



Notice of Commercial Services Committee Meeting

A Commercial Services Committee Meeting will be held in the Ballina Shire Council Chambers, 40 Cherry Street, Ballina on **Tuesday 19 May 2015 commencing at 4.00 pm.**

Business

1. Apologies
2. Declarations of Interest
3. Deputations
4. Committee Reports

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a horizontal line underneath.

Paul Hickey
General Manager

Table of Contents

1.	Apologies.....	1
2.	Declarations of Interest.....	1
3.	Deputations	1
4.	Committee Reports.....	2
4.1	54 North Creek Road, Ballina - Development Options	2
4.2	Land Acquisition - 9 North Creek Road, Ballina	90
4.3	Land Sale - Lot 5 Tectona Place Wollongbar	94
4.4	Land Sale - Lot 7 Tectona Place, Wollongbar	118
4.5	Land Sale - Lot 87 Cessna Crescent, Ballina	122
4.6	Lease Arrangements - Kentwell Community Centre	125
5.	Confidential Session.....	127
5.1	Land Acquisition Price - 9 North Creek Road, Ballina (Road Frontage)	127
5.2	Land Sale Price - Lot 7 Tectona Place, Wollongbar	128
5.3	Land Sale Price - Lot 87 Cessna Crescent, Ballina	128

1. Apologies
 2. Declarations of Interest
 3. Deputations
-

1. Apologies

2. Declarations of Interest

3. Deputations

4.1 54 North Creek Road, Ballina - Development Options

4. Committee Reports

4.1 54 North Creek Road, Ballina - Development Options

Delivery Program Commercial Services

Objective To present subdivision development options for 54 North Creek Road, Ballina.

Background

Council's Commercial Services Committee on 18 November 2014 gave consideration to a report on Council owned land at 54 North Creek Road. The following recommendation was adopted by Council.

- 1. Council approves the allocation of up to \$20,000 from the Property Development Reserve to undertake investigations to determine the development potential and market value of 54 North Creek Road, Southern Cross Industrial Estate (Part Lot 98 DP 1194043).*
- 2. Upon completion of these investigations the matter is to be reported back to Council to determine the merits of selling a portion of this land to the Men's Shed, along with consideration of any other long term options for this site.*

Since that time the Men's Shed have submitted a proposal to Council and made a deputation to Council's Finance Committee on 16 April 2015. A copy of the Men's Shed proposal is **attached** to this report.

Following on from the meeting referred to above, Civiltech consultant planners and development engineers were commissioned to investigate the site and prepare a constraints and opportunities report accordingly. This report has now been completed and a copy of same is **attached** to this report.

This report considers the conclusions and recommendations of the Civiltech report and provides an overview in regards to Council's remaining supply of industrial land on the Southern Cross Industrial Estate.

Key Issues

- Industrial land supply
- Granting of Council land to a community group

Information

A number of factors have been considered in regards to the request from the Men's Shed for Council's assistance. These factors include the development potential of Part Lot 98 DP 1194043 and the availability of serviced industrial land.

4.1 54 North Creek Road, Ballina - Development Options

54 North Creek Road

This site is described as part Lot 98 DP 1194043, comprises an area of 1.346 h.a. and is zoned "IN1 – General Industrial" under BLEP 2012. Located at the south eastern end of the site is an old weatherboard dwelling, that up until recently was being let at \$340 per week.

Civiltech was engaged to investigate the site and prepare an opportunities and constraints report, a copy of which is **attached**. Site investigations undertaken include town planning, site survey, acoustic, contamination, soils, flora and fauna.

A major constraint to developing and subdividing the site as industrial lots relates is its proximity to existing residential development to the east and north east. The acoustic consultant has recommended that:

"...a minimum 24 metre buffer be applied from the closest boundary of adjacent residential properties to any industrial building and recommends that only light industrial uses are carried out on the subject land."

The acoustic consultant advises that this constraint could possibly be overcome if the existing acoustic berm on the site is relocated to the eastern and north eastern boundaries.

Assuming the acoustic issues could be addressed as recommended by the acoustic consultant, Civiltech has prepared a conceptual plan of subdivision to create four lots as follows:

Lot A (assumes frontage to North Creek Road)	2,530m ²
Lot B	3,430m ²
Lot C – Residue incl. sewer pump station & acoustic berm	5,840m ²
Lot D	1,320m ²

A copy of the concept plan is **attached** hereto. The following comments are made in regard to this concept plan:

- Approximately 8,200m³ of fill would be required to create a subdivision of this nature assuming a finished fill level of 2 metres AHD. The acoustic berm could be constructed by relocating the existing berms top soil stripped to make way for imported fill material.
- Approximately 900m² of useable site area would be lost if the acoustic berm needs to be constructed across proposed Lot A's frontage to North Creek Road as Council may not permit access onto North Creek Road.
- Lot B could be split into smaller lots if required.
- Lot D has a number of constraints including access, exposure and proximity to the sewer pump station. Further investigations are required to determine what sewer pipes may traverse the site and how a power pole at the front of the site could be supported if stay wires are removed.

4.1 54 North Creek Road, Ballina - Development Options

Major costs in developing the site would be filling, relocation of the acoustic berm and any sewer pipes. All services run past the site which should reduce costs in connecting to same. Indicative estimates for development costs (including Council fees) are in the order of \$700,000 (excl. GST).

Until such time as a development application for the proposed subdivision is assessed and determined by Council it is unknown what the final lot yield may be and the consent conditions to be imposed.

The market value of the completed lots would be dependent upon a number of factors including whether development consent conditions restrict the use of any or all the proposed lots.

Recent sales of industrial land on the Southern Cross Estate range from \$230/m² to \$250/m². Assuming a lower average rate of \$230/m² due to the subject site's constraints, the gross realisation of the proposed lots is estimated to be in the range of \$1,470,000 to \$1,670,000, depending upon final lot sizes. All figures quoted are exclusive of GST.

The Civiltech report recommends that a development application for the proposed subdivision be prepared and lodged to remove the uncertainty pertaining to the site.

Given the shortage of industrial land available for development on the Southern Cross Industrial Estate it is recommended that Civiltech's advice be taken to proceed with a development application for subdivision as proposed.

The work undertaken to prepare the opportunities and constraints report could be utilized in the development application, however additional investigations would have to be undertaken including stormwater, traffic, servicing, etc.

Council allocated \$20,000 to prepare the opportunities and constraints report, of which \$15,500 has been spent to date. Civiltech estimate it may cost an additional \$15,000 to prepare and lodge the development application. Therefore it is recommended that an additional \$10,000 be allocated from the Property Development Reserve for the purposes of preparing and lodging a development application to undertake a subdivision of the site.

Men's Shed Proposal

The Men's Shed made a deputation to Council's Finance Committee on 16 April 2015 requesting that Council give consideration to granting their organization a substantial portion of Part Lot 98. A copy of a proposal presented at that meeting is **attached** to this report.

From discussions Council staff have had with representatives of the Men's Shed it is understood they have a preference for a 3,000m² area that includes proposed Lot A and part of proposed Lot B (see Civiltech's plan **attached**).

The Men's Shed proposal or request to Council is summarised as follows:

1. Council pay all costs to fully develop a 3,000m² site including removal of the old house.

4.1 54 North Creek Road, Ballina - Development Options

2. Council either grant the site to the Men's Shed or sell it to them at a heavily discounted price of \$150,000 but on "*generous terms*".
3. Or if Council does not wish to grant the Men's Shed freehold title to the site or sell it to them a heavily discounted price, then perhaps Council could grant the Men's Shed a 25 to 30 lease over the site at a peppercorn rental.

Granting land to community groups at no cost or at heavily discounted prices is a matter for Council. It is recommended that Council should retain long term ownership of the land, and that if a lease were to be granted it should only be done so on a non-transferable basis.

Subject to the Men's Shed lodging a development application for their proposed use, it is unknown whether they will have frontage to North Creek Road. If Council imposes a development consent condition requiring the acoustic berm being constructed along Lot A's frontage to North Creek Road, and the Men's Shed still require 3,000m², the area of proposed Lot B will reduce from 3,380m² to about 1,960m².

What is important to note is that if the developable area of Part Lot 98 is reduced due to conditions imposed by way of development consent from to say 7,280m² to 6,380m² then Council may only be in a breakeven position in regards to cost and return. This is on the assumption Council develops all of Part Lot 98, grants the land to the Men's Shed and sells the balance to the market.

Industrial Land Supply

Council is running low on the supply of serviced industrial land available for sale. At present Council has only three industrial sites available for sale, these being Lots 88, 90 and 91 Cessna Crescent (see plan **attached**). Terms and conditions for the sale of Lot 87 have been negotiated, and is the subject of separate reports in this agenda.

The Norfolk Homes Site, located at the northern end of Cessna Crescent is under lease to Norfolk Homes until 31 December, 2015. The current rental for the 1.598 hectare site is \$142,000 p.a. + GST. Recent discussions with Norfolk Homes indicate they wish to negotiate a new lease and remain in occupation of the site. They are an established local business and have been an excellent tenant.

Alternatively the Norfolk Homes Site could be subdivided to create seven serviced industrial lots subject to modification of an existing development consent and would link Cessna Crescent to Piper Drive thereby improving traffic flows in the area.

Lots 2 and 3 Boeing Avenue comprise a total area of 5.8 hectares and are zoned "B5 – Business Development" under BLEP 2012. This zoning permits uses including bulky goods, warehouse and distribution, but does not permit light and general industrial type uses. The minimum lot size for subdivision under this zoning is 10,000m².

4.1 54 North Creek Road, Ballina - Development Options

Lots 2 and 3 were zoned “B5 – Business Development” in response to demand for bulky goods sites similar to Harvey Norman, however demand for such sites has declined, particularly as Bunnings located to the Big Prawn Site in West Ballina and Masters located to South Lismore.

Strategic Services advise a rezoning to “IN1 – General Industrial” would be required if Lots 2 and or 3 were to be developed for industrial land uses, however this would be contrary to the long term strategic plan of confining bulky goods type uses to a particular precinct.

The potential longterm supply of industrial land in the Southern Cross and Airport precinct lies at the northern end of Boeing Avenue. This study area comprises approximately 39 h.a., including 36.5 h.a. of Council owned land.

This land is currently going through the process of rezoning and final lot yield is subject to various environmental constraints. Development of land in this precinct will also be dependent upon construction of a major road to link North Creek Road and the Ballina Byron Gateway Airport. A planning proposal is being prepared for this proposed rezoning. However development of this land maybe some years away and subject to Council having funds available for development.

Legal / Resource / Financial Implications

Legal

Part Lot 98 DP 1194043 is classified as operational land under the NSW Local Government Act 1993 and as such Council has the authority to sell or lease the land for commercial purposes.

If a lease were to be granted to the Men’s Shed, it should only be done so on a non-transferable basis, with Council reserving the right to review the rental to market every five years. It would also be prudent for Council to reserve the right to take whatever easements (or similar) from the land with no compensation payable should it desire to do so.

Financial Implications

Sale proceeds from developing Part Lot 98 DP 1194043 have not been factored into Council’s long term capital budget, therefore Council would not be foregoing any projected revenue should it resolve to assist the Men’s Shed as requested.

Alternatively if all land developed were to be sold at market prices, funds generated would be available to Council for other projects.

Council would have to fund development of Part Lot 98 out of the Property Development Reserve and then recoup costs from sale proceeds.

Consultation

Council staff have consulted with the Men’s Shed.

Options

1. Council resolves to prepare and lodge a development application to undertake a four lot subdivision of Part Lot 98 DP 1194043 as recommended in the Civiltech Report **attached** hereto, and that \$15,000 be allocated from the Property Development Reserve for this purpose.

Irrespective of how Council resolves to deal with the Men's Shed request, this option is recommended due to the lack in supply of serviced industrial land.

2. Council resolves to not prepare and lodge a development application to undertake a four lot subdivision of Part Lot 98 DP 1194043 as recommended in the Civiltech Report **attached** hereto.

This option is not recommended due to the lack in supply of serviced industrial land. Furthermore, Part Lot 98 is heavily overgrown with noxious vegetation and presents an ongoing maintenance cost to Council and therefore adopting a "do nothing" approach is not appropriate.

Finally in respect to the Men's Shed, as this report relates to Council's Commercial Activities, the preference is not to allocate land at a discounted price or at a peppercorn rent as the aim of this Committee is to maximize returns to the community. Ideally this type of decision should be made in an Ordinary Council meeting where Council is considering matters from a whole of community perspective.

Therefore no recommendation is made in this report in regard to the Men's Shed, albeit that Councillors can make a determination on the preferred approach if the preference is to make a recommendation to the May Council meeting through the minutes of this Committee.

RECOMMENDATIONS

1. That Council approves the preparation and lodgement of a development application to undertake a four lot subdivision of Part Lot 98 DP 1194043 as recommended in the Civiltech Report attached to this report.
2. That Council approves the allocation of \$15,000 from the Property Development Reserve to finance the costs associated with point one.

Attachment(s)

1. Proposal from Ballina Community Men's Shed
2. Submission from John O'Donnell
3. Civiltech Opportunities and Constraints Report - May 2015
4. 54 North Creek Road - Conceptual Lot Layout - Option 3
5. Southern Cross industrial Estate - Land Available for Sale
6. BBGA & Southern Cross Rezoning Study Area - Aerial Photo



Ballina Salt & Light Inc

ABN 12 217 916 846 trading as

Ballina Community Men's Shed

PO Box 904 Ballina NSW 2478 Ph 02 6686 9313

Member of the Australian Men's Shed Association

13 April 2015

Dear Ballina Shire Council,

The Ballina Community Men's Shed has always enjoyed the active support of the Ballina Shire Council Councillors and staff. In this I believe they reflect the substantial support of the wider community.

In May 2013, Council leased to us the 44 Fishery Creek property comprising of a 1 acre rural property with an existing 2 bedroom house close to town in West Ballina. After final DA approval and detailed project quotes were obtained it was apparent that building the shed on that site would require, because of the flood control height and building requirements, about an additional \$300,000 in costs more than if we were building on say already prepared suitable industrial land. We believe this and other factors have made that site unsuitable for the 'Relocation & Expansion Project' envisaged.

Since that time however, we have secured grants from Newcastle Permanent Foundation (\$77,500), the NSW State Government under the Community Builders Partnership Grant (\$70,000 + GST) and from the Ballina Baptist Church (\$10,000), plus other smaller amounts towards the project. The local Federal Government member, Kevin Hogan has also promised supporting an application for \$250,000. (He has impressed upon us the importance of securing a suitable site before his application can proceed). Having had the previous lease in place which we thought secured a suitable site, these funds have been allocated towards the building project rather than towards the land. It is thought that they will substantially cover the actual building project on a fully serviced block.

Preliminary investigations of the site at 54 North Creek Road show that it would be a suitable site after sub-division and development and that it would be an ideal location for the development of the excellent purpose built Men's Shed that is envisaged. It has public transport passed the front door, has good location for the showroom customers and believe is suitable to function as a buffer between the industrial and residential areas.

We understand that recent thorough investigation of the block by Council has proposed the subdivision and development of two industrial sites plus a residual site for the sewerage facility and sound mound areas. On that draft plan Site A nearer the neighbouring car wash business and which presently has a dwelling with access onto both De Haviland Dr and North Creek Road, is our preferred site. We believe it would need to be, if possible 3000 m2 for the development.

Our dilemma is this. We have no committed funding as yet for the land component of our project. When seeking land we had hoped for further help from the State government, however following the recent election outcome where our local member is not a member of the state governing party, this is less assured. We had hoped that a private land developer may offer to help us develop the land at a community discount, but that has not emerged as yet, so that we cannot count on that

avenue. Our plan is that when the new development is completed we would move equipment stored at the Fishery Creek site and return that back to Council, releasing them from the 20 year lease commitment over that land, so that they could again rent it out or sell it to recoup some funds which might then in turn help fund or provide a discount on the new site. We also had hoped that the Ballina Community Men's Shed may have been able to commit to a \$150,000 loan if there was some flexibility allowed by Council either by a delayed or vendor finance arrangement with Council which could ease the immediate pressure. We thought we would seek further funding support for that or be able to sustain a small loan through The Showroom. (However, we have just come through a lean month at the Showroom shop that makes us less certain of that avenue.) The proposed site also seems to have a market value higher now to what we had originally anticipated.

Our proposal or request to Ballina Shire Council therefore is this.

1. We would need Council to fully develop the site itself and if possible to remove the house in doing so. On viewing the house believe it would be better and a more efficient use could be made of the land and its development, if the house was removed. We do not have the resources among our present support community to develop the land itself.

2. Ideally, we would like to obtain a freehold title on the land as this may help attract funding from some bodies that may require that as a condition. A freehold title would also provide equity should we require a loan in the future. This would however require the Ballina Shire Council to either give or heavily discount the desired developed block in favour of the Ballina Community Men's Shed for \$150,000 which is all that we could reasonably offer and that also on generous terms.

3. Or what might be more acceptable to Council and would still work almost as good for us to achieve our goals would be for Council to develop the land and retain ownership of it, but lease it out to us to develop the Men's Shed Project envisaged, at a similar peppercorn rent as at Fishery Creek. It would be preferred for the period of the lease to be longer say 25 or 30 years. This would enable us again to focus on completing the process of securing the funding needed and building the envisaged project.

We realise that either of these alternatives represent a strong commitment by council to the Ballina Community Men's Shed. Over just a few weeks we have been able to obtain about 400 signatories to a petition asking Ballina Shire Council to allocate for us a more suitable parcel of land for the development of a Men's Shed. This is not a project to meet the needs of a few old men. The woodworkers already have a shed for themselves. They are wonderful volunteers thinking of others, those who have interests in metalwork, mechanical work, electronics, computers, model building, painting, art, music and other interests, those who are not able to come onto school grounds, those who can't fit safely in the current shed. There are men of all ages involved, many able bodied many not, many not able to find work or are not job ready yet and need a more relaxed and supportive environment. Ballina's demographic especially needs a good robust community men's shed to supplement community facilities other constituents have and to mobilise and equip these otherwise isolated potential community volunteers. Many voices such as Jeff Kennett of Beyond Blue are voicing the importance of the men's shed movement. There are an increasing number moving here who are looking for a men's shed. We need at least an adequate facility if not one of the best in Australia.

For the National Stronger Regions Grant application, which has a deadline of July 31, 2015, and for the Clubs NSW Category 3 Grant due around the same time, we need to have a DA approved (or

nearly approved) and fully costed to be fairly considered. We would therefore need an answer from Council ASAP for this deadline to be achieved. The members who are all volunteers have been working hard at this Project for 4 years now. Without land, and without it soon, the great gains made so far may be lost. Together we can do it!

We have been as open with you as we can be about our situation as we seek your help with the above three aspects to our request or proposal. In many ways we are in your hands. Could you respond to those three aspects of the proposal above at your earliest convenience.

Thank You



Graham Eggen 0416 004 013

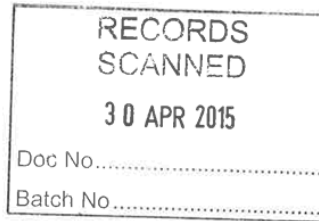
Team Leader

Ballina Community Men's Shed

38 Lakeview Circuit
EAST BALLINA NSW 2478

27th April 2015

The Councillors
Ballina Shire Council
Cherry Street
BALLINA NSW 2478



Dear Sirs/Madam,

RE: BALLINA MEN'S SHED – PROPOSED NEW SITE

At the moment the Ballina community men's shed is located at the Southern Cross K-12 school, generously donated by the school. The Men's Shed has proven to be a great community success however has reached its full potential at this location. In order to continue to grow, new premises must be found. New members are difficult to accommodate, as there just isn't the space.

Casino and Alstonville have successful working men's sheds and have at least four times the capacity of Ballina's shed.

Ballina is a popular town with a high pension age demographic. These people seek various voluntary positions as well as light physical health and mental occupational projects away from home. Some people have carers helping them. This is where the shed really comes into its own. In Australia there are now over 1,000 new Men's Sheds in existence which have come into being over the last few years.

For Council to assist the Men's Shed with a new location, it should be mindful of the long-term community benefit, not the commercial one, however tempting this may be for a financial Council. The potential of 54 North Creek Road fits well with a new shed, as Council has pointed out.

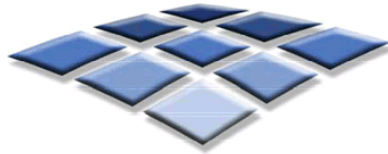
A small section of land is a small sacrifice to make for a future benefit for Ballina. It is hard enough to raise money for the building of the shed, without having to raise money for the land as well.

Is it possible for Council to donate a small parcel of land for the Men's Shed to continue to operate and grow in Ballina.

Yours faithfully,

A handwritten signature in black ink, appearing to read "John O'Donnell". The signature is written in a cursive style with some loops and flourishes.

John O'Donnell



CivilTech
Consulting Engineers

● Subdivision Design ● Civil Engineering ● Town Planning ● Project Management

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Opportunities and Constraints Report

Lot 98 DP1194043
54 North Creek Road, Ballina

12 May 2015

Adrian Zakaras
Town Planner, CivilTech

Ref No 14144



DISCLAIMER

This report has been prepared for the use of the stated client and for the specific purpose described in the Introduction and is not to be used for any other purpose or by any other person or corporation. CivilTech accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this report in contravention of the terms of this disclaimer.

Due consideration has been given to site conditions and to appropriate legislation and documentation available at the time of preparation of the report. As these elements are liable to change over time, the report should be considered current at the time of preparation only.

