

## Approval

Subdivision of Lot 11 on SP171882 Explorer Drive, South Mission Beach, Queensland  
(EPBC 2010/5331)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

### Proposed action

**person to whom the approval is granted** ABF Group Pty Ltd

**proponent's ACN** 105 855 525

**proposed action** To subdivide Lot 11 SP171882, Parish of Rockingham 747499 into eight residential building envelopes on Explorer Drive, South Mission Beach, Queensland, [See EPBC Act referral 2010/5331].

## Approval

Controlling Provision	Decision
World Heritage properties (sections 12 & 15A)	Approved
National Heritage places (sections 15B & 15C)	Approved
Listed threatened species and communities (sections 18 & 18A)	Approved

### conditions of approval

This approval is subject to the conditions specified below.

### expiry date of approval

This approval has effect until 20 May 2026

### Decision-maker

**name and position** James Barker  
Acting Assistant Secretary  
Environment Assessment Branch

**signature**



**date of decision**

24 / 5 / 11

### Conditions attached to the approval

1)	The person taking the action must not <b>clear native vegetation</b> , within the areas marked 'Vegetation buffer zone' and 'Vegetation, not to be disturbed' on <b>Survey 1</b> in order to protect habitat for the <b>Southern Cassowary</b> .
2)	The person taking the action must <b>rehabilitate</b> the area marked as 'revegetation and landscaping' on <b>Survey 2</b> in order to protect and enhance habitat for the <b>Southern Cassowary</b> .
3)	The person taking the action must not construct any <b>fences</b> or replace existing <b>fences</b> within or on the boundary of the <b>site</b> to maintain connectivity for the <b>Southern Cassowary</b> , except existing boundary <b>fences</b> located on the <b>Northern Boundary</b> of the site or as required by law e.g. pool fencing. This condition must be included in the <b>conservation covenant</b> and the <b>Community Management Statement</b> .
4)	The person taking the action must not build any structure on the site, except within the areas marked as 'Building Envelopes 1.5m off lot boundaries' on <b>Survey 1</b> in order to protect habitat for the <b>Southern Cassowary</b> . This condition must be included in the <b>Community Management Statement</b> .
5)	The person taking the action must ensure that cats and dogs (excluding guide and assistance dogs) are prohibited from the site at all times to protect the <b>Southern Cassowary</b> . This condition must be included in the <b>conservation covenant</b> and the <b>Community Management Statement</b> .
6)	The person taking the action must ensure all land within the <b>Common Property</b> on <b>Survey 1</b> is protected by a <b>conservation covenant</b> . This will ensure that the habitat for the <b>Southern Cassowary</b> is conserved in perpetuity. The <b>conservation covenant</b> must be approved by the department prior to it being agreed to and executed by the covenantor and the covenantee. The <b>conservation covenant</b> must be in place prior to <b>commencement of construction</b> and be registered on title. A copy of the executed <b>conservation covenant</b> must be provided to the department within 20 business days of execution of the <b>conservation covenant</b> .
7)	<p>The person taking the action must prepare and submit a Vegetation Management Plan for the Minister's approval to rehabilitate habitat for the <b>Southern Cassowary</b>. The person taking the action must not <b>clear native vegetation</b> unless the <b>Minister</b> has approved the Vegetation Management Plan. The Vegetation Management Plan must include but not be limited to:</p> <ul style="list-style-type: none"> <li>a) Measures for rehabilitating the site to meet the definition of <b>remnant vegetation</b>;</li> <li>b) Detailed measures for controlling and managing <b>invasive weeds</b> on the site;</li> <li>c) Identify performance indicators and timeframes for achieving the rehabilitation of the site to meet the definition of <b>remnant vegetation</b>;</li> <li>d) Specify the timing and frequency of monitoring for determining the effectiveness of any <b>re-vegetation</b>;</li> <li>e) Identify any corrective actions which will be implemented should monitoring suggest that the performance indicators are unlikely to be achieved; and</li> <li>f) Clearly state the legal <b>person</b> or persons responsible for implementing the approved Vegetation Management Plan.</li> </ul> <p>If the <b>Minister</b> approves the Vegetation Management Plan then the approved Vegetation Management Plan must be implemented until the <b>native vegetation</b> on the site meets the definition of <b>remnant vegetation</b>.</p>
8)	<p>The person taking the action must prepare and submit a Construction Environment Management Plan for the <b>Minister's</b> approval to mitigate impacts to the <b>Southern Cassowary</b> on the <b>site</b>. The person taking the action must not commence construction unless the <b>Minister</b> has approved the Construction Environment Management Plan. The Construction Environment Management Plan must include but not be limited to:</p> <ul style="list-style-type: none"> <li>a) Detailed sediment and erosion control measures to ensure material disturbed by construction will not degrade habitat for the <b>Southern Cassowary</b> within areas marked 'Vegetation buffer zone' and 'Vegetation, not to be disturbed' on <b>Survey 1</b>;</li> <li>b) Detailed information and instructions for construction workers for appropriate responses to sightings of <b>Southern Cassowary</b> and the protection of habitat; and</li> </ul>



