on **ILFW**.
6. **Completion data** means an environmental report and spatial data information clearly detailing the date, location, and the approved and actual total areas of **ILFW cleared**. The **Department's** preferred spatial data format is **shapefile**.
7. **Completion of the action** means all specified activities associated with the action have permanently ceased.
8. **Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.
9. **Compliance reports** means written reports:
 - i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**;
 - ii. consistent with the **Department's Annual Compliance Report Guidelines (2014)**;
 - iii. include a **shapefile** of any clearance of any **ILFW** undertaken within the relevant 12 month period; and
 - iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.
10. **Construction** means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving) and/or clearing native vegetation the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage that do not require the clearing of native vegetation for placement.
11. **Department** means the Australian Government agency responsible for administering the **EPBC Act**.
12. **DPIE** means the New South Wales Department of Planning, Industry and Environment.
13. **EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
14. **EPBC Act Environmental Offsets Policy** means the *Environment Protection and Biodiversity Conservation Act 1999* Environmental Offsets Policy (October 2012) including the Offsets Assessment Guide, or any subsequent revised versions.
15. **Evidence** means documentation from the relevant authority showing that **like-for-like credits** have been **retired**.
16. **Illawarra and south coast lowland forest and woodland (ILFW)** means the ecological community of that name listed as critically endangered under the **EPBC Act**. In accordance with the *Approved Conservation Advice for Illawarra and south coast lowland forest and woodland ecological*

community, **ILFW** wholly or partially corresponds to the following NSW Plant Community Types (PCT):

- PCT 838 Forest Red Gum-Thin-leaved Stringybark grassy woodland on coastal lowlands, southern Sydney Basin Bioregion; and
- PCT 1326 Woollybutt-White Stringybark-Forest Red Gum grassy woodland on coastal lowlands, southern Sydney Basin Bioregion and South East Corner Bioregion.

17. **Incident** means any event which has the potential to, or does, impact **ILFW**.
18. **Independent audit**: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2015).
19. **Like-for-like credits** has the meaning given under the now-repealed *Threatened Species Conservation Act 1995* (NSW) or *Biodiversity Conservation Act 2016* (NSW).
20. **Minister** means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.
21. **Permanent modification/permanently modify** means the selective thinning of trees, and suppression of shrubs and tall ground covers to maintain low ground fuel levels within the **APZ**.
22. **Plan(s)** means any of the documents required to be prepared, approved by the **Minister**, and/or implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).
23. **Retire/retired/retiring** means to change the status of a credit such that the credit can no longer be bought or sold.
24. **Sensitive ecological data** means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.
25. **Shapefile** means an ESRI Shapefile containing .shp, .shx, .dbf and prj files and other files capturing attributes of the area, including the shape (including specification of the projection or coordinate system), **EPBC Act** reference ID number and **EPBC Act** protected matters present at the relevant site. Attributes should also be captured in .xls format.
26. **Statement of assessment of reasonable equivalence of biodiversity credits** means a statement issued by DPIE under the Biodiversity Conservation (Savings and Transition) Regulation 2017 (NSW).
27. **Suitably qualified person** means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.
28. **Thin/Thinning** means the pruning of trees, shrubs and understorey by the removal of branches and upper stems for the purposes of fuel reduction and bushfire hazard reduction within an **APZ**.
29. **Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

ATTACHMENTS

Attachment 1: Proposed site layout, zoning APZ areas and drainage easement (EPBC 2017/8048).

Attachment 2: Proposed areas of ILFW to be cleared for development and drainage easement and permanently modified in the APZ areas (EPBC 2017/8048).

Attachment 1: Proposed site layout, zoning, APZ areas and drainage easement (EPBC 2017/8048)



Attachment 2: Proposed areas of ILFW to be cleared for development within the referral boundary and drainage easement and permanently modified in the APZ areas (EPBC 2017/8048)



Email from Spinitu's solicitor to Cavi's solicitor dated 23 December 2019 regarding the final Approval

From: Peter Rusbourne <Peter.Rusbourne@watkinstapsell.com.au>
Sent: Monday, 23 December 2019 8:18 AM
To: Ben Harris
Cc: Sam Thatcher
Subject: Spinitu sale to Cavi Developments
Attachments: Final approval-letter to proponent-SIGNED.PDF; Final approval-decision notice-SIGNED.PDF

Dear Ben

Please see attached final approval letter and final decision as to biodiversity credits. Please note:

- The final approval decision is served as required under clause 45.
- The number of credits has increased to 52. The Vendor will pay for the additional credit by way of an adjustment of the fee of \$12,000 for the additional credit. We understand that you will now need to negotiate the purchase of one additional biodiversity credit. This was a decision of the Department based upon the proposed Easement. Please confirm when the Purchaser has successfully negotiated the additional purchase.