No site inspections were undertaken in the preparation of this report, CivilTech accepts no responsibility for any omissions that may have occurred due to the desktop nature of the report.

Conclusions to the report are professional opinions and CivilTech cannot guarantee acceptance or consent of the relevant determining/ consent authorities. Subsequent requests for further work or information may be subject to agreements and additional fees.



TABLE OF CONTENTS

PROPERTY SUMMARY 1

1. INTRODUCTION AND SUBJECT SITE..... 2

2. LEGISLATION AND PLANNING POLICIES APPLICABLE TO THE SITE 3

3. ENVIRONMENTAL IMPEDIMENTS..... 5

 3.1 Flora and Fauna.....5

 3.2 Acoustic Noise Berm5

 3.3 Acid Sulfate Soils5

 3.4 Land Contamination6

 3.5 Filling of the Land.....6

4. DEVELOPMENT OPTIONS 7

 4.1 Option 1 – Two Lot Subdivision.....7

 4.2 Option 2 – Three Lot Subdivision7

 4.3 Option 3 – Four Lot Subdivision8

 4.4 Option 4 – Do Nothing8

6. CONCLUSION, OPTIONS AND RECOMMENDATION..... 9

 6.1 Conclusion9

 6.2 Options.....9

 6.3 Recommendation9

7. ATTACHMENTS 10



PROPERTY SUMMARY

Address	54 North Creek Road, Ballina
Real Property Description	Lot 98 DP1194043
Current Use	Residential dwelling, Sewer Pump Station & Acoustic Berm
Land Area	1.7424 hectares (study area = 1.346ha)
Land Use Zoning	IN1 – General Industrial Zone under the provisions of the Ballina Local Environmental Plan 2012



1. Introduction and Subject Site

CivilTech Consulting Engineers (CivilTech) has been engaged by Ballina Shire Council to prepare an Opportunities and Constraints Report for part of the land formally known as Lot 98 DP1194043 located at 54 North Creek Road, Ballina.

An aerial view of the study area is provided in Plate 1 below.

The study area comprises an area of 1.346 hectares and has frontage to both North Creek Road and De-Havilland Crescent. The site is the residue land of the Southern Cross Industrial Estate subdivision.

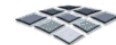
The land is currently occupied by a single storey dwelling and associated infrastructure located in the southern portion of the site, a sewer pump station is located in the north western portion of the site whilst a large acoustic berm is located on the site. A detail survey of the study area is provided in Attachment A.

This Report has been prepared to investigate the development potential of the land and contains the following information:

- Introduction and Subject Site;
- Legislation and Planning Policies Applicable to the Site;
- Environmental Impediments;
- Development Options;
- Conclusion, Options and Recommendation.



Plate 1: Aerial View of Study Area (source www.imagery.maps.nsw.gov.au)



2. Legislation and Planning Policies Applicable to the Site

The following section identifies relevant planning legislation and other documentation that may be applicable to the site for development purposes. This commentary is specific to possible subdivision of the site.

No specific comment on applicable legislation and planning documents for development of the site, post subdivision, has been made as it is unknown what the future uses of the site or sites may be.

- **Ballina Local Environment Plan 2012**

The land is zoned as IN1 – General Industrial under the Land Zoning Maps (Sheet LZN_006C) of the Ballina Local Environmental Plan 2012 (BLEP 2012).

The site is identified under the BLEP 2012 as follows:

- The minimum lot size for subdivision within this zoning is 1,000m² (Sheet LSZ_006C);
- The land is identified as having the potential for Class 2 Acid Sulfate Soils (Sheet ASS_006);
- The land is identified on the building height allowance map as requiring a minimum level of 2.0m AHD (Sheet BHA_006C);
- The land is identified as being located within the Flood Planning Area (Sheet FLD_006);
- The land has a maximum building height of 10 metres (Sheet HOB_006);
- The land is identified as being located on land adjoining a Strategic Urban Growth Area (Sheet SGA_006C).

- **Ballina Development Control Plan 2012**

Chapter 5 – Industrial Development is relevant to both a future subdivision and any industrial building. A general summary of relevant provisions relating to development for industrial purposes is provided below.

- Building line setback to the primary road and parallel road of at least 6.0 metres.
- A landscaped area with a minimum of 3.0 metres is to be provided along all frontages.
- Vehicular access is to be obtained from the secondary road (i.e. De-Havilland Crescent).
- Larger setbacks (minimum 6.0 metres) are to be provided to the rear or side boundary facing the residential area to facilitate a dense landscape screening.



- A 6.0 metre wide landscaped area comprising dense plantings is provided between the site boundary facing the residential area and any industrial building on the site.
- Any future industrial building needs to be designed to achieve a high standard of appearance.



3. Environmental Impediments

The following section identifies environmental impediments to the subdivision of the site.

3.1 Flora and Fauna

A preliminary Flora and Fauna Assessment has been undertaken and is provided within Attachment B. This assessment concludes that the vegetation at the site could be removed with some further investigations required to determine if any offsetting for the removal of Swamp Oak trees is required.

It is suggested in the Flora and Fauna Assessment that should the site remain in an undeveloped state, the existing vegetation would *"progress to a Camphor Laurel dominated forest with a range of weed species in the understorey"*.

3.2 Acoustic Noise Berm

As provided on the detail survey shown in Attachment A, a large acoustic berm is located on the subject site. It is understood that this acoustic berm was constructed as part of the adjoining Harvey Norman development and the ARC development to reduce noise impacts on residences to the east of the study area.

The Preliminary Acoustic Advice provided in Attachment C provides details as to the potential relocation of this acoustic berm to maximise the development potential of the subject site without having an adverse impact on the residential properties located in the vicinity.

This report has recommended that a minimum 24 metre buffer be applied from the closest boundary of adjacent residential properties to any industrial building and recommends that only light industrial uses are carried out on the subject land.

3.3 Acid Sulfate Soils

The study area is mapped as having the potential for Class 2 Acid Sulfate Soils (Acid Sulfate Soils Map – Sheet ASS_006) which requires an Acid Sulfate Soils Management Plan (ASSMP) should any works be required below the natural ground surface and/or works by which the water table is likely to be lowered.

Any future development of the site will require filling to a level of 2.0m AHD. As a result of this filling, works below the natural ground level will be required (i.e. stripping of the top soil prior to filling). Therefore it is recommended that an ASSMP be prepared prior to filling works commencing.



Further discussion regarding ASS is provided in Attachment B.

3.4 Land Contamination

As the site has historical uses for agricultural practices (i.e sugar cane cultivation) a Contamination Assessment has been undertaken and is included in Attachment B.

This assessment also considers possible contamination from the dwelling (i.e. from lead paint).

3.5 Filling of the Land

The land is identified on the building height allowance map under the BLEP 2012 as requiring a minimum level of 2.0m AHD (Sheet BHA_006C).

As shown in the Detail Survey provided in Attachment A, the site has a level below the minimum fill level of 2.0m AHD. Therefore any future development of the site for industrial purposes will require the filling of the land to at or above 2.0m AHD. Further details regarding filling is provided below under each development option and the plans provided in Attachment D.



4. Development Options

Three development options have been investigated.

These options are discussed below with proposed layout plans provided in Attachment D. Both development options include 1.5 metres of road widening along the entire length of the North Creek Road frontage to accommodate any future road widening of North Creek Road. Demolition of the existing dwelling and associated structures may also be required to facilitate future development.

There is also the "Do Nothing" option which has also been discussed below.

Please note that these options are subject to further investigation and Council approval.

4.1 Option 1 – Two Lot Subdivision

Option 1 involves the subdivision of the study area into two (2) allotments with areas of approximately 2,530m² (Lot A) and 1.058ha (Lot B). Minor vegetation removal will be required for this option.

This option would require approximately 1,270m³ of fill be imported onto the site assuming a finished fill level of 2 metres AHD.

This option does not maximise the development potential of the land.

4.2 Option 2 – Three Lot Subdivision

Option 2 involves the subdivision of the study area into three (3) allotments with areas of approximately 2,530m² (Lot A), 3,150m² (Lot B) and 7,440m² (Lot C). This Option also requires the part relocation of the acoustic berm as shown in Attachment D. Depending on the type of development for proposed Lot A, it may be beneficial to extend the acoustic berm to the southern boundary of the site; i.e. the common boundary with the car wash.

Removal of vegetation is required to accommodate this option.

This option would require approximately 4,050m³ of fill be imported onto the site assuming a finished fill level of 2 metres AHD.

Should there be a demand for a larger allotment, Lots A and B could be consolidated to create one large allotment with an area of approximately 5,680m².



4.3 Option 3 – Four Lot Subdivision

Option 3 involves the subdivision of the study area into four (4) allotments with areas of approximately 2,530m² (Lot A), 3,150m² (Lot B), 5,840m² (Lot C) and 1,320m² (Lot D). This option is similar to Option 2 however it creates an additional industrial allotment to the north of the sewer pump station.

This Option also requires the relocation of the acoustic berm as shown in Attachment D, and removal of wire stays supporting a power pole (or possibly relocation of the power pole). Depending on the type of development for proposed Lot A, it may be beneficial to extend the acoustic berm to the southern boundary of the site; i.e. the common boundary with the car wash.

Removal of all vegetation on site is required to accommodate this option.

This option requires approximately an additional 1,320m³ of fill to be imported onto the site assuming a finished fill level of 2 metres AHD.

Should there be a demand for a larger allotment, Lots A and B could be consolidated to create one large allotment with an area of approximately 5,680m².

This option is worth considering as it maximises the potential of the site, however a number of issues need to be addressed including:

- Proposed Lot D is located adjacent to an existing residential dwelling, thus increasing the potential for land use conflict and diminishing the potential uses of proposed Lot D, though it may suit some lower order type uses;
- Access to the Proposed Lot D is constrained as it is located on the corner of Stinson Street and De-Havilland Crescent with a power pole stay wire crossing the likely access point;
- The creation of proposed Lot D may inhibit any future requirement to expand the existing sewer pump station.

4.4 Option 4 – Do Nothing

Council has the option to do nothing and continue to rent out the existing dwelling. This option is not preferred as it does not optimise the development potential of the land. Additionally, the vegetation on the site will continue to be overrun with weed species creating ongoing maintenance issues for Council.



6. Conclusion, Options and Recommendation

6.1 Conclusion

The subject land is appropriately zoned for industrial uses and is considered suitable for a range of light industrial land uses providing mitigation measures are established to minimise impacts upon nearby residences. The relocation of the existing acoustic mound is achievable and would maximise the development potential of the subject site.

6.2 Options

1. Undertake a two lot subdivision, fill site and remove vegetation.
2. Undertake a three lot subdivision, relocate acoustic berm, fill site and remove of vegetation.
3. Undertake a four lot subdivision, relocate acoustic berm, fill site and remove of vegetation.
4. Do nothing.

6.3 Recommendation

It is recommended that Council adopt Option 3 and prepare and lodge a development to undertake a four lot subdivision, filling of land, vegetation removal and relocation of the acoustic berm. This option maximises the development potential of the site and is considered an efficient use of appropriately zoned and located industrial land.



7. Attachments

Attachment A – Detail Survey

Attachment B – Assessment of Potential Contamination Issues, Acid Sulphate Soils and Ecological Impacts

Attachment C – Preliminary Acoustic Advice

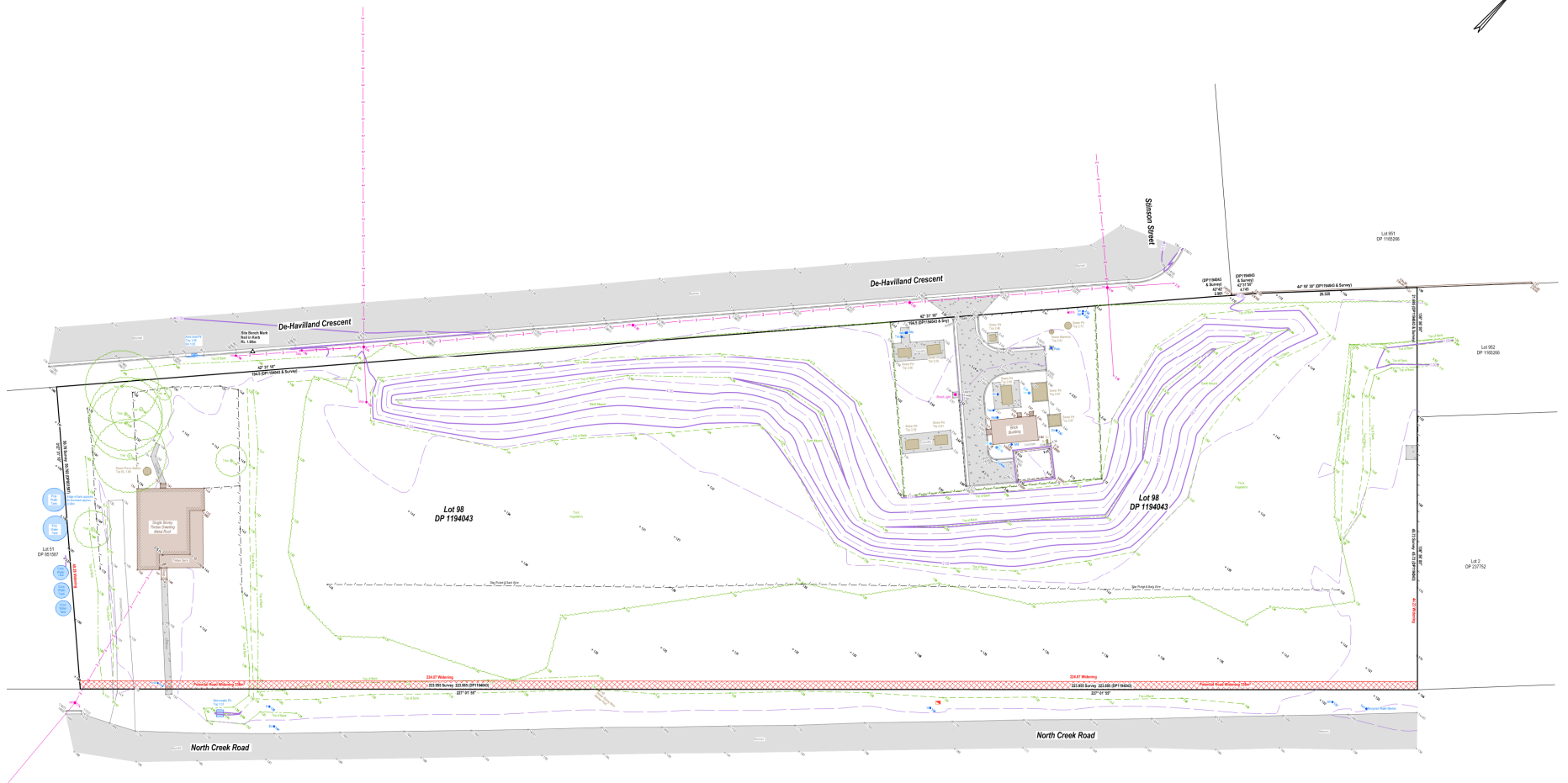
Attachment D – Development Options



Attachment A – Detail Survey



4.1 54 North Creek Road, Ballina - Development Options



Attachment B – Assessment of Potential Contamination Issues, Acid Sulphate Soils and Ecological Impacts





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Email: melissa.vanzwieten@exemail.com.au

Date: 3rd February 2015

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

Attention: Paul Tsikleas

Dear Paul,

Re: Part of Lot 98 DP 1194043, 54 North Creek Rd, Ballina - Subdivision Proposal: Assessment of Potential Contamination Issues, Acid Sulphate Soils and Ecological Impacts.

Introduction

Melaleuca Group has been engaged by CivilTech on behalf of Council to provide independent advice in regard to the potential of the above mentioned property to be subdivided and/or developed. The brief provided to Melaleuca Group was to provide preliminary town planning advice on:

- Potential Contamination Issues;
- Potential of Impacts from Acid Sulphate Soils; and
- Preliminary advice on existing vegetation and Ecological Impacts of future development.

The advice provided herein is preliminary in nature. However, the assessment is considered sufficiently comprehensive to identify significant issues that would hinder future development at the site.

This report documents the findings of a site assessment for part of Lot 98 DP 1194043, 54 North Creek Rd, Ballina. The study area is estimated to be approximately 1.4 ha (refer Attachment A) and an existing dwelling is located in the southern portion of the site. A pump station is located towards the northern end of the site along with a tall noise-attenuation mound. Treed vegetation exists over the majority of the study area (see below for full description).

Preliminary Contamination Assessment

The objective of this preliminary investigation has been to determine if land contamination has occurred from historical and current land use activities occurring on site or immediately nearby. Given the preliminary nature of this assessment, to determine if the site poses a significant risk of harm to end users (and nearby sensitive receptors), this assessment was undertaken on the basis of a site walk over and a review of historical information (e.g. aerial photography). That is, no soil samples have been collected and analysed.

This investigation is considered a Stage 1 of the Managing Land Contamination Planning Guidelines (DUAP and EPA, 1998). If contamination issues are identified, soil sampling would be required and levels compared to the adopted EPA acceptable levels. If these are exceeded, a detailed investigation is then required (i.e. a Stage 2 investigation).

This preliminary investigation has been used to identify the following:

- Past and present potentially contaminating activities occurring on or near the site; and
- The presence of Potential Contaminants of Concern associated with the identified land uses.

The investigation will also:

- Discuss the site condition;
- Provide a preliminary assessment of the site's contamination status; and
- Assess the need for further investigations.

Relevant documents considered in the preparation of this investigation included:

- ANZECC and NHMRC (1992) *Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites*;
- Council of Standards Australia (2005) *AS 4482.1-2005 Guide to the sampling and investigation of potentially contaminated soil – Non-volatile and semi-volatile compounds*;
- NSW DEC (2006) *Contaminated Sites – Guidelines for the NSW Site Auditor Scheme 2nd Edition*;
- NSW EPA (1995) *Contaminated Sites – Sampling Design Guidelines*;
- NSW EPA (2011) *Guidelines for Consultants Reporting Contaminated Sites*; and
- National Environment Protection Council (NEPC) (2013) *National Environment Protection (Assessment of Site Contamination) Measure*.

A review of historical aerial photography from 1967, 1979, 1987, 2003 and 2012 was undertaken (Attachment B). The 1967 through to 2003 aerial photographs show the site is relatively devoid of any structures with the exception of a single dwelling. A pump station is located in the north section of the site was constructed in approximately 2007. An acoustic mound was constructed on part of the site in approximately 2010. De-Havilland Crescent (western boundary) was constructed in approximately 2005. It is understood the dwelling was the original dwelling on the site which consisted of a large Sugar Cane farm and lands to the west towards the Airport. It is surmised that the farm was cleared for Sugar Cane in the 1940s/1950s as this was the typical land clearing activities for the locality. It appears Sugar Cane farming was ceased or intermittent from approximately the late 1970s/early 1980s in preference for Cattle grazing. Cattle grazing was likely

to have continued until relatively recently (early 2000s) when surround development (including some on original land holding) resulted in the Study Area becoming isolated and grazing not being viable. This is evidenced also by vegetation regrowth between 2003 to date. Remnants of fencing and an old water trough was recorded on the site during site investigations for this assessment.

The review of historical photography shows no intensive agricultural activities appear to have occurred on the site with the exception of Sugar Cane up until late 1970s. Further, no structures (with exception of the dwelling) were historically present and now removed.

A site inspection was conducted on 23th January 2015. The entire site was traversed with targeted inspections around the dwelling, pump station perimeter and acoustic mound and random meanders through the remainder of the site.

The site inspection did not locate any items of high contamination concern. The northern section of the site (north of dwelling) is considered to have negligible items of contamination concern. The past land uses do not indicate a high usage of chemicals. While some pesticide usage is possible for the Sugar Cane land use, given the passage of time since this landuse, any remnants of these chemicals (if used) would be negligible. This is further supported by the authors experience of similar landuses in the locality whereby soil sampling and testing has occurred and no Contaminants of Concern identified. In addition, the site, if developed, is likely to be filled and as such if any hot spot(s) are present, the subsequent filling of the site would reduce the risk of future landusers.

The dwelling itself represents a moderate contamination concern. This is due to the age of the building and the potential use of Lead-based paints. In addition, Asbestos materials may have been used in the building. On-site wastewater treatment would have occurred for the dwelling. However, it is believed that the wastewater from the dwelling is now connected to town sewerage. The historical location of the septic tank and trenches are unknown. These also represent a moderate contamination risk. Depending on future land uses, the risk will be the interception of these components during the installation of underground services. In general, on-site wastewater provides only a nutrient-rich contamination issue. Although it is unknown when the dwelling's on-site wastewater system was decommissioned, nutrients are generally rapidly reduced in the environment and do not pose a major human health issue. Further, the lifecycle of any viruses and/or bacteria would not result in a continuing human health issue.

An in-ground tank was located on the western side of the dwelling. It is thought this tank is a private sewer pump station taking the waste from the dwelling to Council's sewage system (J Bruce, N. McCowan, Ballina Shire Council, Pers. Comm.). While wastewater from the dwelling and any system components do not represent a significant item of contamination concern, this and any other underground services need to be identified to ensure future landuses accommodate their presence. For example, if the in-ground tank services a number of properties, a rising main or relocation of the service may be required.