<p>c) <b>Educational material.</b></p> <p>If the <b>Minister</b> approves the Construction Environment Management Plan then the approved Construction Environment Management Plan must be implemented during all construction activities on the site and be provided to construction workers.</p>
<p>9) The person taking the action must prepare and submit <b>educational material</b> for the <b>Minister's</b> approval to inform prospective purchasers (and successors in title) of the building envelopes described on <b>Survey 1</b>. The <b>educational material</b> must be approved by the <b>Minister</b> prior to the sale of any building envelopes. If the <b>Minister</b> approves the <b>educational material</b> then the approved <b>educational material</b> must be included in the sales prospectus, and provided to any prospective lot owners prior to settlement of sale.</p>
<p>10) If the person taking the action wishes to carry out any activity otherwise than in accordance with the plans referred to in conditions 7 and 8 the person taking the action must submit for the <b>Minister's</b> written approval a revised version of any such plan. The varied activity shall not commence until the <b>Minister</b> has approved the varied plan in writing. If the <b>Minister</b> approves such a revised plan, that plan must be implemented in place of the plan originally approved. Unless the <b>Minister</b> has approved the revised plan, report or strategy, then the person taking the action must continue to implement the plan, report or strategy originally approved, referred to in conditions 7 and 8.</p>
<p>11) Within 30 days from the commencement of the action, the person taking the action must advise the <b>Department</b> in writing of the actual date of commencement.</p>
<p>12) Within three months of every 12 month anniversary of the commencement of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the <b>Department</b> at the same time as the compliance report is published.</p>
<p>13) Upon the direction of the <b>Minister</b>, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the <b>Minister</b>. The independent auditor must be approved by the <b>Minister</b> prior to the commencement of the audit. Audit criteria must be agreed to by the <b>Minister</b> and the audit report must address the criteria to the satisfaction of the Minister.</p>
<p>14) If the <b>Minister</b> believes that it is necessary or convenient for the better protection of listed threatened species and communities, World Heritage properties and National Heritage places to do so, the <b>Minister</b> may request that the person taking the action make specified revisions to the plan/s approved pursuant to conditions 7 and 8 and submit the revised plan/s for the Minister's written approval. The person taking the action must comply with any such request. The revised approved plan/s must be implemented. Unless the <b>Minister</b> has approved the revised plan/s then the person taking the action must continue to implement the plan/s originally approved, referred to in conditions 7 and 8.</p>
<p>15) If, at any time after 3 years from the date of this approval, the person taking the action has not <b>substantially commenced</b> the action, then the person taking the action must not substantially commence the action without the written agreement of the <b>Minister</b>.</p>
<p>16) The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans required by this approval, and make them available upon request to the <b>Department</b>. Such records may be subject to audit by the <b>Department</b> or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the <b>Department's</b> website. The results of audits may also be publicised through the general media.</p>
<p>17) Unless otherwise agreed to in writing by the <b>Minister</b>, the person taking the action must provide a copy of each finalised management plan, report, system and program (however described) referred to in these conditions of approval to members of the public upon request. Copies must be provided within a reasonable time of the request</p>
<p>18) The <b>Community Management Statement</b> must contain a provision expressly requiring the body corporate to provide <b>educational material</b> to all <b>resident(s)</b> to ensure that all <b>resident(s)</b> are aware of risks to the <b>Southern Cassowary</b> as a result of human</p>