We await your early reply.

Regards



The Partners and Staff wish you the compliments of the season and advise that this office will close Monday 23 December 2019 at 5 pm and re-open Thursday 2 January 2020 at 9 am.

Peter Rusbourne

Partner

Accredited Specialist: Business Law and Property Law; Public Notary

D: (02) 9545 7207

T: (02) 9521 6000

F: (02) 9521 4168

E: Peter.Rusbourne@watkinstapsell.com.au

W: www.watkinstapsell.com.au

All correspondence to PO Box 88 Sutherland NSW 1499

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**Email from Spinitu's co-selling agent, One Agency, to Cavi dated 14 January 2020
regarding exchange and settlement**

From: Matthew Crockett <matthewcrockett@oneagency.com.au>
Sent: Tuesday, 14 January 2020 9:30 AM
To: Diego @ Cavi
Cc: Jason @ Cavi; Aaron Blackburn
Subject: Fwd: FW: Crest Street Albion Park
Attachments: 13012020124730-0001.pdf

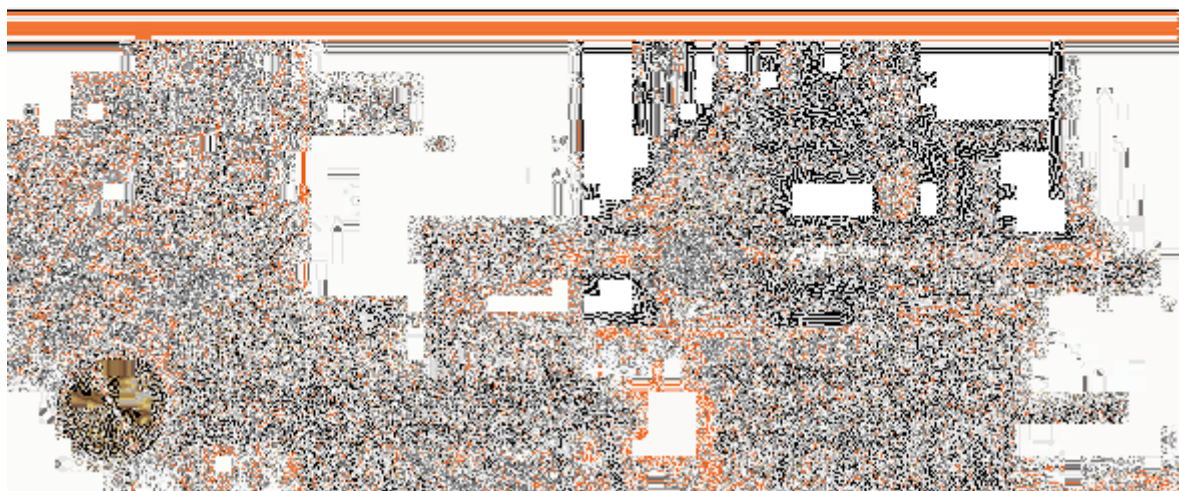
Hi Diego,

Please find attached the exchange letter, Tony has asked us to pass it on to you.

He is expecting it will settle after 28 days from 21-12-19 when you were notified of final approval.

Regards,

Matthew Crockett / Principal



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for our
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for our
Facebook
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ABN: 87 600 490 837

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----- Forwarded message -----

From: **John Harding** <jharding333@bigpond.com>

Date: Mon, Jan 13, 2020 at 2:00 PM

Subject: FW: Crest Street Albion Park

To: matthewcrockett@oneagency.com.au <matthewcrockett@oneagency.com.au>

Sent from [Mail](#) for Windows 10

From: [Spinitu Pty Ltd](#)

Sent: Monday, 13 January 2020 1:50 PM

To: '[Tony Harding](#)'

Subject: Crest Street Albion Park

For your info Tony

Our ref: 72622\ST

28 August 2019

Mrs E Robertson
Spinitu Pty Ltd
PO Box 745
MIRANDA NSW 1490

Email: spinitu@idx.com.au

Dear Mrs Robertson

**SPINITU PTY LIMITED ("Spinitu") SALE TO CAVI DEVELOPMENTS &
PARTNERS PTY LTD ("Cavi")
PROPERTY: LOT 101 CREST AVENUE, ALBION PARK**

Congratulations! We confirm contracts were exchanged on 23 August 2019. The expected completion date is the later of 4 October 2019 or 28 days after written notification of the satisfaction of the Biodiversity Credit Conditions.