Once a determination is made on whether to retain or remove the building, further investigations are warranted to assess the contamination issues of the building. If the building is to be removed and the site filled and while the risk to future landusers would be minimised due to the filling (and/or capping with concrete) process, it would be prudent for Council to undertake some level of soil testing. This is because, irrespective of filling, some excavations may be required in the future (e.g. installation of services) and Contaminants of Concern should be identified to ensure the health of future workers at the site. For Lead, sampling around the circumference of the building is usually recommended to determine the presence of Lead in surrounding soils. However, if the building is to be removed, the sampling methodology could incorporate this process by assuming the site is

contaminated and after removal undertake the necessary validation process. This is a valid option under the SEPP 55 guidelines as Lead from residential properties hold an exemption under the Waste Classification Guidelines (DECCW 2009). For Asbestos and other Hazardous Building materials, the building should be inspected prior to allowing continued use and/or removal. This will assist in determining the most appropriate removal method(s).

The surrounds of the building were inspected and no significant contamination issue identified. A number of vehicles and some equipment are stored on the site. In addition a small storage shed was identified. In general, no obvious signs of contamination (such as plant stress, surface spills, waste materials, imported fill, odours etc.) were evident during the site investigation. While it is not known what chemicals may have been stored on the site given the residential land use of the building it is considered chemicals stored would be in low volumes and infrequently used.

Plates B1 - B6 (Attachment B) illustrate the condition of the site in general in its current state.

Preliminary Acid Sulphate Soil Assessment

The objective of this preliminary investigation has been to determine if potential development of the Study Area is likely to intercept Acid Sulphate Soils (ASSs) and/or significantly impact on these soils. In this instance, the full guidelines (ASSMAC 1998) is not considered the most appropriate methodology due to the study being for subdivision purposes only. In addition, part of the study area (i.e. pump station area) and adjacent lands have already undergone filling and/or development. As such, it is anticipated historical information from Council would allow for a desktop review of the risk of ASS without the need for any soil sampling.

Council mapping indicates Class 2 (works below natural ground surface and/or works by which the watertable is likely to be lowered) exist within the study area (Attachment C). The Department of Land mapping indicates High probability within 1m of the ground surface (HEs1: High Probability Estuarine Swamp with elevation of 1-2m) (Attachment C). Soil at the site is Tyagarah soils which are Aeolian/Estuarine soils (Morand 1994).

A site inspection was conducted on 23 February 2014 whereby the entire Study Area was traversed. The site is relatively low lying with ponded water observed in some locations. High rainfall events had occurred within 24hrs of the site visit with light intermittent rain experienced during the site investigations. No sulphuric odours were evident during the site assessment and as such ASS are considered unlikely within the top soils of the Study Area.

The adjacent lands have all been filled and are raised by at least an estimated 1.0m. This occurred on all four (4) boundaries whereby North Creek Road, the Car Wash, De-havilland Crescent and residential land were filled. Industrial lands and/or residential lands further from the site have also been filled over time. Council's minimum fill levels indicate a minimum of 1.7m is required for future development.

Discussion were held with environmental officer R. Jenner in regard to knowledge of significant Acid Sulphate Soil issues known from the locality from past experiences with Development Applications. Council is not aware of any major issues in the locality.

ASS are only of concern when excavation results in the intersection of these soils. This usually occurs during the excavation of soils for services and/or footings for buildings. Irrespective of their interception, sufficient best practice methodologies have been developed that ensure adequate treatment occurs. It is general practice that in areas of high concern, contractors have available on-site a source of Lime and also site managers are trained in identify possible ASS. If soils excavated appear to be possible ASS, site managers are trained to cease works, undertake testing and modify works to ensure Lime is applied at correct rates and trenches not left open overnight. Other measures can be implemented rapidly if required using the ASSMAC manual.

As development proposals are not known at this stage, and thereby filling may/may not occur, Council should note the potential of intercepting ASSs. Irrespective of filling, Council can condition future developments at the site with a clause similar to:

Monitoring shall be undertaken of any materials that is excavated below the natural ground levels for ASS. Should ASS materials be disturbed, they are to be stored separately to non-ASS material, banded and treated with Lime to neutralise any acid production from the oxidation process.

Flora and Fauna Assessment

Similar to above, the Ecological Assessment of the Study Area was anticipated to be relatively preliminary due to existing knowledge of the site being highly disturbed and poor quality vegetation (high density of weeds). While the assessment is preliminary, sufficient investigations have been undertaken to allow appropriate town planning advice on the ecological characteristics of the Study Area.

Aims

The purpose of the survey was to:

1. Inspect and assess the structure and floristics the Study Area;
2. Assess the habitat value for threatened flora and fauna;
3. Assess the Swamp Oak community in reference to its consistency with the Swamp Oak Floodplain EEC; and
4. Report on the findings.

Methodology

To determine if Swamp Oak Floodplain EEC is likely or actually occurs on the site, a literature review was undertaken followed by a field survey. Literature reviewed included:

NSW Scientific Committee (2011). Swamp oak floodplain forest of the NSW North Coast, Sydney Basin and South East Corner bioregions endangered ecological community listing.

NSW Department of Environment and Climate Change (undated). Swamp Oak Floodplain Forest. Identification Guidelines for Endangered Ecological Communities.

A field survey was carried out on the 23rd January 2015. The entire Study Area was traversed on a random meander basis to search for threatened flora species, assess habitat value and determine floristics for assessment of the EEC. In addition, three tree-counts/basal area plots were undertaken. Recent and historical aerials (Attachment D1) were reviewed to assess vegetation and to ascertain the location of the Swamp Oak forest and thereby the potential distribution of the EEC. The survey was carried out by an experienced field ecologist. Formal sites were located in areas supporting Swamp Oak (*Casuarina glauca*) dominant forest with reference to aerial photography. Conditions during the field survey were generally mild (24°C), overcast with an intermittent shower. Heavy rainfalls had been experienced within 48hrs of the site visit and ponded water was observed on the site in locations.

Results

Field survey methods utilised assessment of the vegetation and species richness was recorded. In three (3) locations, the basal area of the stand of trees was measured using a Bitterlich sampling method. A full species list is provided in Attachment D2. Nomenclature for plant names used in text follows the National Herbarium of New South Wales as published in the Flora of New South Wales (Harden 1990-1993).

The three (3) sites were located to represent the typical expression of the Swamp Oak community on the site. One site was located in the oldest treed vegetation on the site which represented regrowth

from approximately 1987. This small patch of regrowth appears to have grown from 2 or 3 trees that can be identified on a historical aerial from 1979. This patch appear to be approximately 400m² in 2003 and while more treed vegetation is apparent on recent aerials, the core area does not appear to have significantly changed. The increase in treed vegetation is considered to be attributed predominantly to Camphor Laurel invasion and growth. The remaining sites were located in more recent regrowth from approximately 2003. This expansion of regrowth is predominantly attributed to the exclusion of cattle grazing and/or active weed management. A summary of the sites is provided in Table 1 below with their location shown in Figure D1, Attachment D1. Detailed species list is provided in Attachment D2. Historical aerials are also provided in Attachment D1 and Site photographs in Attachment D4.

Table 1. Summary of field survey sites part of Lot 98 DP 1194043

Site #	Easting	Northing	Habitat Description	Comments
Plot 1	554417	6808821	Closed forest (8-12m) of Swamp Oak (<i>Casuarina glauca</i>) with dominant sub-canopy of Camphor laurel (<i>Cinnamomum camphora</i>) and Willow Bottlebrush (<i>Callistemon salignus</i>). Sparse open understorey of <i>C. camphora</i> , <i>Schefflera actinophylla</i> *, <i>Maclura cochinchinensis</i> , Winter Senna (<i>Senna pendula</i> var. <i>glabrata</i> *) and exotic grasses. Very sparse groundcover with <5% exotic <i>Paspalum</i> spp. and scattered seedlings of <i>Cupaniopsis anacardioides</i> , <i>Archontophoenix cunninghamiana</i> and <i>A. alexandrae</i>	Just south of dwelling. Represents oldest treed vegetation on the allotment. Sugar Cane land form is still distinguishable with standing water in shallow 'drains'. Very high dominance of weed species.
Plot 2	554450	6808852	Regrowth scrubland (6-9m) of Swamp Oak (<i>Casuarina glauca</i>), Broad-leaved Paperbark (<i>Melaleuca quinquenervia</i>) and Blackwood (<i>Acacia melanoxylon</i>). Numerous climbing vines of Common Silkpod (<i>Parsonsia straminea</i>) and Coast Morning Glory (<i>Ipomoea cairica</i> *). Sparse understorey of <i>A. melanoxylon</i> , <i>C. camphora</i> , <i>S. pendula</i> var. <i>glabrata</i> *. Dense groundcover (0-1m) of <i>Setaria</i> sp., <i>Paspalum</i> spp., <i>Hypolepis muelleri</i> , and <i>I. cairica</i> *	Site approximately in middle of site. Regrowth forest with mixed dominance of tree species. Most mature T1 species are <i>C. glauca</i> , however dominance of <i>M. quinquenervia</i> at juvenile stage.
Plot 3	554527	6808922	Closed forest (8-10m) of Swamp Oak (<i>Casuarina glauca</i>) and Blackwood (<i>Acacia melanoxylon</i>) with understorey dominated by Harsh Ground Fern (<i>Hypolepis muelleri</i>) and exotic <i>Setaria</i> sp.	Located at northern edge of allotment adjacent to residential landuses. Regrowth forest from approximately XXX

* Denotes non-native species

The site assessment performed in combination with reference to the literature review and the Scientific Determination for Swamp Oak Floodplain EEC offer considerable material toward assessing if the Swamp Oak forest, which occurs on the site, is consistent with the Scientific Determination.

The distribution and situation of the communities occurrence on the subject site is considered consistent with the Scientific Determination through the following edaphic and locational attributes:

- The community occurs on grey-black clayloams and sandy loams. Soils are mapped and described by Morand (1994) within the Tyagarah (ty) soil landscapes. These soils are described as coarse- to medium grained sand to clayey sand in the top soils and clay loam, sandy to clay loam and sandy clay loams at depth with colours varying between greyish yellow to brown to black. Natural soils identified at the site are consistent with this description.
- The community occurs below 20m elevation, in the NSW North Coast, Sydney Basin or South East Corner bioregions.

The subject site is not considered completely consistent with the Scientific Determination through the following attributes:

Hydrological Criteria

The subject site is flat and low lying. It is not bordered by a major waterway but is linked via man-made drains to North Creek to the east. These drains also link low-lying lands/wetlands to the west. Development on all four borders of the site has resulted in filling. Thus the site has become generally isolated to similar natural landscapes. The natural landscape of the Study Area (and community) occurs on quaternary Estuarine Plain on the coastal floodplain. Therefore, it could be considered consistent with the scientific committee which describes "Swamp Oak on floodplains" to be "where the groundwater is saline or subsaline, on waterlogged or periodically inundated flats, drainage lines, lake margins and estuarine fringes associated with coastal floodplains. Floodplains are level landform patterns on which there may be active erosion and aggradation by channelled and overbank stream flow with an average recurrence interval of 100 years or less (adapted from Speight 1990)" (NSW Scientific Committee 2011). However, the surrounding filling of land has substantially changed the hydrology of the site. It is not anticipated the area would receive the normal flooding events to that which was once prevalent across the current Study Area and the original holdings prior to development.

Structural and Floristic Criteria

A Swamp Oak Floodplain EEC community is characterised by the occurrence of an assemblage of species in accordance with the Scientific Determination. The NSW Scientific Committee (2011) lists 45 species which are considered characteristic of the EEC, and note that "species composition of a site will be influenced by the size of the site, recent rainfall or drought conditions and by its disturbance (including fire, grazing, flooding and land clearing)" (Attachment D3).

The site is dominated with a broad range of exotic (and predominantly highly invasive) weed species. Weed invasion is acknowledged by the Scientific Committee:

Very few examples of Swamp Oak Floodplain Forest remain unaffected by weeds. The causes of weed invasion include physical disturbance to the vegetation structure of the community, dumping of landfill rubbish and garden refuse, polluted runoff from urban and agricultural areas, construction of roads and other utilities, and grazing by domestic livestock.

A review of species identified during the site inspection indicate that while 15 of the 45 listed species were identified at the site (Attachment D3), the predominance of weed species and the biomass of these exotic species are not truly reflected by the data collected from the field work. This is further evidenced by tree counts and calculations of basal areas (Table 2). In the three (3) locations these were assessed, few mature weed trees were identified. However, observations by field staff and as depicted in site photographs (Attachment D4), the understorey of the forests are particularly dominated by weed species. For example, at Plot 1 not a single sapling of *C. glauca* was recorded. Rather, a dominance of *C. camphora* sapling were observed indicating that if left to natural attenuation, this forest would develop into a Camphor Laurel dominated forest (with a Lantana understorey).

Table 2. Tree Counts mature trees (>10cm DBH) and calculation of Basal Areas

Plot Number	Tree Species	Count (T1)/ Basal Area (m ² /ha)	Count (T2) Basal Area (m ² /ha)
1	Swamp Oak (<i>C. glauca</i>)	17	1
	Camphor Laurel (<i>C. camphora</i>)*	9	9
	Total	26 m ² /ha	10 m ² /ha
2	Swamp Oak (<i>C. glauca</i>)	10	5
	Broad-leaved Paperbark (<i>M. quinquenervia</i>)	2	1
	Total	12 m ² /ha	6 m ² /ha
3	Swamp Oak (<i>C. glauca</i>)	5	7
	Camphor Laurel (<i>C. camphora</i>)*	7	1
	Blackwood (<i>A. melanoxylon</i>)	1	
	Total	13 m ² /ha	8 m ² /ha

* denotes exotic species

Discussion

While the Scientific Determination does not detail the importance of the size of remaining patches, some assessment of the viability of a patch and the importance of the patch needs to be assessed. The Study Area does not lie within a faunal corridor. The vegetation at the site is isolated from similar vegetation by at least 250m in all directions. Further it is surrounded by intensive human activities (industrial and residential) on modified (filled) landscapes.

As indicated in the Scientific Determination, this community is not significant habitat for waterbirds. The community can provide a food resource for the Glossy Black Cockatoo and the Yellow tailed Black Cockatoo. No chewed Casuarina nuts were observed during the site investigation and the preferred feed tree species (Black Sheoak (*Allocasuarina littoralis*) and Forest Sheoak (*A. torulosa*)) were not recorded on the site. Squirrel Gliders are also known to utilise this habitat type. However, the habitat within the Study Area was highly degraded and given its isolation and surrounding land uses, it is highly unlikely this species would utilise the vegetation at the site. Further, no records of this species are known from a 5km radius of the site (NSW Bionet online Atlas search 2015).

Several species of frogs in the families Myobatrachidae (southern frogs) and Hylidae (tree frogs) utilise Swamp Oak forest habitat. While active searches and call backs were not undertaken, given the recent wet weather a large number of Common Eastern Froglets (*Crinia signifera*) were calling. Frog calls were monitored on several occasions to determine if the Wallum Froglet (*Crinia tinnula*) or Green and Golden Bell Frog (*Litoria aurea*) were calling. Neither species were heard. Records for both species are known within a 5km radius of the site (NSW Bionet online Atlas search 2015). For the Green and Golden Bell Frog, the habitat at the site does not represent habitat for this frog. It prefers still or slow flowing waterbodies with some aquatic emergent vegetation such as *Typha* spp. or *Eleocharis* spp. and can be found up to 500m from this habitat. It is considered highly unlikely this frog would utilise habitat at the site. The Wallum Froglet is known to utilise Swamp Oak forests. However, given the highly degraded nature of the site and isolation, it is considered unlikely this species would be found at the site.

In conclusion, the majority of the vegetation at the site is considered inconsistent with the Scientific Determination of Swamp Oak Floodplain EEC. A small patch (approximately 450m²) of Swamp Oak forest towards the southern end of the site which has gradually regrown since the mid-1980s could be considered a significantly degraded Swamp Oak Floodplain EEC. However, if left to natural processes, this core patch is considered unviable due to:

- extensive invasion by aggressive weed species;
- changes in hydrology due mainly to surrounding landuses (and filling);
- small area (< 500m²);
- isolation from other vegetation; and
- human activities on the site (illegal burning and other activities).

Further, the vegetation does not lie within a faunal corridor and given the small size, isolation within intensive human activities and degraded nature of the habitat, would not be providing a stepping stone or refuge area for faunal species. Further, it is considered, the patch would naturally progress to a Camphor Laurel dominated forest with a range of weed species in the understorey which would

further degrade the value of the habitat. A dominance of mosquito activity was also recorded during site works and as such indicates a degraded ecosystem which contributes to a human health issue for surrounding lands.

While the vegetation within the Study Area is considered to be significantly degraded and non-viable, the vegetation does represent some habitat of the Swamp Oak Floodplain EEC. As such, future development should consider offsetting clearing of the site to other areas nearby. For example, the allotment (Lot 98 DP 1194043) includes sections to the west (corner of Boeing and Cessna Avenues) that appear (from aerial photography interpretation) to contain similar vegetation. Offsetting of vegetation clearing by way of rehabilitation efforts on this area or other areas to the north-west would be more beneficial to both flora and fauna species in the area (including threatened species). Further investigations to determine appropriate offsets are required.

Summary

Preliminary Contamination Assessment

The preliminary assessment of the Study Area did not identify significant land contamination issues. Further investigations are warranted in regard to:

- the dwelling - for Lead and other Hazardous Building materials (e.g. Asbestos); and
- the in-ground tank identified to the west of the building - potential sewer pumping station.

Depending on future landuses and proposed filling of the site will guide the need to undertake sampling prior to or after removal of the dwelling. In addition to the in-ground tank, other underground services should be noted and would possible need to be relocated or raised into fill.

Preliminary Acid Sulphate Soil Assessment

Acid Sulphate Soils are considered likely to be encountered at the site if excavations into the natural ground level occurs. This would most likely occur if footings and/or underground services for future landuses are required. The depth of any such excavation is dependent if filling occurs at the site. Filling of up to 1.5m is possible and as such, excavations are unlikely to extrude into the natural surface layers. Council could condition any future proposal with a clause stating monitoring for ASS is necessary and appropriate management techniques employed (e.g. liming, limiting trenching work and the like).

Preliminary Ecological Assessment

No threatened flora or fauna species were recorded during this study. Further, the vegetation at the site is considered extremely poor for the range of known threatened species in the locality. This study considers that, in general, the vegetation within the Study area is non-consistent to the Swamp Oak Floodplain EEC due to:

- the species composition and the structure of the vegetation community (dominance of weed species); and
- hydrological characteristics due to surrounding land uses.

However, some vegetation while considered marginal Swamp Oak Floodplain EEC is considered unviable due to:

- dominance of weed species;
- small size;
- isolation;
- poor habitat for faunal species; and
- human activities.

As such, it is considered vegetation at the site could be removed. However, some further investigations are required to determine offsetting the removal of Swamp Oak trees to other areas on the allotment or another site whereby rehabilitation efforts would result in a greater benefit for the flora and fauna species in the locality.

Should you require any additional information or wish to clarify any matter raised in this correspondence please feel free to contact the writer at any time.

Yours faithfully,

Melaleuca Group



.....
Dr. Melissa Van Zwieten
Senior Environmental Scientist

Attachments:

Attachment A: Study Area

Attachment B: Historical Aerial Photographs and Site Photographs (Contamination)

Attachment C: Acid Sulphate Soils Mapping

Attachment D: Ecological Information

Attachment A. Study Area



Figure A1. Study Area (Aerial date: 2012)

Attachment B. Historical Aerial Photography and Site Photographs (Contamination)



Figure B1. 1967 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow). The photograph shows the site has been cleared for Sugar Cane production.



Figure B2. 1979 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow). The photograph shows the site has been cleared and is potentially used for cattle grazing only. Residential development to the north of the site is observed with surrounding landuses of Sugar Cane and cattle grazing.



Figure B3. 1987 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow). The photograph shows the site has been cleared and is potentially used for cattle grazing only. A few regrowth trees and/or gardens in the vicinity of the dwelling can be seen.



Figure B4. 2003 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow). The photograph shows the site has been cleared and was potentially used for cattle grazing in recent years. Also noticeable is development in the area. Residential land uses have expanded to the east and Industrial land uses to the west, south and south-east. The small number of regrowth trees recorded in 1987 has expanded into a small patch of forest.



Figure B5. 2012 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings with exception of dwelling in southern section of the site (yellow arrow) and the presence of a pump station (blue arrow) in the northern section. An acoustic mound was also constructed in approximately 2010 and can be seen in this image. Additional industrial land uses are observed to the west of the site. Vegetation has also regenerated across the site.



Plate B1: Western view of dwelling



Plate B2: Southern side of dwelling - showing vehicle, tractor and small storage shed.



Plate B3: In-ground tank thought to be private sewer pump station.



Plate B4: North-westerly view of back yard.



Plate B5: Rear of dwelling.



Plate B6: Typical view of vegetation across the remainder of site.