interaction.
19) The <b>conservation covenant</b> and <b>Community Management Statement</b> must not be inconsistent with conditions 1 through to 19 (inclusive). The <b>conservation covenant</b> and <b>Community Management Statement</b> must be provided to the <b>Department</b> prior to these documents being adopted and executed to ensure that they are not inconsistent with conditions 1 through to 19 (inclusive). The person taking the action must not commence construction unless the Minister has approved the <b>conservation covenant</b> and <b>Community Management Statement</b> .
20) In order to protect habitat the <b>Southern Cassowary</b> . The person taking the action must manage traffic on the site by: <ul style="list-style-type: none"> <li>a) Limiting the speed of vehicles to 20km per hour;</li> <li>b) Installing traffic calming devices as appropriate; and</li> <li>c) Installing and maintaining road signage to warn against human and Southern Cassowary interaction.</li> </ul>

### **Condition Definitions**

**Clear native vegetation** – The cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of native vegetation.

**Commencement of construction** – includes any preparatory works required to be undertaken including clearing vegetation, the erection of any on-site temporary structures and the use of construction or excavation equipment on site for the purpose of breaking the ground for buildings or infrastructure.

**Common Property** - The common property includes all areas within the site except for the: 'concrete driveway', 'bitumen access' and 'building envelopes 1.5 m off lot boundaries' as described on **Survey 1**.

**Community Management Statement** - The community management statement established under the *Body Corporate and Community Management Act 1997* (Qld) including any by-laws of the body corporate.

**Conservation Covenant** – a covenant entered into by the proponent and/or body corporate and the local council.

**Department** – The Australian Government Department responsible for the *Environment Protection and Biodiversity Conservation Act 1999*.

**Educational Material** - The educational material must include but not be limited to:

- d) Information on the ecological importance of the subject site and the adjacent Wet Tropics of Queensland World Heritage Area and National Heritage Place;
- e) Information on the impacts and risks associated with interacting with and disturbing the **Southern Cassowary**;
- f) Warnings on approaching and interacting with Southern Cassowaries; and
- g) Emergency procedures which are to be used in the event that an injured **Southern Cassowary** is found.

**Endemic** – flora species which are native to or confined to the Wet Tropics of Queensland World Heritage area.

**Invasive weeds** – flora species declared under the *Queensland Land Protection (Pest and Stock Route Management) Act 2002* (as originally enacted and as amended from time to time).

**Person** – An entity on which a legal system confers rights and imposes duties. A person includes a natural person, and an artificial or statutory body such as a company.

**Minister** – The Minister or their delegate administering the *Environment Protection and Biodiversity Conservation Act 1999*.

**Native Vegetation** – is defined as trees and understorey plants native to or confined to the Wet Tropics of Queensland World Heritage Area.

**Northern Boundary** – the boundary between lots 10 on SP171882, lot 30 and 29 on RP748555, lots 15 and 14 on RP807831, lots 13, 12, 11 on RP736594 and lot 10 on RP732109 as indicated on **survey 1**

**Fences** – fencing made from metal, wood or masonry that will fragment habitat or reduce connectivity for the **Southern Cassowary**. This excludes fencing that is required under an enactment of either the Commonwealth or Queensland Government for example permanent fencing around pools.

**Rehabilitate** – the process of re-vegetating and maintaining an area of vegetation until monitoring confirms it meets the status of remnant vegetation.

**Remnant vegetation** – Any native vegetation consistent with the definition of remnant vegetation in schedule 5 of the *Queensland Vegetation Management Act 1999* (as originally enacted and as amended from time to time).

**Resident(s)** – A person who has a legal right to reside in a residential dwelling on the site. This includes people residing permanently (e.g. owner occupier) or temporarily (e.g. leases). In the case where there is more than one person residing in a residential dwelling, only one person is required to be provided with the **Educational Material**.