Please note:

- 1 The contract is conditional upon the purchaser buying the Biodiversity credits from Edenvell, or another party. The number of biodiversity credits to be purchased is to be confirmed by the Commonwealth Government. The completion of the purchase of the biodiversity credits is a condition to occur before completion of the sale of the land may take place.
- 2 We have included a certain number of biodiversity credits to be purchased. The government representative has indicated that the number "should not change". As indicated above the number will be confirmed by the Commonwealth Government. If the number of biodiversity credits to be purchased increases, then the price will be reduced by the number to be purchased, at the same cost as those indicated currently. If the number of biodiversity credits required decreases, then the price will increase. Either of these scenarios is unlikely. We believe that the number has been set, notwithstanding the comment that the number "should not change".
- 3 The completion of the contract will take place on the **latest** date of:
 - 3.1 28 days after the biodiversity credit conditions have been satisfied; and
 - 3.2 42 days after the date of this contract (ie 4 October 2019).

WATKINS TAPSELL SOLICITORS ABN 50 671 941 986
Level 3, 550 Princes Highway, Kirrawee NSW 2232
PO Box 88 Sutherland NSW 1499
Phone (02) 9521 6000 | Fax (02) 95214168
Email mail@watkinstapsell.com.au | Web watkinstapsell.com.au



- 4 The biodiversity credit conditions are:
 - 4.1 the Commonwealth Government giving formal approval as to the number required to be purchased; and
 - 4.2 the purchase of those credits by Cavi being completed.
- 5 Cavi is to negotiate with the seller of the biodiversity credits to arrange a contract in a form acceptable to both parties. That contract will not be proceeding until the Commonwealth Government has indicated its final approval and the number of biodiversity credits required. We anticipate that that will take place sooner rather than later. Cavi is to then pay for the biodiversity credits and complete the transfer of the biodiversity credits from Edenvell to Cavi.
- 6 The Purchaser's deposit is being held by the agent. The agent will pay you directly after completion and after deducting its commission. The agent's trust account will not earn interest and therefore if you have an extended completion period you might wish to consider asking the agent to invest the deposit in an interest bearing account. Any interest would be shared equally between you and the Purchaser. You will need to provide your Tax File Number.
- 7 You must maintain the property until completion.
- 8 The property continues to be at your risk until completion of your sale is effected. You must keep current any necessary insurances for the property. You should not cancel any of your insurances until we have confirmed completion has been effected.
- 9 We will attend to completion of this sale on your behalf. You are not required to attend. At this stage we are unable to advise you the date or time for which completion will occur. As a rough guide, normally completion takes place between the hours of 12.00pm and 3.00pm. The appointment for completion will be made with all parties approx. 5 days prior to the completion date. This appointment can change up until the day of completion, and therefore if you are also buying a property we encourage you to contact us the day before to ensure the appointment has not changed.
- 10 The property is being sold vacant and accordingly you must vacate the property and remove all items you are taking with you and dispose of any rubbish located on the property. The property must be vacant before the time scheduled for completion otherwise the Purchaser could delay completion. We have both spoken to and given written notice to the party who was agisting horses on the land that the horses and all equipment and sheds must be immediately removed.
- 11 The Purchaser is entitled to carry out a final inspection of the property prior to the completion date. This inspection will be organised via your agent.
- 12 You must keep paying your rates and any mortgage repayments and other payments required.
- 13 Please do not pay any instalments for rates within the 14 days prior to completion. Please keep details of payments made after 23 August 2019 as we may need to obtain copies of your receipts. On completion we will adjust rates between you and the Purchaser and therefore you should not pay any instalments following completion. Rates after completion will be the Purchaser's responsibility.
- 14 Normally the deposit is not available until after completion at which time your agent or the stakeholder will account to you directly for those funds.

- 15 We confirm your discharge authority has been forwarded to St George Bank.
- 16 We confirm that we have been liaising with Villa World as to the payment to them on settlement and the release of the caveat to permit settlement to occur.
- 17 On the completion date the Purchaser will provide us with funds for payment of the Price (less any deposit already paid) after taking into account any adjustments for rates, registration fees etc. Please provide us with your account details including the financial institution, account name, account number and BSB.

Please feel free to contact us if you have any questions.