Attachment C. Acid Sulphate Soils Mapping

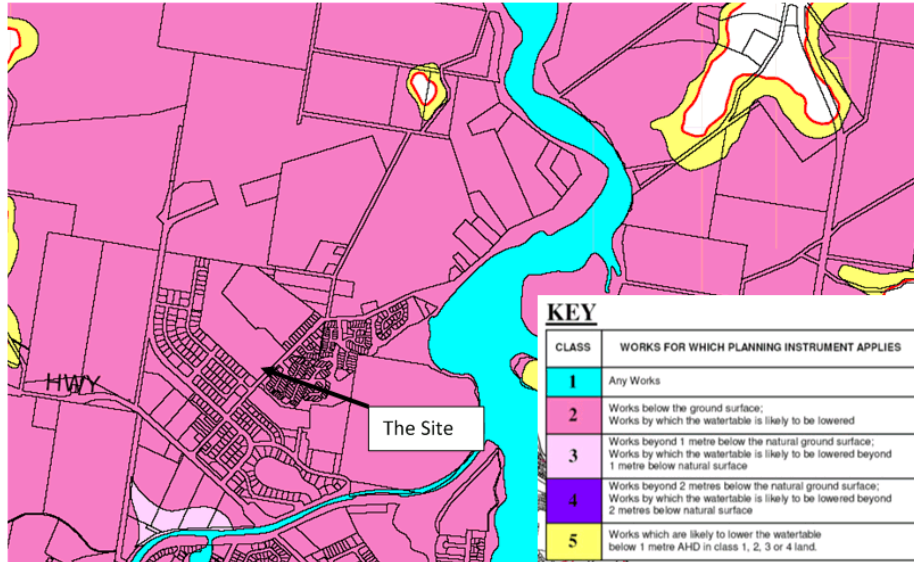


Figure C1. Acid Sulphate Soils (Ballina Council 2001)

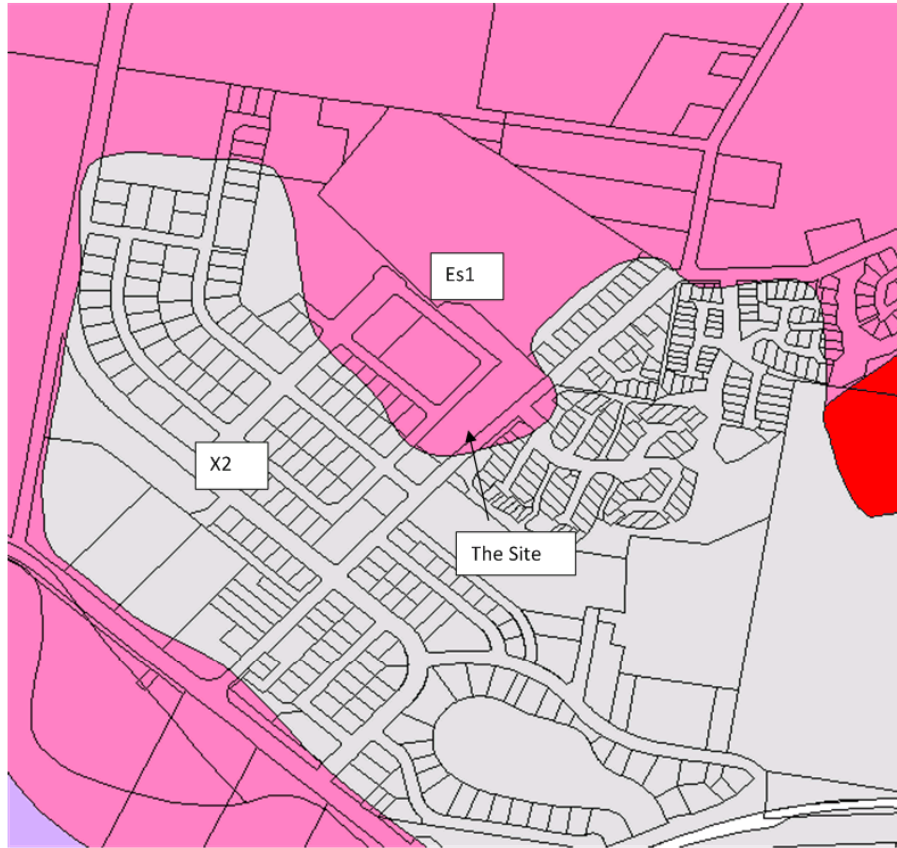


Figure C2. Acid Sulphate Soils (Department of Lands 1997)

Attachment D. Ecological Information

Attachment D1. Aerial Photography and Plot Locations



Figure D1. Aerial Photography showing plot locations.



Figure D2. 1967 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow). The photograph shows the site has been cleared for Sugar Cane production.



Figure D3. 1979 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow). The photograph two (2) or three (3) trees (blue arrow) in location of present Swamp Oak regrowth forest.



Figure D4. 1987 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow) and small regrowth forest (blue arrow), presumed to be Swamp Oak.



Figure D5. 2003 Historical aerial photograph of site (red arrow), showing site relatively devoid of buildings and vegetation with exception of dwelling in southern section of the site (yellow arrow) and regrowth forest (blue arrow) at location of present day Swamp Oak forest.

Attachment D2. Species List

Table D2. Species List.

Botanical Name	Common Name
<i>Acacia melanoxylon</i>	Blackwood
<i>Ageratum conyzoides</i> **	Billygoat-weed
<i>Alphitonia excelsa</i>	Red Ash
<i>Ambrosia artemisiifolia</i> **	Annual Ragweed
<i>Archontophoenix cunninghamiana</i>	Bangalow Palm
<i>Archontophoenix alexandrae</i>	Alexander palm
<i>Asparagus plumosus</i> **	Climbing Asparagus
<i>Banksia integrifolia subsp. integrifolia</i>	Coastal Banksia
<i>Bidens pilosa</i> **	Cobbler's Pegs
<i>Breynia oblongifolia</i>	Coffee bush
<i>Callistemon salignus</i>	Willow Bottlebrush
<i>Cassytha pubescens</i>	Common Devil's Twine
<i>Casuarina glauca</i>	Swamp Oak
<i>Centella asiatica</i>	Pennywort
<i>Cinnamomum camphora</i> **	Camphor laurel
<i>Cissus antarctica</i>	Water Vine
<i>Cissus hypoglauca</i>	Giant Water Vine
<i>Commelina cyanea</i>	Native Wandering Jew
<i>Conyza bonariensis</i> **	Flaxleaf Fleabane
<i>Conyza sumatrensis</i> **	Tall fleabane
<i>Crassocephalum crepidioides</i> **	Thickhead
<i>Cupaniopsis anacardioides</i>	Tuckeroo
<i>Cynodon dactylon var. dactylon</i> **	Green Couch
<i>Cyperus stradbrokeensis</i>	
<i>Dianella caerulea var. caerulea</i>	Blue Flax lily
<i>Digitaria didactyla</i> **	Queensland Blue Couch
<i>Duboisia myoporoides</i>	Corkwood
<i>Embelia australiana</i>	
<i>Eustrephus latifolius</i>	Wombat berry
<i>Guioa semiglauca</i>	Guioa
<i>Gloriosa superba</i> **	Gloriosa lily
<i>Glycine sp. **</i>	
<i>Hibbertia scandens</i>	Climbing Guinea Flower
<i>Homalanthus populifolius</i>	Bleeding Heart
<i>Hypolepis muelleri</i>	Harsh Ground Fern
<i>Imperata cylindrica</i>	Blady grass
<i>Ipomoea cairica</i> **	Coast Morning Glory
<i>Lantana camara</i> **	Lantana
<i>Lomandra longifolia</i>	Spiny-Headed Mat-Rush
<i>Macaranga tanarius</i>	Blush Macaranga
<i>Maclura cochinchinensis</i>	Cockspur Thorn
<i>Melaleuca quinquenervia</i>	Broad-leaved Paperbark
<i>Melicope elleryana</i>	Pink-flowered Doughwood

4.1 54 North Creek Road, Ballina - Development Options

<i>Mimosa pudica</i> **	Sensitive Plant
<i>Oplismenus aemulus</i>	Basket Grass
<i>Ottochloa gracillima</i>	
<i>Parsonia straminea</i>	Common Silkpod
<i>Paspalum urvillei</i> **	Vasey Grass/Giant Paspalum
<i>Paspalum</i> sp.	
<i>Passiflora subpeltata</i> **	White Passionflower
<i>Pittosporum undulatum</i>	Sweet Pittosporum
<i>Pratia purpurascens</i>	Whiteroot
<i>Pteridium esculentum</i>	Bracken
<i>Rubus moluccanus</i>	Molucca Raspberry
<i>Schefflera actinophylla</i> **	Umbrella tree
<i>Senna pendula</i> var. <i>glabrata</i> **	Winter Senna
<i>Setaria sphacelata</i> **	South African Pigeon Grass
<i>Smilax australis</i>	Lawyer Vine
<i>Solanum mauritianum</i> **	Wild Tobacco Bush
<i>Solanum nigrum</i> **	Black-berry Nightshade
<i>Solanum viarum</i>	Tropical Soda Apple
<i>Sphagneticola trilobata</i> **	Singapore daisy
<i>Sporobolus</i> sp.**	
<i>Stephania japonica</i> var. <i>discolor</i>	Snake Vine
<i>Syagrus romanzoffiana</i> **	Cocos Palm
<i>Syzygium leuhmannii</i>	Riberry
<i>Trema tomentosa</i> var. <i>aspera</i>	Poison Peach
<i>Tradescantia fluminensis</i>	Wandering Jew
<i>Viola hederacea</i>	Ivy-leaved Violet

** denotes exotic species

Attachment D3. Swamp Oak Floodplain EEC species (NSW Scientific Committee 2011)

Species Composition	Found at Site
The EEC community is characterised by the occurrence of the following assemblage of species in accordance with the Scientific Determination. Those species recorded within the Study Area are identified.	
<i>Acmena smithii</i>	No
<i>Alphitonia excelsa</i>	Yes
<i>Alternanthera denticulata</i>	No
<i>Baumea juncea</i>	No
<i>Blechnum indicum</i>	No
<i>Callistemon salignus</i>	Yes
<i>Carex appressa</i>	No
<i>Casuarina glauca</i>	Yes
<i>Centella asiatica</i>	Yes
<i>Commelina cyanea</i>	Yes
<i>Crinum pedunculatum</i>	No
<i>Cupaniopsis anacardioides</i>	Yes
<i>Cynodon dactylon</i>	Yes
<i>Dianella caerulea</i>	Yes
<i>Entolasia marginata</i>	No
<i>Enydra fluctuans</i>	No
<i>Flagellaria indica</i>	No
<i>Gahnia clarkei</i>	No
<i>Geitonoplesium cymosum</i>	No
<i>Glochidion ferdinandi</i>	No
<i>Glochidion sumatranum</i>	No
<i>Hypolepis muelleri</i>	Yes
<i>Imperata cylindrica</i> var. <i>major</i>	Yes
<i>Isolepis inundata</i>	No
<i>Juncus kraussii</i> subsp. <i>australiensis</i>	No
<i>Juncus planifolius</i>	No
<i>Juncus usitatus</i>	No
<i>Lobelia alata</i>	No
<i>Lomandra longifolia</i>	Yes
<i>Lophostemon suaveolens</i>	No
<i>Maundia triglochinosides</i>	No
<i>Melaleuca alternifolia</i>	No
<i>Melaleuca ericifolia</i>	No
<i>Melaleuca quinquenervia</i>	Yes
<i>Melaleuca styphelioides</i>	No
<i>Myoporum acuminatum</i>	No

Species Composition	Found at Site
<i>Oplismenus imbecillis</i>	No
<i>Parsonia straminea</i>	Yes
<i>Persicaria decipiens</i>	No
<i>Persicaria strigosa</i>	No
<i>Phragmites australis</i>	No
<i>Selliera radicans</i>	No
<i>Smilax australis</i>	Yes
<i>Stephania japonica</i> var. <i>discolor</i>	Yes
<i>Viola banksii</i>	No
<p>The frog families represented are Myobatrachidae (southern frogs) and Hylidae (tree frogs), including the threatened Green and Golden Bell Frog (<i>Litoria aurea</i>). Other amphibians may occur. Note presence/absence.</p>	<p>Threatened species were not observed (seen or heard, however, note, active searches and call-backs were not undertaken). Given high rainfall events in previous 24 hrs and significant active calling of the Common Eastern Froglet (<i>Crinia signifera</i>) it was surmised if present threatened frog species would have been calling.</p>
<p>Unlike most other coastal floodplain communities, Swamp Oak Floodplain Forest of the NSW North Coast, Sydney Basin and South East Corner bioregions are not a significant habitat for waterbirds (Goodrick 1970). However, they do sometimes provide food resources for the following species (Marchant and Higgins 1990):</p> <ul style="list-style-type: none"> • Glossy Black Cockatoo (<i>Calyptorhynchus lathami lathami</i>); • Yellowtailed Black Cockatoo (<i>Calyptorhynchus funereus</i>). 	<p>None were observed. While extensive active searches were not undertaken, no chewed Casuarina nuts were found and it is anticipated given proximity to residential and industrial land uses and very small land area dominated by weeds, visitations by these birds are unlikely and only irregular and opportunistic. Favoured food trees were not present on site.</p>

Attachment D4. Site Photographs



Plate D1. General view of vegetation near dwelling (southern section)



Plate D2. General view of vegetation at southern end of Study Area



Plate D3. General view of vegetation within small regrowth Swamp Oak forest (Plot 1)



Plate D4. General view of vegetation within small regrowth Swamp Oak forest (Plot 1)



Plate D5. General view of vegetation at Plot 2.



Plate D6. General view of vegetation along western boundary (west of Plot 2)



Plates D7 (above) and D8 (below) . General views of vegetation along western boundary of Study Area





Plates D9 (above) and D10 (below). General views of burnt vegetation in approximately the middle of the Study Area.





Plates D11 (above) and D12 (below). General views of vegetation along northern boundary of Study Area (Plot 3)



Attachment C – Preliminary Acoustic Advice





20 March 2015

Adrian Zakaras
C/O Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Dear Adrian,

**RE: Preliminary Acoustic Advice Proposed Subdivision of Part Lot 98
DP 1194043 Ballina**

1. Background

Council own a portion of residue industrial land located at 54 North Creek Road, Ballina, described as Part Lot 98 DP 1194043.

The property comprises an area of approximately 1.346 hectares and is zoned industrial and classified as operational land. The property is bounded by North Creek Road and De-Havilland Crescent. Erected on the property is:

- An old weatherboard house;
- A Council sewer pump station; and
- A large acoustic berm constructed in accordance with development consent conditions pertaining to subdivision of part of the Southern Cross Industrial Estate.

The balance of the property is heavily vegetated and is becoming infested with noxious plants.

We understand that council is seeking amongst other matters a town planning report on the development potential (if any) of the subject site and site constraints including traffic, acoustic issues etc. given the close proximity to residential dwellings

Tim Fitzroy & Associates (TFA) has been requested by Civil Tech Consulting Engineers to provide some 'commentary on future land uses' for the proposed subdivision with respect to acoustic matters. In addition Council requires initial advice as to whether the acoustic mound could be removed, replaced with an alternative noise barrier or relocated to facilitate development.

The study area is shown hatched red in **Attachment A**.

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2. Likely Noise Generation from a Future Industrial Area

This noise assessment relates to a potential future subdivision to allow for industrial development on the subject site. Typical noise generation by industrial development must therefore be assumed. The estimated noise levels for the development provide guidance to Council on potential noise emissions, but are not definitive. Subdivision layout, building design, at source mitigation, shielding and the times and duration of activities will all impact on the ultimate noise levels produced. Each of these factors cannot yet be defined given the current stage in the preliminary planning process.

It is generally accepted however that noise levels within an industrial estate will be higher than in either residential or commercial areas. Commonly, controls are required on noise from industrial premises because of the potential impact on adjacent residential or commercial zones in the vicinity.

The recommended LAeq noise levels from industrial noise sources within an industrial zone is 70dB (A), when in use as referenced from Table 2.1 of the Industrial Noise Policy (NSW EPA, 2000).

3. Impact of Development in Relation Surrounding Land Uses

Typical background noise levels at the closest unrelated residential property were established in *Noise Impact Assessment Proposed Fabrication Plant Lot 87, DP 1118585 Cessna Crescent* (Tim Fitzroy & Associates August 2009) and Project Specific Noise Criteria (in accordance with the INP) were calculated. In order to achieve the PSNC at the closest affected residential properties appropriate mitigation measures may be required. Mitigation measures may include establishing setback distances/buffers, noise mounds, limiting operating hours and/or ensuring that noisy industry and activities are located at the maximum distance possible from sensitive receivers. The allocation of appropriate distance attenuation buffers often afford the most economic mitigation measure where the PSNC are exceeded.

The PSNC are as follows:

1. Daytime (7am – 6pm) is 43dB;
2. Evening (6pm -10pm) is 48 dB; and
3. Nighttime (10pm -7am) is 45 dB.

Given a daytime amenity noise level (NSW EPA 2000) in the order of 70 dB (A) from industrial sites, the following reductions in average sound pressure levels are required between the proposed industrial development and dwellings.

Table 1.0 Noise Reduction by Distance Attenuation

Time Period	Buffer Required (m)	Location
Daytime (7am – 6pm)	24m	R1 76 North Creek Road
Evening (6pm -10pm)	13m	R1 76 North Creek Road
Nighttime (10pm -7am)	18m	R1 76 North Creek Road

Sound pressure levels reduce logarithmically by 6 dB every double of distance away from the noise source. To achieve the daytime PSNC (43 dB (A) at the nearest affected residence (by distance attenuation alone) a noise reduction of 27 dB (70-43) a set back distance in the order of 24 metres to the boundary of any residential dwelling is required (see **Attachment B**).

During the evening period, the PSNC was (48 dB (A) therefore to achieve the PSNC if industry is likely to operate between the hours of 6pm to 10pm given no other form of mitigation measures are provided, setback distances in the order of 13m to the boundary of any residential dwelling are required in order to achieve the evening time PSNC.

The Night time (10pm-7am) PSNC is 45dB (A) requiring a reduction of 25 dB (70-45). Given no other form of mitigation measures are provided, setback distances in the order of 18m to the boundary of any residential dwelling are required in order to achieve the night time PSNC.

4. Existing Noise Mound

A 108m long, 3m high by 10.5m to 1.5m wide (tapering from base to top) acoustic mound has been installed within a nominated landscape buffer between the Southern Cross Industrial Estate and residences along North Creek Road (see **Attachment C**). The acoustic mound was installed to protect adjoining residences from noise associated with the ARC operation and other industrial activities within the precinct.

5. Potential Future Landuse opportunities

The property:

1. comprises an area of approximately 1.346 hectares;
2. is zoned industrial and classified as operational land;
3. contains a large noise mound;
4. requires a minimum noise buffer of 24m from the boundary of any residential property to any future industrial activity

Based on the aforementioned attributes and constraints the portion of developable land for industrial use is significantly impeded.

The following uses are permissible in Industrial Zone (IN1) Depots; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Hospitals; Industrial training facilities; Landscaping material supplies; Light industries; Liquid fuel depots; Neighbourhood shops; Plant nurseries; Roads; Rural supplies; Take away food

3

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and drink premises; Timber yards; Vehicle sales or hire premises; Warehouse or distribution centres

Any future development of the subject site would be restricted to low impact noise generating industry that require a small footprint and are permissible within the industrial zone. Of the aforementioned permissible activities potential opportunities for landuse may include:

- Take away food and drink premises
- Neighbourhood shops
- Industrial training facilities

Any use of the subject site would be restricted by the aforementioned noise buffer and the existing noise mound.

6. Removal, relocation or replacement of the Noise Mound

As discussed the installation of the mound was required to satisfy conditions associated with the operation of the ARC and to provide noise mitigation to future industrial development in the locale.

- Removal

Removal of the existing wall would be expensive and would require replacement with an alternative wall system. Any alternative noise barrier would have the advantage of a significantly smaller footprint and therefore may provide additional areas for potential future development.

- Relocation

The relocation of the noise mound to the eastern side of Part Lot 98 DP 1194043 has the potential to allow develop for industrial purposes to the west (in the section coloured blue in **Attachment D**).

- Replacement

It would be possible to replace the existing noise mound with a noise fence which could achieve a similar noise reduction and smaller footprint.

For acoustical purposes, any material may be used for a barrier between a noise source and a noise receiver as long as it has a TL of at least 10 dB (A) greater than the desired noise reduction. This ensures that the only noise path to be considered in the acoustical design of a noise barrier is the diffracted noise path, i.e. the path over (or around) the barrier.

For example, if a noise barrier is designed to reduce the noise level at a receiver by 8 dB (A), the TL of the barrier must be at least 18 dB (A). The transmitted noise may then be ignored, because the diffracted noise is at least 10 dB (A) greater and hence the noise propagation path must be over the barrier.

Table 2.0 gives approximate TL values for some common materials, tested for typical A-weighted traffic noise frequency spectra.

Table 2.0 Transmission Loss Values of Barrier Materials

Material	Thickness mm	Surface Density kg/m ²	Transmission Loss * (TL) dB
Polycarbonate	8-12	10-14	30-33
Acrylic [Poly-Methyl-Meta- Acrylate (PMMA)]	15	18	32
Concrete Block 200x200x400 light weight	200	151	34
Dense concrete	100	244	40
Light concrete	150	244	39
Light concrete	100	161	36
Brick	150	288	40
Steel, 18 ga	1.27	9.8	25
Steel, 20 ga	0.95	7.3	22
Steel, 22 ga	0.79	6.1	20
Steel, 24 ga	0.64	4.9	18
Aluminium Sheet	1.59	4.4	23
Aluminium Sheet	3.18	8.8	25
Aluminium Sheet	6.35	17.1	27
Wood	25	18	21
Plywood	13	8.3	20
Plywood	25	16.1	23
Absorptive panels with polyester film backed by metal sheet	50-125	20-30	30-47

* Values assuming no openings or gaps in the barriers

In terms of noise reduction, the maximum value that can be achieved theoretically is 20 dB (A) for thin screens (walls) and 23 dB (A) for berms. A material that has a TL of 33 dB (A) or greater would therefore always be adequate for a noise barrier in any situation.

