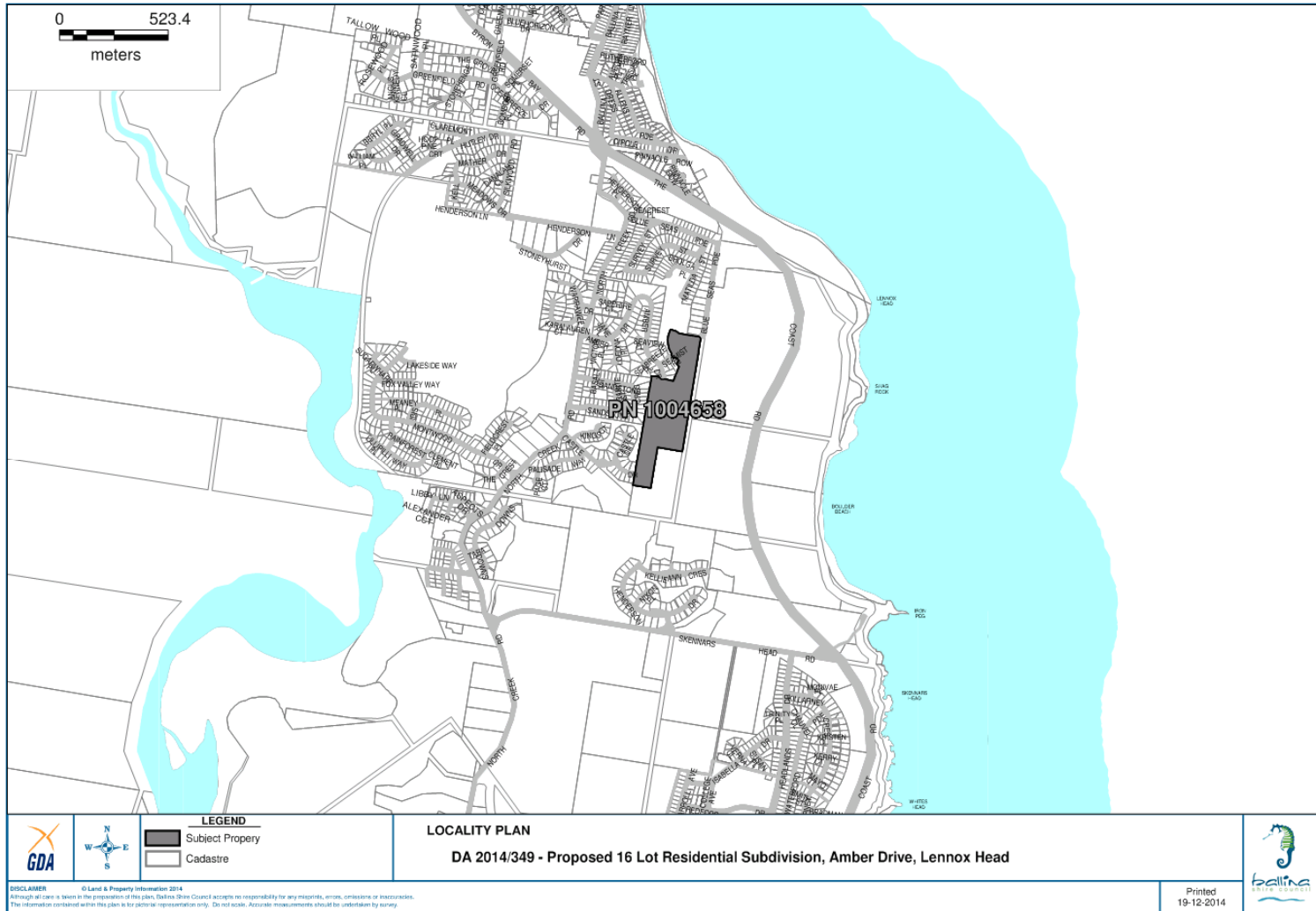


8.1 **DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC**

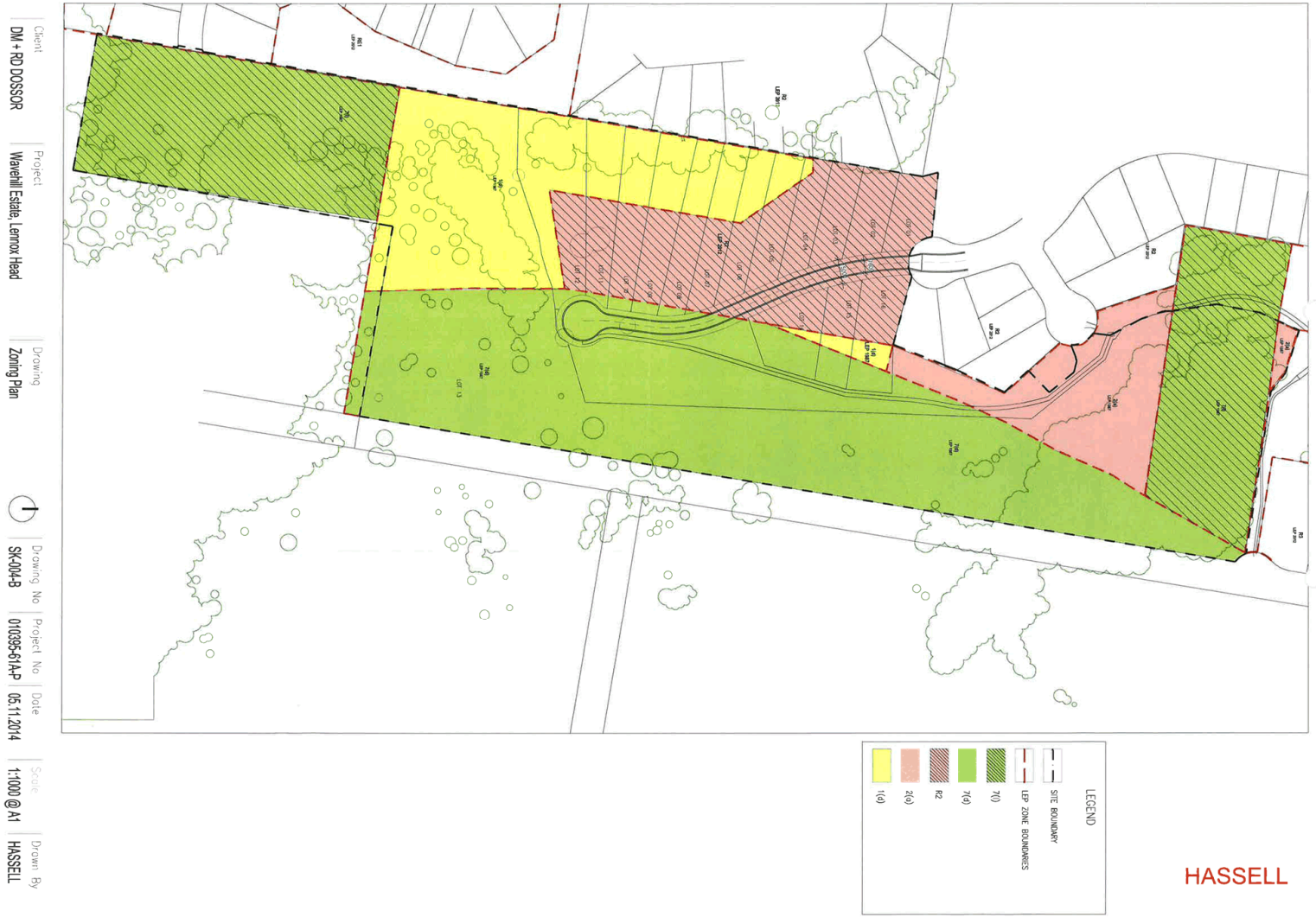


8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC





8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC



Mr A. Acret  
33 Castle Drive  
LENNOX HEAD NSW 2478  
14 August 2014

Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Attention: Mr Anthony Peters

**RE: Proposed Subdivision of Lot 42 DP 1168665 Amber Drive (DA 2014/349)**

Dear Sir

I refer to your correspondence dated 21 July 2014 regarding Development Application No. 2014/349 for the proposed subdivision of Lot 42 DP 1168665 Amber Drive. In that letter, you have invited comments on this development proposal. I have reviewed the documentation provided and would like to lodge an objection to the proposed development described in the material exhibited.

Living at 33 Castle Drive, I am a neighbour of the proposed development and writing to you regarding potential impacts to residential amenity in Castle Drive arising from unforeseen development, concerns regarding the ecological consequences of the proposed development, and regarding opportunities for improving the connectivity of the proposed development to the existing community in adjacent surrounding areas.

I have comments in relation to the following matters:

- i. Consistency with investigations conducted during previous rezoning process
- ii. Compliance with minimum lot standards
- iii. Lot 14
- iv. Potential open space corridor
- v. Vegetation Management Plan
- vi. Protection of Swamp Wallaby
- vii. Potential land transfer to public ownership

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It is recognized that part of the subject land has been recognized and zoned for low density residential development, and that parts of the site are suitable for this purpose. However the key issue is to ensure that the development strikes the right balance of protecting significant ecological areas whilst enabling appropriate parts of the site to be developed.

At present, it is not considered that the development application as submitted strikes this balance. If the development proposal is modified in accordance with the comments made below then this objection would be retracted. It should be recognized that I have prepared this submission on the basis of the information available, and I do not have access to the findings of previous investigations or rezoning maps.

**1. Consistency with investigations conducted during previous rezoning process**

As I recall, several years ago as part of the renewal of the Ballina Local Environmental Plan (BLEP), investigations were made regarding this site, having previously been identified as a site for urban investigation. Whilst it is recognized that the then proposed rezoning of this area is now subject to the E zones review being undertaken by the NSW Government (and therefore that the BLEP 1987 zoning applies), it would nevertheless be important that the findings and recommended outcomes of these previous investigations are not lost from the process, and are integrated with the development proposal.

These do not appear to be referenced by the proponent - the findings and recommended outcomes of these previous investigations are not included. It was my understanding that following these previous investigations and consideration of the development constraints that the recommended area considered appropriate for low density residential development was restricted to the areas to the north of the vegetated (rainforest) drainage line that runs from the west to the east across the site.

The current plans includes the proposed Lot 14 which is located to the south of this vegetated drainage line – this is inconsistent with the outcomes of this previous process. The proponent has not outlined the outcomes of this previous process and why these are not being adhered to.

It is recommended that the proponent revise the proposed development to incorporate the outcomes from the previous rezoning process. This would not permit residential development to occur in the area south of the vegetated drainage line.

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**2. Minimum lot sizes: need for a covenant to protect environmental values**

The proponent has lodged an objection to the minimum lot size development standards in accordance with SEPP 1 and Clause 4.6 of the BLEP 2012. The development proposed meets the identified minimum lots sizes, but only by including areas zoned for purposes other than urban.

Appendix 12 states that “a significant buffer and setback was proposed in the Draft BLEP 2012 to the rainforest area” and further suggests that “a covenant can be placed on title noting the conservation value of the rainforest.” However there is no commitment made by the proponent in this regard. Clearly under the scheme as proposed, the condition and future habitat value of this existing rainforest vegetation would be very uncertain, and totally dependent upon the management practices of the prospective owner. This level of uncertainty is unacceptable.

In practice, it is difficult to ensure residents keep gardens and weeds etc from escaping from their land. It can be impractical if not impossible to retain the ecological values on rainforest land that moves into private ownership as adjuncts to residential lots as proposed.

Given that the proponent is only able to achieve the minimum lot size development standards by including areas with conservation values, then as a minimum it would be appropriate that an enforceable covenant be applied to these areas (inclusive of an appropriate buffer). A better outcome would be for these areas to be removed from private ownership and retained in public ownership and connected to other vegetation – an approach that would slightly reduce the number of lots created from the subdivision, but provide for much better outcomes all round.

**3. Lot 14**

Lot 14 includes substantial areas that comprises:

- Littoral Rainforest that is mapped as State Environmental Planning Policy (SEPP) No. 26 Littoral Rainforest;
- Rainforest areas within the 100 m buffer zone around the SEPP 26 Littoral Rainforest;

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- Rainforest vegetation that forms part of an Endangered Ecological Community (and listed under the *Threatened Species Conservation Act 1995*).

A potential dwelling location is identified within the 100 m buffer zone around the SEPP 26 Littoral Rainforest. This is unacceptable. Whilst it is recognized that this location would not require any vegetation clearing if developed at this point, development of a dwelling at this point undermines the purpose of having a 100 m buffer.

The whole purpose of SEPP 26 is to recognise the rarity of littoral rainforest and to ensure it is adequately recognised and protected. The SEPP requires that land within 100m of the rainforest shall be a buffer and should not be developed, and that space is provided for natural recovery. Development of a dwelling (together with associated structures, access roads, and asset protection zones) inside of the buffer zone will place the SEPP 26 recognised rainforest at risk.

The NSW Government has recently introduced policy which allows clearing of any trees and vegetation within 10 metres of a home without the need for consent and for clearing of shrubs and understorey vegetation within 50 metres of a home without the need for consent. It is contended that the potential for cumulative ancillary development posing a future risk to the SEPP 26 Littoral Rainforest area is easily foreseen and should be avoided.

Therefore it is recommended that any dwelling location for the proposed Lot 14 be located so as to be outside of the 100 m buffer zone around the SEPP 26 littoral rainforest.

Finding an appropriate building envelope of the proposed Lot 14 is further constrained as there needs to be a reasonable buffer zone around the existing rainforest vegetation that follows the drainage line through the middle of the site.

It is further recommended that any dwelling location for the proposed Lot 14 be located so as to be outside of a reasonable buffer zone around the EEC rainforest that follows the west-east drainage line.

It is critical that any consent issued to the development proposal clearly nominate a building envelope for the proposed Lot 14. It would be appropriate that currently vegetated areas, the 100 metre buffer and the drainage line attract a covenant to ensure that no development can occur within these areas.

The Ballina Development Control Plan (DCP, Section 3.1.2) states “Proposed lots with slopes greater than 20% are to nominate a building envelope measuring no less than



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10m x 15m at the subdivision stage to demonstrate that a dwelling can be suitably accommodated on that lot.”

The geotechnical reports provided in association with indicates that the slope is 11 degrees) (approximately 20%), and hence triggering such a requirement.

So as to avoid further confusion at the development application stage, it is recommended that the proponents nominate a building envelope that abides by the above constraints.

Given the natural values of the proposed Lot 14, so as to protect the balance of this lot Council should also condition in any such approval that there can be no further buildings constructed on Lot 14 outside of this building envelope.

Care also needs to be taken to ensure that the access road that crosses this drainage line is developed in a way that is consistent with the broader goals of the site.

Given all of the constraints outlined above, appropriate outcomes may include: (a) identification of a building envelope towards the very front of the currently proposed Lot 14, maximizing distance from the SEPP 26, but also buffered from the rainforest lined creekline; or, (b) attach this residual land to the proposed Lot 13.

#### **4. Potential open space corridor**

The *Opportunity and Constraints Plan* and the *General Arrangements Plan* included in Appendix 2 shows an opportunity for future open space connection from the Castle Drive precinct to the proposed new Amber Drive cul-de-sac.

The Ballina DCP aims to encourage connected communities, and typically requires new subdivisions to provide pedestrian paths and cycleways, so as to enable pedestrians and/or cyclists to have direct access from one area to another without having to travel longer distances by road.

Whilst not specifically identified for this development site, this concept in the DCP should be embraced in the development of this site.

Given the significance and social/recreational benefits that such an open space facility would provide (for both new and existing residents), this is supported and should be a requirement of any consent.

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It is not apparent how this will occur as this corridor appears to be shown across one of the privately owned lots.

It is recommended that the opportunity for future open space connection from the Castle Drive precinct to the proposed new Amber Drive cul-de-sac as mapped in the Opportunity and Constraints Plan and the General Arrangements Plan be formalized. The proponent should plan for it, and Council issue a condition of consent that this be delivered.