Yours faithfully

WATKINS TAPSELL



SAMANTHA THATCHER

Licensed Conveyancer

Direct Line 9545 7277

Email Sam.Thatcher@watkinstapsell.com.au

Appendix 3 Curriculum Vitae

Rebecca Dwyer

Position

Principal Ecologist and
NSW Ecology Team Leader

Qualifications

BLandscMgt&Cons

NSW BioBanking Assessor No. 0095

NSW BAM Assessor BAAS17067



Professional experience

Rebecca has over 14 years' on-ground experience in ecology. She has been involved in a large number of ecological studies of varying scales throughout Australia. Rebecca has highly developed skills in research, project management, teamwork and effective communication, and these skills are complemented by her field skills with flora and fauna survey on a variety of small and large scale projects.

Rebecca is also an Accredited Biodiversity Assessment Method (BAM) Assessor, and Biobanking Assessor in NSW. She has delivered a number of Biodiversity Assessment Reports (BDAR), Biodiversity Stewardship Assessments (BSA) and feasibility studies for both private and government sectors.

Technical skills include including botany identification, flora and fauna habitat assessments, floristic composition and identification of Plant Community Types, targeted threatened species surveys and monitoring, environmental impact assessment, BAM, BioCertification and preparation of management plans.

Rebecca provides an innovative approach to project methodology to deliver high quality advice and pragmatic solutions. Rebecca is a skilled decision maker, adept at using a wide range of information to provide the best advice and solutions for the client in a timely and cost-effective manner.

Key project experience

Project Manager/ Senior Ecologist Rebecca managed the technical mapping and analysis components of the Western Sydney Strategic Assessment process. Rebecca oversaw the project team in undertaking large scale mapping and habitat assessments. Rebecca also assisted in writing the Integrated Assessment Framework for the project that addresses the requirements of both relevant State and Commonwealth legislation. The project involved detailed mapping over 100,000 hectares of native vegetation, species modelling for threatened flora and fauna species, and TEC mapping across the Cumberland Plain IBRA sub-region. Our mapping method used the key principles of the Biodiversity Assessment Method (2017) while maximising the use of existing data and using modern data collection techniques to minimise the need for

field investigation, consistent with landscape scale assessment approaches. Rebecca ensured the project ran smoothly and delivered the project outputs within the Department of Planning Industry and Environment (DPIE) required timeframes.

Accredited BAM Assessor

Rebecca managed and undertook a Biodiversity Stewardship Site assessment of two lots at Beach Road, Berry NSW. Biosis applied the BAM and provided a Biodiversity Stewardship Site Assessment Report and completed a Biodiversity Stewardship Agreement application. This project included collection of data in accordance with the BAM which involved field assessment of vegetation communities including Freshwater Wetlands and Swamp Oak Floodplain Forest TECS, and threatened species habitat, as well as targeted fauna survey for Green and Golden Bell Frog and Southern Brown Bandicoot, and nocturnal fauna.

Principal Ecologist

Rebecca provided detailed advice and prepared a Flora and Fauna Assessment Addendum and Vegetation Management Plan, to address Shoalhaven City Councils, Statement of Facts and Contentions on behalf of A&G Holdings for the proposed residential sub-division at Koonaa Ave Albion Park Rail. Rebecca guided A&G Holdings through the response to submissions and provided solutions to support the Court Case at the Land and Environment Court, which resulted in all ecological contentions being resolved and retracted by Council.

Project Director/Senior Ecologist

Rebecca provided technical advice and guidance for the Hunter Region Scoping study on behalf of DPIE. The project involved detailed mapping of native vegetation, species modelling for threatened flora and fauna species, and TEC mapping across the Hunter sub-region. The detailed mapping was collated to provide DPIE with a constraints model of the study area as high moderate and low, to inform the Hunter Strategic Assessment and Biocertification project.

Project Manager / BAM Assessor

Rebecca prepared a BDAR for a proposed residential housing development in Keiraville, NSW. The site consisted of 3.45 hectares of native vegetation, supporting one Endangered Ecological Community (EEC), Illawarra Subtropical Rainforest. Anabats were also deployed on site, one threatened fauna species was recorded on site, Greater Broad-nosed Bat *Scoteanax rueppellii*. The site borders the Illawarra Escarpment Conservation Area, managed by National Parks. Development design was subject to an array of constraints due the sensitivity of the surrounding land. Rebecca worked closely with the client to formulate a design to meet their needs as well as National Parks and Councils requirements.

Other qualifications and training

Senior First Aid

Rail Industry Safety Induction Card

Advanced 4WD driving and vehicle recovery

Occupational Health and Safety General Induction for Construction Work in NSW, Work Cover