Small adjustments in surface density to reach a preferred material gauge or a preferred construction thickness do not greatly affect the TL. A material surface density of a minimum of 10 kg/m² is required. .

Options for noise reduction to maintain a 15dB (A) noise reduction in lieu of the existing noise mound include a 3m high noise wall consisting of any of the following products:

- steel (1.27mm thick);
- aluminium (minimum 3.18mm thick);
- brick (minimum 150mm thick);
- concrete (minimum 100mm thick);
- acrylic (15mm thick);
- polycarbonate (8-12mm thick); or
- Absorptive panels with polyester film backed by metal sheet (50-125mm thick).

7. Use of site for Men's Shed

It is our understanding that Council is contemplating the potential of the area marked blue on **Attachment D** to be used for a Men's Shed. We understand that the men's shed provide a range of services such as professional services, manufacturing goods and toys, fixing/restoring old electrical items, etc. In addition the Men's Shed would include a room to sell their goods.

Based on the limited information available on Men's Shed activities the site has the potential to be used for a Men's Shed. Subdivision layout, building design, at source mitigation, shielding and the times and duration of activities will all impact on the ultimate noise levels produced. Each of these factors cannot yet be defined given the current stage in the preliminary planning process.

A buffer of 24m should be applied from any future industrial use (including the Men's Shed) to the boundary of any residential allotment.

8. Conclusion

Whilst Part Lot 98 DP 1194043, 54 North Creek Road Ballina is zoned Industrial its' viability is constrained due to its proximity to adjoining residential land and the presence of a large noise mound. A nominal 24m noise attenuation buffer ought to be applied from the boundary of any residential premises to any industrial activity.

Given the site constraints and current location of the noise mound any future development of the subject site would be restricted to low impact noise generating industry that require a small footprint and are permissible within the industrial zone. Of the aforementioned permissible activities potential opportunities for landuse may include:

- Take away food and drink premises
- Neighbourhood shops
- Industrial training facilities
- Men's Shed

Should the noise mound be relocated as per the Draft plan (see **Attachment D**) the land shaded blue could potentially be developed (subject to Development Consent) for any permissible industrial use in Zone Industrial Zone (IN1). In effect the relocated noise mound would negate the need for the 24m buffer to development within the blue zone.

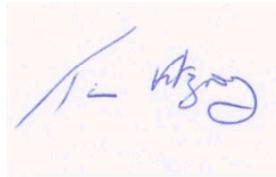


There are opportunities to replace the noise mound with an alternative design with a smaller footprint; however the costs of removal of the existing mound and installation of a new suitably designed fence would be significant.

Any expenditure would need to be weighed against the type of future development which would be permissible onsite. In our view future development on Part Lot 98 DP 1194043 (with the current noise mound in place) would be restricted to low impact business such as take away food premises or neighbourhood shops. Based on the limited information available on Men's Shed activities the site has the potential to be used for a Men's Shed. As noted previously subdivision layout, building design, at source mitigation, shielding and the times and duration of activities will all impact on the ultimate noise levels produced. Each of these factors cannot yet be defined given the current stage in the preliminary planning process.

If you have any enquiries with regard to the content of this correspondence do not hesitate to contact me on ph 02 66 28 3837 or email tim@timfitzroy.com.au.

Kind regards,



Tim Fitzroy
Environmental Health Scientist
Environmental Auditor

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ATTACHMENT A Study Area

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ATTACHMENT B Noise Buffer to Dwellings

9

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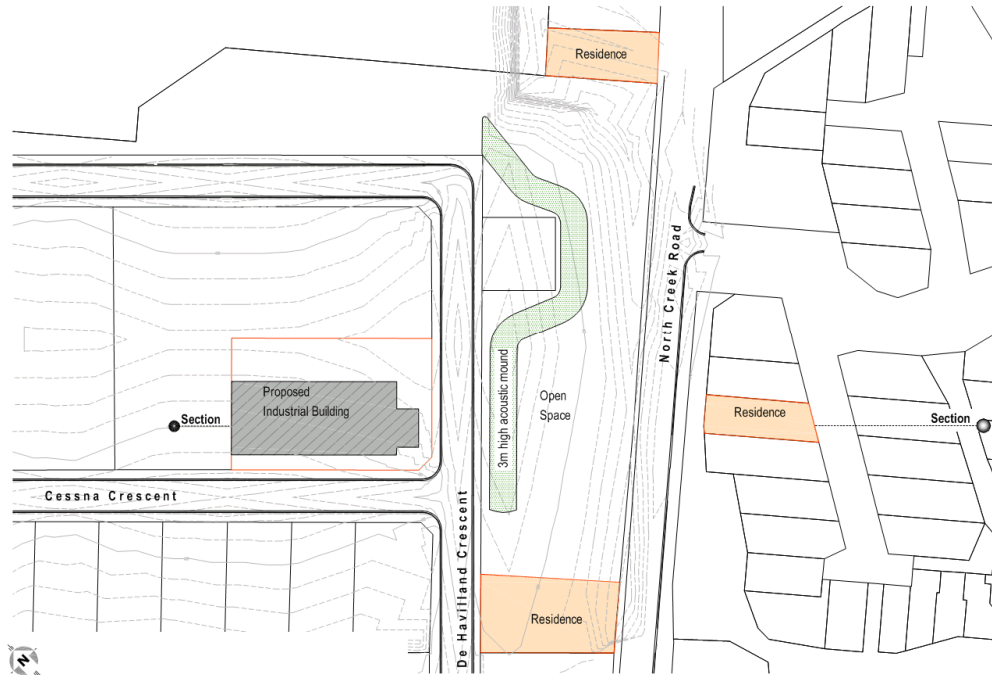
ATTACHMENT C Existing Noise Mound

10

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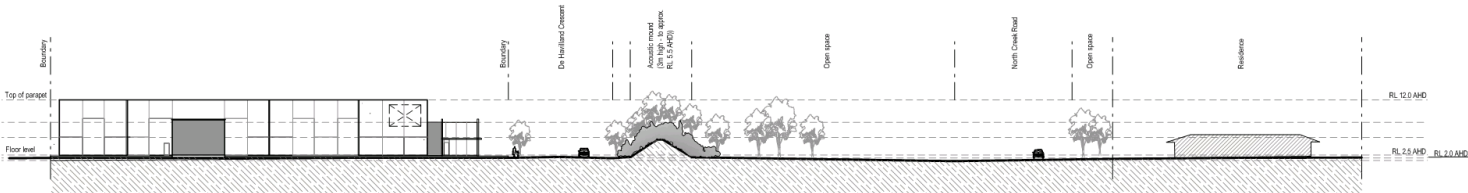
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4.1 54 North Creek Road, Ballina - Development Options



Location of Acoustic Mound Relative to Proposed Industrial Building and Nearby Residences

Plan Scale 1:12500 at A3
Mound location and contours obtained from drawings by GeOLINK



Illustrative Section from Proposed Industrial Building to Acoustic Mound and Residence

Levels are approximate only

PLAN SCALE: Refer to plan
DRAWN: DTI
BASE SOURCE: Archimages/azaCAD
DATE: 27.08.10
REFERENCE:

Illustration 3.1:
Proposed Acoustic Measures

Acoustic Assessment - Ballina Shire Council - Lot 87 in DP 1118595 - Cessna Crescent, Ballina



ATTCAHMENT D Draft Proposed Relocated Noise Mound

11

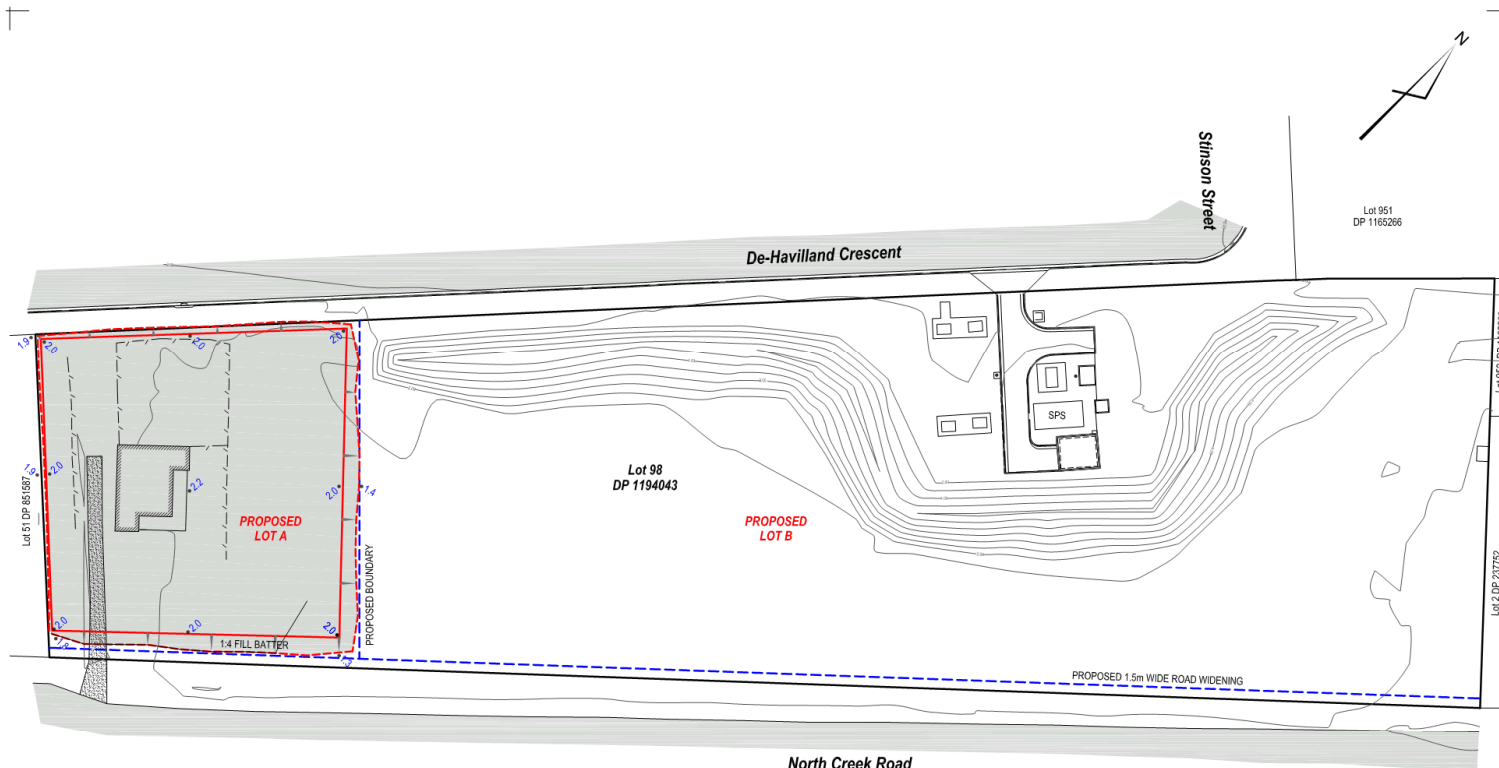
52 Alston Avenue
Alstonville NSW 2477
T | 02 66283837 F | 02 66281349 M | 0448 483 837
tim@timfitzroy.com.au

ABN: 94120188829
ACN: 120188829
www.timfitzroy.com.au

Attachment D – Development Options



4.1 54 North Creek Road, Ballina - Development Options



LEGEND

- - - EXTENT OF EARTHWORKS
- 2.0 PROPOSED SURFACE LEVEL
- - - PROPOSED BOUNDARY



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 PO BOX 1020
 Lismore NSW 2480
 www.civiltch.net.au

REQUIRED EARTHWORK VOLUMES

0m ³ CUT
1270m ³ FILL
1270m ³ FILL NET

BULK EARTHWORKS DESIGN IS PRELIMINARY ONLY AND SUBJECT TO FINAL DESIGN AND APPROVAL

North Creek Road

LOT DETAILS

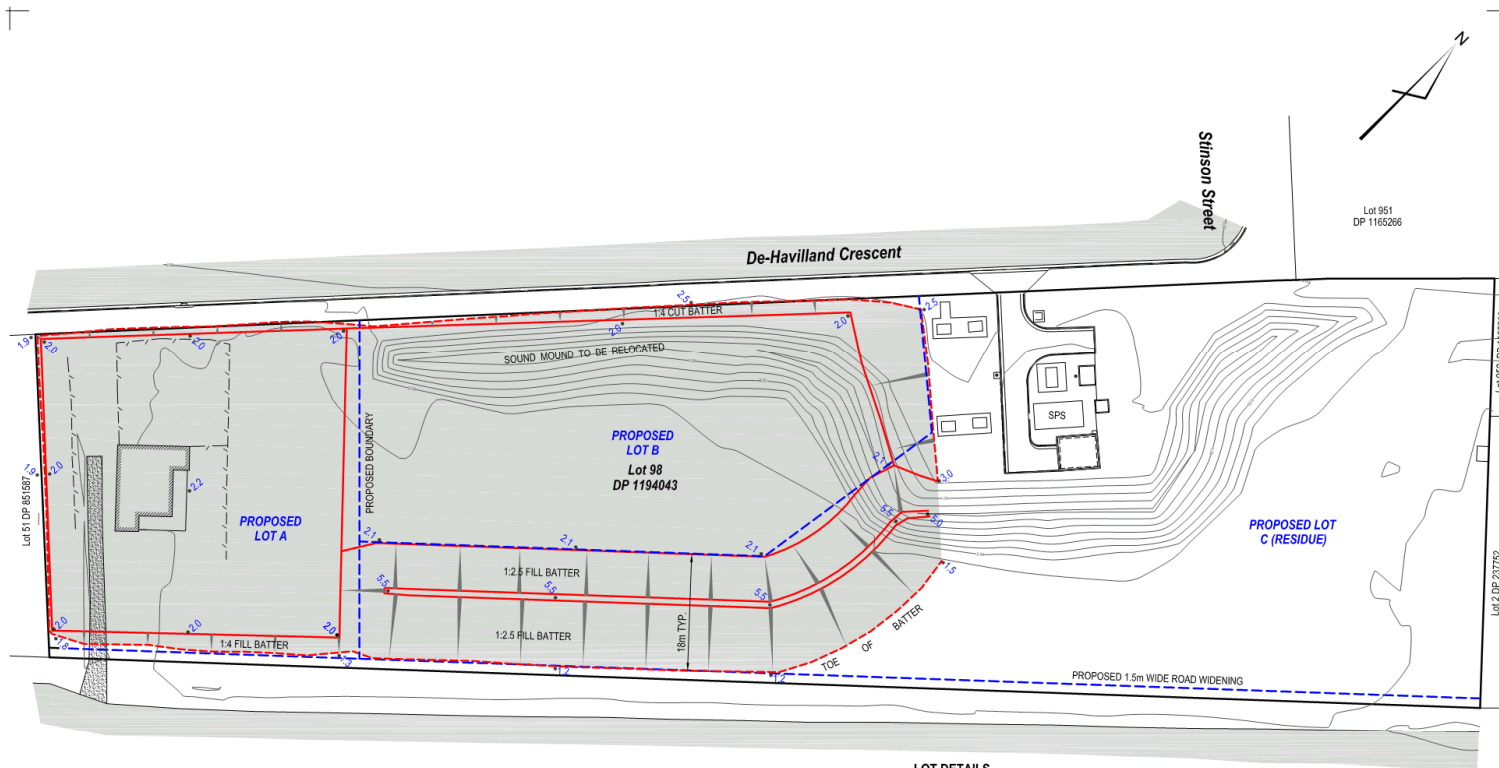
	LOT AREA **	FILL AREA	USEABLE AREA *
LOT A	2530m ²	2470m ²	2190m ²
LOT B	10590m ²	-	-

* USEABLE AREA IS FLAT AREA THAT HAS BEEN FILLED TO FLOOD LEVEL OF 2m. REQUIRED SETBACKS HAVE NOT BEEN CONSIDERED.
 ** PROPOSED 1.5m ROAD WIDENING AREA HAS BEEN REMOVED FROM LOT AREA ABOVE.

FILL OPTION 1
FOR LOT 98 DP 1194043
54 NORTH CREEK ROAD
for BALLINA SHIRE COUNCIL

SCALE: 1 : 1500 at A3
 LGA: Ballina
 LOCALITY: Ballina
 DESIGNED: -
 DRAWN: WF
 APPROVED: AZ
 DATE: 06.03.2015
 COGO: 15905 (CAS)
 Dwg. No. 14144-SK2A

4.1 54 North Creek Road, Ballina - Development Options



- LEGEND**
- - - - - EXTENT OF EARTHWORKS
 - 2.0 PROPOSED SURFACE LEVEL
 - - - - - PROPOSED BOUNDARY

REQUIRED EARTHWORK VOLUMES

1830m ³ CUT
5880m ³ FILL
4050m ³ FILL NET

BULK EARTHWORKS DESIGN IS PRELIMINARY ONLY AND SUBJECT TO FINAL DESIGN AND APPROVAL

LOT DETAILS

	LOT AREA**	FILL AREA	USEABLE AREA
LOT A	2,530m ²	2,470m ²	2,190m ²
LOT B	3,150m ²	3,150m ²	2,800m ²
LOT C	7,440m ²	1,770m ²	-

* USEABLE AREA IS FLAT AREA THAT HAS BEEN FILLED TO FLOOD LEVEL OF 2m. REQUIRED SETBACKS HAVE NOT BEEN CONSIDERED.
 ** PROPOSED 1.5m ROAD WIDENING AREA HAS BEEN REMOVED FROM LOT AREAS SHOWN ABOVE.

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Consulting Engineers

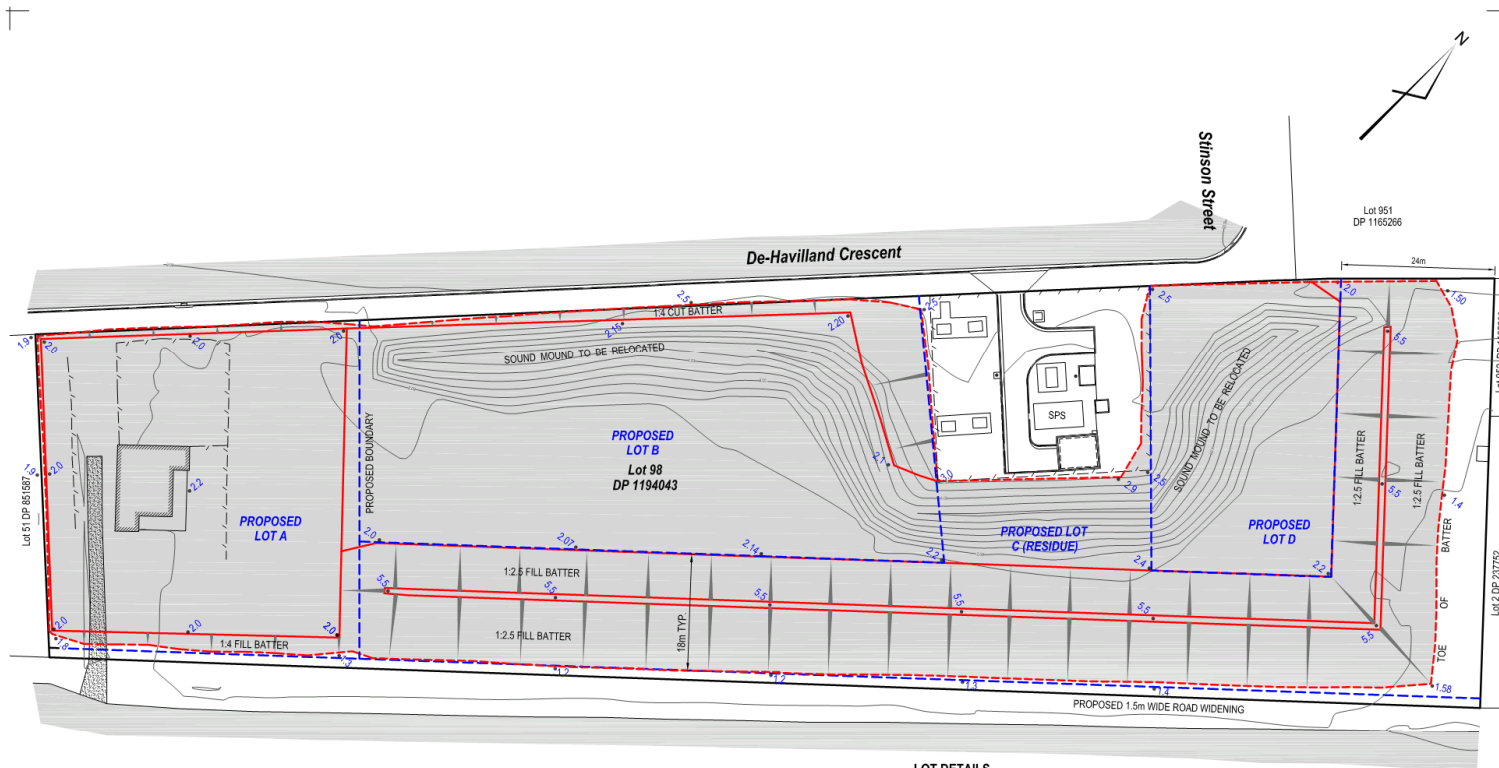
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PO BOX 1020
Lismore NSW 2480
www.civiltch.net.au

FILL OPTION 2
FOR LOT 98 DP 1194043
 54 NORTH CREEK ROAD
 for BALLINA SHIRE COUNCIL

SCALE: 1 : 1500 at A3
 LGA: Ballina
 LOCALITY: Ballina
 DESIGNED: -
 DRAWN: WF
 APPROVED: AZ
 DATE: 06.03.2015
 COGO: 15005 (CAS)
 Dwg. No. 14144-SK3B

4.1 54 North Creek Road, Ballina - Development Options



- LEGEND**
- - - - - EXTENT OF EARTHWORKS
 - 2.0 PROPOSED SURFACE LEVEL
 - - - - - PROPOSED BOUNDARY

REQUIRED EARTHWORK VOLUMES

3,000m ³ CUT
11,200m ³ FILL
8,200m ³ FILL NET

BULK EARTHWORKS DESIGN IS PRELIMINARY ONLY AND SUBJECT TO FINAL DESIGN AND APPROVAL

LOT DETAILS

	LOT AREA**	FILL AREA	USEABLE AREA*
LOT A	2,530m ²	2,470m ²	2,190m ²
LOT B	3,430m ²	3,430m ²	3,200m ²
LOT C	5,840m ²	4,310m ²	-
LOT D	1,320m ²	1,320m ²	1,320m ²

* USEABLE AREA IS FLAT AREA THAT HAS BEEN FILLED TO FLOOD LEVEL OF 2m. REQUIRED SETBACKS HAVE NOT BEEN CONSIDERED.
 ** PROPOSED 1.5m ROAD WIDENING AREA HAS BEEN REMOVED FROM LOT AREAS SHOWN ABOVE.