#### 5. Vegetation Management Plan

As described above in relation to Lot 14 – but across the site there is a variety of ecological values including:

- Littoral Rainforest that is mapped as State Environmental Planning Policy (SEPP) No. 26 Littoral Rainforest;
- Rainforest areas within the 100 m buffer zone around the SEPP 26 Littoral Rainforest;
- Rainforest vegetation that forms part of an Endangered Ecological Community (and listed under the *Threatened Species Conservation Act 1995*);
- creeklines and wetland habitats.

Some of this is proposed to be transferred to the Ballina Shire Council estate, whilst other areas are proposed to remain in private hands.

The documentation provided refers in a number of places to an intention to develop Vegetation Management Plans (VMPs). It is not clear over what areas these VMPs would apply, when they would be prepared, what the timing of such plans would be, nor who would have the responsibility for implementation.

Clearly such confusion is likely to place the ecological resources listed above at risk.

Whilst the current land management regime is not necessarily improving the ecological state of these resources, it is preventing further decline by preventing weed regrowth. Removal of the grazing, in the absence of a well-planned and resourced land management routine is likely to lead to increased weed threats and bush fire risk, which ultimately will degrade the values of this site.

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Clarity must be provided as to how these ecological values of the site shall be protected, enhanced and maintained. There must be clarity provided around what areas VMPs shall be developed, and how they will be executed into the future.

#### **6. Protection of Swamp Wallaby**

Section 3.3 of the Ecological Assessment (Appendix 7) fails to identify the swamp wallaby (*Wallabia bicolor*) in the 'Mammals' section. I have observed on numerous occasions small mobs (4-5 individuals) of swamp wallabies making use of the grassy area within Lot 14. These mobs have been observed along the southern portion of the proposed Lot 14 and between the SEPP 26 littoral rainforest and the vegetated drainage line. Clearly these are frequent visitors to this site.

The Ecological Assessment states that "Movement opportunities for fauna through this highly disturbed landscape are generally limited". The SEPP 26 littoral rainforest on this site adjoins a continuous belt of vegetation that connects eastwards across the Coast Road to the coastal reserves, and southwards towards North Creek.

Development of a dwelling on the proposed Lot 14 will remove and disrupt this range for the swamp wallaby and should be avoided.

So as to minimize the impact on the swamp wallaby and other native fauna, it is recommended that Council impose conditions/a covenant prohibiting new landowners from owning dogs and cats so as to protect the swamp wallaby and other native fauna.

#### **7. Potential land transfer to public ownership**

It is understood that Council has some concerns regarding the transfer of large land areas to the Council estate that then require Council resources to maintain. This is particularly understandable for large open space areas that require a high degree of maintenance (and of low ecological value).

However, given the ecological values of the site, it is recommended that Council give further consideration to the opportunity for some of the most sensitive areas to be transferred into public ownership. This would be the following areas:

- Littoral Rainforest that is mapped as State Environmental Planning Policy (SEPP) No. 26 Littoral Rainforest;

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- Rainforest areas within the 100 m buffer zone around the SEPP 26 Littoral Rainforest;
- Rainforest vegetation that forms part of an Endangered Ecological Community (and listed under the *Threatened Species Conservation Act 1995*);
- creeklines and wetland habitats.

Clearly, there remains significant risks that if Council does not acquire this land, then there is likely to be future issues and conflict arising should private landholders seek to develop their land at the expense of these natural values.

If the proponent is required to conduct works to bring these sensitive areas up to a low maintenance state before handover (after say 5 years), then this would allow BSC to ensure that these areas are protected into the future, at low cost to Council/community.

Therefore, it is recommended that Council provide strong consideration of the transfer of strategic lands that both facilitate community access (open space connections) and protect the natural/ecological values of the above described communities.

Yours Sincerely,  
Anthony Acret

14/8/2014  
General Manager  
Ballina Shire Council  
Ballina 2478

Attention: Anthony Peters

Dear Sir

**Objection to DA 2014/349 – Lot 42 DP: 1168665, Amber Drive Lennox Head.**

Our residential property at 57 Amber Drive, Lennox Head adjoins this proposed residential subdivision and we acknowledge that a portion of the property has been rezoned to R2. We are accepting of development of 1200m<sup>2</sup> allotments contained wholly within the R2 zone however we object to this application in its current format as addressed below.

The following matters are the key issues:

- 1. The proposed entrance treatment for the subdivision off Amber Drive:** The proposal identifies a raised traffic calming and narrowing of the street area leading from the existing cul-de-sac (to be reconstructed). Also the preliminary design appears to indicate a depressed length of road which is hard to understand. **The street realignment will have a direct impact on the driveway to our property. We have not been consulted by the applicant in this regard and do not understand how our access will be maintained as the layout appears to require reconstruction. We request that Council Insist on a fully detailed design being lodged as part of the assessment process prior to any approval for a subdivision being granted.** We also have concerns as to the effectiveness of the calming device, the potential noise impact on existing residents from vehicles slowing and accelerating from the device and the vertical alignment (dip effect) as shown on the long section.
- 2. Stormwater Drainage:** There is a significant issue with stormwater around the entrance of the proposed subdivision (south of the existing cul-de-sac) adjoining our property and that of 48 Amber Drive. A number of open gullies run through the development and there is a proposal to pipe stormwater down through the development. We have been advised that the proposed narrow blocks will make it almost impossible to create easements or undertake maintenance (to Council's requirements) and provide sufficient area for dwelling construction compatible with the local area. The proposal shows a high level cut-off drain extending for the full length of the development ultimately discharging into a proposed pipe network. This will add additional water to the existing system (currently open channel) that based on evidence struggles to cater for existing flows. We request that the layout and allotment locations are modified (moved southward) to provide for a significant drainage system. In particular the proposed Lots 1 and 17.
- 3. Zoning** –We are aware that a significant amount of time was spent preparing draft LEP's and planning documents by Ballina Shire Council prior to the adoption of the BLEP2012. Council, in preparing the draft mapping and draft zoning plans earmarked the 1(d), 7(l), 7(d) and part of the 2(a) zones shown on the BLEP1987 maps for this property as E2 environmental protection zones for the BLEP2012. Obviously Council had a clear vision that these areas were not suitable for residential purposes even though they are currently *Deferred Matters* under the new LEP and the 1987LEP provisions prevail until the matter is resolved. Council would have had ample opportunity to expand the R2 low density residential zone to the

west to link with Sandstone Crescent lots but has chosen not to do so. The applicant in proposing the current lot layout appears to be trying to circumvent Council's position in this regard.

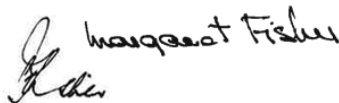
4. **Lot sizes** – all zones in both LEP87 and LEP12 have set minimum lot size provisions as follows.  
R2 - 1200m<sup>2</sup>  
7(d), 7(l) and 1(d) all have a 40ha minimum  
2(a) – 600m<sup>2</sup>  
**Not one of the proposed lots meets the minimum lot size standard applicable** – see table 1, page 3 of appendix 12. The applicant is arguing that it is suitable to use land that under normal circumstances would require a minimum 40ha standard to add areas to the R2 lots to achieve a higher lot yield.  
The R2 zone objective is to ensure that subdivision is compatible with the character of the area. Housing development on 600 – 700m<sup>2</sup> allotments having 14m frontages is not considered to have similar character to single dwellings on allotments of 1200m<sup>2</sup> having conventional width to depth ratios. The proposed street scape looks more akin to development in the Estates in Ballina than the local surrounding area. An adjustment to the number of lots to 10 should be done to achieve the minimum lot standard in the R2 zone and it is not unreasonable for the balance of the land to remain in one title which could effectively comply with the 40ha lot requirement.
5. **Subdivision layout:** The current layout is not supported as it utilises environmental protection areas for roads and stormwater management matters. We consider that it would be possible to simply shorten the cul-de-sac and move it back into the R2 zone. This could have the effect of enabling the stormwater treatment area to be moved to within the area immediately adjacent the road (R2 zone) and could possibly avoid the removal of some native vegetation. A review of the road design drawings indicates that the extent of excavation batters may not be correct at the head of the cul-de-sac. If this is the case, the current design may well impact additional vegetation. Moving the road and restricting the lots to within the R2 zone will reduce the overall number of allotments, demand on services, traffic impacts and the like. Consideration to redesign of the road should also be given as the current design shows extensive 1 in 4 cut batters going beyond the R2 zone area or approximately 60-70m in length. Redesign of the road and reduced lot numbers could see a more sympathetic design for driveways and dwellings without the need for excessive batter scarring.
6. **Stormwater detention basin:** We are aware that previous Land and Environment Court findings may not support the location of detention basin in the 7(d) zone. Further the proposed basin appears to straddle existing gullies and it is not clear how stormwater / gully flows will be managed or exactly what the final design or visual impact of the basin will be.

This proposal is a complete over development in so many respects and we reject completely the applicant's statement, in relation to the proposal, that "strict compliance with the development standard is unreasonable and unnecessary".

Yours sincerely

Peter and Margaret Fisher

57 Amber Drive, Lennox Head 2478



(Lot 23 DP 240657)

30 SANDSTONE CRESCENT

LENNOX HEAD. 2478.

To whom it may concern,

12.8.14.

I refer to DA 2014/349 at Lot 42 DP 1168665

Amber Drive Lennox Head, and information on Council's Website.

We wish to state our objection to the subject DA on the following grounds;

- 1.) The number of proposed lots is not consistent with the objective of the current R2 zoning. The proposed 17 lots are concentrated in the North West corner of the property and is not consistent with the low density objectives of the existing zoning.
- 2.) Proposed stormwater treatments at the bottom of our property (30 Sandstone Crescent) do not seem to be adequate to cater for the nature of stormwater discharge.
- 3.) Access will not be available to the bottom of our block. Current informal access - (we have always had access in council access easement to stormwater pits and pumping station) - will not be available. The current proposal - Lot 1, North West corner - will remove access to our block. Previous discussions with council with regards to building on lower portion of our block indicated that access via Amber Drive was the only viable option.
- 4.) Maintaining existing access arrangements which currently serve a number of properties and would be an asset in any fire hazard situation, as significant existing vegetation exists on our block and adjoining blocks.
- 5.) Access from our block via Amber Drive and access to headland and Boulder Beach will also be compromised.

Thankyou, Marcus &amp; Sherryn Riches (nee BAKE)

Ballina Shire Council



C.R & R.A Smith  
48 Amber Drive,  
Lennox Head  
02 66 874 894

Re: DA 2014/349  
Residential subdivision comprising 17 allotments and one open space allotment and associated civil and environmental works.

1. This submission is made to object to the nature of the above residential development, specifically the attempt to 'extinguish' the storm water easement which flows through Lot 1 of this development and the re-direction of the storm water.
2. The storm water easement which currently exists flows from the top of the escarpment behind the development and into the wet lands which border the Coast Road. This easement also has an access road which runs beside it from the bottom of Amber Drive to the back of what is planned to be Lot 1. Originally, there was a sewerage pumping station at the end of this access road at the back of this block. The council used this road to gain access to the pumping station on a daily basis, and over the years have used it to bring heavy digging equipment on to the site to carry out major work to do with the pumping station and the storm water easement.
3. Recently the pumping station was removed and all pits filled in. However, the access road is still used by the council to gain access to the stormwater easement. Storm water pits have not been filled in and still function as they should. Recent work included the use of heavy digging equipment to dig up the area, re-lay pipes and then fill the excavations. There are a number of pits in this area to do with the storm water and run off that flows from the top of the escarpment. The plan to redirect the stormwater into a pit at the back of Lot 1 is flawed. Such a pit will not be able to contain the amount of water that flows via this easement. The easement will still exist from the back of Lot 1 up onto the escarpment. The plan seems to be to catch the water at the boundary of Lot 1 and then redirect it into a grilled pit.
4. The amount of storm water that comes down this easement, especially during heavy periods of rain is significant. Attempts to divert this storm water into a pit beside our property and not allow it to run its natural course into the wet lands beside the Coast Road is fraught with danger for the land holders along this easement. The current plan also includes filling the existing drain once the storm water has been diverted and allowing purchasers of the block to build on top of the old easement and the access road.
5. Such building work will mean that council will no longer have access to move equipment to the back of the block where the easement will still exist. In fact, council will not be able to gain access to the easement from any location if the access road is allowed to be built upon.
6. The current easement should be left as it is and there should be no attempt to re-direct storm water. If this development is allowed to go ahead as planned and problems of flooding do occur in the future then it is the land holders and council who will be left to ~~clean up the mess,~~



not the developer. In the overall scheme of the development the loss of one building block is not significant. The problems that could accrue from messing around with the natural flow of storm water, however, could be catastrophic for the land holders along this easement.

7. We have lived at our current address on Amber Drive for the past 13 years. During that time we have witnessed during periods of heavy rain the storm water drain flowing like a river. In fact, at times the easement has been unable to cope with the amount of water flowing along it and water has cascaded down our back yard and pooled outside our laundry door.
8. Insurance does not cover for storm water damage and we are not covered for any damage caused by such flooding. Will council or the developer be liable for such damage if this does occur?



C. R (Ross) Smith



R.A Smith



**Photo 1. Access Road and Storm Water Easement From Top Lot 1.**



**Photo 2. Easement from Top Lot 1. Up the Escarpment**



**Photo 3. Storm Water Access Pit Cover Top Lot 1. Beside Easement**



**Photo 4. Storm Water Access Pit Cover Top Lot 1.**



**Photo 5. Storm Water Access Pit Cover Top Lot 1.**



**Photo 6. Storm Water Access Pit Cover Top Lot 1. Beside Our Land. This is the Site of the Planned Grilled Pit to Catch All the Diverted Storm Water.**



**Photo 7. Sewerage Pit Cover Bottom Access Road Next To Easement**

ORIGINAL

52

BALLINA SHIRE COUNCIL

TR & JH JENSEN  
42 SANDSTONE CRESCENT  
LENNOX HEAD NSW 2478

DEAR SIR OR MADAM

10/8/2014

DA 2014/349

LOT A2 DP 1168665 AMBER DRIVE LENNOX HEAD

YOUR LETTER DATES 21 JULY 2014

WE ARE CONCERNED ABOUT THE HIGH DENSITY OF THE 16 BLOCKS AND THE ENCRoACHMENT OF THE EXTENSION OF AMBER DRIVE INTO LAND ZONED 7(a)

ANOTHER CONCERN NOT RELATED IS YOUR ADHOC SUBDIVISIONAL PLANNING WHERE NO WALKWAYS ARE PROVIDED BETWEEN ADJACENT SUBDIVISIONS

FOR EXAMPLE IF WE WISH TO WALK VISITING A FRIEND LIVING AND AT THE END OF CASTLE DRIVE WE HAVE TO GO BY NORTH CREEK ROAD. THE SAME APPLIES IF WE WANT TO VISIT A FRIEND LIVING AT THE END OF THE CUL DE SAC AT AMBER DRIVE, THE ONE EXCEPTION IS THE WALKWAY PROVIDED BETWEEN CASIAL CROVE AND SEAMIST PLACE.

THANK YOU  
YOURS FAITHFULLY

Michael Jensen

14/53841

ACKNOWLEDGED

RECORDS  
SCANNED

12 AUG 2014

14/53772

Doc No.....

Batch No.....

8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC

DA 2014/349  
Anthony Peters.



The Group Manager  
Development and Environmental Health  
Ballina Shire Council  
PO Box 450  
BALLINA 2478

40 Sandstone Crescent  
Lennox Head NSW 2478  
Ph (02) 66218912 (Bus.)  
(02) 66877170 (Home)

8 August 2014

Dear Sir,

Wavehill Estate, Amber Drive Lennox Head DA - Objection

Your letter dated 21 July 2014 refers:

We wish to submit an objection to this proposed development – as follows:

We bought our property at 40 Sandstone Crescent 12 months ago. When purchasing, we considered the zonings in and around the property, including the land below which is currently being farmed – the subject of this DA.