**Revegetation** – the planting and maintenance of endemic flora species for the benefit of the **Southern Cassowary**.

**Southern Cassowary** – the Southern Cassowary (*Casuarius casuarius johnsonii*).

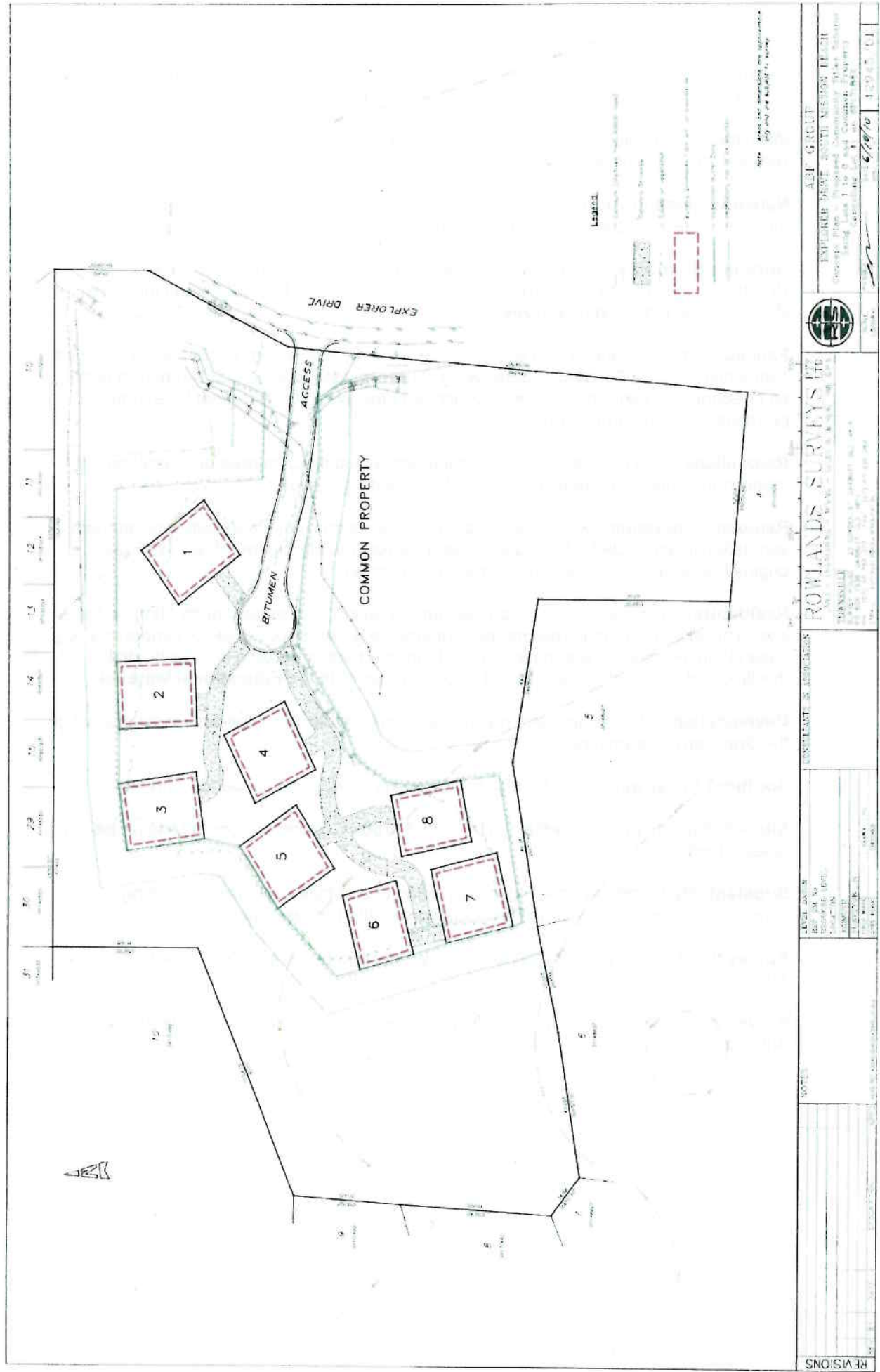
**Site** – defined as the area within LOT 11, SP171882 Explorer Dr, South Mission Beach, Queensland.

**Substantially commenced** – The construction of any built structures, excluding construction fences and signage, associated with the proposed action.

**Survey 1** - The Rowlands Surveys Pty Ltd survey numbered 42945/01 attached at Annexure A

**Survey 2** – The Rowlands Surveys Pty Ltd survey numbered 42945/02 attached at Annexure B

# Annexure A





# Annexure B