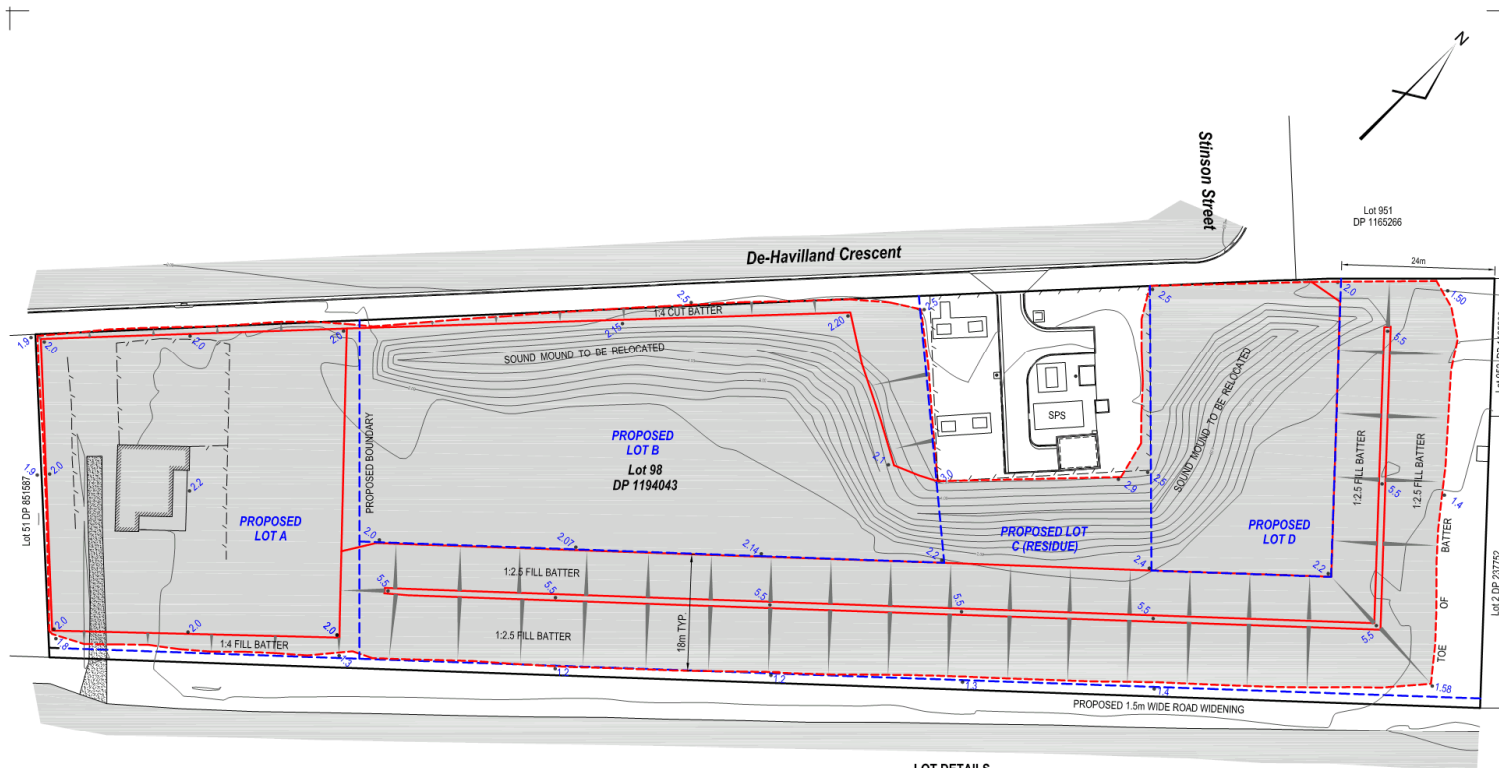


CivilTech Consulting Engineers
 Ph. (02) 6624 5580
 PO BOX 1020
 Lismore NSW 2480
 www.civiltch.net.au

FILL OPTION 3
FOR LOT 98 DP 1194043
 54 NORTH CREEK ROAD
 for BALLINA SHIRE COUNCIL

SCALE: 1 : 1500 at A3
 LGA: Ballina
 LOCALITY: Ballina
 DESIGNED: -
 DRAWN: WF
 APPROVED: AZ
 DATE: 23.04.2015
 COGO: 15905 (CAS)
 Dwg. No. 14144-SK4A

4.1 54 North Creek Road, Ballina - Development Options



- LEGEND**
- - - - - EXTENT OF EARTHWORKS
 - 2.0 PROPOSED SURFACE LEVEL
 - - - - - PROPOSED BOUNDARY

REQUIRED EARTHWORK VOLUMES

3,000m ³ CUT
11,200m ³ FILL
8,200m ³ FILL NET

BULK EARTHWORKS DESIGN IS PRELIMINARY ONLY AND SUBJECT TO FINAL DESIGN AND APPROVAL

LOT DETAILS

	LOT AREA**	FILL AREA	USEABLE AREA*
LOT A	2,530m ²	2,470m ²	2,190m ²
LOT B	3,430m ²	3,430m ²	3,200m ²
LOT C	5,840m ²	4,310m ²	-
LOT D	1,320m ²	1,320m ²	1,320m ²

* USEABLE AREA IS FLAT AREA THAT HAS BEEN FILLED TO FLOOD LEVEL OF 2m. REQUIRED SETBACKS HAVE NOT BEEN CONSIDERED.
 ** PROPOSED 1.5m ROAD WIDENING AREA HAS BEEN REMOVED FROM LOT AREAS SHOWN ABOVE.

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FILL OPTION 3
FOR LOT 98 DP 1194043
 54 NORTH CREEK ROAD
 for BALLINA SHIRE COUNCIL

SCALE: 1:1500 at A3
 LGA: Ballina
 LOCALITY: Ballina
 DESIGNED: -
 DRAWN: WF
 APPROVED: AZ
 DATE: 23.04.2015
 COGO: 15905 (CAS)
 Dwg. No. 14144-SK4A

4.1 54 North Creek Road, Ballina - Development Options



Lot No.	Street	Area m ²	Rate \$/m ²	\$ Price
91	Cessna Crescent	1100	\$270	\$297,000
90	Cessna Crescent	1100	\$270	\$297,000
88	Cessna Crescent	1841	\$265	\$488,000
87	Cessna Crescent	1995	\$260	\$519,000
2	Boeing Ave	23170	\$200	\$4,634,000
3	Boeing Ave	34976	\$200	\$6,995,000

Notes:
 1. All prices are exclusive of GST.
 2. Prices for Lots 2 & 3 Boeing Ave assume Council completes all development works.



DISCLAIMER
Although all care is taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies. The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

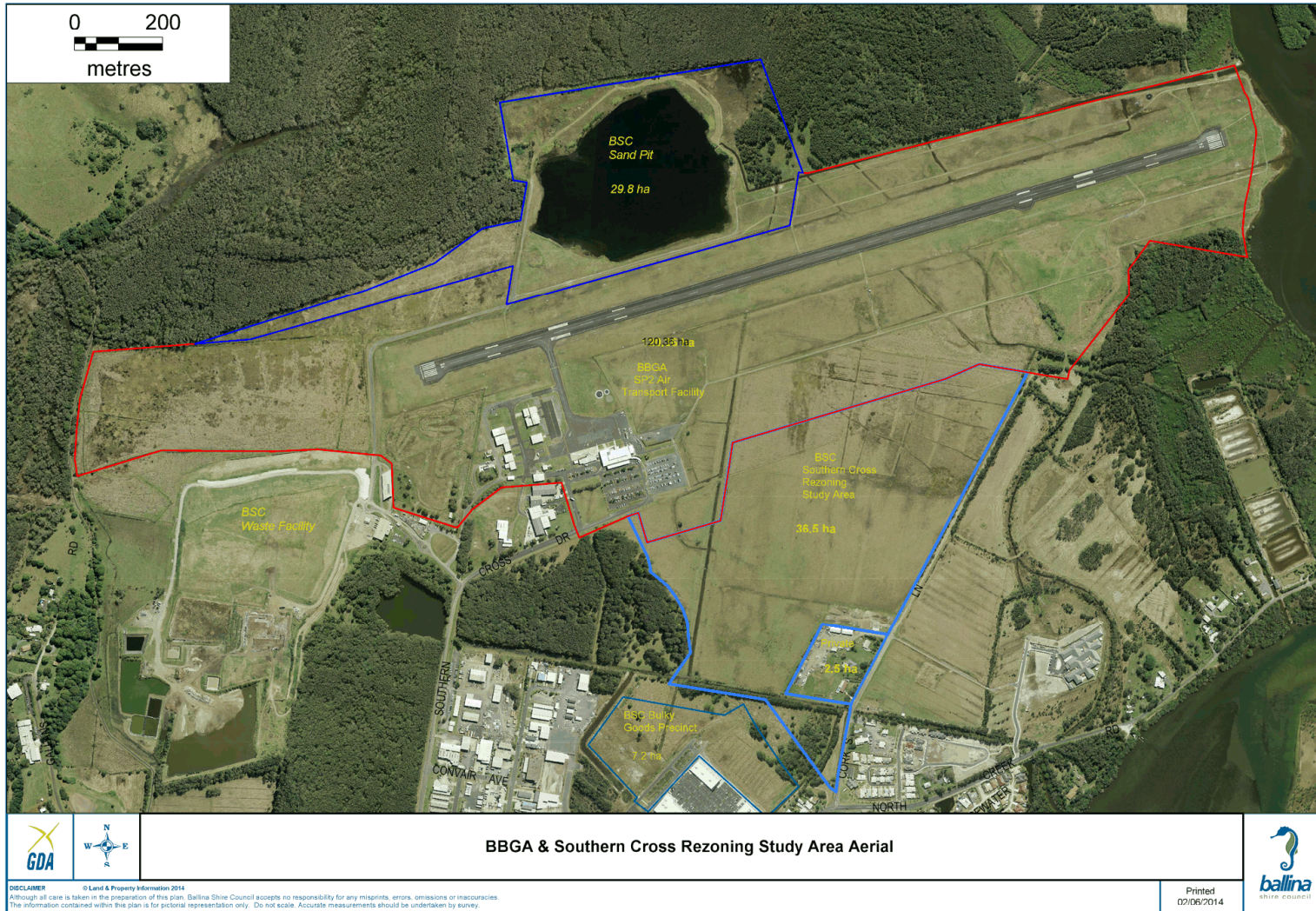
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BSC Industrial Land For Sale
Southern Cross Industrial Estate, Ballina



Printed
 23/03/2015

4.1 54 North Creek Road, Ballina - Development Options



4.2 Land Acquisition - 9 North Creek Road, Ballina

4.2 Land Acquisition - 9 North Creek Road, Ballina

Delivery Program Commercial Services

Objective To confirm the acquisition price and licence negotiated for the road frontage pertaining to 9 North Creek Road, North Ballina.

Background

In a confidential session of the Council Meeting of 18 December 2014, it was resolved that:

- 1. That Council approves the sale price offered for 7 North Creek Road (Part Lot 2 DP 1172175) as detailed within option two of this report.*
- 2. That Council authorises the Council seal to be attached to the contract for sale and subdivision documentation required, as well as any other related documents.*

7 North Creek Road (Part Lot 2 DP 1172175) comprises a vacant parcel of land with an area of 1,375m² and zoned "Industrial - IN1". Following a competitive bidding process between adjoining owners, Council resolved to sell the land to the owners of 9 North Creek Road (Sheather and Murdoch), on an unconditional basis at priced noted in a confidential report included in the agenda for this meeting.

Council's Civil Services advise that a condition of development consent for the boundary adjustment subdivision will require a section of road frontage off 9 North Creek Road to be dedicated for road widening purposes.

The area of land pertaining to 7 North Creek Road, (1,375m²) has been calculated and offered to Murdoch and Sheather assuming the road frontage has been taken for road widening purposes.

The purpose of this report is to seek Council's approval for the price negotiated with Sheather and Murdoch for the 99m² portion of road frontage required from 9 North Creek Road, and that a licence to occupy be granted to the vendors for the land. A plan detailing the subject land is **attached**.

Key Issues

- Purchase price and licence conditions.

Information

Over the past 30 years or more, Council acting in its capacity as a land developer, has developed the Southern Cross Industrial Estate. The road reserves dedicated in the course of development were done so in accordance with the relevant DCP requirements etc.

4.2 Land Acquisition - 9 North Creek Road, Ballina

Located at the southern side of North Creek Road, at its western end, there are two residential properties that pre-date industrial land development, 9 and 11 North Creek Road.

Portions of road frontage from each of these properties are required for road widening purposes to provide a uniform road reserve width from Tamarind Drive through to Piper Drive.

Council's Civil Services advise that a condition of development consent for the boundary adjustment to enable the sale of 7 North Creek Road to proceed, Council will require a section of road frontage off 9 North Creek Road for road widening purposes.

The area of land pertaining to 7 North Creek Road, (1,375m²) has been calculated and offered to Murdoch and Sheather assuming the road frontage has been taken for road widening.

Council staff have concluded negotiations with Sheather and Murdoch for the acquisition of the 99m² of road frontage pertaining to 9 North Creek Road at the same \$/m² rate at which Council resolved to sell 7 North Creek Road to Murdoch and Sheather, and is considered to be fair and reasonable in the current market.

In recognition of the acquisition price negotiated for the subject land, Sheather and Murdoch, have requested a licence be granted to them over the land for a licence fee that is noted in the confidential report on this matter. The licence is required as a sign and section of a carport are situated on the land. The licence would run until such time as Council requires the land for road construction purposes. Murdoch and Sheather would be responsible for the care and maintenance for the duration of the licence.

Council would be responsible for the purchaser's legal costs and any other costs associated with the acquisition and licence agreement, which is normal practice in land required road widening purposes.

Should Council resolve to acquire the 99m² of road frontage to 9 North Creek Road, and once sale contracts for same have been exchanged, it may be prudent to approach the owner of 11 North Creek Road with a view to acquiring the required road frontage from their property. This would then complete acquisitions for road widening for North Creek Road, extending from Tamarind Drive to Piper Drive.

Legal / Resource / Financial Implications

The acquisition costs for the subject road frontage will be funded from the sale proceeds of 7 North Creek Road.

Consultation

Negotiations have been on-going.

Options

1. Council can resolve to acquire a 99m² portion of 9 North Creek Road (Part of Lot 6 DP 238894) and that the land be dedicated for road widening purposes and Council be responsible for all costs associated with the acquisition including, but not limited to, legal fees, registration fees, survey fees etc.

This is option is recommended as the land is required for road widening purposes and the acquisition price negotiated is considered to be fair and reasonable in the current market.

2. Council grant a licence to Sheather and Murdoch over Part of Lot 6 DP 238894, comprising an area of approximately 99m², until such time as the land is required for road construction purposes, and that the vendor be responsible for care and maintenance of the land for the duration of the licence.

This is option is recommended as the land is required for road widening purposes and the licence fee and conditions negotiated are considered to be fair and reasonable.

3. Council can resolve not to acquire a 99m² portion of 9 North Creek Road (Part of Lot 6 DP 238894) and grant a licence over same.

This is not the preferred option as the land is required for road widening purposes and the acquisition price negotiated is considered to be fair and reasonable in the current market.

The actual sale price and lease fee are the subject of the confidential report later in this agenda.

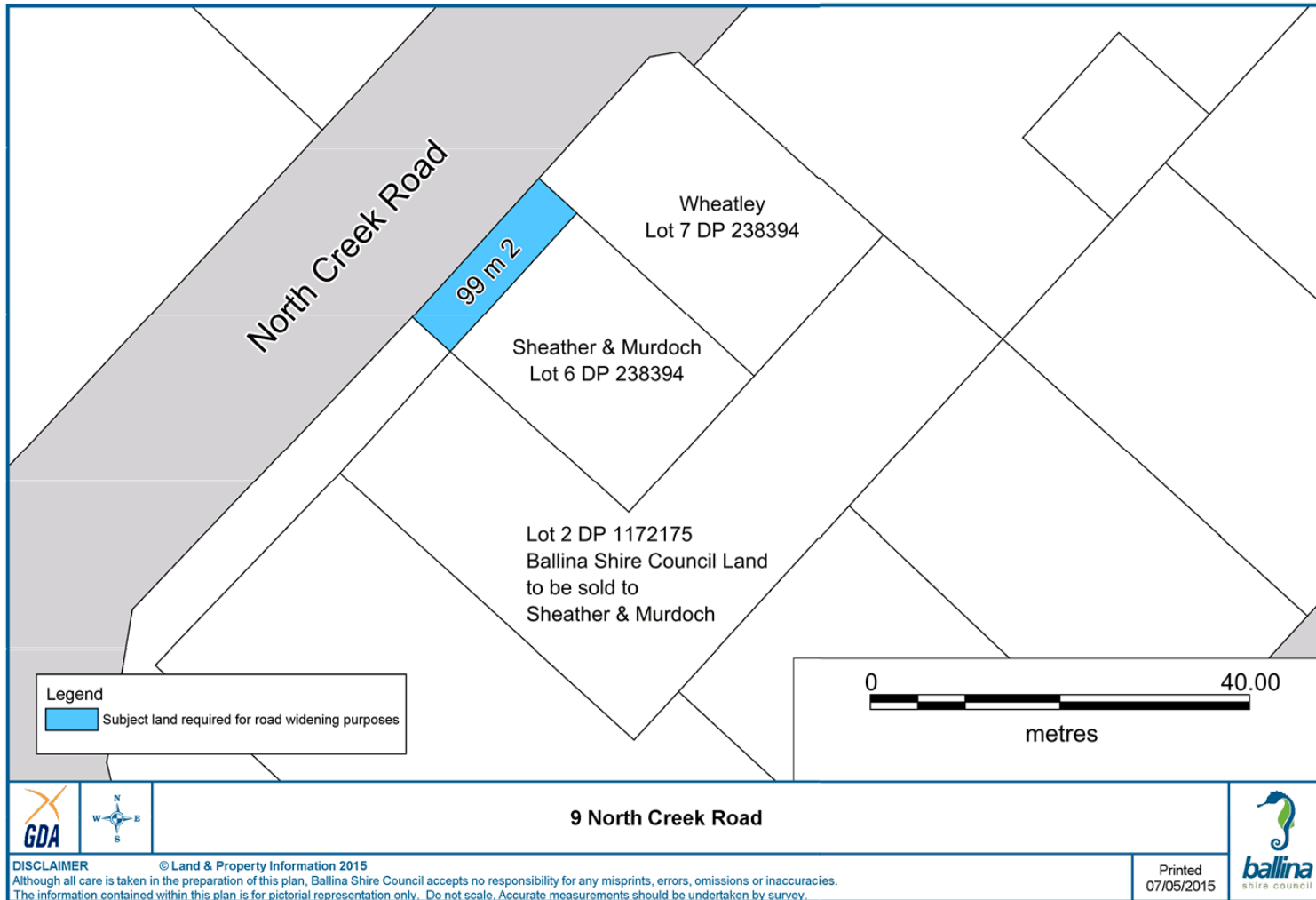
RECOMMENDATIONS

1. That Council approves the acquisition of Part of Lot 6 DP 238894, 9 North Creek Road as outlined within this report.
2. That the land be dedicated for road widening purposes and a licence be granted over the land as per Options One and Two of this report.
3. That Council authorises the Council seal to be attached to the contract for sale and any other related documents including sales transfers and licence agreements.

Attachment(s)

1. Road Widening Plan

4.2 Land Acquisition - 9 North Creek Road, Ballina



4.3 Land Sale - Lot 5 Tectona Place Wollongbar

4.3 Land Sale - Lot 5 Tectona Place Wollongbar

Delivery Program Commercial Services

Objective To seek Council's authority to place a building envelope restriction on the title of Lot 5 DP 1204621 Tectona Place, Wollongbar.