Given the zonings, we realized that there would be the possibility of some residential lots being developed in the future. However, the zoning is R2 – being consistent with the semi-rural amenity of this land, and we expected the number of possible residential allotments to be 6 or so, in accordance with the zoning. This zoning was confirmed only last year, and is obviously in place to reflect the character of the area.

We are therefore extremely concerned that this plan is for 17 allotments, and is unarguably non-compliant.

The developers are obviously aware of their non-compliance, and have addressed the matter in documentation accompanying the application, attempting to justify the number of allotments planned by combining the land zoned R2 residential, with land zoned for other purposes to concoct 1200m2 allotment sizes that meet the R2 requirements.

To us this is nonsense, and unjustifiable.

- We are extremely concerned about the increase in traffic in Amber Drive should this proceed – at an average of 2 cars per lot, there will be 34 more vehicles moving in and out of Amber Drive daily – both ways as it will be “no exit”.
- The increase in noise resulting from 17 more houses in the area is also a concern – the lie of the land creates a soundshell as it is, amplifying any noise created in the hollow between the Coast Road and the ridge to the west.
- The street frontages proposed are narrow, houses will be squashed together by necessity, looking like sardines in a can. The developers claim that the new housing will be similar to existing, but that is plainly incorrect. When viewed from the scenic Coast Road between Boulder Beach and Lennox Headland, existing housing is softened and camouflaged by contours of the land (Amber Drive) and by tree cover (Sandstone Crescent and Castle Drive). New housing will be totally exposed and will dominate the view from the coast. This is at a time when access to the coastal escarpment is to be enhanced by new access paths and a public determination to celebrate the beauty of what we have.

14/53603

ACKNOWLEDGED

In summary, the result of this development will be substantial increases in traffic movement, substantial increase in noise, and squashed together house frontages that will be extremely unattractive from the East.

It is also our understanding that there is substantial residential development being planned to the west of this area. Lennox Head is not desperately in need of suitable residential land. The coastal strip is the jewel in the crown of Lennox. When there is ample land that can be developed without impact on the coastal strip – what need is there to over-develop this iconic piece of coastline? This proposal is “over-development”. When residential lot sizes are artificially enlarged by incorporating land not zoned residential, purely to maximize the number of saleable lots, there can be no other term for it. Even the Amber Drive extension ends up well within land zoned 7(d) – “Environmental Protection”, only to allow 1200m2 lots that the developer can sell – there is no other reason. Approval of this application will set a precedent – there is no doubt.

The last sentence in the developer’s conclusion states:

“It is considered that strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.”

We would strenuously argue that compliance with the zoning requirements is entirely reasonable and necessary – it’s what they are there for!

We disagree with the developers reasoning entirely. To us, this is purely and simply a non-resident investor attempting to maximize their return on investment, with little regard to the adjoining residents, or to the amenity of the area, and we would ask that this application be rejected.

Thank you.

Yours faithfully,

Brian & Lyn Pool

The image shows two handwritten signatures in black ink. The top signature is a cursive signature that appears to be 'Brian Pool'. The bottom signature is another cursive signature that appears to be 'Lyn Pool'. Both signatures are written in a fluid, connected style.





RECORDS  
SCANNED  
21 AUG 2014  
Doc No.....  
Batch No.....

Mr P Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Our ref: 14/12574  
Your ref: DA2014/349

20 August 2014

Dear Mr Hickey

**Application Under State Environmental Planning Policy No 1 for an 18 Lot Subdivision of Lot 42 DP 1168665, Amber Drive, Lennox Head**

I refer to your letter of 24 July 2014 requesting the Secretary's concurrence in the above matter.

Following consideration of the application, concurrence has been granted to vary the 40 hectare minimum lot size development standard for land in the 1(d), 7(d) and 7(l) zones contained in clause 11(2) of the Ballina LEP 1987, to permit an eighteen (18) lot subdivision of the above land.

Concurrence was granted in this instance for the following reasons:

1. Variation of the development standard does not raise any issues of State or regional planning significance since Lot 42 is already significantly less than the minimum lot size, and part of the lot is already identified for future residential development in the Far North Coast Regional Strategy.
2. There is no public benefit in maintaining the development standard in this instance as to do so would prevent the orderly development of existing residential zoned land.

I note that the area of the proposed building envelope for proposed Lot 14 is located within the 100m buffer for the SEPP 26 Littoral Rainforest to the south of Lot 42. A development application for a dwelling within this buffer will require the concurrence of the Secretary. I understand Council is discussing a reconfiguration of the boundaries of proposed lot 18 with the applicant. A reconfiguration of the boundary between lots 14 and 18 could provide a more suitable location for a future dwelling on Lot 14, clear of the SEPP 26 buffer area and the watercourse that traverses the site.

If you would like to discuss these matters further, please contact me on (02) 6641 6607.

Yours sincerely

**Paul Garnett**  
Senior Planning Officer  
Northern Region

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Your reference: DA2014/349  
Our reference: DOC14/149866  
Contact: Krister Waern (02) 66402503

Mr Paul Hickey  
General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478



**Attention: Mr Anthony Peters**

Dear Mr Hickey

**Re: Development Application No.2014/349 – Subdivision of Land (18 lots)  
Lot 42 DP 1168665 Amber Drive Lennox Head**

Thank you for the emails received on 11 November 2014 requesting comment from the Office of Environment and Heritage (OEH) on the above matter. The emails contained updated reports to address further information requested by Council. I appreciate the opportunity to provide further input.

OEH previously provided comments in relation to this proposal in a letter to Council dated 22 August 2014. Detailed OEH comments on the further information are provided in **Attachment 1** to this letter.

In summary, OEH has concerns about the design of the proposal, the location of the dwelling entitlement on proposed Lot 13, and the adequacy of the proposed offsets associated with the proposal. OEH recommends use of the BioBanking Assessment Methodology as a tool to calculate the biodiversity impacts and proposed offsets for the proposal. BioBanking is also recommended as the mechanism to ensure the ongoing protection and rehabilitation of the proposed Lot 13.

OEH is willing to assist Council in reviewing an appropriate offset proposal for the project.

Should you require further information or clarification, or should Council be in possession of information that suggests that OEH's statutory interests may be affected, please contact Senior Operations Officer, Mr Krister Waern, on (02) 6640 2503.

Yours sincerely

*Dimitri Young* 12 December 2014

**DIMITRI YOUNG**  
Senior Team Leader Planning, North East Region  
Regional Operations

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**Attachment 1 – Detailed OEH Comments – Subdivision of Land (18 lots) Amber Drive, Lennox Head**

**Biodiversity comments**

OEH has reviewed the further information supplied, including the updated Ecological Assessment prepared by Blackwood Ecological Services dated November 2014. The following comments are provided for consideration:

- a) OEH does not support the location of the proposed dwelling entitlement of Lot 13 shown on figure 5. The proposed dwelling entitlement area has not been consolidated with the other proposed lots of the development and in its current location would form a barrier to the future potential to form a north-south wildlife corridor connection in the area. The proposed dwelling entitlement is also within the SEPP26 100m buffer area. OEH does not support development in this buffer.
- b) OEH's previous recommendation to protect the littoral rainforest Endangered Ecological Community (EEC), which also includes the threatened Arrow-head vine, on the western boundary of the site has not been adopted into the revised layout. The numerous fence lines and infrastructure such as the proposed headwall and turf drainage swale will impact on this areas and affect the long term viability of the EEC and the Arrow-head vine. The impacts on this EEC and the Arrow-head vine should be offset if the current proposal is approved.
- c) The ecological report states that the proposal will impact on 9560m<sup>2</sup> of Hairy-joint grass (HJG) and 450m<sup>2</sup> of littoral rainforest Endangered Ecological Community (EEC). OEH considers these figures to underestimate the actual impacts. These figures do not include all previous HJG mapping by Kooyman 2008 and the EEC impacts outlined in point b) above. It is also unclear whether the impacts of clearing entitlements afforded by the 10/50 Code of Practice under the *Rural Fires Act 1997* have been factored into the impact figures. Further, the indirect impacts of the proposal have not been quantified to enable these to be factored into a quantifiable offset.
- d) The ecological report states that, '*the proposed development involves the compensation of habitat on a basis of just over 3:1*'. Based on the above points it is likely that the offset ratio will be less than 3:1. Considering the significance of the threatened species and ecological community in question, the proposed offset does not appear sufficient.
- e) OEH is also aware that the landholder is already under an obligation to rehabilitate areas in the south of the property under other development consents. These rehabilitation areas should not be counted again as part of the proposed offset requirements for impacts associated with this development application.
- f) If the in-situ protection of the significant biodiversity features described in points a) to e) above is not the preferred option, OEH would recommend that these features are offset by the protection and rehabilitation of substantial areas of proposed lot 13. This rehabilitation should also provide for the north-south wildlife corridor to enhance the connectivity of the existing vegetated areas.
- g) The current proposal suggests that after five years of rehabilitation, the privately owned Lot 13 will be protected under a suitable land management mechanism. OEH recommends that this area should be afforded protection in perpetuity and BioBanking should be considered as one of the better options to achieve this outcome.

## 8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC

Attachment 1 – Detailed OEH Comments – Subdivision of Land (18 lots) Amber Drive, Lennox Head

- h) Without a suitable metric to calculate the biodiversity values of the losses and gains associated with the proposal in a repeatable and transparent way, the offsetting discussion and negotiation will be arbitrary. OEH recommends the use of the BioBanking Assessment Methodology to ensure the offsetting contributions will improve or maintain environmental outcomes. BioBanking is a market-based scheme that provides a streamlined biodiversity assessment process for development, a rigorous and credible offsetting scheme as well as an opportunity for rural landowners to generate income by managing land for conservation.

### Recommendations

OEH recommends that:

1. Council should consider requiring the applicant to redesign the current proposal to reduce impacts on biodiversity.
2. Council should consider the relocation of the dwelling entitlement of Lot 13 to avoid impacts on the SEPP26 100m buffer area, improve rehabilitation efforts and enhance connectivity between existing vegetated areas.
3. Council should require the applicant to fully calculate the direct and indirect biodiversity impacts of the proposal and the offsets required to compensate for those impacts via a repeatable and transparent method and the use of BioBanking should be encouraged.



Your reference: DA 2014/349  
Our reference: DOC 14/149866  
Contact: Marcy Mills 02 6659 8233

Mr Paul Hickey  
General Manager  
Po Box 450  
Ballina NSW 2478



Attention: Anthony Peters

Dear Mr Hickey

**Re: Development Application 2014/349 – Subdivision of Land (18 Lots), Lot 42 DP 1168665, Amber Drive, Lennox Head**

Thank you for your letter of 24 July 2014 requesting comments from the NSW Office of Environment and Heritage (OEH) on a development application for the subdivision of Lot 42 DP 1168665, Amber Drive, Lennox Head. I appreciate the opportunity to provide input.

OEH understands that the proposed development is for the subdivision of the above land into 17 allotments to be used for residential purposes and one residual allotment to be used for public open space purposes. It is also understood that the land is currently zoned under both the *Ballina Local Environmental Plan (LEP) 1987* and the *Ballina LEP 2012*, as parts of the site proposed for environmental conservation have been deferred subject to the outcome of a review of environmental protection zones by the Department of Planning and Environment.

OEH has reviewed the development application and associated statement of environmental effects (SEE). Detailed OEH comments are provided in Attachment 1 to this letter relating to our statutory responsibilities, which include Aboriginal cultural heritage, historic heritage, biodiversity values including threatened flora and fauna, OEH estate and potential impacts on flooding, coasts and estuaries.

On the basis of this review, OEH makes the following recommendations:

1. Irregularities identified by OEH (Attachment 1 of this letter) within the Aboriginal Archaeological & Cultural Heritage Assessment accompanying the development application should be addressed and further investigations should be undertaken in relation to the occurrence of Hairy Joint Grass within the subject site.
2. The subdivision should be redesigned so that proposed lots 6 to 13 are located wholly within the R2 Low Density Residential zone under the *Ballina LEP 2012* and building envelopes (for all habitable buildings) and fencing requirements on these lots should be identified and restricted on their titles so that they are in the eastern parts of these lots.

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3. The subdivision should be redesigned so that the littoral rainforest endangered ecological community (to be retained on the site) and threatened flora species identified on the subject site are retained wholly within proposed lot 14, with a vegetation management plan prepared and registered on the title of this lot to ensure that these significant ecological values are adequately protected and maintained in perpetuity and to restrict the location of an access driveway, fencing and building envelope within this lot.
4. The assessment of significance provided in support of the development application should be amended to address the detailed OEH comments provided in Attachment 1 of this letter regarding the *Freshwater Wetlands on Coastal Floodplains of the NSW North Coast EEC*.
5. Further investigations should be undertaken in relation to Hairy Joint Grass.

If you require further information or clarification, or should Council be in possession of information that suggests that OEH's statutory interests may be affected, please contact Conservation Planning Officer, Ms Marcy Mills, on 6659 8233, or via email at [marcelle.mills@environment.nsw.gov.au](mailto:marcelle.mills@environment.nsw.gov.au). Please note that Marcy works Thursdays and Fridays only.

Yours sincerely

 22 August 2014

**DIMITRI YOUNG**  
Senior Team Leader Planning, North East Region  
Regional Operations

**Attachment 1 – Detailed comments - Development Application 2014/349 – Subdivision of Land (18 Lots), Lot 42 DP 1168665, Amber Drive, Lennox Head**

**Aboriginal Cultural Heritage**

An important component of the environmental assessment process undertaken in support of development proposals is the consideration of Aboriginal cultural heritage values. The importance of protecting Aboriginal cultural heritage is reflected in the provisions of the *National Parks and Wildlife Act 1974* (NPW Act).

The NPW Act clearly establishes that Aboriginal objects and places are protected and may not be damaged, defaced or disturbed without appropriate authorisation. Importantly, approvals under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) do not absolve the proponent of their obligations under the NPW Act.

As part of any development proposal, it is critical that tangible and intangible Aboriginal cultural heritage is appropriately assessed and considered. OEH's preference is to avoid impacting Aboriginal cultural heritage values as part of any development proposal and to ensure the proper care, conservation and preservation of those values.

The Aboriginal Archaeological & Cultural Heritage Assessment prepared by Dominic Steele Consulting Archaeology (July 2014) to support of the development application, has been reviewed by OEH.

The following comments are provided for consideration:

- The Aboriginal Archaeological & Cultural Heritage Assessment (assessment report) refers to the identification of a stone object during the most recent site survey (June 2014) and acknowledges the potential for the object to be an Aboriginal object.

Whilst the report refers to a lack of definitive flake scars or other technological criteria, no evidence is supplied to clarify the cultural views of the site officers as to whether the identified object is an Aboriginal object. Further, it is acknowledged in the assessment report that "pebble tools" have been found in the past in similar landforms within the area.

- The recommendations from the assessment report indicate that no further archaeological work is required. However it is noted in the assessment report that Aboriginal objects are likely to be present subsurface, albeit in a disturbed condition.
- The assessment report identifies management options to address the low surface visibility during the field survey and for the "one isolated find" object, including the opportunity to collect for relocation purposes any stone objects of a cultural nature that occur at the site. In this regard, an Aboriginal Heritage Impact Permit (AHIP) would be required for these activities.

Based on the above comments, OEH recommends that the irregularities within the assessment report are clarified and encourages the applicant to refer to the following documents:

- *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (OEH, 2010) - <http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf>. These guidelines identify the factors to be considered in Aboriginal cultural heritage assessments for development proposals under Part 4 of the EP&A Act.
- *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (OEH, 2010) - <http://www.environment.nsw.gov.au/licences/consultation.htm>. This document further explains the consultation requirements that are set out in clause 80C of the *National Parks and Wildlife Regulation 2009*. The process set out in this document must be followed and documented in the EIS.

## 8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC

Attachment 1 – Detailed comments - Development Application 2014/349 – Subdivision of Land (18 Lots), Lot 42 DP 1168665, Amber Drive, Lennox Head

- *Code of Practice for the Archaeological Investigation of Aboriginal Objects in New South Wales* (OEH, 2010) - <http://www.environment.nsw.gov.au/licences/archinvestigations.htm>. The process described in this Code should be followed and documented where the assessment of Aboriginal cultural heritage requires an archaeological investigation to be undertaken.
- OEH has prepared a guide to assist AHIP applicants. The guide should be read in conjunction with the NPW Act and the *National Parks and Wildlife Regulation 2009* (NPW Regulation). The guide is available at: [www.environment.nsw.gov.au/resources/cultureheritage/20110280AHIPguideforapplicants.pdf](http://www.environment.nsw.gov.au/resources/cultureheritage/20110280AHIPguideforapplicants.pdf).

### Note

Pursuant to Section 89A of the NPW Act, it is an offence for a person not to notify OEH of the location of any Aboriginal object the person becomes aware of, not already recorded on the AHIMS. An AHIMS Site Recording Form should be completed and submitted to the AHIMS Registrar ([www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm](http://www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm)), for each Aboriginal site found during investigations.

### **Biodiversity**

#### *Littoral Rainforest on Coastal Floodplains of the NSW North Coast*

OEH has reviewed the Ecological Assessment prepared by Blackwood Ecological Services (June 2014) provided as supporting documentation to the development application.

The ecological assessment has identified four vegetation communities on the subject site, including Littoral Rainforest in the NSW North Coast, which is listed as an endangered ecological community (EEC) under the *Threatened Species Conservation Act 1995*.

The proposal seeks to retain the majority of littoral rainforest EEC within the subject site, with the exception of two small isolated patches which are proposed to be removed.

It is noted that the subdivision proposal will result in the creation of 11 residential allotments (proposed lots 4 to 14) within an area of the site that has been previously recommended for environmental conservation as part of 2009 planning investigations.

OEH acknowledges that this area of the subject site is currently zoned 1(d) Rural Urban Investigation under the *Ballina LEP 1987* as it was deferred from the *Ballina LEP 2012* due to a review of the application of environmental zones on the NSW North Coast by the Department of Environment and Planning.

Aside from this, the land has previously been proposed for environmental conservation due to its conservation values. In this regard, OEH recommends that the subdivision is designed so that the land containing littoral rainforest EEC can be retained within one allotment that will enable this area of the site to be appropriately managed and zoned for environmental conservation in the future pending finalisation of the review of environmental zones. The current proposal to retain the EEC within eight individual allotments is not supported by OEH as the likelihood of this ecological community being managed appropriately is reduced significantly where it is under the management of numerous landowners.

It is therefore recommended by OEH that the subdivision is designed so that proposed allotments 6 to 13 (which currently contain littoral rainforest EEC) occur only where the R2 Low Density Residential zone currently applies under the *Ballina LEP 2012* and that the area of the site containing the EEC is captured wholly within one allotment (i.e. proposed lot 14).



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Attachment 1 – Detailed comments - Development Application 2014/349 – Subdivision of Land (18 Lots), Lot 42 DP 1168665, Amber Drive, Lennox Head

OEH also recommends that building envelopes (for habitable buildings) and fencing requirements are identified and registered as a restriction on the title of the proposed allotments adjoining the EEC (as demonstrated in figure 6 of the landscape guidelines accompanying the development application) so that impacts on the EEC following the construction of dwellings on the allotments associated with fencing and vegetation clearing exemptions under s100Q of the *Rural Fires Act 1997* are minimised. Note: under s100Q of the *Rural Fires Act 1997*, clearing of understory vegetation may be undertaken without any approvals within 50m of any external wall of a habitable building.

In addition to the above, OEH notes that the construction of a dwelling on proposed lot 14 is likely to result in impacts on the littoral rainforest EEC that have not been addressed in the development application, including the construction of an access driveway, fencing and vegetation clearing that may be undertaken in accordance with the s100Q of the *Rural Fires Act 1997* as mentioned above. In this regard, OEH recommends that the location of an access driveway, fencing and a building envelope is identified and assessed as part of the development application and registered as a restriction on the title of this lot.

In summary, OEH recommends the following in relation to the Littoral Rainforest EEC:

- that proposed lots 6 to 13 are located wholly within the R2 Low Density Residential zone currently applies under the *Ballina LEP 2012*;
- that the littoral rainforest EEC (to be retained on the site) is retained wholly within proposed lot 14 and adequately rehabilitated prior to the registration of any deposited plan;
- that a vegetation management plan is prepared and registered as a restriction on the title of lot 14 to ensure that the littoral rainforest EEC is adequately protected and maintained in perpetuity; and
- that the locations of an access driveway, fencing and a building envelope (for habitable buildings) are registered as a restriction on the title of proposed Lot 14.

### *Freshwater Wetlands on Coastal Floodplains of the NSW North Coast*

The ecological assessment prepared by Blackwood Ecological Services (June 2014) identifies a tall reedland / grassland community within the study area, comprising small patches of native reed species that are representative of freshwater wetland EEC. It is also noted in the ecological assessment that the tall reedland / grassland community adjoins areas of freshwater wetland EEC to the east of the study area.

The local occurrence of this community is not, however, clearly identified in the ecological assessment. Further, the ecological assessment does not clearly detail the species identified within the study area that form part of this community.

Whilst the study area is highly disturbed, the Final Determination of the NSW Scientific Committee for the freshwater wetland EEC does not delineate between higher and lower condition remnants of this community.

OEH recommends that the assessment of significance provided in support of the development application adequately identifies the local occurrence of freshwater wetland EEC within the study area and adjoining the study area. In addition, the assessment of significance should adequately demonstrate that the proposed subdivision is not likely to substantially and adversely modify the composition of the ecological community as a result of changes to the hydrology of the site (bio-filtration pond).

In summary, the following recommendations are provided by OEH in relation to the freshwater wetland EEC:

- that the assessment of significance provided in support of the development application adequately identifies the local occurrence of freshwater wetland EEC within the study area and adjoining the study area; and

## 8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC

Attachment 1 – Detailed comments - Development Application 2014/349 – Subdivision of Land (18 Lots), Lot 42 DP 1168665, Amber Drive, Lennox Head

- that the assessment of significance provided in support of the development application adequately demonstrates that the proposed subdivision is not likely to:
    - have an adverse effect on the extent of the freshwater wetland EEC such that its local occurrence is likely to be placed at risk of extinction; or
    - substantially and adversely modify the composition of the ecological community as a result of changes to the hydrology of the site;
- or alternatively, that an appropriate type and quantum of offsets are identified utilising the BioBanking Assessment Methodology and provided in perpetuity.

### *Arthraxon hispidus (Hairy Joint Grass)*

A review of OEH data indicates that *Arthraxon hispidus* (Hairy Joint Grass), which is listed as a threatened species under the *Threatened Species Conservation Act 1995*, has been identified within the study area in areas that are proposed for residential development.

The ecological assessment prepared by prepared by Blackwood Ecological Services (June 2014) also notes that Hairy Joint Grass was identified on the subject site during previous site surveys undertaken in 2008.

An extract from the results of the 2008 surveys indicates that Hairy Joint Grass was identified within the study area in areas that are proposed for residential development.

Whilst the results of more recent site surveys undertaken by Blackwood Ecological Services did not identify this species within the study area despite being undertake take during suitable times, OEH recommends that further investigation is undertaken by a suitably qualified botanist to ensure that Hairy Joint Grass is not present on the site.

OEH's preference is to avoid development on land comprising Hairy Joint Grass, in addition to the provision of a suitable buffer from residential land uses given that soil eutrophication increases resulting from residential development and changes in hydrology can have detrimental impacts on the survival of this species. If this species is found to occur within the study area following such investigations and impacts cannot be avoided, then OEH recommends that appropriate offsets are provided utilising the BioBanking Assessment Methodology. Note: OEH does not support translocation as an appropriate offset as there is no guarantee of a successful outcome. Translocation is counted as a loss.

### *Tinospora tinoporoides (Arrow head Vine) and Macadamia tetraphylla (Rough Shelled Bush Nut)*

The Ecological Assessment prepared by Blackwood Ecological Services (June 2014) identified two flora species within the study area, which are listed as threatened species under the *Threatened Species Conservation Act 1995*.

The subdivision proposal will result in these threatened species being retained within three separate residential allotments. Similar impacts are likely to result on these species as detailed above for the littoral rainforest EEC.

OEH's preference is to avoid development on land comprising a threatened species and for land containing a threatened species to be zoned for environmental conservation. In this regard, OEH recommends that the subdivision is designed so that the land containing the two threatened species can be retained wholly within one allotment (proposed lot 14) to ensure that they are appropriately managed and may be zoned for environmental conservation in the future pending finalisation of the review of environmental zones.

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Attachment 1 – Detailed comments - Development Application 2014/349 – Subdivision of Land (18 Lots), Lot 42 DP 1168665, Amber Drive, Lennox Head

OEH also recommends that a vegetation management plan is prepared and registered on the title of lot 14 to ensure that the Arrow head Vine and Rough Shelled Bush Nut are adequately protected and maintained in perpetuity.

### **OEH Estate**

Ballina Nature Reserve lies approximately 1km to the west of the subject site.

The development application should adequately demonstrate that the proposed subdivision (and future residential development) will not result in any direct or indirect impacts on this reserve, including subsurface and groundwater flows.

### **Flooding, Coasts and Estuaries**

According to the development application, the subject site is not flood prone. OEH data does not identify and flood hazard associated with the subject site.

### **Recommendations**

On this basis, OEH recommends that:

- proposed lots 6 to 13 should be retained wholly within the R2 Low Density Residential zone that currently applies under the *Ballina LEP 2012*;
- the littoral rainforest EEC (to be retained on the site) should be retained wholly within proposed lot 14 and adequately rehabilitated prior to the registration of any deposited plan;
- a vegetation management plan should be prepared and registered as a restriction on the title of lot 14 to ensure that the littoral rainforest EEC is adequately protected and maintained in perpetuity;
- the locations of an access driveway, fencing and a building envelope (for habitable buildings) should be identified and assessed as part of the application and registered as a restriction on the title of proposed Lot 14.
- the assessment of significance provided in support of the development application should adequately identify the local occurrence of freshwater wetland EEC within the study area and adjoining the study area and should demonstrate that the proposed subdivision is not likely to:
  - have an adverse effect on the extent of the EEC such that its local occurrence is likely to be placed at risk of extinction; or
  - substantially and adversely modify the composition of the ecological community as a result of changes to the hydrology of the site;or alternatively that that an appropriate type and quantum of offsets are identified utilising the BioBanking Assessment Methodology and provided in perpetuity;
- further investigations should be undertaken in relation to Hairy Joint Grass;
- the subdivision should be designed so that the land containing Arrow head Vine and Rough Shelled Bush Nut can be retained wholly within proposed lot 14; and
- a vegetation management plan should be prepared and registered as a restriction on the title of lot 14 to ensure that the Arrow head Vine and Rough Shelled Bush Nut are adequately protected and maintained in perpetuity.

All communications to be addressed to:

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au)

Facsimile: 8741 5433



The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Your Ref: 2014/349  
Our Ref: D14/2149  
DA14072993139 PC

**ATTENTION:** Mr Anthony Peters

11 December 2014

Dear Mr Peters

**Integrated Development for 42//1168665 - Amber Drive Lennox Head 2478**

I refer to your letter dated 24 July 2014 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by HASSELL Pty Ltd titled 'General Arrangement Plan' (Project No. 010395-61A-P, Drawing No. SK-001-B), dated 5 November 2014.

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the issue of subdivision certificate and in perpetuity, the identified building envelope on each lot and the surrounding land for a minimum distance of 10 metres, or to the property boundary (whichever is less), 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'.

**Water and Utilities**

ID:93139/86703/5

Page 1 of 2

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:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except that the dead end road may be greater than 200 metres in length.

**General Advice – consent authority to note**

Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Paul Creenaune on 1300 NSW RFS.

Yours sincerely



Alan Bawden

**Team Leader - Development Assessment and Planning**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

7 November 2014



The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

ABN 69 117 633 119  
Shop 4/500 Elizabeth Street  
SURRY HILLS NSW 2010  
M 0425 277 039

Attn: Anthony Peters

Dear Mr Peters

**Lot 42 Amber Drive Lennox Head (DA No 2014/349)**

We write in response to your letter dated 20 August 2014 and subsequent meetings regarding the development of land known as Lot 42 Amber Drive Lennox Head.

This submission and revised drawings have been prepared following exhibition of the application and supporting documentation for the proposed residential subdivision of land. The application was exhibited in August and during that time Council received submissions from government agencies including the Office of Environment and Heritage (OEH), the Rural Fire Service (RFS) and six submissions from the general public. The Department of Planning and Environment also issued its concurrence to vary the minimum lot size standard in the 1(d), 7(d) and 7 (l) zones, as part of the site is identified for future urban development in the *Far North Coast Regional Strategy*.

**Overview**

Based on the comments received and discussions with Council and other agencies, a number of modifications have been made to the proposal. In summary, the proposal has been amended as follows:

1. reducing the number of residential allotments from 16 to 15 with one (1) much larger residual allotment (now Lot 13) and a smaller area of land to be dedicated to Council for public open space purposes;
2. removing one of the narrower lots from the western side of the road so that the lot frontages increase (as shown on Drawing No SK-001 and Attachment 1) to an average 20m in width;
3. illustrating building envelopes (10x15m) for all allotments, particularly the building envelope and potential crossing for Lot 13, the residual allotment to the south;
4. modifying the layout of the cycle path consistent with Council's request with the path now closer to the rear of lots 14-16;

1.

5. illustrating the landscape embellishments on the General Arrangement Plan (refer to plan SK-001);
6. providing a minor redesign of the road layout consistent with RFS requirements to provide a 12m cul- de-sac bulb (from 10m) to satisfy 'Planning for Bush Fire Protection 2006'; and
7. amending the proposed civil and stormwater plans to reflect the changed subdivision layout and in response to the matters raised by Council including adjustment of the bioretention basin, drainage (particularly along the northern alignment at Amber Drive) and sewer.

Amended plans showing the proposed changes have been prepared by Hassell and TGM and are included at Attachment 1 and 2. The plans are as follows:

- SK-001-B General Arrangement Plan prepared by Hassell dated 5 November 2014;
- SK-002-B Lot Layout Plan prepared by Hassell dated 5 November 2014;
- SK-003-B Opportunities & Constraints Plan prepared by Hassell dated 5 November 2014
- SK-004-B Zoning Plan prepared by Hassell dated 5 November 2014
- SK-005-B Existing Site Plan prepared by Hassell dated 5 November 2014
- amended Civil Engineering Drawings (Revision B) prepared by TGM Group dated 31 October 2014 as follows:

12543-01(001)	Index and Notes	B
12543-01(002)	Overall Layout Plan	B
12543-01(003)	Road and Drainage Layout	B
12543-01(004)	Road and Drainage Layout	B
12543-01(005)	Road Longitudinal Section & Typical Cross Sections	B
12543-01(006)	Services Layout Plan	B
12543-01(007)	Services Layout Plan	B
12543-01(008)	Sediment and Erosion Control	B
12543-01(009)	Site Cut/Fill Plan	B

Further, an updated Ecological Assessment has been prepared by Blackwood Ecological Services that outline commitments to particularly restore and embellish disturbed and other areas of Littoral rainforest for a five year period. Additional advice has also been obtained from Coffey regarding the geotechnical matters and WGM Consulting regarding stormwater.

A discussion of the key considerations and specific changes are detailed below.

#### **Stormwater**

In view of the changes to the subdivision layout, a revised set of civil drawings has been prepared including the road and drainage layout (see Attachment 2). Key changes include:

- a new kerb inlet pit in Amber Drive;
- design changes near Lot 1 and Lot 16; and
- modified bioretention basin (see further discussion below).

A suitably sized easement for Lot 1 and Lot 16 will be prepared by a qualified surveyor at the subdivision certificate stage and before the land is registered. We therefore request that Council include this as a condition of development consent.

**Sewer**

Council note that the Services Layout drawing as submitted indicates that the proposed sewer system for proposed Lots 15 to 17 is to connect to Council's existing reticulated system within Lot 79 DP 802588. There is an easement to drain water but not sewer within Lot 79. Therefore, we have modified the sewer line in this area to the north and connected to the existing manhole within Lot 42 therefore avoiding the need to traverse through Lot 79. A slightly modified sewer configuration is therefore shown in the amended civil drawings (refer to Drawing 6 Services Layout Plan).

**Geotechnical**

Coffey Geotechnics has reviewed the modified design, notably the civil engineering drawings prepared by TGM, particularly with respect to the earthworks, drainage and geotechnical matters. Their advice is found at Attachment 6. It notes that a catch drain is proposed above the lots which both intercept boulders that may roll from the slopes above and controls water run-off.

With respect to the location of dwellings, the new lot layout clearly indicates that the proposed dwellings will be wholly within Hazard Zone 1 or 2. Furthermore, Coffey reiterate their earlier advice about guidance on methods to allow development in Hazard Zone 3.

**Public Footpath**

We have explored the option of providing a pedestrian corridor some 5m wide adjacent to Lot 12 near the southern creek line, see *Potential Public Access Plan* prepared by HASSELL at Attachment 3. This route is very steep with a level change of 27m (from RL 23 to RL 50). It has grades ranging from 1:6 to 1:3. It would require a number of stairs, retaining walls and handrails to support this structure and meet the relevant standards. It would be a very engineered and expensive structure that serves a limited catchment. The design also has the potential to be visually intrusive due to the extent of engineering.

HASSELL has advised it is not possible to meet the relevant standards without significant intervention. A summary of relevant access and gradient standards is provided below.

AS1428.1 Design for Access and Mobility

- AS 1428 uses a gradient threshold of 1:33;
- where walkways are steeper than this, between 1:33 and 1:21, they require "landings" at set intervals; and
- a walkway with gradient between 1:20 and 1:14 requires landings at set intervals, handrails and kerb rails.

Further, the AS does not advocate the use of steps as it inhibits universal access for those with limited mobility.

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Austrroads Guides: Part 6A Pedestrian and Bicycle Paths

The Austrroads Guide notes that 1:33 (3%) is as an acceptable gradient, with 1:20 (5%) as a threshold. Gradients steeper than 5% should not be provided unless it is unavoidable.

We note that the provision of this open space corridor is not identified in Council's Pedestrian Access and Mobility Plan (PAMP). The PAMP is a framework to provide a coordinated, convenient and safe pedestrian network. Council's current PAMP was adopted in November 2010 and remains current. There were a number of pedestrian user groups that the PAMP Study focused on, with the aim to encapsulate all pedestrian users' mobility and access needs including people with disabilities; people with restricted mobility; the aged; school children; and wheelchair and pram users.

Whilst it is always desirable to provide improved connectivity, the cost benefit needs to be considered. The owners are willing to dedicate to Council a 5m wide corridor to accommodate and build a pedestrian corridor in the future (and funded through Section 94 contributions) to preserve this future access. Council needs to determine the viability of this link in context of the PAMP, the steep gradient and compliance with the relevant standards. Any corridor must be dedicated to Council and not provided through an easement, which can be included as a condition of development consent.

**Dedication of Public Land/Stormwater Treatment**

WGM Consulting has completed more detailed stormwater modelling to fully determine the area required for stormwater infrastructure (notably the bioretention basin and outlet design). Advice from WGM is therefore found at Attachment 4. The key outcomes of the stormwater review and detailed modelling are:

- a reduction in the size of the bioretention basin through utilising rainwater tanks for each dwelling and the inclusion of a GPT prior to discharging the water into the basin; and
- a reduction in the bioretention basin with a total on site detention volume of 55m<sup>3</sup> and a bio-filtration surface area of 110m<sup>2</sup>.

We have realigned the pedestrian cycleway consistent with Council's request and reduced the area of land to be dedicated to Council for public open space purposes that includes the pedestrian cycleway and stormwater infrastructure. This area is now approximately 9,970sqm and is shown on the revised General Arrangement Plan at Attachment 1. Detailed landscape plans for the inner slopes and outside upper slope near the bioretention basin will be provided at the construction certificate (CC) stage and subject to Council approval. We therefore request that this matter be included in any condition of development consent.

**Submitted Plans**

As noted, building envelopes are shown for all allotments consistent with Council's requirements (10x15m). Table 1 below details the dimensions and areas of land for each split zone lot under each zone.

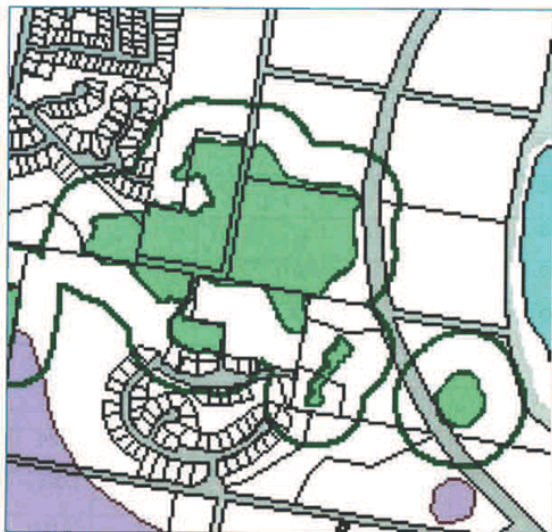
Table 1 Lot Sizes and Zonings

Lot	Zone 1(d) Area m <sup>2</sup>	Zone R2 Area m <sup>2</sup>	Zone 2(a) Area m <sup>2</sup>	Zone 7(d) Area m <sup>2</sup>	Zone 7(l) Area m <sup>2</sup>	Total Area m <sup>2</sup>
4	70	1150	-	-	-	1,220
5	480	1080	-	-	-	1,560
6	700	855	-	-	-	1,555
7	775	950	-	10	-	1,735
8	790	990	-	80	-	1,860
9	1050	1105	-	115	-	2,270
10	1000	1020	-	115	-	2,125
11	1055	1005	-	65	-	2,125
12	2770	1050	-	135	-	3,955
13	10435	-	5620	29475	25275	70,805
14	120	760	-	940	-	1,820
15	190	670	-	420	-	1,280
16	340	1120	30	445	-	1,935

*Note: Areas are indicative only and should be qualified by a certified quantity surveyor.*

It is noted that Council is particularly interested in the proposed dwelling envelope and access driveway for proposed Lot 13, which is now shown and located further south clear of vegetation. It should be noted that there is existing strong precedent for dwellings to be located within 100m of SEPP 26 rainforest (particularly along Castle Drive and Kelli Ann Crescent). Council rezoned land to the south of the SEPP 26 rainforest (No 37, 37B and 37C) on Kellie Ann Cres to R3 Medium Density Residential under the Ballina LEP 2012, which is well within the 100m. We feel there is a need for consistent and equitable housing policy within SEPP 26 buffer.

Blackwood Ecology has also considered the future development of Lot 13 including a building envelope and future access way. They conclude that future development can occur without the need to remove any native vegetation from within the SEPP 26 area or its associated buffer, which covers the majority of this lot.



Source: Lennox Head Strategic Plan

#### Site Rehabilitation and Ecological Requirements

Blackwood Ecological Services has updated the Ecological Assessment in response to comments made by Council and OEH. The updated assessment is found at Attachment 5 and provides details on the vegetation restoration strategy and addresses the following key matters:

- Littoral rainforest and restoration commitments;
- Potential Hairy Joint grass (HJG) habitat;
- Freshwater Wetland EEC; and
- RFS 10/50 Code and the on-going management of Lot 13

In summary, key points from the revised Ecological assessment include:

- future rehabilitation works including weed control and assisted natural vegetation in rainforest areas to the west and south;
- HJG habitat restoration works along the northern creek corridor;
- reviewing hydrology and the negligible change to peak discharge rates for pre and post development flows, noting that the structure and composition of the freshwater wetland to the east is highly unlikely to be altered;
- that with the identification of building envelopes on Lots 1 -12 located toward the eastern end of the road, future dwellings will be greater than 50m to the rainforest along the western boundary and are therefore not impacted by the RFS 10/50 Code and will not allow for vegetation removal; and
- that a suitable land management agreement can be placed on Lot 13 that does not allow the removal of vegetation in accordance with the 10/50 Code.

#### **Landscaping**

In response to Council's request for further information on proposed landscaping including upslope of the bioretention basin, the amended General Arrangement Plan (SK-001) prepared by HASSELL now includes indicative plant species for proposed street and verge tree species and within open space areas. It also shows proposed riparian edge planting near the bioretention swales. However, as previously noted, we request that detailed landscape plans for the inner slopes and outside upper slope near the bioretention basin be provided at the CC stage and subject to Council approval.

#### **Crown Road**

The Crown Road reserve is not owned by the Dossors but leased from NSW Land and Property Information. The owners will therefore approach the neighbours to the east and seek their interest in taking over the lease for grazing purposes. It is understood that road reserve is fenced and locked and rarely used for cattle grazing.

#### **Agency Responses**

##### Department of Planning and Environment

As noted, the Department of Planning and Environment has issued its concurrence to vary the minimum lot size standard in the 1(d), 7(d) and 7 (l) zones, as much of the site is identified for future urban development in the Far North Coast Regional Strategy and the subject site is also well under the current minimum lot size provisions. In addition, the Department noted that any future development application for a dwelling in Lot 13 within 100m of the SEPP 26 littoral rainforest would require concurrence from the Secretary.

##### Office of Environment and Heritage

OEH in its letter dated 22 August and during an on-site meeting raise the following points:

- Littoral rainforest within resulting lots 6 to 13 (now lots 6 to 12) ;
- Hairy Joints Grass habitat (*Arthraxon hispidus*);
- Proposed dwelling envelope, access and fencing within resulting lot 14 (now lot 13);
- Stormwater impacts on Freshwater Wetland EEC; and
- Offset strategy

It should be noted that OEH, unlike other agencies, does not have a concurrence or integrated approval role.

It is our view that the subdivision pattern for Lots 6 to 12 should remain as is and there are a number of negative repercussions in integrating the rear of Lots 6 to 12 to form part of an even larger Lot 13. This pattern of subdivision would be inconsistent with Crime Prevention Through Environmental Design Principals (CPTED) principals relating to safety and security, and particularly if the 5m public corridor is dedicated to Council for public open space and access purposes. If Council agrees to accept the pedestrian footpath between Lot 12 and the riparian corridor, this parcel of rainforest would be isolated and fragmented. It would also pose a dumping threat such as neighbours disposing their grass clippings and the like over the fence and others accessing the western rainforest.

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Core CPTEP principles relate to surveillance, access control, territorial reinforcement and space management. Surveillance would be very poor in this location and the opportunity for other people to gain access to the rear of these allotments is an issue. The subdivision pattern would not provide a legible layout, but a dead end space.

The rear rainforest along this western boundary (and elsewhere) provides beauty and screening and it is anticipated that future residents would maintain their small area of rainforest with a sense of pride. The rainforest can be secured through restrictive/protective covenants and this area will be subject to a five (5) year restoration program increasing the ecological values. There is also a strong precedent for this form of subdivision in the region with areas of rainforest located in individual backyards (eg Sandstone Cres and Survey Street).

Following the site visit, it is considered that OEH has misunderstood aspects of the proposed stormwater strategy and drainage, particularly in relation to the Freshwater wetland located to the east of the subject site. WGM has advised that currently, due the soil types and slope of the land, percolation/infiltration rates are low in the drainage corridors and the soils are not very permeable.

In terms of the stormwater design for the subject development, it is only proposed to pipe stormwater to the bioretention basin (consistent with the requirements of the Office of Water) and then waters naturally discharge at this point. There is no piped stormwater drainage to the wetlands on the adjoining site to the east. This matter is further discussed in the updated Ecological Assessment by Blackwood Ecology found at Attachment 5, which details the negligible difference in peak discharge rates for pre and post development; and that the downstream freshwater wetland is highly unlikely to be significantly altered as a result of the proposed development.

Other matters such as the HJG and the RFS 10/50 Code have already been discussed in the ecological response and in the updated Ecological Assessment at Attachment 5.

Office of Water

We have liaised with the Office of Water (Murwillumbah Office) regarding the need for a controlled activity approval under the Water Management Act 2000. The Office of Water has advised that an approval is required to pipe a first order stream through the site. Further, the Office noted that the proposed development is consistent with their guidelines and policies for urban development, that is first order streams are to be piped or diverted. The Office would therefore not object to the proposal which is simply captured by the legislation.

We would therefore like to defer this controlled activity approval until the current DA is determined by Council and therefore request that if the application is approved, this requirement is included as a condition of development consent. The Office of Water has also confirmed that this matter can be addressed at a later stage.

Rural Fire Service

As noted, the cul-de-sac bulb for the extension of Amber Drive has now been increased to 12m to satisfy 'Planning for Bush Fire Protection 2006'. We recommend that signage can be erected in the cul-de-sac to provide parking only for NSW Rural Fire Service vehicles as necessary, as the RFS has advised that this is a response area. This aspect can also be

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conditioned by Council. There is adequate area in the cul-de-sac to park a number of vehicles that could also spill into the grassed area as need (near the cycleway and basin).

General Responses

We have reviewed the general submissions and provided a summary of key issues and a response in Table 2 overleaf. A number of issues raised by residents are also addressed and discussed in the above responses.

**Summary**

Changes have now been made to the subdivision layout to provide an even lower density development with only 16 dwellings accommodated on the site (<1.5 dwg/ha) that protects and enhances areas of littoral rainforest for long term conservation.

We believe the owners have gone to some lengths to develop a scheme that satisfies a range of competing needs and demands. This final subdivision design has taken into account all concerns that have arisen during the assessment process. This site has long been identified for residential/urban purposes under Ballina LEP and is located within the Town Centre Boundary and Existing Urban Footprint of the Far North Coast Regional Strategy.

It is our view that this proposal more than adequately provides for the protection of the threatened species as well as ensuring a sustainable and attractive residential community for both existing and future residents that meets strong demand for coastal living.

I trust this additional information is of assistance. Should you require anything further, please do not hesitate to contact me on 0425 277 039.

Yours faithfully



Sarah Kelly  
Director

Table 2 Summary of Key Objections and Responses

Zoning, Density/Overdevelopment and Lot Sizes	Objection	Response
<p>Concern regarding:</p> <ul style="list-style-type: none"> <li>• the number of lots,</li> <li>• lot frontages (being too narrow),</li> <li>• minimum lot size</li> <li>• density</li> <li>• permissible use</li> <li>• demand</li> </ul>	<p>The proposal now provides for 15 residential lots ranging in size from 1,210 to 3,960 and one very large residual lot at 7ha that has a dwelling entitlement (Lot 13). These are large lots set in a low density environment, commensurate with the opportunities and constraints of the land. The gross residential density is less than 2 dwellings per hectare, when the accepted standard is 15 dwellings per hectare. The area of public open space has also reduced to less than 1ha and only accommodates the pedestrian cycleway and stormwater infrastructure to the north.</p> <p>Lot widths vary from some 14.1m to 53.4m (the average is approx. 20m) and building envelopes are now shown (10 x 15m). There is adequate space to accommodate a dwelling with the necessary side and front setbacks and private landscaping. The subdivision has been designed to sit gently in the local environment.</p> <p>The Department of Planning and Environment has issued its concurrence to vary the minimum lot size standard in the 1(d), 7(d) and 7 (l) zones as the subject site is well under the current minimum lot size provisions.</p> <p>As noted in Table 4 in the Statement of Environmental Effects, the proposed uses are permissible with consent.</p> <p>Visual observations and analysis of the site have informed the subdivision plan and lot layout. The design, as modified, is to retain the natural features of the site as much as possible, particularly the large areas of rainforest to the north, south and central areas and western boundary, and to locate housing on the lower slopes. Plantings along the western boundary also screen the development from neighbours. New housing will sit well below the existing ridgeline along the western boundary.</p> <p>In terms of demand, a local real estate agent has advised there is limited vacant land supply in Lennox Head and surrounding areas. The Lennox Meadows and Greenwood Grove both have one block left (as at 21 October). Stage 3 of Elevation</p>	

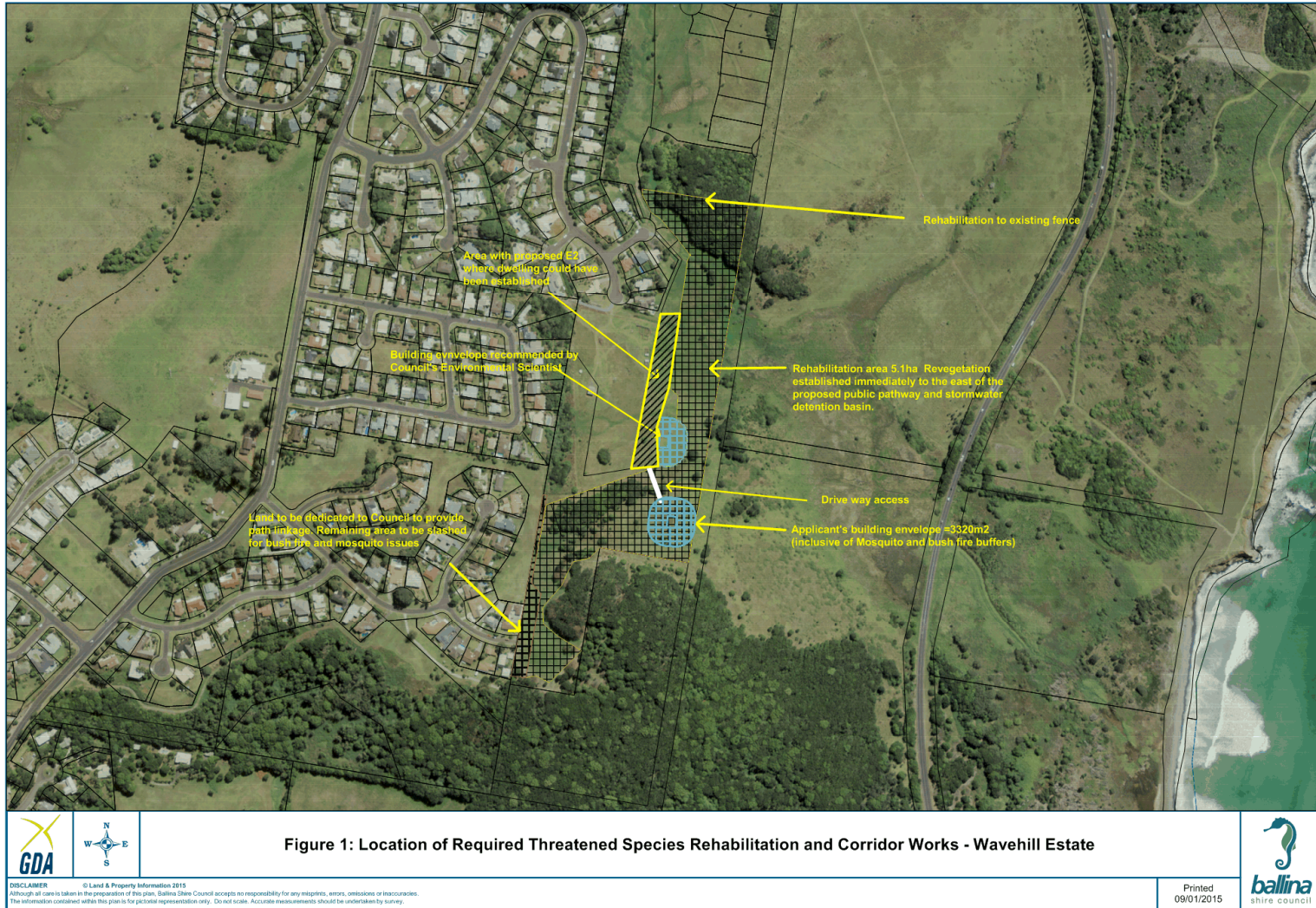
Objection	Response
<p><b>Lot 14 (Now Lot 13)</b></p> <p>Building Envelope not identified</p>	<p>Building envelopes are now shown for all allotments including Lot 13, the building envelopes measure 10 x 15m consistent with Council requirements. The building envelope for Lot 13 is located in the lower cleared area of the site and access is shown.</p>
<p>Ecological Issues and Vegetation Management including:</p> <ul style="list-style-type: none"> <li>• Protection of Swamp wallaby</li> <li>• SEPP 26 littoral rainforest and its buffer</li> <li>• Public ownership of sensitive lands</li> <li>• RFS 10/50 Code</li> </ul>	<p>Blackwood Ecological Services has updated the Ecological Assessment. The updated assessment is found at Attachment 5 and provides details on the vegetation restoration strategy and addresses the following key matters:</p> <ul style="list-style-type: none"> <li>• Littoral rainforest and restoration commitments;</li> <li>• Potential Hairy Joint grass habitat;</li> <li>• Freshwater Wetland EEC; and</li> <li>• RFS 10/50 Code and the on-going management of Lot 13</li> </ul>
<p><b>Open Space and Public Footpath/Corridor</b></p> <p>Desire for pedestrian connection from Castle Drive</p> <p>Public ownership – including SEPP 26 rainforest and creeklines.</p>	<p>We have explored the option of providing a pedestrian corridor some 5m wide adjacent to Lot 12 near the southern creekline, see <i>Potential Public Access Plan</i> prepared by HASSELL at Attachment 3. This route is very steep with a level change of 27m (from RL 23 to RL 50). It has grades ranging from 1:6 to 1:3. It would require a number of stairs, retaining walls and handrails to support this structure and meet the relevant standards.</p> <p>We note that the provision of this open space corridor is not identified in Council's Pedestrian Access and Mobility Plan (PAMP). The PAMP is a framework to provide a coordinated, convenient and safe pedestrian network. Council's current PAMP was adopted in November 2010 and remains current.</p>



Objection	Response
	<p>Notwithstanding, the owners are willing to dedicate to Council a 5m wide corridor to accommodate and build a pedestrian corridor in the future (and funded through Section 94 contributions). If Council is agreeable, the requirement for dedication can be included as a condition of development consent.</p> <p>In terms of the SEPP 26 rainforest and its buffer plus other sensitive ecological areas, it is understood that Council is unwilling to accept any further land dedications. They consider these lands to be a liability and maintenance burden. The owner's original rezoning request showed large expanses of land to be dedicated to Council under its care, control and management for Public Recreation and access purposes, but this was ultimately not accepted.</p>
<p><b>Noise and Traffic</b></p> <p>Increase in traffic on Amber Drive</p>	<p>As noted in the Assessment of Traffic Implications by TTPA, a traffic assessment was completed based on the traffic generation rates of the precinct and development of the subject site. The RTA Guide to Traffic Generating Developments identifies for local roads a maximum peak hour volume of 200 vehicles as an appropriate environmental goal.</p> <p>Amber Drive is a local access street. As a consequence of the proposed development, Amber Drive will be less than 50% of the environmental capacity goal. The development outcome with the increased volumes associated with the proposed subdivision is well below the established environmental capacity level. In terms of noise, the proposal meets the RTA guide for the environmental capacity goal.</p>
<p><b>Stormwater and Drainage</b></p> <p>Particularly Lots 1 and 16 – capacity and access issues</p> <p>Easements for stormwater</p>	<p>The project engineer in consultation with Council has reviewed the proposed stormwater infrastructure along the northern boundary at Lots 1 and 16, and has modified aspects of the stormwater design as noted on the revised civil drawings, including catchment inlet pits and rock lined berms.</p> <p>Along the northern boundary near Amber Drive there are currently 3 easements that relate to sewer and water. There are no easements for access.</p>

Objection	Response
	<p>A suitably sized stormwater easement for Lot 1 and Lot 16 will be prepared and will be addressed at the subdivision certificate stage. It will be prepared by a qualified surveyor.</p>
<p>Sewer Pumping Station</p>	<p>The pumping station has been decommissioned and is now located on Seamist Place. The proposal will further remove remnant infrastructure such as the wet well associated with the pumping station as part of the development.</p>
<p><b>Road Design, Amber Drive Entrance and Informal Access to Sandstone Crescent</b>                      Access to Amber Drive                      Vehicular access to 57 Amber Drive                      Amber Drive design issues</p>	<p>The project engineer has further reviewed the access from Amber Drive and any impacts on neighbour driveways. No access is impeded and there is scope to increase the verge areas in this location as the cul-de-sac bulb will be removed. The civil drawings show the driveway extension from the proposed kerb at 57 Amber Drive. Further detailed design for this area can also be provided at the CC stage as considered necessary, which can be included as a condition of consent. Levels are shown on the civil engineering drawings (and survey plan) and the road alignment is not depressed. The existing Amber Drive is RL 20 and 21, the proposed new road is graded at a similar level. The road entrance has been designed as a smooth transition.</p> <p>The road has been designed to terminate prior to the riparian zone. Cut and fill is proposed to reduce the amount of undulation and ensure a smooth transition into the residential environment from the existing Amber Drive.</p>
<p>Informal access to Sandstone Crescent</p>	<p>There is no easement for access along the northern boundary, particularly for public access and/or public thoroughfare. The only easements that are found in this location are for water and sewer. This area is also not identified in Council's PAMP. The cul-de-sac bulb for the Amber Drive extension has now been enlarged to 12m to satisfy the requirements of the Rural Fire Service.</p>

8.1 DA 2014/349 - 16 Lot Subdivision Amber Drive, Lennox Head.DOC



DA 2014/349  
DRAFT CONDITIONS OF CONSENT

**GENERAL**

1. Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including plans prepared by,
  - (a) Hassell Lot Layout Drawing No. SK-002-B Dated 5 November 2014
  - (b) Hassell General Arrangement Plan Drawing No. SK-001-B Dated 5 November 2014
  - (c) TGM Group Civil Drawings 12543-01 (001 to 009) inclusive Revision B Dated 31 October 2014
  - (d) Hassell, Potential Public Access Plan Drawing No. SK006 Dated 25 September 2014except as modified by any condition in this consent.
2. **Occupation or use of the site** for the purposes authorised by this consent shall not commence until all conditions of this consent have been complied with and a final occupation certificate has been issued by the Principal Certifying Authority (PCA), unless alternative arrangements have been made with Council.
3. **Street lighting** - The applicant shall be responsible for the design and installation of public street lighting. All street lighting within the development must be designed in accordance with AS / NZS 1158 and based on the installation of Country Energy Style 1 lanterns fitted with high pressure sodium lighting. Engineering design plans and specifications must be submitted to and approved by the Principal Certifying Authority.
4. **Electricity** - All power reticulation within the development shall be provided underground.
5. **Stormwater management** - Council shall accept the stormwater management system (per watershed catchment) 'on maintenance' only once the system is complete in its entirety and demonstrated to be functionally operating as designed to the satisfaction of Council's Engineer.
6. **Locks** - Any asset that will be dedicated to Council which contains a lock must be fitted with locks consistent with Council's master lock system. Council's Engineer must be contact on telephone 6686 4444 for further information.
7. **Offsets for Impacts to threatened species**

All areas of threatened species habitat to be directly and/or indirectly impacted by the development are to be offset in the ratio of 5:1 (that is 5m<sup>2</sup> of offset is required for 1m<sup>2</sup> of impact). As an alternative the developer may use the Office of Environment and Heritage (OEH) Biobanking Credit Calculator to determine threatened species offset ratios. Rehabilitation areas are primarily those areas as depicted in Figure 1: Location of Required Threatened Species Rehabilitation and Corridor Works. Details of the offset calculations are to be detailed within the Environmental Restoration and Corridor Plan (ERCP).
8. **Local Government Act approval**

Pursuant to Section 78A(3) of the Environmental Planning & Assessment Act 1979, this development consent authorises the following activities listed under Section 68 of the Local Government Act 1993, subject to full compliance with all other relevant conditions of this approval:

  - (i) Carry out water supply work.
  - (ii) Draw water from a Council water supply or a standpipe or selling water so drawn.

- (iii) Install, alter, disconnect or remove a meter connected to a service pipe.
  - (iv) Carry out sewerage work.
  - (v) Carry out stormwater drainage work.
  - (vi) Connect a private drain or sewer with a public drain or sewer under the control of Council or with a drain connected to such device or facility.
  - (vii) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway.
  - (viii) This approval expires upon completion of the building works on the land.
- As provided for in Section 78A(6) of the Act, the abovementioned approvals are granted only to the applicant and do not attach to or run with the subject land.

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE (Subdivision)**

*The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Construction Certificate relating to the approved development.*

9. If the works constitute a controlled activity under the Water Management Act 2000 due to the works in and around the identified first order stream, a license is to be obtained from the NSW Office of Water. If required a copy of the license is to be provided prior to the works taking place and activities must strictly adhere to any license conditions issued by the NSW Office of Water.
10. In accordance with Section 109F of the EP & A Act (Section 109 F) a Construction Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.
11. **Civil works (major)** - Prior to the issue of the Construction Certificate, engineering design drawings shall be submitted to and approved by Council for civil/subdivision works required by this consent. These drawings shall also include associated works required under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993.

Designs and details are to be in accordance with the current Northern Rivers Local Government Development Design and Construction Manuals (NRLGDDCM). Where civil/subdivision works are not covered by the NRLGDDCM or where specifically specified, designs shall be in accordance with appropriate design requirements from Austroads, Australian Standards, Roads & Maritime Services or other recognised authority acceptable to Council. For any civil/subdivision works not covered by the requirements of the NRLGDDCM, the construction certificate drawings for these works must be accompanied by a design report referencing design standards relied on, and a construction specification which must include construction inspection milestones, testing requirements/acceptance criteria and acceptable construction dimensional tolerances.

The submitted engineering design drawings must be accompanied by a Safety in Design Report in accordance with Clause 295 of the Work Health and Safety Regulation 2011 that also addresses Clauses 61 and 64 of the regulation and the Safe Work Australia "Safe Design of Structures Code of Practice - July 2012".

12. **Road intersection** - At the developer's expense, the intersection of Amber Drive and North Creek Road must be upgraded to a CHR(S) Type intersection in accordance with 'Austroads Part 4A: Unsignalised and signalised Intersections, Section 4.7. The works shall include modification to any existing private driveways adjacent to the intersection to ensure they are consistent with the new road pavement design. The works shall also include extension of the existing piped drainage system. The pavement profile shall

consist of at least 300 mm compacted thickness of roadbase quality material plus a minimum 25mm asphalt wearing surface. Details are to be submitted to and approved by Council under Section 138 of the Roads Act 1993 prior to the issue of the Construction Certificate.

13. **Re-alignment of Services** - At the developer's expense, all existing services within the cul-de-sac head of Amber Drive must be realigned to suit the road extension. Services must be relocated such that they do not extend under the road pavement other than for direct road crossings. Design plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
14. **Retaining wall** - The proposed retaining wall at the end of Amber Drive must be located wholly within the private lots and outside of the Council road reserve. A detailed design must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
15. **Dedication of public land and Footpath** – Prior to the issue of the Construction Certificate, the applicant shall submit to Council for approval a plan of dedication of a 5m wide public corridor extending from the end of Amber Drive to the existing public reserve adjacent to Castle Drive consistent with the alignment of the existing recycled water main traversing the site. The corridor shall then extend south along the western boundary of Lot 42 DP 1168665. The width of this corridor is to expand to 25 metres in the vicinity of the homes at the end of Castle Drive as shown in Figure 1: Location of Required Threatened Species Rehabilitation and Corridor Works – Wavehill Estate.
16. A 1.35 metre wide concrete footpath must be provided along the full length of this corridor. The areas along the edge of the path shall be finished with landscaping to the satisfaction of Council's Open Spaces and Reserves Manager. The footpath shall maintain the natural gradient of the site from Amber Drive to the open channel drain at the rear of Proposed Lot 12 at which point stairs shall be provided across the remaining gradient. The footpath shall include a drainage culvert adjacent to the proposed open channel drain extending from Proposed Lots 1 to 12. The footpath is to be designed and constructed in accordance with the Austroads "Guide to Road Design Part 6A: Pedestrian and Cyclist Paths" and Standard Drawing R07 of the Northern Rivers Local Government Development Design and Construction Manuals. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.
17. **Shared footpath / cycleway** - A concrete shared path a minimum of 2.0 metres wide must be provided as per the alignment on the TGM Civil Drawings, Ref No: 12543-01, Drawing No: 003 & 004, Revision: B. The path is to be designed and constructed in accordance with Standard Drawing R07 of the Northern Rivers Local Government Development Design and Construction Manuals. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.
18. **Reinstatement of existing cul-de-sac** - The existing cul-de-sac in Amber Drive shall be reinstated to upright kerb and gutter in accordance with the TGM Civil Drawings, Ref No: 12543-01, Drawing No: 003 & 004, Revision: B and the Northern Rivers Local Government Development Design and Construction Manuals (as current at the time of construction works commencing). This shall include the modification of any existing private driveways within this area. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.
19. **Road Names** - Prior to the issue of a Construction Certificate, the applicant must submit for Council's approval a list of proposed road names for all new roads created as a result of the subdivision. The applicant must give consideration to the requirements of Council's policy for the 'Naming of Roads & Bridges' which includes the Department of Lands document 'Guidelines for the Naming of Roads'.

20. **Electricity supply** - The applicant shall be responsible for all costs associated with the connection of underground reticulated electricity to each lot within the development. Design plans are to be approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
21. **Broadband service** - At the expense of the applicant and in accordance with the Federal Government's National Broadband Network (NBN) initiatives, the applicant is required to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN Co's specifications to allow for the installation of 'fibre to the home' (FTTH) broadband services. Certified design drawings must be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
22. **Civil Inspection Fee, Civil Construction Certificate Fee & Construction Bond**  
Prior to the issue of a Civil Construction Certificate, a Civil Construction Certificate application is to be made as well as the following fees and bond are to be paid to Council which includes the amount of Goods and Services Tax payable. The fees and bond are subject to review and may vary from the time of consent till time of payment:
- Civil Construction Certificate Fee: Refer to Council's Schedule of Fees & Charges
  - Civil Inspection Fee: Equal to 3% of the estimated cost of the civil works (Refer to Council's Schedule of Fees & Charges – minimum fee \$190)
  - Civil Construction Bond: Equal to 5% of the estimated cost of civil works (Refer to Council's Schedule of Fees & Charges – minimum fee \$1,000)
- The Civil Construction Bond is taken and may be used by Council to cover the cost of any damage to Council's assets (eg sewer systems, footpaths, kerb and guttering etc) arising from private development work. The bond will be refunded upon completion of the development should no such damage occur.
23. **Stormwater** - The proposed stormwater bioretention basin must not be located over the existing recycled water main traversing the site. The final shape and location of the basin must be approved by Council Engineer. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
24. **Stormwater** - The existing stormwater pipe discharging onto Proposed Lot 10 shall be extended from the current termination point through the full length of Proposed Lot 10. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
25. **Stormwater management plan** - The provision of stormwater controls on site shall be in accordance with the Water Sensitive Design requirements of Council's Development Control Plan Chapter 2 – Section 3.9 - Stormwater Management. The use of rainwater tanks in the treatment train must be limited to a maximum size of 5KL per lot. A revised Site Stormwater Management Plan must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
26. **Stormwater Management**  
The stormwater bioretention basin must be designed to include provision for all weather vehicle access and turning facilities for a Medium Rigid vehicle. A detailed design must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate.
27. **Stormwater** - At the expense of the applicant, an inter-allotment drainage system shall be provided within the proposed development in accordance with the minimum

requirements of the Northern Rivers Local Government Development Design and Construction Manuals for any lots that cannot be drained directly to Councils drainage system. Engineering design drawings must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.

28. **Stormwater** - The re-alignment of the open channel stormwater drain running through Proposed Lot 1 must be designed to ensure that stormwater overland flow does not discharge onto the existing adjoining property to the north, Lot 70 DP 802588. Engineering design drawings must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
29. **Filling of the site (flooding)** - No cutting or filling is to be conducted on the site that will cause surface water flooding of any adjoining property. The development shall make due provision for the diversion of the existing stormwater quantities that discharge onto the site via adjacent properties. The development shall be required to provide a suitable drainage system and demonstrate that the pre-development performance of the existing stormwater and overland drainage system is maintained. Details are to be included in the stormwater designs and submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate for the first stage of the development.
30. **Sewer Connection (standard)** - The applicant shall be responsible for all costs associated with the connection of Council's sewer system to each lot within the development in accordance with the Northern Rivers Local Government Development Design & Construction Manuals. Design plans are to be submitted to and approved by Council prior to issue of the Construction Certificate.
31. **Geotechnical works** - The applicant shall include and implement all the recommendations made in the geotechnical reports prepared by Coffey Geotechnics Pty Ltd for the site including Report GEOTALST03164AA-AF, dated 13 June 2008, GEOTALST03164AB-AA, dated 20 June 2014 & GEOTALST03164AB-AB, dated 5 November 2014. Details are to be included on the design plans and approved by the Principal Certifying Authority prior to the issue of the Construction Certificate.
32. **Water connection (dual reticulation)** - The applicant shall be responsible for the design and construction of a dual water supply system for both drinking water and recycled water in accordance with Ballina Shire Council's Dual Water Supply Plumbing Policy. These services shall be extended to service all new lots within the development.  
  
The design shall comply with the minimum requirements of the Northern Rivers Local Government Development Design and Construction Manuals (as current at the time of construction commencing). Design plans are to be approved by Council prior to the issue of the Construction Certificate.
33. **Public Reserve** - The proposed public reserve shall be dedicated to Council as per the design by Hassell, Drawing No: SK-001-B, dated: 05.11.14. The public reserve area shall be regraded such that it has a smooth surface with a maximum slope of 1V:3H unless otherwise approved by Councils Engineer. The surface must be free of rocks and any other potential hazards and vegetated with a full grass cover.
34. **Landscape plan** - A public road and public reserve landscape plan, prepared by a person competent in the field is to be submitted to the Principal Certifying Authority for approval prior to the issue of a Construction Certificate. The plan shall show the mature height, location, quantity and species of all plantings and should also give details of soil conditions and the planting and maintenance program. The landscape plan and selection of appropriate plants shall be made generally in accordance with the Council's



Development Control Plan Chapter 3 – Urban Subdivision and the *Ballina Shire Urban Garden Guide*.

35. **Landscaping bond** - A landscaping bond equal to the value of the landscaping works, shall be lodged with Council prior to the issue of a Construction Certificate. The bond is refundable four (12) months after Council's receipt of a written notice advising that the approved site landscaping has been implemented and, upon inspection, Council is satisfied that the landscaping appears to be well established.

36. **Environmental Restoration and Corridor Plan (ERCP)**

The applicant is to submit an Environmental Restoration and Corridor Plan (ERCP) to Council for approval prior to issue of a Construction Certificate. This plan is to include and/or address the following matters.

- Protection of SEPP 26 No.37 and compliance with the Office of Environment and Heritage (OEH) Management Plan for the Coastal Fontainea (MPCF).
- A propagation program for the existing Arrow-headed Vine (*Tinospora tinoporoides*) and Rough-shelled Bush Nut (*Macadamia tetraphylla*) that are to be included into urban allotments.
- Measures to protect and enhance all areas of retained (Hairy-joint Grass) *Arthraxon hispidus* habitat in perpetuity. In addressing this matter specific consideration needs to be given to the practicalities of the proposed management strategies. (N.B. This detail is required given other Hairy-joint Grass restoration programs from the nearby locality that have used recognised management techniques have failed to ensure the species long-term viability).
- A list of all weed species and methods to be used to control them.
- Details of measures to be implemented to monitor the success of the rehabilitation plan including the provision of monitoring reports to be provided to Council.
- Commitment that all planting stock will be sourced from plants growing in the immediate locality.
- Confirmation that the revegetation program will be undertaken for a minimum period of five years and the developer will fund all aspects of the program.
- A range of performance goals that are measurable and include commitment that unless the goals are achieved the rehabilitation program will be extended until they are achieved. In this regard Council will require all forested areas to achieve and 80% closed native vegetation coverage within a five year time period. All vegetation stratas are to be free of all environmental and noxious weeds.
- A timetable for the implementation of all revegetation, rehabilitation and weed control works.
- Identify contingency plans if proposed revegetation works do not respond to proposed treatment works e.g. feral animal browsing.
- Confirm the ERCP will be prepared by a qualified bush regenerator.
- Identify for the need to erect permanent fencing to ensure longterm protection of all significant vegetation communities and/or rehabilitation areas.
- Provisions to provide permanent educational signage and educations brochures explaining the environmental importance of the rehabilitation areas.
- Management actions to eradicate other invasive species from the rehabilitation areas.
- Measures to be implemented to ensure that all areas of native vegetation is managed and protected in perpetuity.

All restoration work shall be undertaken by or overseen by a qualified bush regenerator. The bush regenerator must hold the Bushland Regeneration Certificate II or equivalent and have a minimum of 2 years experience regenerating subtropical rainforest communities.

37. **Asset listing** - In connection with the design drawings the proponent shall submit an electronic listing of all road, stormwater, water and sewer assets generated by the development. Copies of the Asset spreadsheet are available from Council's website.

38. **Access to public land** – Unless otherwise approved by Councils Engineers, all public land shall include bollards or fencing to prevent the general public from gaining vehicular access to public reserves. These devices must include locks that are keyed consistently with Council’s masterlock system.

**Advisory note:** Where your development involves civil construction works upon Council owned land or land to be dedicated to Council or the construction of any asset that will be vested in Council and where the payment of relevant bond(s) and inspection fees to Council applies, you are required to submit to Council's Civil Services section a contractor’s schedule of works & cost estimate prior to the application for a civil construction certificate. This estimate is used to calculate the relevant civil construction certificate fee. On acceptance of the submission, Council will provide you with a fee quotation for the relevant application, inspection fees and bond(s) to be paid when applying for a civil construction certificate. The application and inspection fee must be paid upon lodging the civil construction certificate application and any bond(s) must be paid prior to issue of the civil construction certificate.

39. **Mosquito Management** - Identified mosquito risk management measures, as specified in the recommendations of the Mosquito Impact Assessment dated May 2008 prepared by Mosquito Consulting Services Pty Ltd, shall be incorporated into the final development. Specifically;
- a 25 metre wide mosquito buffer shall be provided, location to be determined by the Entomologist having consideration for the current revegetation plans for the site, and
  - the bio-retention basin shall be designed to drain completely within 36 hours.
40. A Soil and Water Management Plan (SWMP) shall be submitted to and approved by Council prior to the issue of the Construction Certificate. The SWMP shall be prepared in accordance with the requirements of Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.

**41. Developer Contributions**

Prior to issue of a Subdivision Certificate where subdivision is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979 :

<b>Contribution Plan/Development Servicing Plan</b>	<b>Adopted</b>
Ballina Shire Contributions Plan 2008	23 October 2008
Ballina Shire Roads Contribution Plan 2010	25 February 2010
Ballina Shire Carparking Contributions Plan 2014	14 May 2014
Ballina Shire Heavy Haulage Contribution Plan	27 October 2011

The Contribution Plans provide for the indexing of contribution amounts and are also subject to amendment. The contribution rates payable will be the rates that are applicable at the time payment is made. Copies of the Contribution Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website [www.ballina.nsw.gov.au](http://www.ballina.nsw.gov.au).

The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 (**attached**).

**42. Developer Charges**

Prior to issue of a Subdivision Certificate where subdivision is proposed, payment to council of non-refundable monetary charges shall be made towards the provision of bulk water supply, water reticulation and sewer infrastructure which are required as a result of the development in accordance with the charges set by Ballina Shire Council and Rous Water as water supply authorities under the Water Management Act 2002. The amount payable will be the assessed additional equivalent tenements generated by the development multiplied by the charge applicable at the time of payment.

43. Certificates of Compliance pursuant to Section 306 of the Water Management Act 2002 shall be deemed to have been issued where the required charges have been paid and all construction works required by the water supply authority for the development have been completed.

The charges are currently guided by the following development servicing plans:

<b>Water Supply Authority</b>	<b>Contribution Plan/Development Servicing Plan</b>	<b>Adopted</b>
Ballina Shire Council	Ballina Shire Council Water Supply Infrastructure Development Servicing Plans	27 May 2004
Ballina Shire Council	Ballina Shire Council Sewerage Infrastructure Development Servicing Plans	27 May 2004
Rous Water	Rous Water Development Servicing Plan	April 2009

44. The Development Servicing Plans provide for the indexing of charges and are also subject to amendment and replacement. The charges payable are the charges set by the water supply authorities at the time payment is made. Copies of the Development Servicing Plans may be viewed at Council's Customer Service Centre, Cherry Street, Ballina or on Council's website [www.ballina.nsw.gov.au](http://www.ballina.nsw.gov.au).

It should be noted that Ballina Shire Council acts a Rous Water's agent in the collection of Rous Water Bulk Water Supply Charge for developments that are connected to the Ballina Shire water supply.

The charges applicable at the time this consent is issued are included in Schedule 1 (**attached**).

**PRIOR TO CONSTRUCTION WORK COMMENCING**

*The following conditions in this section of the consent must be complied with or addressed prior to commencement of construction works relating to the approved development.*

**45. Protection of Vegetation affect by 10/50 Vegetation Clearing Code of Practice for New South Wales**

The applicant is provide Council with a legally approved and signed conservation agreement or alike which clearly confirms that all existing littoral rainforest EEC and/or all areas of native vegetation will be protected in perpetuity by being exempt from the provisions of the 10/50 Vegetation Clearing Code of Practice for New South Wales.

**Environmental Management**

**46. Infrastructure clearance from vegetation**

All subdivision infrastructure is to be positioned with sufficient clearance to ensure the long-term protection of the significant vegetation and/or areas of rehabilitation on the site. Final details of the placement of all infrastructure servicing the subdivision shall demonstrate compliance with AS 2870-1996: Residential slabs and footings – construction, Annexure B. It should be noted that given the ecological significance of the vegetation present on the site, removal is not considered an option in achieving compliance with this standard. Details shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

**47. Fencing to public reserve**

At the expense of the developer, suitable fencing delineating the residential allotments from the public reserve shall be erected on the boundaries of Lots that adjoin Council's Reserves. Details of the proposed fencing shall be submitted to and approved by Council's Open Space & Reserves Manager prior to the issue of a Construction Certificate.

**Vegetation Management**

**48. Vegetation removal**

Any vegetation to be removed is to be clearly marked with flagging tape, prior to the commencement of work at the site.

**49. Notice of commencement of civil works** - Prior to the commencement of construction, the contractor must submit a completed copy of the "Notice of Commencement of Civil Development Work" form and a copy of their \$10M Public Liability Insurance Policy to Council. Copies of the form are available from Council's website.

**50. Traffic control** - All traffic control shall be in accordance with the NSW Roads and Traffic Authority "Traffic Control at Works Sites Manual". A Traffic Control Plan must be prepared and submitted to Council by a person holding a current "Design & inspect Traffic Control Plan" qualification. The traffic control plan must be certified and include the designers Name & Certificate Number. Details are to be submitted to Council prior to the commencement of construction.

**DURING CONSTRUCTION**

*The following conditions in this section of the consent must be complied with or addressed during the course of carrying out the construction works relating to the approved development.*

51. A Soil and Water Management Plan (SWMP) which has been approved by the Principle Certifying Authority must be implemented in full during the construction period.

**52. Construction**

The hours of operation for any noise generating construction activity (including the delivery of materials to and from the site) on the proposed development are to be limited to within the following times:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm

No noise generating construction activities are to take place on Sundays or public holidays.

53. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination must be immediately notified to the Council and the Principle Certifying Authority.
54. All demolition, construction or the like waste is to be transported and disposed of to an approved waste facility. If alternative disposal methods are to be sought, written approval is to be granted by Council. **It is an offence to transport waste to a place that can not lawfully be used as a waste facility.**
55. A single all weather accessway is to be provided on site that extends from the kerb to the building construction site. All construction vehicles are to enter and exit the site via this accessway so as to minimise erosion on site and prevent the movement of soil material onto surrounding roadways (if required provide a 'shake down' grid area for truck wheel washing). When necessary, roadways shall be swept and all drains and gutters cleaned of sediment material. **Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**
56. A water truck designed to suppress dust from exposed surfaces and access roads shall be available at the site or in the immediate vicinity. Exposed surfaces and access pads shall be regularly wetted to suppress dust generation until such time that construction is completed and areas have been revegetated. All disturbed areas shall be revegetated immediately they are completed.
57. The discharge of sediment and waste materials including concrete waste, paint, plaster and the like material into any roadway, natural or constructed drainage system, watercourse and/or adjoining land constitutes a breach of development approval conditions. Council's Authorised Officers may issue a Clean Up Notice, Prevention Notices and/or an on-the-spot fine in accordance with the Protection of the Environment Operations Act 1997.
58. All work, including demolition, excavation and building work must generally comply with Australian Standard AS 2436:1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* and *NSW Interim Construction Noise Guidelines* (DECC 2009).
59. The applicant shall ensure that any fill material imported to the site for the proposed development is obtained from fill sources that have an approved testing regime. The supplier of the fill material must certify to Council at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.
60. All civil construction works shall be completed in accordance with the minimum requirements of the Northern Rivers Local Government Development Construction Manuals.
61. **Traffic Control** - All traffic control during construction shall be in accordance with the Roads and Traffic Authority - Traffic Control at Work Sites Manual and the certified traffic control plan. At least one person at the site must be qualified to "Apply Traffic Control Plans" (Yellow Card).
62. **Inspection (road and drainage)** - Inspection and approval of the road and drainage works approved within the road reserve is required by Council's Engineer (Ph 6686 4444) at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory subgrade material, the developer shall be required to remove the unsuitable material for a further depth of 700 mm and replace with approved sand fill.

63. **Inspection (water and sewer) - Council's Engineer must inspect and approve construction** works associated with the connection of the development to Council's water and sewer mains. Council's Engineer must be contact on telephone 6686 4444 at the time of the excavation and connection.
64. **Inspection (footpath and gutter crossing)** - Council's Engineer must inspect and approve works associated with the construction of the footpath and gutter crossing for the development. Council's Engineer must be contacted on telephone 6686 4444 at the time of excavation and at least 24 hours prior to the concrete pour.
65. **Damage to Council infrastructure** - Damage to any grass verge, footpath, kerb and guttering, utility services or road within the road reserve as a result of construction works related to the development shall be immediately reinstated to a satisfactory and safe condition. Council's Engineer must be contacted on telephone 6686 4444 at the time any damage occurs to ensure appropriate reinstatement works are undertaken.
66. **Cutting and filling of the site** - The cutting and filling works must be completed in accordance with the recommendations in the geotechnical report. All site filling shall be in compliance with the requirements of Level 1 geotechnical testing for:
- AS 2870 – 2011 Residential Slabs and Footings Code  
AS 3798 – 2007 Guidelines on Earthworks for Commercial and Residential Developments

#### Vegetation Management

67. **Vegetation protection**  
All vegetation and/or trees to be retained immediately adjoining construction works areas are to be protected with temporary fencing in accordance with the approved RRWCP. Fencing is to be established a minimum of 1 metre outside of the identified root protection zone areas and/or drip line zone whichever is greater. No vegetation clearing, earthworks and/or storage of any vegetative matter, goods and/or equipment shall be undertaken within the barrier fenced areas.
68. **Vegetation removal**  
Any vegetation removal is to be undertaken in a manner that ensures the ongoing integrity of retained vegetation and/or adjacent native plants. Any vegetation matter is to be removed from the site and disposed of in an appropriate manner.
69. **Revegetation of disturbed areas**  
All disturbed and exposed areas shall be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the development.

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

*The following conditions in this section of the consent must be complied with or addressed prior to the issue of a Subdivision Certificate relating to the approved development.*

70. An application for Subdivision Certificate accompanied by final plans of subdivision, together with the requisite processing fee, shall be submitted to Council for approval. In addition, a written statement confirming how each condition of consent has been complied with is also to accompany the Subdivision Certificate application.
71. **Civil works** - All civil works approved with the Construction Certificate under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993, are to be completed to the satisfaction of Council prior to issue of a Subdivision Certificate. All

works are to be completed in accordance with the Northern Rivers Local Government Development Design and Construction Manuals.

**72. Evidence of Completion of Subdivision Works**

A subdivision certificate will not be issued until evidence satisfactory to Council is submitted, that the subdivision works, as approved by construction certificate(s), have been completed or that other arrangements satisfactory to the consent authority, in accordance with Section 109J(2) (b) or (c), have been made.

In this regard "evidence satisfactory to Council" is to consist of certification by Council or issue of a Part 4A Compliance Certificate (Environmental Planning and Assessment Act 1979) by a Category B1 - Accredited certifier - subdivision certification (Building Professionals Regulation 2007) that:

(a) Works as executed plans have been submitted and assessed to demonstrate that the subdivision works designated in the Construction Certificate have been provided and that they comply, within the tolerances permitted in the Northern Rivers Local Government Development Design and Construction Manuals, with the dimensions on the Construction Certificate plans and

(b) All tests and inspections specified in Ballina Shire Council, Subdivision Works Inspection Form (available on Council's website) have been conducted and that the results comply with the requirements of the construction certificate and associated specifications in the Northern Rivers Local Government Development Design and Construction Manuals.

**73. Water and Sewer** - The completion of all water supply and sewer works in accordance with the approved Construction Plans and in accordance with the Northern Rivers Local Government Development Design and Construction Manuals. All works are to be completed and approved by Council prior to issue of the Subdivision Certificate.

**74. Stormwater** - Prior to the issue of a Subdivision Certificate, certification must be provided to the Principal Certifying Authority that all stormwater works have been provided in accordance with the approved Construction Plan and the approved Stormwater Management Plan lodged with the Development Application. Overland flow paths must not to be impeded through structures or landscaping and must direct stormwater flows to the public drainage system and not onto adjoining properties. This certification is to be provided by a registered certified practicing Engineer competent in the field of stormwater design and familiar with all aspects of the project.

**75. Stormwater management plan** - Prior to the issue of a Subdivision Certificate, Council is to be provided with a comprehensive Maintenance and Management Plan for all stormwater works and controls to be inherited by Council. This Management Plan is to be prepared by a suitably qualified registered practicing Engineer experienced in stormwater management addressing all maintenance requirements of the assets, life expectancy, special training required and approximate annual costings.

**76. Services (electricity and communication)** - Prior to the issue of a Subdivision Certificate, certification is to be provided to the Principal Certifying Authority that electricity and communication/telephone services have been provided to each lot to the satisfaction of the relevant authorities.

**77. Filling of the site** - Prior to the issue of the Subdivision Certificate, certification must be submitted from a suitably qualified practicing geotechnical engineer verifying that all site cutting and filling was completed in accordance with Level 1 geotechnical testing under AS 2870 & AS 3798 and has adequate bearing capacity for building construction. In addition, the certification shall also verify that any fill material imported to the site is free

of contaminants being natural or otherwise, and was obtained from an approved fill source with quality assurance testing.

78. **Services (Greenfield site)** - The certification by a Registered Surveyor, prior to issue of a Subdivision Certificate, that all utilities, services and domestic drainage lines are wholly contained within the respective lots or within specified easements.

79. **Maintenance bond** - Prior to the issue of a Subdivision Certificate, the following maintenance bond must be paid to Council which provides the amount of Goods and Services Tax (GST) payable. The bond is subject to review and may vary at the actual time of payment:

Civil maintenance Bond: Equal to 5% of the estimated cost of the civil works (min \$1,000)

A maintenance period of 12 months will apply from the date of issue of a Subdivision Certificate. The bond may be used by Council to maintain, repair or rectify works that are failing. The bond will be refunded upon completion of the 12 month period should no such failure occur.

80. **Works as executed (drawings)** - Prior to the release of the Subdivision Certificate, the applicant shall submit to Council an electronic copy of the WAE information in AutoCAD and PDF format. All data is to be on MGA zone 56 coordinates and AHD for levels. Separate drawings shall be provided for roads, water, sewer and stormwater drainage. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.

81. **Works as executed (asset listing)** - Prior to the release of the Subdivision Certificate and in connection with the 'Works-as Executed' drawings the proponent shall submit an electronic listing of all road, stormwater, water and sewer assets generated by the development. Copies of the Asset spreadsheet are available from Council's website.

82. **Easements** - Easements shall be created prohibiting the erection of buildings or structures over or adjacent to Council assets (i.e.: water, sewer and stormwater pipelines). The prohibition on the erection of buildings or structures shall extend horizontally on each side of the pipeline for a distance equal to the depth of the pipeline from the pipe invert level to finished surface level. The minimum width of such easement shall be 3.0 metres.

Easements shall also be created over any open channel stormwater drain within the development. Easements are to be in accordance with the "Building over Council's Assets" policy and approved prior to issue of the Subdivision Certificate.

83. **Positive Covenant** – Prior to the release of the Subdivision Certificate, a detailed land survey shall be submitted to Council identifying the shape and levels of the open channel drain through lots 1 to 13. A Positive Covenant shall be placed on lots 1 to 13 requiring that the landform of the open channel drain be maintained in accordance with this survey. In addition the covenant shall prevent any fence, structure or other device from obstructing the function of this drain.

84. **Street lighting** - The applicant shall be responsible for the design and installation of public street lighting. All street lighting within the development must be designed in accordance with AS / NZS 1158 and based on the installation of Country Energy Style 1 lanterns fitted with compact fluorescent lighting. All works must be completed and commissioned prior to the release of the Subdivision Certificate.



85. **Dedication of public land** – Prior to the issue of the Subdivision Certificate, the applicant shall dedicate a 5m wide public corridor extending from the end of Amber Drive running adjacent to southern boundary of Proposed Lot 12 up to the existing public reserve adjacent to Castle Drive consistent with the alignment of the existing recycled water main traversing the site. The corridor shall then extend south along the western boundary of Lot 42 DP 1168665. The width of this corridor is to expand to 25 metres in the vicinity of the homes at the end of Castle Drive as shown in Figure 1: Location of Required Threatened Species Rehabilitation and Corridor Works – Wavehill Estate. The area of land to be dedicated is to be in accordance with the plan of dedication approved by Council prior to the issue of the construction certificate.
86. **Dual Reticulation** - Prior to the issue of the Subdivision Certificate, all allotments created by this consent shall include the following positive covenants on the Section 88E(3) instrument:
- (i) No plumbing may be installed on the Lot burdened on or after *22 January 2015* unless it has provision for recycled (non-potable) water service plumbing and facilities in accordance with Ballina Shire Council's Dual Water Supply Plumbing Policy or any superseding policy; and
  - (ii) In the event the Lot burdened has plumbing works installed upon it as at *22 January 2015*, the registered proprietor may not complete any contract for sale of the Lot burdened until a Dual Water Supply Cross-Connection Audit Certificate of Compliance (as referred to in Ballina Shire Council's Dual Water Supply Plumbing Policy) in respect of the Lot burdened has been issued by Ballina Shire Council.
87. A suitable 88B Restriction on Use is to be created to limit the future development of Proposed Lots 1 to 12 (inclusive) and 14, 15 and 16 to a single dwelling-house (and non strata secondary dwelling) only. No medium density/multi-unit development and/or further Strata or Torrens Title subdivision is to be permitted. Only Council is to be nominated as the sole person/party to release/vary or modify the restriction on use.
88. A suitable 88B Restriction on Use is to be created to limit the future placement of a dwelling-house or associated structures/buildings on proposed Lots 1-13 (inclusive) to the nominated building envelope. In addition, the 88B Restriction on Use is to limit the vehicular access/egress of Proposed Lot 13 to the nominated 3 metre wide driveway access. Council is to be nominated as the sole person/party to release/vary or modify the restriction on use.
89. The lots identified by the entomological consultant shall provide and maintain the 25 metre wide mosquitoes buffer as required by the Mosquito Impact Assessment report dated May 2008 prepared by Mosquito Consulting Services Pty Ltd. Details shall be placed on the section 88B instrument, wording shall be provided to and approved by Council prior to the issue of the Subdivision Certificate.
90. The entomological consultant shall provide Council with certification that the provided mosquito buffer complies generally with the requirements identified in the entomology report dated May 2008 prepared by Mosquito Consulting Services Pty Ltd prior to the release of the Subdivision Certificate.
91. **Restriction on use – vegetation protection**  
The final plan of subdivision and an instrument pursuant to Section 88B of the *Conveyancing Act 1919* shall establish restrictions on use and easements delineating the areas on significant littoral rainforest vegetation and vegetation buffers on each applicable lot in the subdivision. The restriction shall require the protection in perpetuity of all significant vegetation and rehabilitation areas. Details are to be submitted to and approved by Council prior to the issue of a Subdivision Certificate.

**CONDITIONS OF USE/DURING OCCUPATION**

*The following conditions in this section of the consent are to be complied with in the day-to-day use or operation of the approved development.*

92. The bio-retention basin shall be managed in accordance with the requirements of the additional information provided by Mosquito Consulting Services Pty Ltd dated 26 January 2009. Including the following:

- The design should ensure water drains completely within 36 hours,
- The basin shall be maintained to prevent water ponding and extensive plant growth.

**SCHEDULE 1**

<b>Contribution</b>	<b>Receipt Code</b>	<b>Contribution Unit</b>	<b>Rate per contribution Unit</b>	<b>Total Contribution Units Payable</b>	<b>TOTAL COST</b>
Lennox Head Local Parks	4009	equivalent residential allotment	\$230.00	15.0000	\$3,450.00
Lennox Head District Parks	4009	equivalent residential allotment	\$960.00	15.0000	\$14,400.00
Lennox Head Playing Fields	4009	equivalent residential allotment	\$1,876.00	15.0000	\$28,140.00
Regional Open Space Facilities	4016	equivalent residential allotment	\$889.00	15.0000	\$13,335.00
Open Space Administration	4017	equivalent residential allotment	\$35.00	15.0000	\$525.00
Lennox Head District Community Facilities	4210	equivalent residential allotment	\$1,404.00	15.0000	\$21,060.00
Regional Community Facilities - Amend 1	4213	equivalent residential allotment	\$3,972.00	15.0000	\$59,580.00
Community Facilities Administration	4214	equivalent residential allotment	\$73.00	15.0000	\$1,095.00
Lennox Head Roads 2010	5202	equivalent residential allotment	\$10,392.00	15.0000	\$155,880.00
Roads Administration 2010	5203	equivalent residential allotment	\$169.00	15.0000	\$2,535.00
Lennox Head Sewerage (DSP Area B)	3004	equivalent tenement	\$7,671.00	15.0000	\$115,065.00
Lennox Head Water (DSP Area B)	2004	equivalent tenement	\$3,541.00	15.0000	\$53,115.00
Rous Water 2009	5001	equivalent tenement	\$9,091.00	15.0000	\$136,365.00
No Car Parking Contribution Applicable					
<b>TOTAL</b>					<b>\$604,545.00</b>