Background

Council has considered the future of a large teak tree on Lot 5 DP 1204621 Tectona Place, Wollongbar on three previous occasions as follows:

- Commercial Services Meeting of 18 February 2014 resolved:
“That Council accept the Arborist's report and that the teak tree be retained and that Council receive a further report on options for the proposed lot.”
- Commercial Services Meeting of 18 November 2014 resolved:
“That Council authorises Lot 5 to be placed on the market for sale, inclusive of the teak tree.”
- Commercial Services Meeting of 17 February 2015 resolved:
*“That Council approves the placement of a restriction on the title of Lot 5, as per the contents of this report, detailing the building envelope as per the **attached** plan prepared by Newton Denny Chapelle, subject to a straightening of the restriction boundary adjacent to the building envelope (ie approximate 10 metre setback) and with the branches of the teak tree to be lopped.”*

A copy of the report of 17 February 2015 is attached. Following on from the meeting of 17 February 2015, three Council staff inspected the teak tree on Lot 5; being Council's Civil Services Group Manager, OSR Technical Officer and Commercial Services Manager. This report provides an update on the management of the teak tree.

Key Issues

- Trimming of teak tree.
- Potential legal liability in not adequately disclosing specific constraints

Information

Following on from the inspection of the teak tree on Lot 5, Council's OSR Technical officer and arborist prepared a report, a copy of which is attached.

The report indicates the teak tree to be in “reasonable health overall” and concludes with the comments that it is in a state of recovery and does not require pruning.

4.3 Land Sale - Lot 5 Tectona Place Wollongbar

This advice from Council's arborist appears to be consistent with a report on the teak tree prepared by Blackwood Ecological for the development application for the fifteen lot subdivision and tabled at the Commercial Services Committee meeting of 18 February 2014. A copy of the Blackwood Ecological report is attached.

It would appear that the expert advice received to date is that the teak tree should be retained on Lot 5 as is. Therefore the plan prepared by consultants Newton Denny Chapelle ("NDC") detailing the TPZ and area available for building on Lot 5 should be adopted by Council and noted on the title to that lot.

This course of action is also consistent with Condition 36 of the Council consent (DA 2013/302) which notes that no development is to take place within one metre of the identified root protection zone of the teak tree on Lot 5.

Legal / Resource / Financial Implications

Legal

As noted in the Commercial Services report of 17 February 2015, CH Law advise that to remove uncertainty in the proposed auction of Lot 5 or any subsequent transactions of the property, the building envelope should be formalised by noting it on the title of Lot 5 to avoid exposure of Council to a claim.

This is particularly relevant where Council is both vendor and consent authority. Registration of building envelopes and/or TPZs on title is not unusual. A number of lots in Greenfield Road, Lennox Head have such notations on title.

Financial Implications

As noted in CH Law's advice, failure to adequately disclose the size and location of the building envelope may adversely impact on the market value of Lot 5.

Consultation

Council's OSR Technical Officer and arborist has been consulted in regards to the health of the teak tree and whether it should be pruned.

Options

1. Council can resolve to place a restriction on the title of Lot 5 detailing the building envelope as per the plan prepared by NDC and authorise the General Manager to sign and affix the Council seal to relevant documentation.

This option is recommended as it is consistent with advice received in regards to the teak tree and provides certainty to potential purchasers as to the size and boundaries of the building envelope for Lot 5.

4.3 Land Sale - Lot 5 Tectona Place Wollongbar

2. Council can resolve to confirm its resolution of 17 February 2015, and approve the placement of a restriction on the title of Lot 5, detailing the building envelope as per the attached plan prepared by Newton Denny Chapelle, subject to a straightening of the restriction boundary adjacent to the building envelope (ie approximate 10 metre setback) and with the branches of the teak tree to be lopped.

This option is not recommended as it is inconsistent with advice received in regards to the teak tree. To act contrary to such advice may set a precedent that could be problematic for Council in its capacity as a regulator.

RECOMMENDATIONS

1. That Council approves the placement of a restriction on the title of Lot 5, as per the contents of this report, detailing the building envelope as per the attached plan prepared by Newton Denny Chapelle.
2. Council authorises the General Manager to sign and affix the Council seal to all relevant documentation.

Attachment(s)

1. Commercial Services Report 17 February 2015
2. Council OSR Technical Officer's Report
3. Blackwood Ecological Report
4. Newton Denny Chapelle Building Envelope Plan

4.1 Land Sale - Lot 5 Wollongbar Residential Estate

4. Committee Reports

4.1 Land Sale - Lot 5 Wollongbar Residential Estate

Delivery Program Commercial Services

Objective To seek Council's authority to place a building envelope restriction on the title of Lot 5.

Background

Civil construction works on Stage 1 of Council's Wollongbar Residential Estate were completed in November 2014 and a plan of subdivision was lodged with the Land and Property Information (LPI) Service in early January 2015. Council is now waiting on registration of the plan and issuance of titles so it can proceed to settle the sale of eleven lots.

The marketing of Lot 5 was placed on hold until the completion of civil works as per a recommendation from the Commercial Services meeting of 18 February, 2014. At the same meeting it was also recommended that the large teak tree on Lot 5 be retained.

At the Commercial Services of 18 November, 2014 it was then recommended as follows:

2. *That Council authorises Lot 5 to be placed on the market for sale, inclusive of the teak tree, with the sale price to be within the reserve identified by HTW Valuers. The contract for sale of Lot 5 is to include any legal restrictions available to protect the removal of the tree.*

Following on from that resolution Council staff sought submissions from three local real estate agents to place the property on the market for sale by public auction, which has resulted in the appointment of Century 21 Plateau Lifestyle Real Estate.

The feedback from the market and agents are concerns as to the size of the envelope on Lot 5 available for construction of a house, garage, swimming pool, etc.

The objective of this report is to seek Council's authority to place a building envelope restriction on the title of Lot 5 to provide certainty to potential purchasers on where they can build on the site.

Key Issues

- Potential legal liability in not adequately disclosing specific constraints

Information

At the Commercial Services Meeting of 18 February, 2014, Council recommended to retain a large teak tree located on Lot 5.

4.1 Land Sale - Lot 5 Wollongbar Residential Estate

Condition 36 of the Council consent (DA 2013/302) notes that no development is to take place within one metre of the identified root protection zone of the teak tree on Lot 5.

This consent condition has created confusion and uncertainty in the market as to where exactly the tree protection ("TPZ") extends to on Lot 5.

To assist in removing this uncertainty, consultants Newton Denny Chapelle ("NDC") were instructed to prepare a plan detailing the TPZ and area available for building on Lot 5. A copy of the plan is attached.

As it was proposed to include this plan in the auction contract advice was obtained from CH Law as to whether purchasers could reasonably rely on this plan.

It is important that the uncertainty regarding the size and extent of the building envelope is removed, or else such uncertainty will be reflected in the price potential purchasers may be prepared to pay for Lot 5.

Legal / Resource / Financial Implications

Legal

Advice from CH Law was sought in regards to this issue. A copy of their advice is attached hereto.

CH Law advise that to remove uncertainty in the proposed auction of Lot 5 or any subsequent transactions of the property, the building envelope should be formalised by noting it on the title of Lot 5 to avoid exposure of Council to a claim.

This is particularly relevant where Council is both vendor and consent authority.

Registration of building envelopes and/or TPZs on title is not unusual. A number of lots in Greenfield Road, Lennox Head have such notations on title.

Financial Implications

As noted in CH Law's advice, failure to adequately disclose the size and location of the building envelope may adversely impact on the market value of Lot 5.

Consultation

Local real estate agents, CH Law and planning consultants NDC have been consulted in preparing this report.

4.1 Land Sale - Lot 5 Wollongbar Residential Estate

Options

1. Council can resolve to place a restriction on the title of Lot 5 detailing the building envelope as per the plan prepared by NDC and authorise the General Manager to sign and affix the Council seal to relevant documentation. This option is recommended as it will provide certainty to potential purchasers as to the size and boundaries of the building envelope for Lot 5 and in doing so also assist purchasers in establishing what they are prepared to pay for the property.
2. Council can resolve to not place a restriction on the title of Lot 5 detailing the building envelope and instead rely upon attaching the plan **attached** to the auction contract the plan prepared by NDC.

This option is not recommended as it will create confusion and uncertainty as the legality of the plan and potentially leave Council exposed to a claim at some stage in the future arising from subsequent transactions of the property.

RECOMMENDATIONS

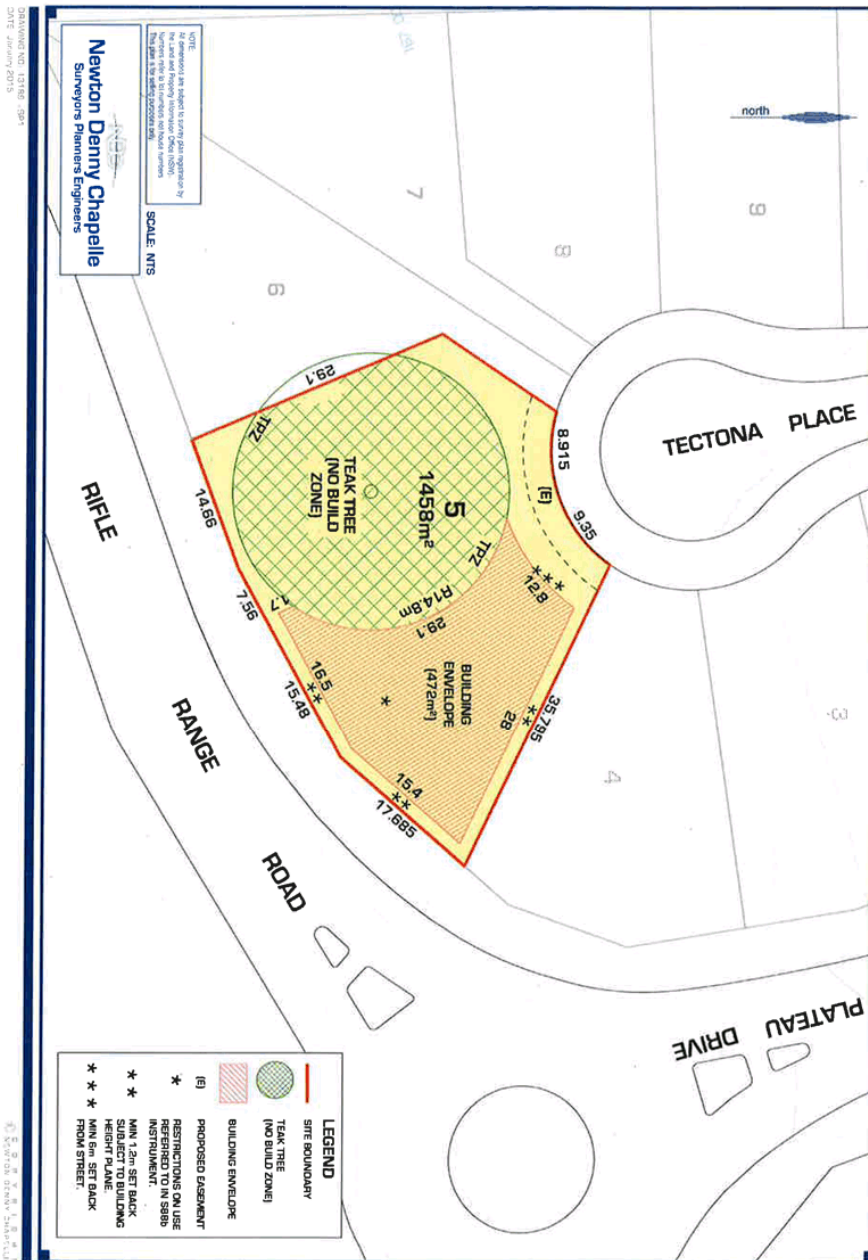
1. That Council approves the placement of a restriction on the title of Lot 5, as per the contents of this report, detailing the building envelope as per the **attached** plan prepared by Newton Denny Chapelle.
2. Council authorises the General Manager to sign and affix the Council seal to all relevant documentation.

Attachment(s)

1. Lot 5 Building Envelope Plan
2. CH Law - Legal Advice

4.3 Land Sale - Lot 5 Tectona Place Wollongbar

4.1 Land Sale - Lot 5 Wollongbar Residential Estate



4.1 Land Sale - Lot 5 Wollongbar Residential Estate



Principal
Clarissa Huegill
Lawyer
B.Com, LLB Acc.Spec
[Property Law]



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ABN: 44 084 438 488

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Our Ref: CLH:KD:150023

27 January 2015

General Manager
Ballina Shire Council
DX 27789
BALLINA

Also by email: pault@ballina.nsw.gov.au

Dear Paul

RE: BALLINA SHIRE COUNCIL: PROPOSED SALE
PROPERTY: LOT 5, 85 RIFLE RANGE ROAD, WOLLONGBAR

I refer to your email dated 22 January 2015 and my telephone conversation with your Paul Tsikleas on 23 January 2015. Your email attaches a plan of lot 5 with a building envelope due to the large tree on the lot.

I note the current position regarding the plan for this subdivision is that it has been lodged with LPI. Unless the plan has been changed since I saw it, there is no building envelope to be registered onto the title of Lot 5.

Whilst it would be possible to make a simple contractual disclosure in the contract for sale of Lot 5 as to likely existence of a building envelope due to the location of the teak tree, this would not affect the title and therefore not alert any subsequent purchaser. Whilst an attempt could be made to contractually bind the first purchaser to making such a disclosure to subsequent purchasers, there is no guarantee this will happen. I would be concerned that in due course a future purchaser may find themselves purchasing property about which they have not received notification as to any building restrictions caused by the teak tree. In circumstances where the tree clearly is a limiting factor and the building envelope can be ascertained at this point, it would be my advice the envelope be formalised by registration of the building envelope restriction onto the title of Lot 5 to avoid exposure of council to a claim.

Further and in any event, I would have thought making a contractual disclosure but not specifying the size of the envelope would adversely impact upon the market value of the property.

4.3 Land Sale - Lot 5 Tectona Place Wollongbar

4.1 Land Sale - Lot 5 Wollongbar Residential Estate

You have asked for my specific as to the disclaimer on the plan. This will not be required if the building envelope is to be registered on the title. If however it is not to be registered on the title then I would suggest the first sentence of the "Note" read as follows:-

"The illustrated building envelope has been prepared as a guide for prospective purchasers only and may be altered or varied by Ballina Shire Council upon any application for development on the lot".

I look forward to hearing from you.

Yours faithfully



CLARISSA HUEGILL

Leanne Harding

From: Lucas Salmon <lucass@ballina.nsw.gov.au>
Sent: Tuesday, 10 March 2015 9:32 AM
Subject: RE: Wollongbar Teak
Attachments: AS 4970-2009 Protection of Trees on Development Sites.pdf

Hi Paul

Following on from our on-site inspection on 3-3-15 are notes and recommendations pertaining to the Teak tree as requested.

The subject tree is a *Flindersia australis* (Australian Teak) with a Diameter at Breast Height (DBH) of 122cm.

The tree is in the maturing stage and whilst vigour is low, displays signs consistent with reasonable health overall.

In most cases Teaks display a crown cover that extends much closer to the ground than in this case. The lack of internal branches and lower crown foliage can be attributed to the dominance of the bamboo that previously existed as an understorey to the tree. This slightly unusual habit will self-adjust over time as the tree recovers.

An elongated wound on one of the eastern scaffold limbs has compromised tension wood at the base of that limb. Occlusion and recovery is slow due to relatively low vigour but decay appears limited in the wound area. This is anticipated given the robustness of the Teak's wood.

The tree has previously been subject to some substandard pruning but is showing signs of self-optimisation and recovery.

The Tree Protection Zone (TPZ) calculated for the tree is 14.6M. A list of activities restricted within the TPZ can be found on page 15 of the Australian Standard for *Protection of Trees on Development Sites – AS 4970-2009*, see attached.

Trees of this stage of maturity with low vigour are generally slow to respond to changes in surroundings. However, if managed according to the recommendations below, the subject tree should continue to grow and show signs of improvement for many years to come now that competition for water, nutrients and space is under control.

Conversely, the fact that the tree stands alone in the landscape and does not have other trees around it for protection will predispose it to greater risk of damage from storms. This is only a potential, the extent of which cannot be determined at this stage.

The tree does not require pruning or fertilising. The tree is in recovery; removal of photosynthetic material will limit the tree's ability to manufacture carbohydrates and compromise that recovery.

(Trees can be pruned for a number of reasons and there are numerous types of pruning techniques used by Arborists. The technique used will depend on the tree, its requirements and other factors. Tree pruning is high risk work and should only be carried out by suitably qualified and experienced individuals. All pruning should be carried out in accordance with the Australian Standard for Pruning of Amenity Trees – AS 4373-2007).

Recommendations include:

- removal of weed mat once weeds are under control
- the addition of organic matter to the soil from the trunk to the drip line
- maintain 150mm of organic mulch under the tree from the trunk to the drip line
- watering under the tree during dry periods

4.3 Land Sale - Lot 5 Tectona Place Wollongbar

- establishment of a TPZ and temporary fencing for the duration of work activities associated with construction

For other information on tree protection please use the AS 4970-2009 as a guide.

I hope this is suitable Paul. Let me know if you need anything further.

Regards,

Lucas.

Lucas Salmon
Open Spaces & Reserves Technical Officer
Open Spaces and Reserves



ballina.nsw.gov.au | discoverballina.com
p: 02 6681 1316 | f: (02)66 867 035 | m: 0408 141 538

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Opinions, conclusions and other information contained within this message that do not relate to official Council business are those of the individual sender, and shall be understood as being neither given nor endorsed by the Ballina Shire Council.

From: Paul Tsikleas
Sent: Monday, 9 March 2015 8:56 AM
To: Lucas Salmon
Subject: RE: Wollongbar Teak

Hi Lucas,

My apologies; please find the plan attached hereto. Let me know if you require further info.

Regards

Paul Tsikleas
Commercial Services Manager
General Manager's Group



ballina.nsw.gov.au | discoverballina.com
p: 66861200 | m: 0458276362

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SECTION 4 TREE PROTECTION MEASURES

4.1 GENERAL

Tree protection measures include a range of activities and structures. Structures are used to identify and isolate the TPZ (refer to Section 3). These measures are identified in the arboricultural impact assessment and tree protection plan.

The TPZ is a restricted area usually delineated by protective fencing (or use of an existing structure such as an existing fence or wall). It is installed prior to site establishment and retained intact until completion of the works.

Some works and activities within the TPZ may be authorized by the determining authority. These must be supervised by the project arborist. Any additional encroachment that becomes necessary as the site works progress must be reviewed by the project arborist and be acceptable to the determining authority before being carried out.

Approved tree removal and pruning should be carried out before the installation of tree protection measures.

4.2 ACTIVITIES RESTRICTED WITHIN THE TPZ

Activities generally excluded from the TPZ include but are not limited to—

- (a) machine excavation including trenching;
- (b) excavation for silt fencing;
- (c) cultivation;
- (d) storage;
- (e) preparation of chemicals, including preparation of cement products;
- (f) parking of vehicles and plant;
- (g) refuelling;
- (h) dumping of waste;
- (i) wash down and cleaning of equipment;
- (j) placement of fill;
- (k) lighting of fires;
- (l) soil level changes;
- (m) temporary or permanent installation of utilities and signs, and
- (n) physical damage to the tree.

4.3 PROTECTIVE FENCING

Fencing should be erected before any machinery or materials are brought onto the site and before the commencement of works including demolition. Once erected, protective fencing must not be removed or altered without approval by the project arborist. The TPZ should be secured to restrict access.

AS 4687 specifies applicable fencing requirements. Shade cloth or similar should be attached to reduce the transport of dust, other particulate matter and liquids into the protected area.

Fence posts and supports should have a diameter greater than 20 mm and be located clear of roots.

Licensed to Ballina Council Mr Glenn on 30 Sep 2009. 1 user personal user licence only. Storage, distribution or use on network prohibited.

Tree Report

Teak Tree Plateau Rd Wollongbar

Report compiled by
Northern Tree Care
Po Box 81, Burringbar NSW 2483.
Ph 0414186161
24th January, 2014.



Client: Blackwood Ecological
Cnr Rifle Range Rd and Plateau Rd. Compiled by Northern Tree Care. 24th January, 2014.

page 1 of 11

Table of Contents

1.	Introduction	3
2.	Scope	3
3.	Description	4
4.	Appraisal and Recommendations	5
5.	Tree Protection	6
6.	Disclaimer	7
7.	Bibliography	7
8.	Attachment 1. Aerial Photo	8
9.	Attachment 2. Plates	9
10.	Attachment 3. Letter to Blackwood Ecological	11

1. Introduction

Ballina Shire Council is undertaking the development of a subdivision in Plateau Rd Alstonville. A mature aged Teak *Flindersia australis* is growing in the proposed development at the corner of Rifle Range Rd and Plateau Rd. The tree is a significant tree and this report has been requested by Blackwood Ecological Services to look at the suitability of the tree for retention in the development.

The tree was inspected on 11th November, 2013 and a letter describing the tree was provided to Blackwood Ecological (see Attachment 3. Letter to Blackwood Ecological). The tree was inspected again on 22nd January, 2014.

This report was compiled by Peter Gray Dip Hort (Arb). of Northern Tree Care. Peter Gray is an arborist with over 15 years experience. He has been providing tree reports for Local Government, State Government and private clients for over 15 years and is a registered member of Arboriculture Australia. The information contained in this report is true and accurate to the best knowledge of the author. Best professional judgement was used to make the recommendations contained in this report.

The information in the report is derived from a site visit conducted on 11th November, 2013 and information provided by Blackwood Ecological. The meeting was attended by and Peter Gray from Northern Tree Care and Mark Free from Blackwood Ecological. The tree was also inspected on 22nd January, 2014 after the Bamboo and Jacarandah trees had been removed.

This report relies on this information and assumes it is true and accurate.

This report should be read as a whole.

2. Scope

Ballina Shire Council is developing land for residential living in Plateau Rd, Alstonville. A mature aged Teak tree is growing on the site.

This report describes the tree and reports on the suitability of the tree for retention in the development. The tree was inspected on 11/11/13 and again on 22/1/14.

The tree was assessed visually from the ground. The DBH was measured with a girthing tape and height of the trees was measured with an inclinometer.

Trees A ~ Z (Barrell J. 2006) was used to determine whether the tree should be considered important or not.

3. Description

The land is flat and the soil is red krasnozem that is considered to be deep fertile soil suited to growing trees. There is a stand of Bamboo growing next to and under the tree (see Attachment 1. Aerial Photo). The tree branches at 1.5m and forms a crown low to the ground. There are 8 major branches arising from 1.5m to 3m.

At the time of the first inspection the stand of bamboo was growing around and up into the tree. At the time of the second inspection the bamboo and several Jacarandah trees had been removed from around the tree (see Attachment 2. Plate 1). The bamboo is regrowing from the roots. The removal of the vegetation surrounding the tree enabled a more comprehensive assessment of the tree carried out on 22/1/14.

The tree was measured as being 18m high with a diameter at breast height (DBH) of 1160mm and a crown spread of 20m. The Tree Protection Zone (TPZ) is given as 14m (AS 4970-2009 Protection of trees on development sites).

There are approximately 20 branches from 75 to 200mm that have died (see Attachment 2. Plate 2). It is considered likely that the competition from the bamboo has contributed to the death of the branches. There is some sunburn and decay in the tops of 3 major branches. The decay area has occluded and the damage to the branches is stabilizing (see Attachment 2. Plate 3).

There is new growth occurring in the tips of the tree following the removal of the bamboo and the tree is in good condition (Mattheck C. 2003). The increased light and decreased competition from the bamboo is likely to lead to the tree developing a more leafy canopy over time.

The tree is protected by Ballina Shire Council's Development Control Plan 2012. 2a Vegetation Management.

Large mature aged Teak trees are relatively rare and this tree provides considerable visual, ecological and historic amenity to the area.

The tree is considered to be an important tree (Barrell. 2006).

4. Appraisal and Recommendations

The tree is a mature aged tree that is near the corner of Rifle Range Rd and Plateau Rd. It can be clearly seen at the entrance to the subdivision and is a relatively rare example of a mature aged Teak tree. It is considered that the tree can survive in good condition in the long term and up to 50 years provided that impacts within the TPZ are managed appropriately.

The tree is in good condition and is considered to be a significant important tree. It is the recommendation of this report that the tree be retained in the proposed subdivision where its retention is consistent with the objectives of the proposed development.

If the tree is retained it is recommended that the dead branches be pruned off in accordance with the Australian Standard AS 4373-2007 Pruning of amenity trees. The aesthetic appeal of the tree will be enhanced by the removal of the dead limbs. The pruning should be carried out by an arborist qualified to a minimum AQF 3. The bamboo regrowth in the TPZ should be poisoned with a herbicide that will not persist in the soil and in such a way as to minimize any damage to the root system of the tree.

It is recommended that the tree be protected in accordance with the recommendations of AS 4970-2009 Protection of trees on development sites. This would largely involve the removal of the bamboo from the TPZ and the prevention of any works in the TPZ as outlined in **5. Tree Protection** below.

5. Tree Protection

The aim of the tree protection measures is to allow for the construction of the development and retain the trees in a safe viable state. It is critically important for the viability of the trees that any damage or stress to the trees during construction is minimised. The Australian Standard AS 4970 Protection of trees on development sites makes recommendations for the protection of trees on development sites. The standard recommends that an area around the tree be protected based on the DBH of the tree calculated as $12 \times \text{DBH}$ (Draper 2009). Encroachments may be made into the Tree Protection Zone where significant damage is not caused to the roots or canopy. The standard recommends that the roots in the Structural Root Zone not be damaged as they are required for the stability of the tree.

The area identified as the TPZ should be protected during construction works. The Australian Standard AS 4970 - 2009 Protection of trees on development sites makes recommendations for the protection of trees on development sites. Certain activities are recommended to be restricted in the TPZ. These include:

- machine excavation including trenching
- excavation for silt fencing
- cultivation
- storage
- preparation of chemicals, including preparation of cement products
- parking of vehicles and plant
- refuelling
- dumping of waste
- wash down and cleaning of equipment
- placement of fill
- lighting of fires
- soil level changes
- temporary or permanent installation of utilities and signs, and
- physical damage to the tree.

A temporary fence should be erected around the TPZ. Types of suitable fencing include chain wire mesh panels held in place with concrete feet.

The tree protection measures should be supervised by the project arborist.

6. Disclaimer

The information contained in the report is true and accurate to the best knowledge of the author. Best professional judgement was used to make recommendations. However no responsibility is taken by the authors of this report for any action which might be taken in reliance on it.

This report remains the property of the authors and Blackwood Ecological Services. It may not be used or reprinted without their express permission.

Peter Gray agrees to be bound by the Expert Witness Code of Conduct.

7. Bibliography

Australian Standards. *AS 4373-2007. Pruning of amenity trees*. Standards Australia. Sydney.

Australian Standards. *AS 4970-2009. Protection of Trees on Development Sites*. Standards Australia. Sydney.

Barrell J. 2006. *Workshop Manual Trees on Construction Sites*. Barrell Tree Consultancy. Brisbane

Draper D. Richards P. 2009. *Dictionary for Managing Trees in Urban Environments*. CSIRO Publishing. Collingwood.

Mattheck C. Breloer H. 2003. *The Body Language of Trees*. TSO. London.

8. Attachment 1. Aerial Photo

Aerial Photo of the proposed subdivision. The photo was taken before the bamboo and other trees were removed.



Client: Blackwood Ecological
Cnr Rifle Range Rd and Plateau Rd. Compiled by Northern Tree Care. 24th January, 2014.

page 8 of 11

9. Attachment 2. Plates

Plate 1 Bamboo and Jacarandah regrowth



Plate 2 Dead branches in the crown



Plate 3 Sunburn and decay on the tops of 3 major branches



10. Attachment 3. Letter to Blackwood Ecological



northerntreecare@me.com

PO Box 81

26 Plumtree Pocket, Burringbar, 2483

Ph 0266 771697 0414186161 ABN 73 674526681

Northern Tree Care
Consulting Arborist
and
Tree Surgeons
www.northerntreecare.com.au

11/7/13

Blackwood Ecological
PO Box 336
Bangalow 2479

Re: Teak tree at Wollongbar.

Dear Mr. Free,

I inspected a Teak tree *Flindersia australis* at the corner of Rifle Range Road and Plateau Drive, Wollongbar today with you.

The tree is growing on land planned to be subdivided for residential housing. The land is flat with red krasnozem soil. There is a stand of bamboo growing next to and under the tree. The tree branches at 1.5m and forms a crown low to the ground. This indicates the tree grew up in the open as a 'paddock tree'.

The tree is a large old mature tree. The DBH of the tree is 1180mm, height of approximately 20m and a canopy spread of 20m. The tree is in good condition. There are a number of dead branches in the tree up to 100mm in diameter. The dead wood in this species of tree does not decay readily and the dead branches in the tree are likely to have been there for 5 years or more. A sounding taken of the trunk and branches indicated that there is little decay in the trunk and major branches of the tree. It is estimated that this tree could grow in good condition for at least another 50 years.

The Australian Standard AS 4970 - 2009 makes recommendations for the protection of trees on development sites. The standard seeks to protect an area around the tree that includes the canopy. The Tree Protection Zone (TPZ) is calculated to be 14.1m from the outside of the base of this tree.

Large mature Teak trees are relatively rare and so this tree is considered to be important in the local environment (Barrell 2006).

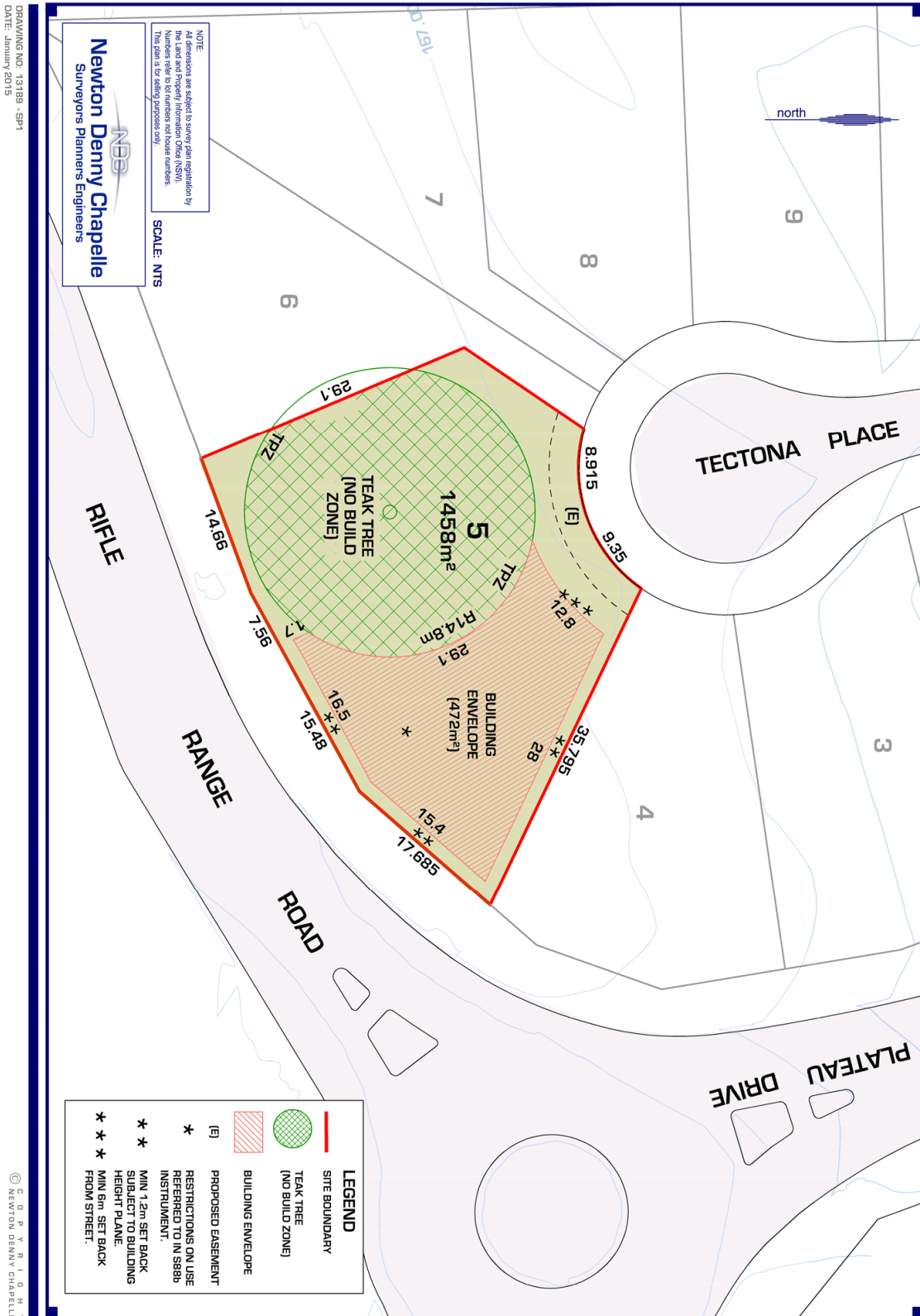
In our opinion the tree should be retained and protected where that is consistent with the objectives of the development. The area that should be protected is the TPZ.

If you require further information or clarification please contact Peter Gray on 0414186161.

Regards

Peter Gray Dip Hort (Arb).

4.3 Land Sale - Lot 5 Tectona Place Wollongbar



4.4 Land Sale - Lot 7 Tectona Place, Wollongbar

4.4 Land Sale - Lot 7 Tectona Place, Wollongbar

Delivery Program Commercial Services

Objective To confirm the sale price negotiated for Lot 7 Tectona Place, Wollongbar.

Background

At the Commercial Services Committee of meeting of 18 February 2014, it was resolved:

1. *That Council approves the sale "off the plan", by private treaty, of the 15 lots identified in Stage One of the Wollongbar Residential Estate", as per the prices provided in the HTW report included as an attachment to this report.*

The price attributed to Lot 7 DP 1204621, Tectona Place in that report was \$210,000. Council staff have negotiated the sale of a price detailed in the confidential report contained later in this agenda.

A lot plan identifying the subject property is **attached**.

Key Issues

- Selling price

Information

In April 2014, fourteen of the fifteen lots in Stage 1 of Council's Wollongbar Residential Estate were placed on the market for sale by private treaty at prices set by HTW Property Valuers and Consultants and endorsed by Council at the meeting referred to above.

To date, thirteen lots have sold (subject to this report), Lot 15 remains on the market for sale, and a separate report relating to Lot 5 (Teak Tree Lot) is included in this meeting agenda.

A conditional contract has been exchanged on Lot 7 and is subject to the price being ratified by Council.

Legal / Resource / Financial Implications

Proceeds from the sale of this land will be directed to Council's Property Development Reserve and Community Infrastructure Reserve as per Council's Long Term Financial Plan.

Consultation

All lots have been publicly listed.

4.4 Land Sale - Lot 7 Tectona Place, Wollongbar

Options

This report provides a summary of the confidential report contained later in this agenda. As Council has previously resolved to sell Lot 7 there is no need for a further resolution to sell.

RECOMMENDATION

That Council notes the contents of this report in respect to the proposed sale of Lot 7 DP 1204621 Tectona Place, Wollongbar.

Attachment(s)

1. Tectona Place Lot Plan

issued: 13 April 2015



wollongbar estate stage 1 - price list

lot no.	site area	price	status
1	861m2		Sold
2	817m2		Sold
3	809m2		Sold
4	780m2		Sold
5	1,458m2		On hold
6	837m2		Under Contract
7	775m2		Under Contract
8	680m2		Sold
9	666m2		Sold
10	626m2		Sold
11	627m2		Sold
12	650m2		Sold
13	890m2		Sold
14	879m2		Sold
15	798m2	\$215,000	see note 6 below

Notes

1. Prices are current as at 27 February 2014. Ballina Shire Council reserves the right to amend prices and lot sizes without notice.
2. Deposit of 10.00% of purchase price is payable upon exchange, or as negotiated.
3. All lots are fully serviced.
4. First home buyers grants of \$15,000 and free stamp duty to eligible applicants
5. Land Buyers Subsidy Scheme grants of \$25,000 available to eligible low to middle income earners.
6. Lot 15 has been cut and filled to reduce slope on site to approximately 1.00%.

lot plan - wollongbar estate stage 1
overleaf →

wollongbar estate
stage 1 - lot plan

issued: 13 April 2015



General enquiries: commercial services • ballina shire council • 71 tamar street • po box 450
ballina nsw 2478 t 02 6686 1200 • w ballina.nsw.gov.au

Sales enquiries: please contact any local real estate agent.



4.5 Land Sale - Lot 87 Cessna Crescent, Ballina

4.5 Land Sale - Lot 87 Cessna Crescent, Ballina

Delivery Program Commercial Services

Objective To confirm the sale price negotiated for Lot 87 Cessna Crescent, Southern Cross Industrial Estate.

Background

Council staff have negotiated the sale of Lot 87 in DP 1161854, a vacant industrial site comprising an area of 1,995m². Details of the sale negotiated are contained in the confidential report elsewhere in this meeting agenda. Refer to locality plan **attached**. The purchaser was introduced by McGrath Real Estate Ballina.

Key Issues

- Selling price

Information

The price negotiated is considered to be in line with recent land sales on Southern Cross Industrial Estate, as detailed in the summary schedule below, which should be read in conjunction with the aerial photo plan **attached**.

Lot/DP	Price (excl GST)	Area	Date of Sale	Purchaser	\$/m²
93/1161854	\$290,000	1,100m ²	11/6/2010	Croft ANORS	\$264/m ²
89/1161854	\$424,000	1,663m ²	22/12/2010	Nasmyth P/L	\$254/m ²
95/1184435	\$533,150	2,269m ²	4/10/2012	Nasmyth P/L	\$235/m ²
97/1194043	\$570,058	2,429m ²	2/08/2012	Nasmyth P/L	\$235/m ²
92/1161854	\$270,000	1,100m ²	10/2014	Croft ANORS	\$245/m ²
Pt Lot 98 DP1194043	\$910,000	3,964m ²	2/2015	Nasmyth P/L	\$230/m ²

Legal / Resource / Financial Implications

Proceeds from the sale of this land will be directed to Council's Property Development Reserve and Community Infrastructure Reserve as per Council's Long Term Financial Plan.

Consultation

All lots have been publicly listed.

Options

1. Council can resolve to sell the portion of operational land described as Lot 87 DP 1161854, Cessna Crescent, Ballina on the terms negotiated.

This is the preferred option as the sale is considered to be in line with recent sales of vacant industrial land on the Southern Cross Industrial Estate.

2. Council can resolve to vary the proposed sale terms and price for Lot 87 DP 1161854 however this option is not recommended.

The recommendation is to approve the sale with the price to be determined as per the confidential report.

RECOMMENDATIONS

1. That Council approves the sale of Lot 87 DP 1161854 Cessna Crescent, Ballina, as detailed within this report.
2. That Council authorises the Council seal to be attached to the contract for sale and any other related documents including sale transfers.

Attachment(s)

1. Locality Plan





DISCLAIMER
Although all care is taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies. The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

© Land & Property Information 2015
Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies. The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

BSC Industrial Land For Sale
Southern Cross Industrial Estate, Ballina



Printed
 23/03/2015

4.6 Lease Arrangements - Kentwell Community Centre

4.6 Lease Arrangements - Kentwell Community Centre

Delivery Program Commercial Services

Objective To determine if Council wishes to offer FSG Australia a Lease at the Kentwell Community Centre

Background

Ballina and District Community Services Association (BDCSA) have occupied part of the Kentwell Community Centre (332.3m²) since its opening in 2009. BDCSA originally had a five year lease that expired on 5 April 2014.

It was agreed to offer a new five year lease to BDCSA as the sitting tenant and the draft lease was issued accordingly. FSG Australia have now advised Council that they have taken over BDCSA and are requesting that the lease offered to BDCSA now be in the name of FSG Australia. FSG's website advise they are:

"a for-purpose community organisation and centre for social enterprise offering a wide range of innovative services in disability, mental health, aged care, family and children's services."

Key Issues

- Lease arrangements at Kentwell Community Centre

Information

The Kentwell Community Centre is currently occupied by BDCSA, St Andrews Ballina, Tweed Byron and Ballina Community Transport (TBBCT) and Council.

A new lease was offered to all three parties on expiration of the previous lease. Both St Andrews and TBBCT have since executed their leases.

BDCSA originally advised that they wished to renew the lease agreement and the draft lease was issued. Following on from this Council has been advised that BDCSA has been taken over by FSG Australia. FSG have now requested the lease that was offered to BDCSA, be in their name and the commencement date be amended from 6 April 2014 to 1 May 2015 with a terminating date of 30 April 2020.

Legal / Resource / Financial Implications

The land that the Kentwell Community Centre occupies is "Community Land". Accordingly Council conducted a public exhibition process to enable them to grant the current proposed lease to BDCSA.

4.6 Lease Arrangements - Kentwell Community Centre

If Council resolves to offer a lease to FSG Australia the process of advertising and notifying adjoining residents in accordance with the Local Government Act 1993 will be required. This process provides for a 28 day exhibition period and if no objections are received Council enter into a lease with FSG Australia.

BDCSA currently pay a commercial rental of \$62,372.32 p.a. + GST for the office space they occupy.

Consultation

Council staff negotiated the current lease terms and conditions with BDCSA and also conducted negotiations with FSG Australia.

Options

1. Council resolves to offer FSG Australia a new five year lease for the occupation of part of the premises known as the Kentwell Community Centre at an initial base rental of \$62,372.30 p.a. + GST, and place the lease on public exhibition in accordance with the provisions of the Local Government Act 1993.

This option is recommended as it conforms with the provisions of the Local Government Act 1993, and maintains a level of continuity in services being provided to the community.

2. Council can resolve not to offer FSG Australia a new lease and request they vacate the premises.

This option is not preferred as organisations such as BDCSA and FSG Australia provided valued services to the community.

RECOMMENDATIONS

1. That Council resolves to offer FSG Australia a new five year lease for the occupation of part of the premises known as the Kentwell Community Centre at an initial base rental of \$62,372.30 p.a. + GST, and place the lease proposal on public exhibition in accordance with the provisions of the Local Government Act 1993.
2. That Council authorise the General Manager to finalise negotiations and attach the Council seal to the relevant leasing documents.

Attachment(s)

Nil

5. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

5.1 Land Acquisition Price - 9 North Creek Road, Ballina (Road Frontage)

Refer to Item 4.2 of this agenda.

5.2 Land Sale Price - Lot 7 Tectona Place, Wollongbar

Refer to Item 4.4 of this agenda.

5.3 Land Sale Price - Lot 87 Cessna Crescent, Ballina

Refer to Item 4.5 of this agenda.

RECOMMENDATION

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A (2) of the Local Government Act 1993.

5.1 Land Acquisition Price - 9 North Creek Road, Ballina (Road Frontage)

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations.

5.2 Land Sale Price - Lot 7 Tectona Place, Wollongbar

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations.

5.3 Land Sale Price - Lot 87 Cessna Crescent, Ballina

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations.