



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 14 June 2016 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

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

Apologies have been received from Cr Keith Johnson and Cr Robyn Horder.

2. Declarations of Interest

3. Deputations

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

4. Committee Reports

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

Delivery Program Commercial Services

Objective To seek Council's concurrence to enter into an adjoining owners' deed of agreement in regards to creation of an easement or dedication of land for a drainage reserve, dedication of land for a road reserve and co-funding of road construction and ancillary works.

Background

Following a request from Lennox Developments Pty Ltd, the purchasers of the property generally known as "the Henderson Farm", a report was presented at the Commercial Services Committee meeting of 19 November, 2013, seeking Council's consent as landowner to include Lot 2 DP 1070446 in a development application to be lodged by Lennox Developments for a residential subdivision of their land. This was done as Lennox Developments required an easement through Lot 2 DP 1070446 to drain stormwater.

The resolution arising from that meeting was as follows:

"That Council authorises the General Manager to provide landowner's consent to the request from Lennox Developments Pty Ltd to enable them to lodge a development application for residential land subdivision. Upon development consent being granted, the General Manager is authorised to negotiate a deed of agreement with Lennox Developments Pty Ltd setting out each party's obligations and the basis for any compensation or cost sharing. Upon reaching agreement the matter will be referred back to Council for approval."

Agreement in principle has now been reached on three matters requiring Council's concurrence to proceed drafting an adjoining owners' deed of agreement and execution of same.

Key Issues

- Dedication of Council land for roadway and construction cost sharing
- Construction cost sharing for road access from Hutley Drive to Council and Lennox Development's respective land holdings
- Easement to drain stormwater and construction cost sharing

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

Information

In 2002 Council resolved to sell the Henderson Farm by public tender. After a period of negotiations Council sold 78 hectares of land to Lennox Developments Pty Ltd for \$11,300,000 + GST in January 2003 and retained 14 hectares. The sale to Lennox Developments had a delayed settlement period of three years, in which time they hoped to have the land rezoned for residential use and a development application approved for same.

Following on from the sale of the Henderson Farm, Lennox Developments Pty Ltd and Council (as land owner) worked together in engaging consultants to prepare the appropriate documentation and studies to lodge a joint rezoning proposal for the respective properties.

The properties were eventually rezoned on 10 August, 2012 and the approximate areas of residentially zoned land pertaining to each holding are as follows:

Lennox Developments	23 hectares
Council	7 hectares

On 27 November, 2014 Lennox Developments was granted development consent (DA 2014/31) to undertake a residential subdivision of their property to 168 residential lots over two stages. This proposed residential development is now generally referred to as "The Outlook".

The development consent contains two conditions that form the subject of the proposed adjoining landowners' deed of agreement between Council and Lennox Developments:

1. Road Access

A deferred commencement condition requiring:

"Adequate legal access is to be provided to the development. Access must cater for a minimum carriageway width of nine metres."

This condition relates to the proposed road that will link Lennox Developments' and Council's respective landholdings to Hutley Drive and comprises two segments:

a) Access Over Council Land

A portion of Council owned operational land comprising an area of approximately 1,100m², as cross hatched on the plan of proposed subdivision attached hereto. Lennox Developments has requested Council dedicate this land as public road. See plan attached.

The majority of this portion of land is zoned "7(l) Environmental Protection Habitat" under BLEP 2012 and as such cannot be developed for residential purposes (see zoning plan attached). In the circumstances it is considered to have nominal value.

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

It is proposed that Council dedicate this land as roadway at no cost to Lennox Developments and that the two parties (Council and Lennox Developments) split road construction costs based upon each party's respective land holding of residential zoned land calculated as follows:

Land Owner	Residential Zoned	Contribution to Costs
Lennox Developments	23 ha	77%
Council	7 ha	23%
Totals	30 ha	100%

This approach is considered fair and reasonable as Council encourages adjoining land owners to work co-operatively to achieve better development outcomes. Furthermore, when Council eventually develops its seven hectares of land it will require access via this portion of land.

The process by which the two parties contribute to construction of this portion of road is discussed below.

b) Access to Hutley Drive

The development approval attaching to the Epiq Estate (formerly known as Pacific Pines) requires dedication of a portion of land to roadway that runs west from the section of Hutley Drive currently under construction, up along the northern boundary of the new sports fields to the eastern boundary of an unmade road that runs in a north south direction along the eastern boundaries of Council's and Lennox developments respective land holdings (see plan attached).

Construction of this road is critical as Council's and Lennox Developments' respective landholdings are landlocked in regards to their development potential. Neither property can be developed as a residential subdivision until this proposed road is constructed.

The cost sharing formula for this road has been agreed in principle as outlined above; whereby Lennox Developments contributes 77% and Council contributes 23%.

Discussions have also been held with Clarence Property, the developers of Epiq Estate to determine if they wish to contribute to cost sharing on the following basis:

Land Owner	Residential Zoned	Contribution to Costs
Lennox Developments	23.00 ha	63.00%
BSC	7.00 ha	19.20%
Clarence Property - Epiq (Stage 10)	6.50 ha	17.80%
Totals	36.50 ha	100.00%

Epiq may be reluctant to contribute as they may consider to do so would be assisting potential competition in terms of development, however the benefit to them is that it significantly reduces the road access costs to Stage 10 of Epiq Estate. To date Clarence Property have not formerly responded to a proposal put to them. If Clarence Property do not wish to participate in a cost sharing agreement with Council and Lennox Developments, it is matter for them, however the benefit to them is it brings certainty.

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

2. Easement to Drain Stormwater

Condition 11 of DA 2014/31 pertaining to The Outlook (Lennox Developments) requires an easement over Council's Henderson Farm landholding (Lot 2 DP 1070446) to drain stormwater; see plan **attached**.

The following points are made in regards to this proposed easement:

- a) The land over which the proposed easement passes is zoned "7(l) Environmental Protection Habitat" under BLEP 2012 and as such cannot be developed for residential purposes (see zoning plan **attached**). In the circumstances it is considered to have nominal value.
- b) Based upon initial concept plans prepared to date for Council's Henderson Farm residential landholding (see development concept plan **attached**), it appears proposed lots would have to drain water into this proposed stormwater drain/channel, and as such Council would require such infrastructure to develop its land.

Lennox Developments' request that Council grant an easement over the land required (or dedicate it for drainage works) for the proposed stormwater channel is considered fair and reasonable. Council requires such infrastructure to develop its Henderson Farm landholdings, and this proposal brings certainty to funding of same.

The manner in which a deed of agreement between Council and Lennox Developments facilitates development of the roads and stormwater drainage described above, could operate, is summarized in general as follows:

- i. At anytime following execution of a Deed of Agreement ("DOA"), any one of the two parties may trigger commencement of the road construction and drainage by serving formal notice on the other party that they wish to do so.
- ii. Following serving of notice, a Project Manager shall be appointed by mutual agreement of the parties.
- iii. Project meetings shall be held monthly, or as required by the Project Manager, with representatives of each party in attendance.
- iv. The Project Manager shall be responsible for preparing the scope of works, obtaining and presenting quotes for professional fees, application fees, construction costs, etc.
- v. The fees will also include an allowance for the Project Manager to run the project and authorise progress claims.
- vi. Once all necessary approvals are in place and construction quotes obtained, the parties will meet to review the quotes and authorise the Project Manager to initiate construction.
- vii. Within 14 days of accepting a quote to undertake construction of civil works, the parties shall place their respective share of costs and bonds into Council's solicitor's trust account. The costs will include a 20.00% contingency allowance.

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

- viii. The Project Manager shall have the authority to authorise variations after consulting with both parties, such authority can only be overridden if both parties resolve to do so.
- ix. Upon completion of the project to the Project Manager's satisfaction, any surplus funds will be refunded to the parties relative to the percentages noted above.

If Clarence Property wish to enter into a deed of agreement, a separate similar deed for the construction of the Hutley Drive access road can be entered into between all three parties.

The benefit to Council entering into an adjoining owners' deed of agreement for the funding of infrastructure for future urban development is that it removes uncertainty in regards to co-funding such works.

This is also an important factor in regards to the value of Council's Henderson Farm landholding. If Council were to contemplate a sale of this land holding in the future, prospective purchasers would require certainty in regards to co-funding infrastructure with adjoining land owners.

Legal / Resource / Financial Implications

Legal

Council's Henderson Farm landholding (Lot 2 DP 1070446) is classified as operational land under the NSW Local Government Act 1993, and as such Council has the authority deal with the land in regards to granting easements and or dedicating land for roads and or drainage.

Council's solicitor will draft an adjoining owners' deed of agreement similar to that which was agreed to with the developers of Avalon Estate in Wollongbar and executed by Council.

Resource

Not applicable.

Financial

The amount of Council's financial commitment will not be known until formal quotes are received for the proposed drainage and roadworks. It is unknown as to when such proposed works will be designed, documented and costed.

Consultation

Council staff have conducted negotiations with Lennox Developments Pty Ltd and Clarence Property.

Options

1. Council agrees to enter into an adjoining land owners' agreement with Lennox Developments, as generally outlined, for the granting of an easement or dedication of land for a drainage channel, dedication of land for a road reserve and co-contributions to fund road construction and ancillary works.
2. Council agrees to enter into an adjoining land owners' agreement with Lennox Developments and Clarence Property, as generally outlined above, for co-contributions to fund road construction and ancillary works associated with the Hutley Drive access road.
3. Council does not agree to enter into adjoining land owners' agreements with Lennox Developments and Clarence Property for the granting of an easement or dedication of land for a drainage channel, dedication of land for a road reserve and co-contributions to fund road construction and ancillary works.

Options one and two are recommended as adjoining landowner agreements remove uncertainty in regards to co-funding infrastructure works that are mutually beneficial to all parties. Removing uncertainty over such matters, and particularly in regards to funding construction of the Hutley Drive access, improves the value of Council's land holding.

Options one and two are also recommended as they are consistent with Council's general view that adjoining land owners work co-operatively to achieve better development outcomes.

Furthermore it would be unreasonable to reject such a request from Lennox Developments and then expect them to grant a similar request to Council at some stage in the future.

It is worth noting that Council recently resolved to enter into an adjoining land owners' agreement with the developers of Avalon Estate at Wollongbar to facilitate development of Stages Two and Three of Council's residential estate. This agreement is working well to the mutual benefit of both parties.

There are a number of assumptions in this report and to provide greater transparency other options that Council may wish to consider include:

- a) a formal independent valuation of the environmental habitat land to ensure that the nominal value reflected in this report is supported
- b) an internal estimate for the construction of the road works to ensure that Council understands the liability we are formally agreeing to as part of this agreement. In saying this, as land owner we do need to contribute to that road access at some point in time.

If Council requires additional information the alternate recommendation would be to defer a decision on this matter until that information is provided to Council. If Council is satisfied with the current level of information then the recommendation can be supported.

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

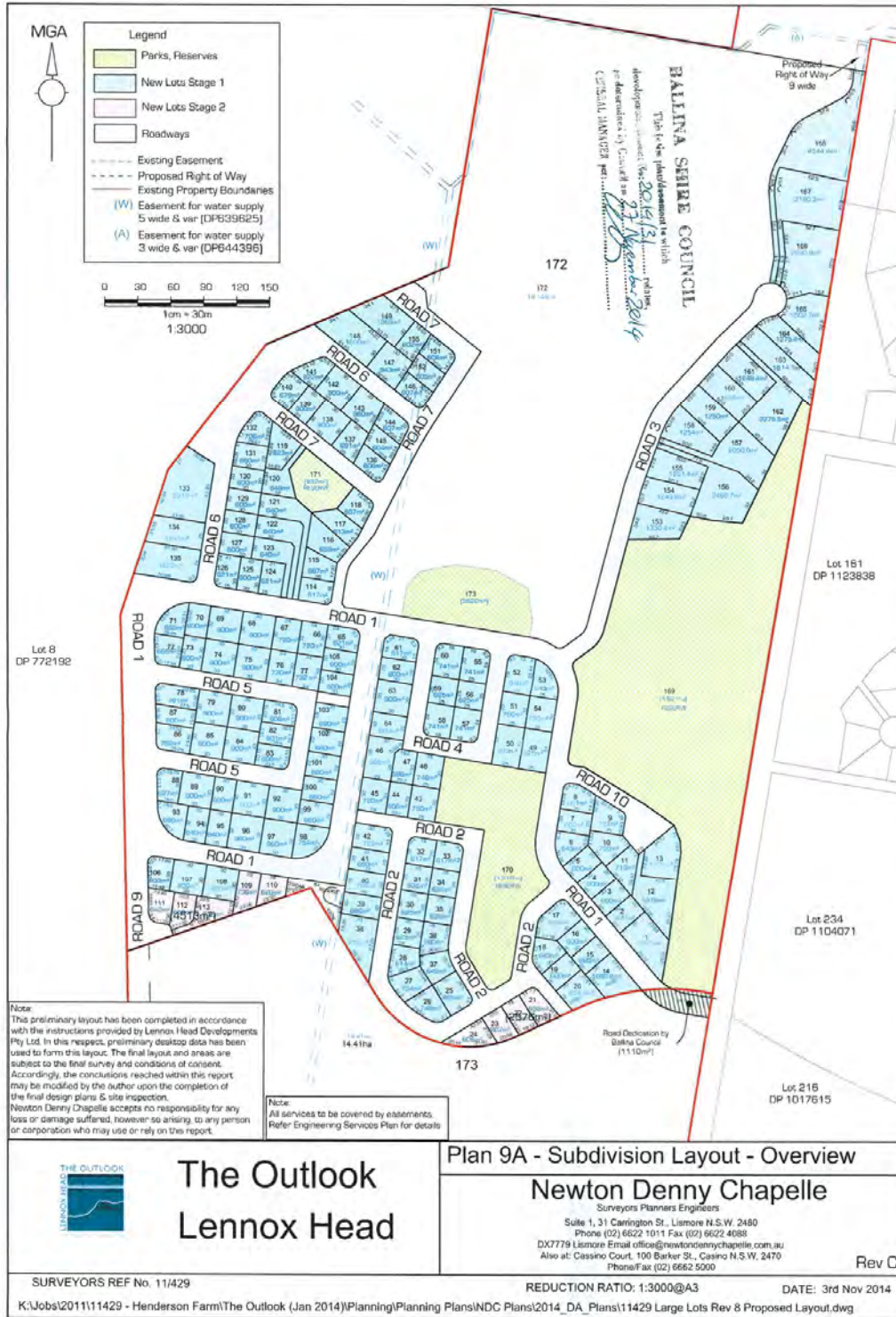
RECOMMENDATIONS

1. The General Manager is authorised to finalise negotiations with the Lennox Developments Pty Ltd and Clarence Property, execute deed of agreements, execute all easements, plans of subdivision etc. and all other relevant documentation required to satisfy the deed of agreements between Council and Lennox Developments Pty Ltd and Clarence Property based on the contents of this report.
2. The Council seal is authorised to be attached to the documents, as required, in point one.

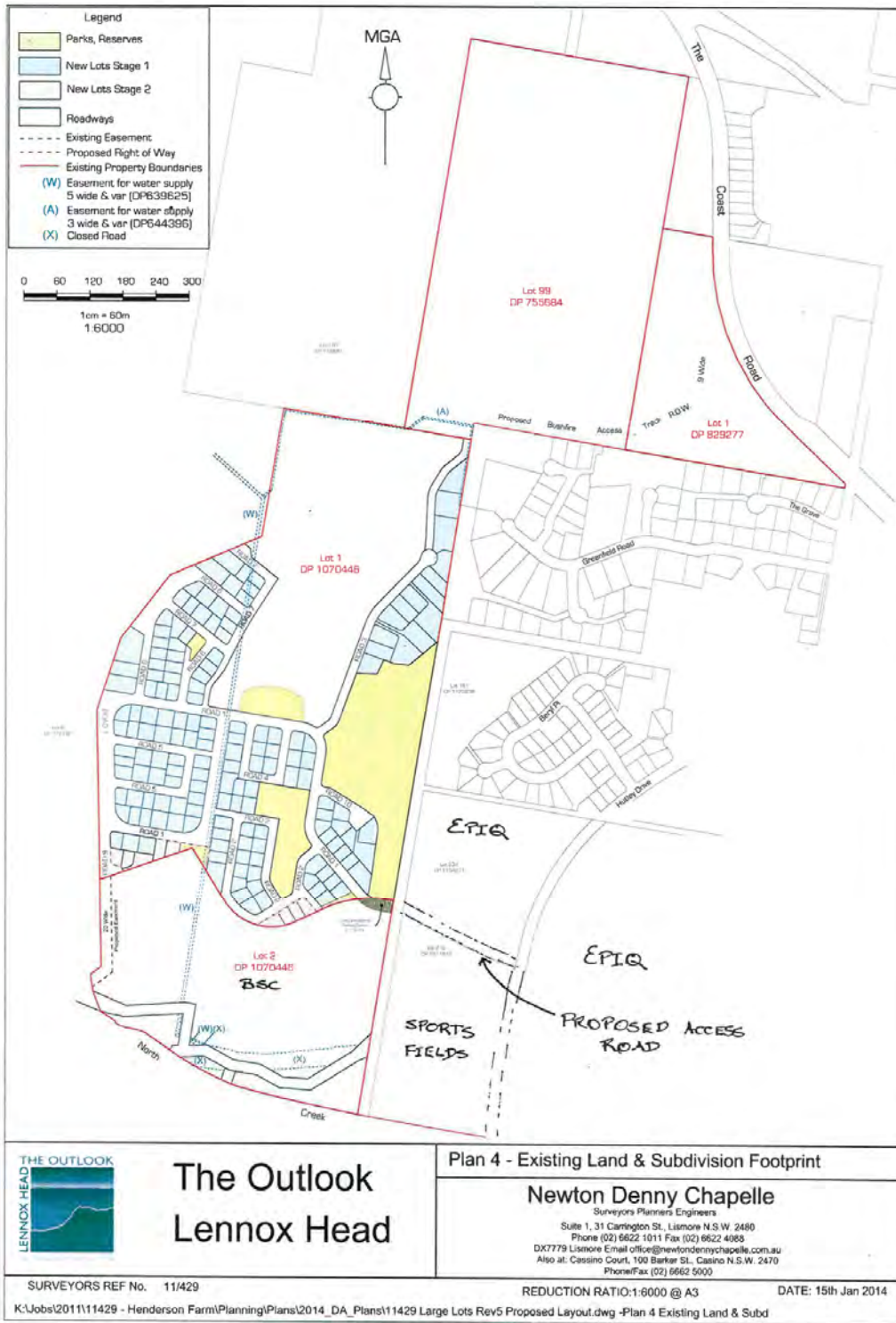
Attachment(s)

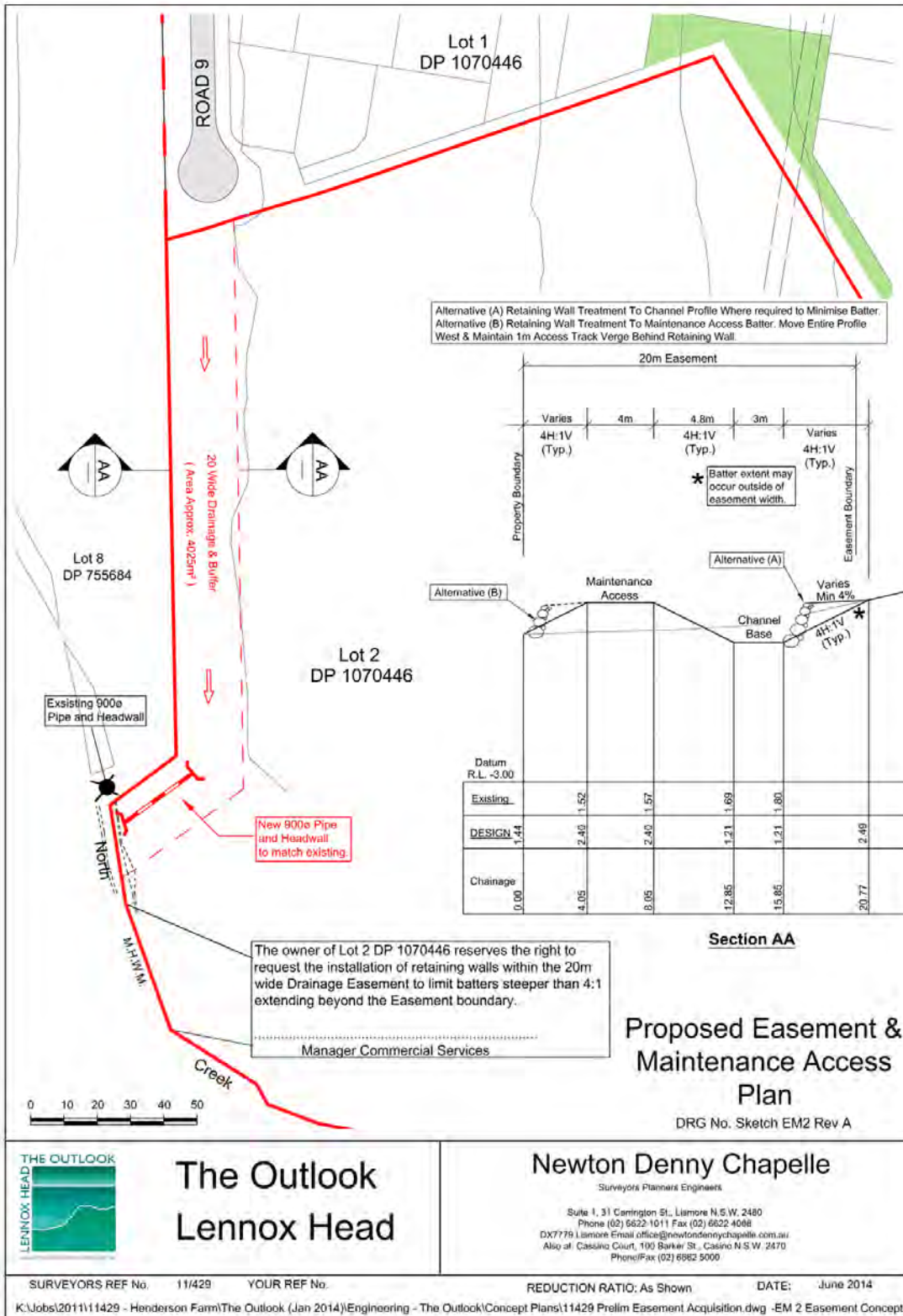
1. "The Outlook" DA 2014-31 Plan of Proposed Subdivision
2. Proposed Road Access Sketch Plan
3. Plan of Proposed Easement for Stormwater Drainage
4. Henderson Farm - The Outlook Zoning Plan
5. Henderson Farm - The Outlook Initial Development Concept Plan

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.1 Lennox Developments - Adjoining Owners' Deed of Agreement





The Outlook
Lennox Head

Newton Denny Chapelle

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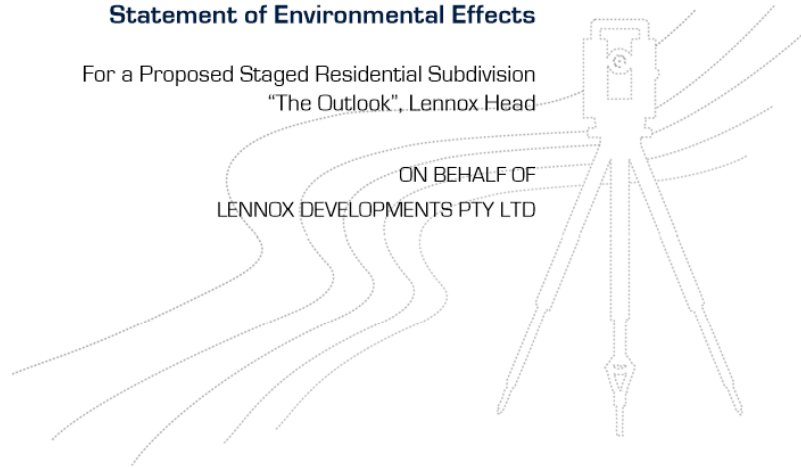
SURVEYORS REF No. 11/429 YOUR REF No. REDUCTION RATIO: As Shown DATE: June 2014
K:\Jobs\2011\11429 - Henderson Farm\The Outlook (Jan 2014)\Engineering - The Outlook\Concept Plans\11429 Prelim Easement Acquisition.dwg -EM 2 Easement Concept

• JOHN NEWTON B. Surv; M.I.S. Aust. • TONY DENNY B. Surv; [Hons]; M.I.S. Aust. • DAMIAN CHAPELLE BTP, CPP.

Statement of Environmental Effects

For a Proposed Staged Residential Subdivision
"The Outlook", Lennox Head

ON BEHALF OF
LENNOX DEVELOPMENTS PTY LTD

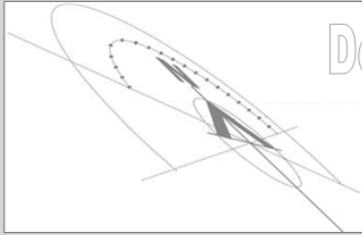


Site: Lots 1 & 2 DP 1070446, Lot 99 DP 755684
and Lot 1 DP 829277

Our Ref: 11/429
Date: February 2014



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Document Control Sheet

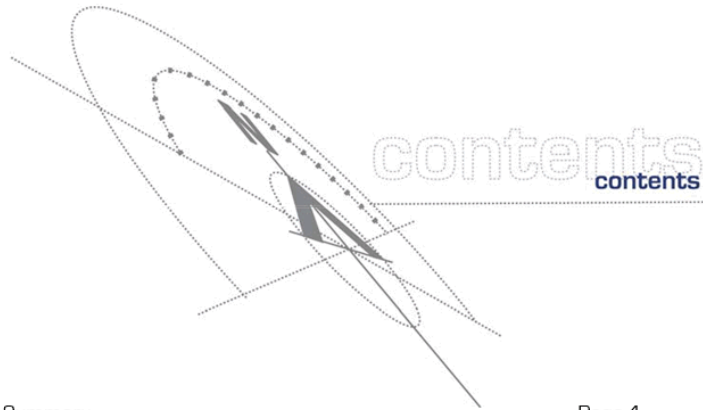
Document and Project Details				
Document Title:	Statement of Environmental Effects for Proposed Staged Residential Subdivision "The Outlook", Lennox Head.			
Author:	Damian Chapelle			
Project Manager:	Damian Chapelle			
Date of Issue:	23 January 2014			
Job Reference:	11/429			
Project Outline:	This document presents a Statement of Environmental Effects for the proposed urban subdivision of land known as the Henderson Farm at Lennox Head.			
Document Distribution				
Date	Status	Distribution – Number of Copies		
		Client	Council	Other
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4/2/14	Final	1	3	5
Documentation Verification				
Checked by:	SJ Connelly Damian Chapelle			

USAGE NOTE:

The plans to this document were prepared for the exclusive use of Lennox Developments Pty Ltd to accompany a Development Application to Ballina Shire Council for approval for the development of land described herein and is not to be used for any other purpose or by any other person or corporation. Newton Denny Chapelle accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this document for a purpose other than that described above.

The maps, development plans and exhibits shown in this report are suitable only for the purposes of this report. No reliance should be placed on this information for any purpose other than for the purposes of this report. All dimensions, number, size and shape of lots/buildings as shown on plans in this document are subject to detailed engineering design plans and final survey and may vary subject to conditions of consent issued by Council.

The information contained in this report is based on independent research undertaken by Newton Denny Chapelle. To the best of our knowledge, it does not contain any false, misleading or incomplete information.



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- Attachment 1 – Pre-lodgement Correspondence
Ballina Shire Council
- Attachment 2 – Voluntary Planning Agreement
- Attachment 3 – Flora & Fauna Assessment and
Environmental Rehabilitation Plan
Peter Parker Environmental Consultants Pty Ltd
- Attachment 4 – Bushfire Threat Assessment Report
Bushfire Certifiers
- Attachment 5 – Cultural Heritage Assessment
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Newton Denny Chapelle
- Attachment 8 – SEPP1 Objection
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- Attachment 10 – Geotechnical & Contamination Assessment
Coffey Geosciences
- Attachment 11 – Mosquito Impact Assessment
Mosquito Consulting Services Pty Ltd



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Table 4.2 - BLEP 2012 Subdivision Standards

Table 4.3 - BLEP 1987 Minimum Lot Sizes

Table 4.4 - Major Subdivision Control Elements

Table 4.5 - SEPP 71 Master Plan Requirements

Table 4.6 - SEPP 71 Matters for Consideration

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Plate 2 - Extract of Ballina LEP 2012 Lot Size Map.

Plate 3 - Extract of Ballina LEP 2012 Acid Sulfate Soils Map.

Plate 4 - Extract Ballina LEP 2012 Strategic Urban Growth Area Map.

Plate 5 - Zoning Framework Ballina LEP 1987.

Executive Summary



1.1 Development Summary

Newton Denny Chapelle has been engaged, in association with Planners North, by Lennox Developments Pty Ltd to act as Town Planning Consultants with respect to the preparation and lodgement of a Development Application for an urban subdivision on land known as the Henderson Farm, located at Lennox Head. The proposed development is referred to as "The Outlook".

The application relates to Lots 1 & 2 DP 1070446, Lot 99 DP 755684 and Lot 1 DP 829277, Parish of Ballina, County of Rous.

The proposed development involves a staged Development Application pursuant to Section 83B of the Environmental Planning and Assessment Act 1979. The proposal involves 2 Stages as follows:

- **Stage 1** of the proposal involves 159 residential lots, dedication of open space (5 reserves), 3 residue lots, civil works, tree removal and establishment of an easement over adjoining Ballina Shire Council land for stormwater management purposes. Part of a road will also be provided on the Council land. A deferred consent is sought pending the construction of road access through the adjoining Pacific Pines Estate.
- **Stage 2** of the project involves the creation of 9 residential lots and 1 public reserve. Concept approval is sought for the subdivision of this land as part of the current application, however a separate development approval will be required prior to construction of Stage 2 pursuant to Section 83B(3)(a) of the Act.

1.2 Site Details

Property Address:	Henderson Lane & The Coast Road, Lennox Head
Property Description:	Lots 1 & 2 DP 1070446, Lot 99 DP 755684 and Lot 1 DP 829277 Parish of Ballina County of Rous
Proponent:	Lennox Developments Pty Ltd
Land Owner:	Lennox Development Pty Ltd Ballina Shire Council
Applicant:	Newton Denny Chapelle
Local Authority:	Ballina Shire Council
Land Use:	Rural Dwelling, Agriculture (Grazing), Wetlands & Littoral Rainforest
Land Zoning:	Ballina Local Environmental Plan 2012 <ul style="list-style-type: none">- R1 Medium Density Residential- R2 Low Density Residential- RE1 Public Recreation- RU1 Primary Production- RU2 Rural Landscape Ballina Local Environmental Plan 1987 <ul style="list-style-type: none">- Rural 1(d) Urban Investigation- 7(l) Environmental Protection (Habitat)- 7(a) Environmental Protection (Wetlands)
Integrated Referrals:	NSW Rural Fires Act 1997 NSW Water Management Act 2000
Concurrence:	SEPP 26 – Director of Planning SEPP 1 – Director of Planning

Other Referrals: SEPP 26 – NSW Director of NPWS
BLEP 2012 – Clause 5.10(7) Archaeological Site,
NSW Heritage Council

1.3 Structure of Report and its Scope

This Application is divided into two Volumes.

Volume 1 – Provides the Statement of Environmental Effects (SEE) and various technical attachments. Section 2 of the SEE describes the physical characteristics and planning context of the subject land. Section 3 describes in detail the proposed subdivision and earthworks. Section 4 contains a review of the proposal against statutory and policy planning instruments.

Volume 2 – Contains a comprehensive Plan Set reproduced at A3 size. This Plan Set is inclusive of the town planning, engineering and landscape architecture plans.

1.4 Project Team

The following specialist consultants have been involved with the preparation of the Development Application for the site.

Consultant	Discipline
Newton Denny Chapelle	Engineering Surveying Town Planning
Planners North	Project Management Town Planning
Design Team Ink	Landscape Design
Bushfire Certifiers	Bushfire Assessment
Peter Parker Environmental Consultants Pty Ltd	Flora & Fauna Assessment Environmental Rehabilitation Plan
Tim Fitzroy & Associates	Acoustic Assessment

In addition, the Project Team has utilised the following technical reports and assessments completed as part of the recent rezoning process for the land.

Consultant	Discipline
Mosquito Consulting Services	Mosquito Impact Assessment
Coffey Geosciences Pty Ltd	Geotechnical Investigations Preliminary Contaminated Land Assessment
Davies Heritage Consultants Pty Ltd	Cultural Heritage Assessment

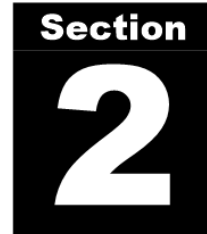
1.5 Pre-Lodgement Meetings

Several Pre-lodgement meetings and discussions with Council staff have occurred regarding this project in accordance with the framework established in Council's Development Control Plan. The pre-lodgement meetings were coordinated pursuant to Clause 3.2.3(B) Chapter 3 of the Ballina Development Control Plan 2012. Information regarding this process is provided in **Section 4.4.16** of this report, with correspondence relating to this process provided in **Attachment 1**.

1.6 Further Information

Should Council require any additional information, or wish to clarify any technical matter raised by this proposal or submissions made to same, Council is requested to consult **Mr Damian Chapelle** (02 6622 1011) or, if he is not readily available, Mr SJ Connelly (02 6687 7171), prior to determination of the application.

Site Analysis



2.1 Planning Background

A. Strategic Planning Framework

The land the subject to this application forms part of what is referred to locally as "the Henderson Farm". The site has been identified in various Council and State Government Strategies as being a potential urban growth area, including:

- Ballina Local Environmental Plan 1987;
- Ballina Urban Land Release Strategy 2000;
- Lennox Head Community Aspirations Strategic Plan 2002;
- Lennox Head Structure Plan 2004;
- Far North Coast Regional Strategy 2006; and
- Ballina Shire Growth Management Strategy 2012.

B. LEP Amendment No. 103 and Current Zoning Framework

The site was subject to detailed planning consideration via Amendment No. 103 to the Ballina Local Environmental Plan 1987 (BLEP 1987). The rezoning process included detailed consideration of both the environmental characteristics of the site and strategic planning framework applicable to the area. These investigations related to the following properties: Lots 1 and 2 DP 1070446, Lot 99 DP 755684 and Lot 1 DP 829277.

As the rezoning process was taking place during the finalisation of the new Shire wide LEP, regard was had through the rezoning process to the zoning framework within both BLEP 1987 and the draft Shire wide LEP (which was adopted as BLEP 2012). The rezoning process concluded that the land was

suites to a combination of residential, open space, rural and environmental protection zones pursuant to both BLEP 1987 and the draft Shire wide LEP. The land was rezoned to reflect this zoning framework in BLEP 1987 in August 2012.

In January 2012, the new Ballina Local Environmental Plan 2012 came into effect. When the new LEP was adopted, the Minister for Planning decided to defer the application of both the E2 and E3 environmental protection zonings pending an independent review of the application of these zones within the new LEP. As such, the following Local Environmental Plans currently apply to the subject land:

- **Ballina Local Environmental Plan 2012** applies to the areas of the site identified as being suitable for urban purposes via the rezoning process. This plan also applies to rural zoned land adjacent to "The Grove"; and
- **Ballina Local Environmental Plan 1987** applies to the portions of the site identified through the rezoning process as being suitable for either the E2 or E3 Environmental zones.

Whilst the current application relates to each of the properties considered at rezoning stage, the proposed residential subdivision is located within the urban zoned land located on Lot 1 DP 1070446. The other properties are included within the application as they provide access and drainage to the residential subdivision. With respect to the properties owned by Lennox Developments (namely Lot 1 DP 1070446, Lot 99 DP 755684 and Lot 1 DP 829277) the rezoning process concluded that:

- Approximately 22.7 hectares was suitable for a combination of low and medium density residential zonings. This land is wholly located on Lot 1 DP 1070446;
- 0.9 hectares was zoned for public recreation purposes. This land is also located on Lot 1 DP 1070446;
- Areas containing littoral rainforest and coastal wetlands (and associated buffers) warranted the application of an environmental protection zoning. This equated to approximately 47.7 hectares of land;
- The rezoning process also identified several items of local environmental heritage on the subject land.

A further 6.7 hectares of land owned by our clients, which otherwise appeared to be suitable for urban development contained the threatened species *Arthraxon hispidius* (Hairy Joint Grass) and was therefore deferred from Ballina LEP Amendment No. 103. This deferred area comprises a triangular piece of land located adjacent to the Coast Road, in the vicinity of The Grove. Ballina Shire Council has identified this part of the site may be revisited for rezoning at some future time via a separate Planning Proposal. In the interim, this part of the site retains a rural zoning.

C. Voluntary Planning Agreement

A Voluntary Planning Agreement (VPA) was entered into as part of the Henderson Farm Planning Proposal. The VPA, prepared in accordance with Section 93F of the Environmental Planning and Assessment Act was publicly exhibited with the Planning Proposal and has been subsequently endorsed by Ballina Shire Council.

The VPA offered by the proponent relates primarily to the restoration and dedication of the environmentally sensitive lands in the vicinity of the proposed urban zones. The VPA also binds the proponent to undertake archival recording of several heritage items that do not warrant preservation, but that may add to the historic record of the locality.

A copy of the VPA is provided at **Attachment 2** and is discussed in more detail throughout this report.

D. Staged Development Application

Section 83C of the states that if an Environmental Planning Instrument (EPI) requires the preparation of a Development Control Plan before any development is carried out, then such obligation may be satisfied by the making and approval of a staged Development Application with respect to the land.

In this instance, an EPI (namely Clause 18(1) of State Environmental Planning Policy No. 71 – Coastal Protection), requires that a Master Plan adopted by the Minister must accompany an application for the subdivision of land within a residential zone if part or all of the land is in a sensitive coastal location. Further to that provision, Schedule 6 Clause 95 of the Environmental Planning and Assessment Act 1979 provides that any requirement of an Environmental Planning Instrument relating to Master Plans may be construed as a requirement for a Development Control Plan under Section 74D of the Act.

Given the above, the application has been lodged as a staged application pursuant to Section 83B of the Environmental Planning and Assessment Act 1979. In this regard, development consent is sought for Stage 1 of the project and a "concept approval" is sought for Stage 2. A separate development application will be required for Stage 2.

Such applications must contain the information required to be included in the Development Control Plan by the relevant Environmental Planning Instrument or Regulation. **Table 4.5** tabulates compliance of this application with the Master Plan requirements pursuant to Clause 20 of SEPP 71.

Please note that the staged application process pursuant to Section 83B of the Act relates to the development consent processes and is not to be confused with the future staging of the construction and release of the subdivision.

E. Deferred Commencement

Pacific Pines Estate is located immediately to the east of "The Outlook". The approved subdivision for Pacific Pines Estate includes a road (referred to as the "western connection") which will provide a road linkage from "The Outlook" to the external road network.

The application seeks a deferred commencement approval under Section 80(3) of the EPA Act pending provision of vehicular access from the Pacific Pines Estate (which borders Henderson Farm on its eastern boundary). That is, Lots will not be released within The Outlook until such time as the western connection is built.

Pacific Pines Estate and the associated western connection has been approved within Part 3A approval 07_0026 by the Department of Planning & Infrastructure. As detailed in Section 4.4.16 of this report, it is reasonable to conclude that the western connection will be constructed in the short to medium term, being a time period recognised and accepted by the landowner of "The Outlook" in lodging this application.

2.2 Cadastral Description

The Development Application relates to Lots 1 & 2 DP 1070446, Lot 99 DP 755684 and Lot 1 DP 829277, Parish of Ballina, County of Rous. The subject land is located at Lennox Head and comprises the landholding known locally as the former Henderson Farm. **Plan 1** illustrates the subject land and surrounds. The subject land is divided into three distinct areas as follows:

Lot 1 DP 1070446

The area proposed for urban subdivision (and the primary focus of this application) is located on Lot 1 DP 1070446. This property is located to the west of the existing Greenfield Road and Lennox Meadows residential areas. This parcel has a total area of 42.49ha and is irregular in shape. This part of the site has limited frontage to the existing road network, and is currently accessed via the existing Lennox Meadows Estate.

Lot 99 DP 755684 and Lot 1 DP 829277

The northern portion of the site (Lot 99 DP 755684 and Lot 1 DP 829277) is located to the west of the central Lennox Head Village and to the north of the Greenfield Road residential area. This land is included within the application in order to provide appropriate access for bushfire management purposes. This portion has a total area of 35.56ha (27.52ha and 8.043ha respectively). Lot 1 has a frontage of 530 metres to the Coast Road.

A 3 metre wide drainage easement is located in the south-eastern corner of Lot 1 DP 829277 and a 5 metre wide easement for water supply is located in the western portion of Lot 1 DP 1070446. This easement also affects the southernmost portion of Lot 99 DP 755684.

Lot 2 DP 1070446

Lot 2 DP 1070446 is located immediately to the south of Lot 1 DP 1070446. This property has a total area of 14.52ha and is of irregular formation. It is currently utilised for grazing purposes. The northern portion of this property is zoned for residential purposes, whilst the southern area (generally adjoining the Ballina Nature Reserve) currently retains an environmental protection zoning.

2.3 Site Analysis

The subject land is impacted by a series of inter-related planning, physical and environmental constraints which have been subject to detailed consideration throughout the rezoning process and during the preparation of the development application. These issues are summarised on **Plan 2** and discussed in more detail below. **Plan 3** provides photographs of the site as existing.

Lot 1 DP 1070446

The portion of the site the focus of the current application (namely Lot 1 DP 1070446) has land contours ranging from RL1m AHD along the west boundary to a high of RL55m on the eastern boundary. Typical slopes have been assessed via geotechnical investigations undertaken at rezoning stage. In this regard the steeper lands have slopes of 10 degrees to 15 degrees (17% to 27%) and with flatter lands at 3 degrees (5%). A detail survey is provided within **NDC Plan 8**.

An existing farm house and associated sheds are centrally located in an elevated position on Lot 1 DP 1070446. A number of visually significant trees are located in proximity to the house and rural outbuildings. The remainder of the subject lands are currently utilised for grazing purposes.

The property contains several areas of ecological significance. In this regard, the elevated portion of the site (Lot 1 DP 1070446) contains two areas of Littoral Rainforest, one of which is listed pursuant to State Environmental Planning Policy No. 26 Littoral Rainforest. The property also contains a number of heritage items which were identified through the rezoning process for the land. Further discussion regarding these aspects of the site is provided below.

Lot 1 is located to the west of the following residential subdivisions:

- Lennox Meadows - is a conventional residential estate containing a range of lot sizes (generally between 600m² to 850m²) containing one and two storey detached dwellings and occasional dual occupancies;
- The Greenfield Road area is characterised by larger allotments (>1,200m²) generally containing detached dwellings; and
- Pacific Pines Estate - Much of this Estate is currently undeveloped, however approvals are in place for the staged development of the site

for a residential subdivision including a range of allotment types, neighbourhood shopping centre and playing fields.

The property to the west of Lot 1 (namely Lot 8 DP 772192) is a low-lying rural property currently utilised for grazing. This property is generally flat and mapped as being flood prone.

Lot 99 DP 755684 and Lot 1 DP 829277

The northern portion of the site (Lot 99 DP 755684 and Lot 1 DP 829277) is located to the west of the central Lennox Head Village and to the north of the Greenfield Road/The Grove residential areas. This land is included within the application in order to provide appropriate access for bushfire management purposes.

The lower portion of these properties contains wetlands listed under State Environmental Planning Policy 14 – Coastal Wetlands. These areas are zoned for environmental protection purposes and are not proposed for residential development as part of this application. As outlined in **Section 2.1**, the more elevated areas (adjoining “The Grove”) were not rezoned for urban purposes via LEP Amendment 103 due to the presence of Hairy Joint Grass. These areas currently comprise grasslands utilised for grazing.

Lot 2 DP 1070446

Lot 2 is located immediately to the south of Lot 1 and is included within the application as it is proposed to create an easement for the purpose of stormwater drainage over this land. In addition, it is proposed to dedicate a small portion of this site to facilitate road access. This land is currently a vacant parcel which is utilised for cattle grazing, to the south of which is the Ballina Nature Reserve. As outlined below, a number of items of environmental heritage also exist on this land.

2.4 Ecological Characteristics

A detailed Flora and Fauna Assessment prepared by Peter Parker Environmental Consultants is provided at Attachment 3. This report includes the following description of the environmental context of the site:

"The site is located between urban development to the east and the Ballina Nature Reserve to the west. More specifically, the land proposed for subdivision is juxtaposed between State Environmental Planning Policy ("SEPP") Coastal Wetlands (to the north and south) and SEPP 26 Littoral Rainforest to the east (Fig. 2). It is bisected by a band of littoral rainforest extending from north to south which connects with the wetland vegetation in the north. The site supports a number of large feature trees such as native figs, Ficus sp., Norfolk Island Pines, Araucaria heterophylla, tuckeroo, Cupaniopsis."

The report also advises that:

"Vegetation has been mapped in four communities: littoral rainforest, forest to open woodland, sedgeland and grassland..

The vulnerable plant, white laceflower, was recorded in the littoral rainforest and as an isolated tree within the grassland. Hairy joint grass was recorded in the grassland and sedgeland and was relatively common in the northeastern part of the site..

One vulnerable vertebrate species, the grey-headed flying fox, was recorded during the fauna survey. However, it is anticipated that a number of other threatened species would occur at the site based on the suitability of habitats.."

2.5 Bushfire Prone Land

The subject land is identified as bushfire prone land pursuant to mapping held by Ballina Shire Council. As the proposed development is identified by Clause 44 of the Rural Fires Regulation 2002 as a residential subdivision, under the provisions of section 100B of the Rural Fires Act 1997 as amended, a Bush Fire Safety Authority (BFSA) is required from the Commissioner of the NSW Rural Fire Service.

Given the above, Bushfire Certifiers were engaged as part of the project team to ensure compliance with Planning for Bushfire Protection. Key elements of the subdivision design relating to bushfire matters include the provision of a Bushfire Access Track linking the site to the Coast Road to the north of the site as well as the establishment of Asset Protection Zones of varying widths throughout the Estate.

The Bushfire Threat Assessment Report for the project, a copy of which is provided at **Attachment 4**. In summary, the report has established that the intent of Planning for Bushfire Protection is satisfied via a combination of

acceptable and alternate solutions. Furthermore, future buildings within the subdivision are capable of being constructed in accordance with AS 3959-2009 and Planning for Bushfire Protection 2006.

2.6 Cultural Heritage

A. Introduction

A Cultural Heritage Assessment was completed by Davies Heritage Consultants (DHC) as part of the rezoning process, a copy of which is provided at **Attachment 5**. This assessment considered both Indigenous and European Cultural Heritage, as discussed below.

B. Indigenous Cultural Heritage

No Indigenous archaeological items or material were located within the study area during the site survey. DHC advises that there remains the potential for undetected archaeological material to be present in the study area, although the likelihood of such materials existing on site is considered (by DHC) to be low. DHC recommend that vegetation clearing within certain parts of the site be monitored to enable undetected material to be identified. DHC also recommends that construction workers receive an Indigenous Cultural Heritage Induction.

JALI Land Council advised that they are comfortable with the findings of the DHC report. JALI has nevertheless requested that officers of JALI be given the opportunity to be on site during the initial earthworks.

C. European Cultural Heritage

In summary, this assessment identified a range of heritage items and artefacts related to the European settlement of the locality. Of these, the following items are listed within Schedule 5 of the Ballina LEP 2012.

Part 1 – Environmental Heritage

- Item 167 – Dry Stone Walls (walls known as “wall a” and “wall b” on former Henderson Farm) located on Lots 1 & 2 DP 1070446;
- Item 165 – Fig Tree (planted by Ted Henderson in 1947 on former Henderson Farm) located on Lot 1 DP 1070446; and
- Item 166 – Norfolk Island Pines located on Lot 1 DP 1070446;

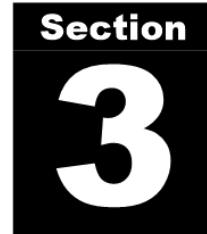
Part 3 – Archaeological Sites

- Item A4 – Historic “Henderson Farm” items/features (including historic tree plantings – bunya pines, circle of stones, half circle of stones, well site, location of farm buildings and ruts) located on Lot 2 DP 1070446

In addition to the above, a number of items were identified as being important, but not warranting a heritage listing under the BLEP 2012. The VPA which accompanied the rezoning process committed our clients to undertaking appropriate archival recording of these additional items prior to the release of a Construction Certificate.

Further information concerning the impact of the proposed development on the listed heritage items is provided in **Section 4.4.2**.

Proposed Development



3.1 General Overview

The proposed development involves a staged Development Application pursuant to Section 83B of the Environmental Planning and Assessment Act 1979. The proposal involves 2 Stages, for which the overall consent being sought is for a deferred commencement. The application proposes that the project be subject to deferred commencement pending the construction of the western connection access road linking the proposed subdivision to Hutley Drive through the Pacific Pines Estate.

- **Stage 1** of the proposal involves an urban subdivision comprising 159 residential lots, dedication of open space (5 reserves), 3 residue lots, civil works, tree removal and establishment of an easement over adjoining Ballina Shire Council land for stormwater management. Part of a road will also be provided on the Council land.
- **Stage 2** of the project involves the creation of lots 9 residential lots and 1 public reserve.

3.2 Proposed Subdivision

3.2.1 Subdivision Plans

The proposed subdivision is illustrated in the following plans prepared by Newton Denny Chapelle:

Plan No.	Description	Date
1	Location Plan	15/1/14
2	Site Analysis	15/1/14
3	Photographic Plates	15/1/14
4	Existing Land & Subdivision Footprint	15/1/14
5	Subdivision Master Plan & LEP Zone Boundaries	15/1/14
6	Stage 1 - Layout Plan	15/1/14
7	Stage 2 - Layout Plan	15/1/14
8	Stage 1 & 2 - Layout Plan, Contours & Vegetation	15/1/14
9a	Subdivision Layout - Overview	15/1/14
9b	Subdivision Layout - Detail (Southern Section)	15/1/14
9c	Subdivision - Detail (Northern Section)	15/1/14
10a	Building Envelopes - Detail (Southern Section)	15/1/14
10b	Building Envelopes - Detail (Northern Section)	15/1/14

Each of the above plans are provided at A3 scale within **SEE Volume 2 - Plan Set**.

Key elements of the subdivision are outlined below.

3.2.2 Subdivision Staging

The proposed development involves a staged Development Application pursuant to Section 83B of the Environmental Planning and Assessment Act 1979. The proposal involves 2 Stages as follows:


- **Stage 1** of the proposal involves 159 residential lots, dedication of open space (5 reserves), 3 residue lots, civil works, tree removal and establishment of an easement over adjoining Ballina Shire Council land for stormwater management purposes. Part of a road will also be provided on the Council land. A deferred consent is sought pending the construction of road access through the adjoining Pacific Pines Estate.
- **Stage 2** of the project involves the creation of 9 residential lots and 1 public reserve. Concept approval is sought for the subdivision of this land as part of the current application, however a separate development approval will be required prior to construction of Stage 2 pursuant to Section 83B(3)(a) of the Act.

Further discussion concerning Stage Development Applications is provided in **Section 2.1**.

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



SOURCE OF BASE PLAN: LPI SIXVIEWER DATED 07.01.14

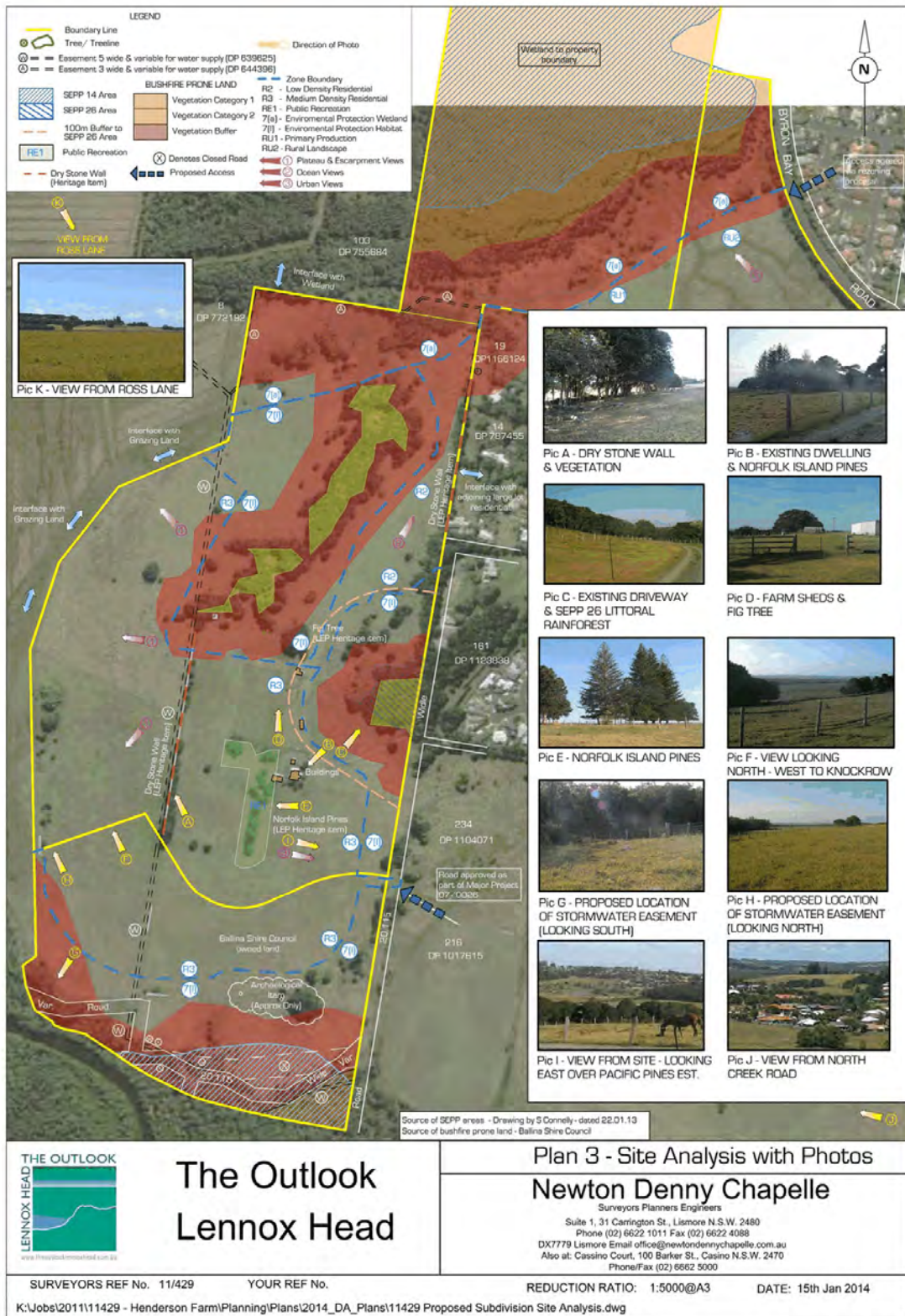
 <p>The Outlook Lennox Head</p>	<p>Plan 1 - Location Plan Newton Denny Chapelle</p> <p>Surveyors Planners Engineers Suite 1, 31 Carrington St., Lismore N.S.W. 2480 Phone (02) 6622 1011 Fax (02) 6622 4088 DX7779 Lismore Email office@newtondennychapelle.com.au Also at: Cassino Court, 100 Barker St., Casino N.S.W. 2470 Phone/Fax (02) 6662 5000</p>
	<p>SURVEYORS REF No. 11/429</p> <p>REDUCTION RATIO: Not to Scale</p> <p>DATE: 15th Jan 2014</p>

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4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



**The Outlook
Lennox Head**

Plan 5 - Subd Master Plan & LEP Zone Boundaries

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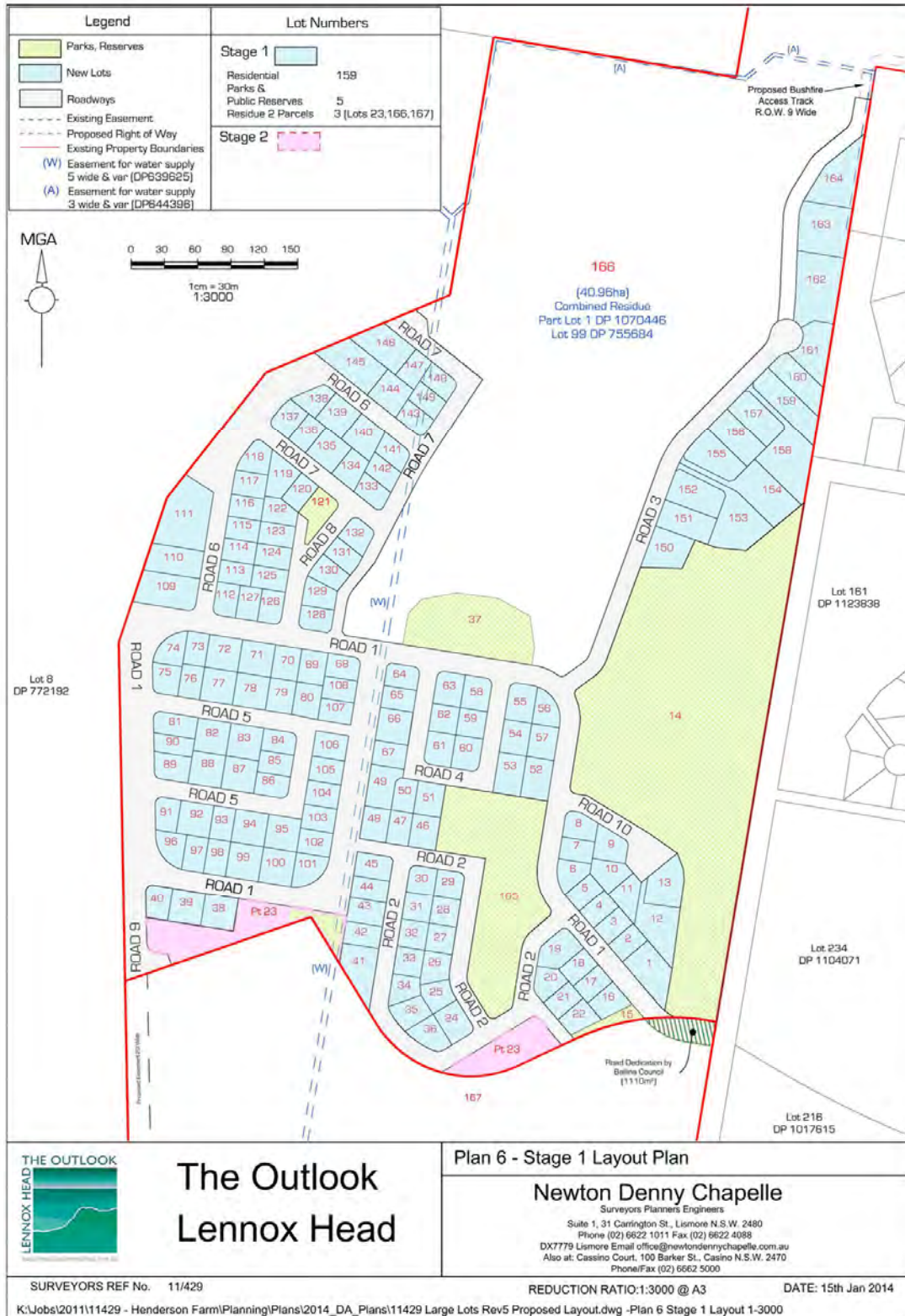
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4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



The Outlook
Lennox Head

Plan 6 - Stage 1 Layout Plan

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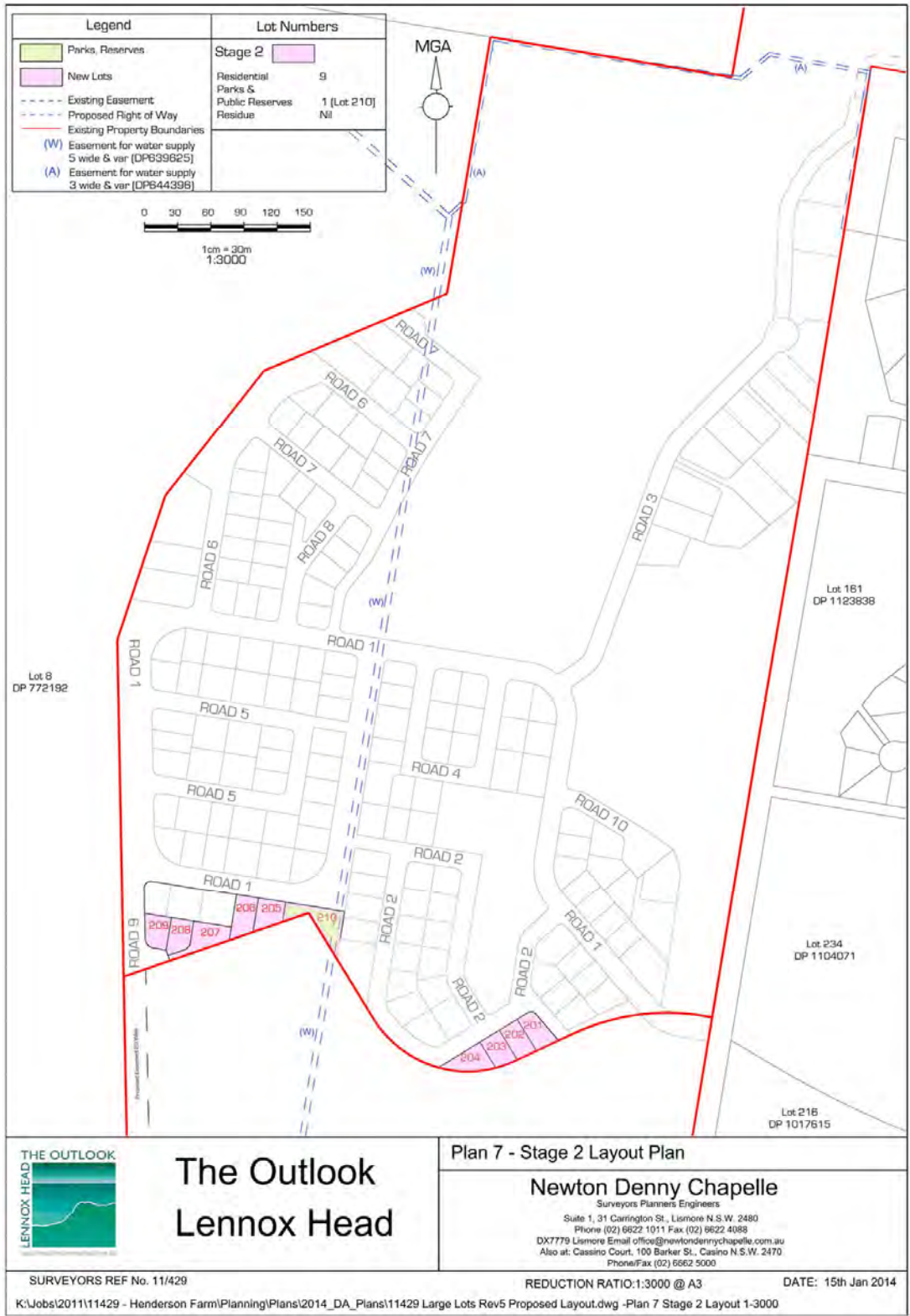
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4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



**The Outlook
Lennox Head**

Plan 7 - Stage 2 Layout Plan

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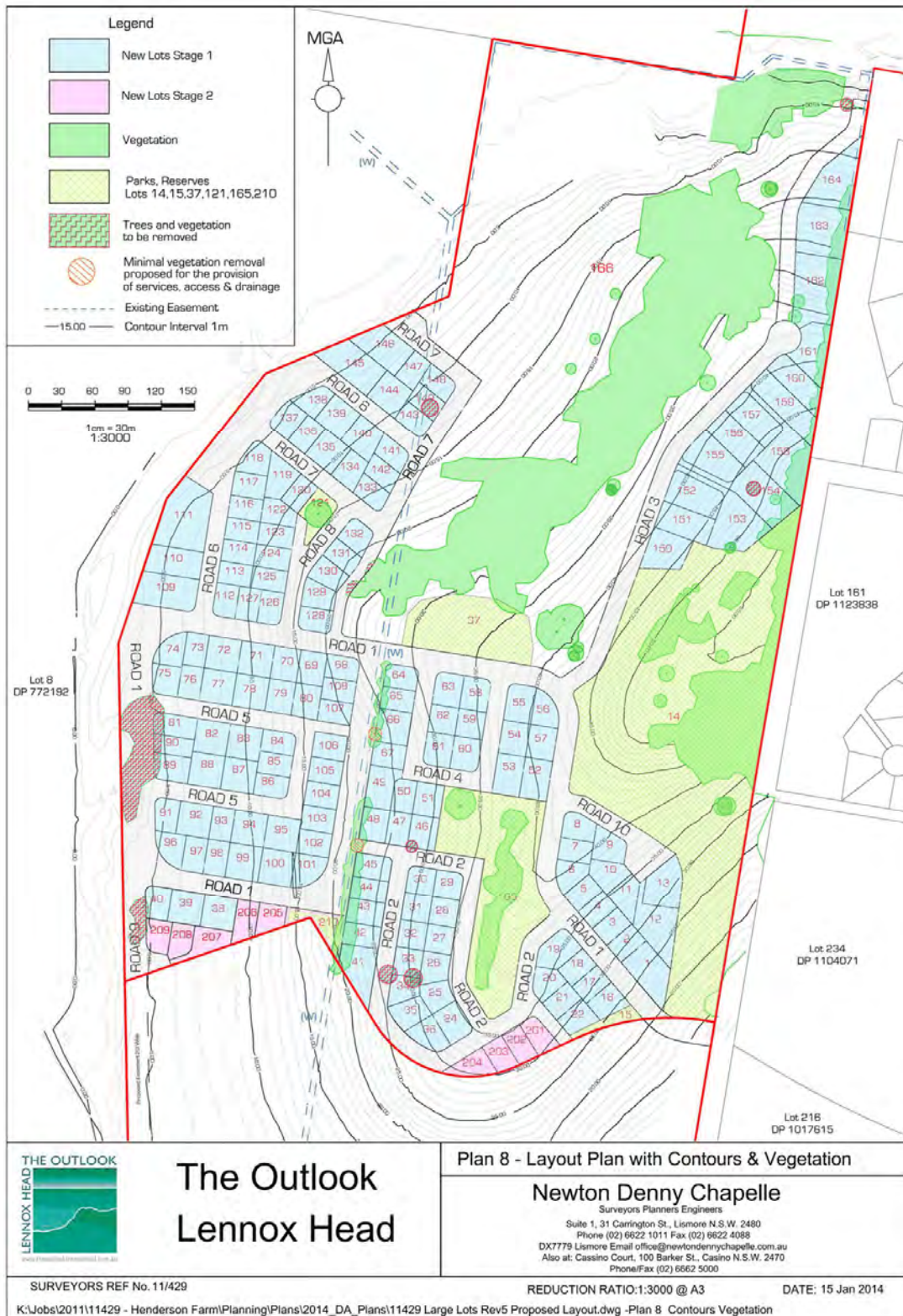
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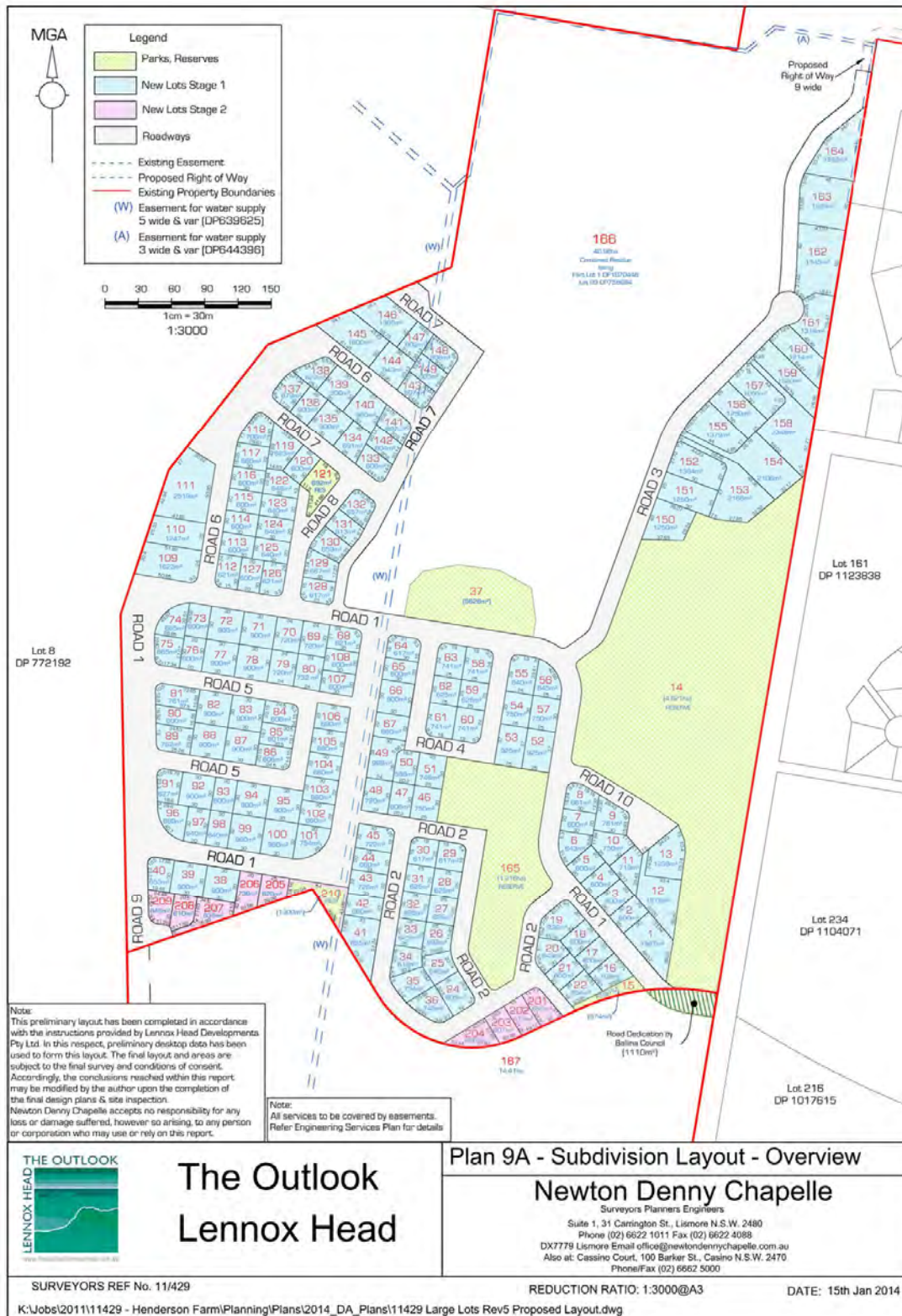
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4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



The Outlook
Lennox Head

Plan 9B - Subdivision Layout Detail - (south)

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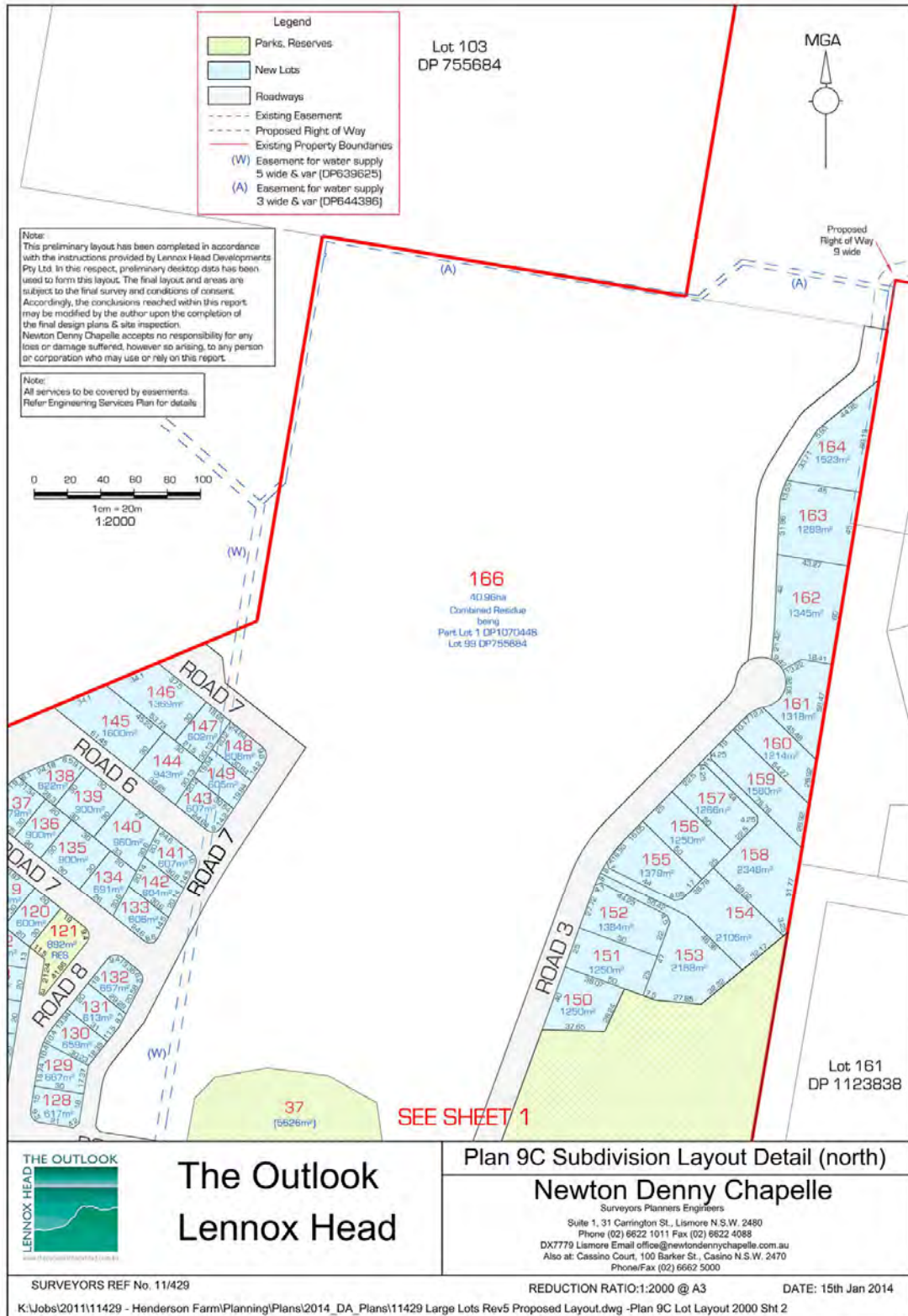
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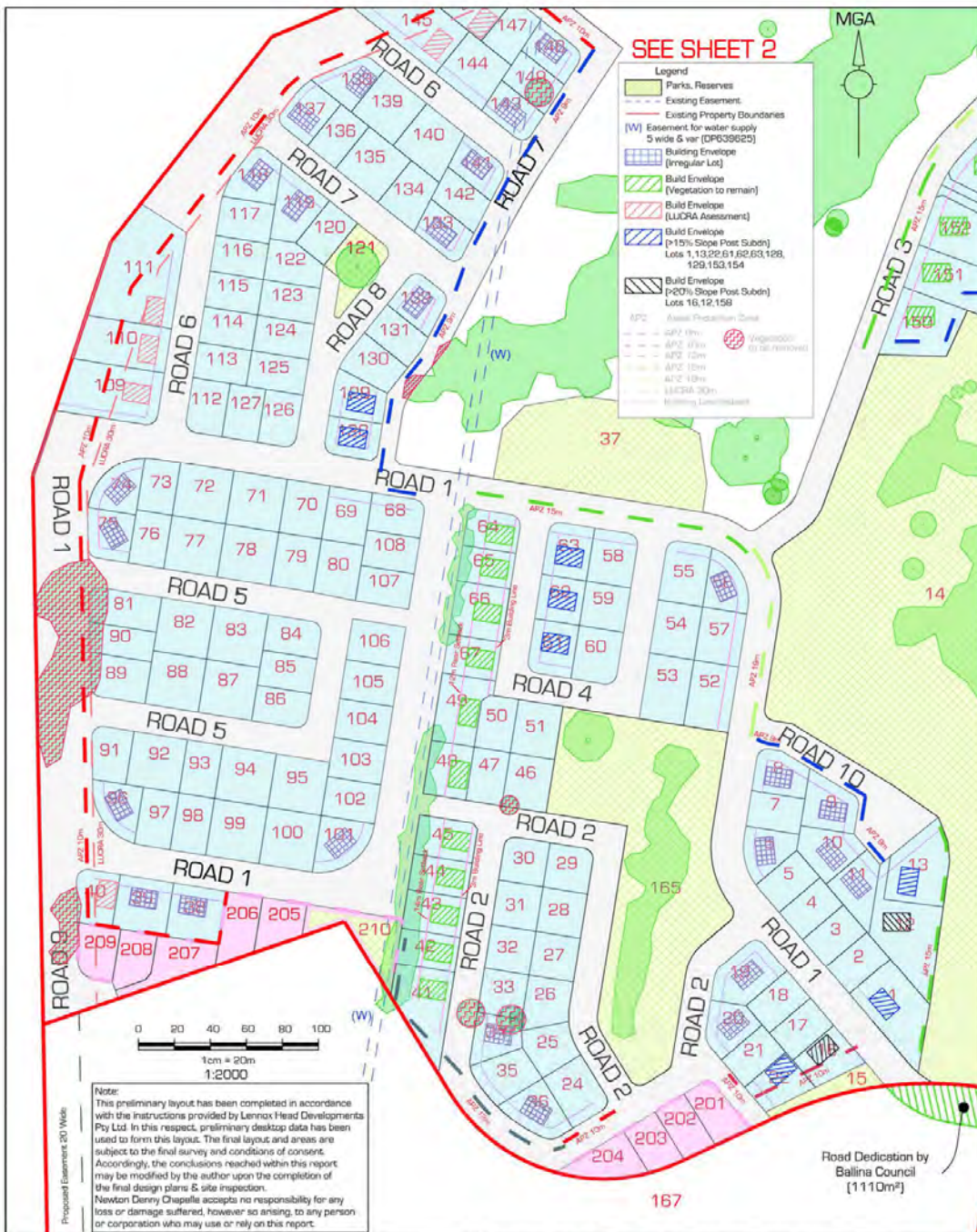
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4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



The Outlook
Lennox Head

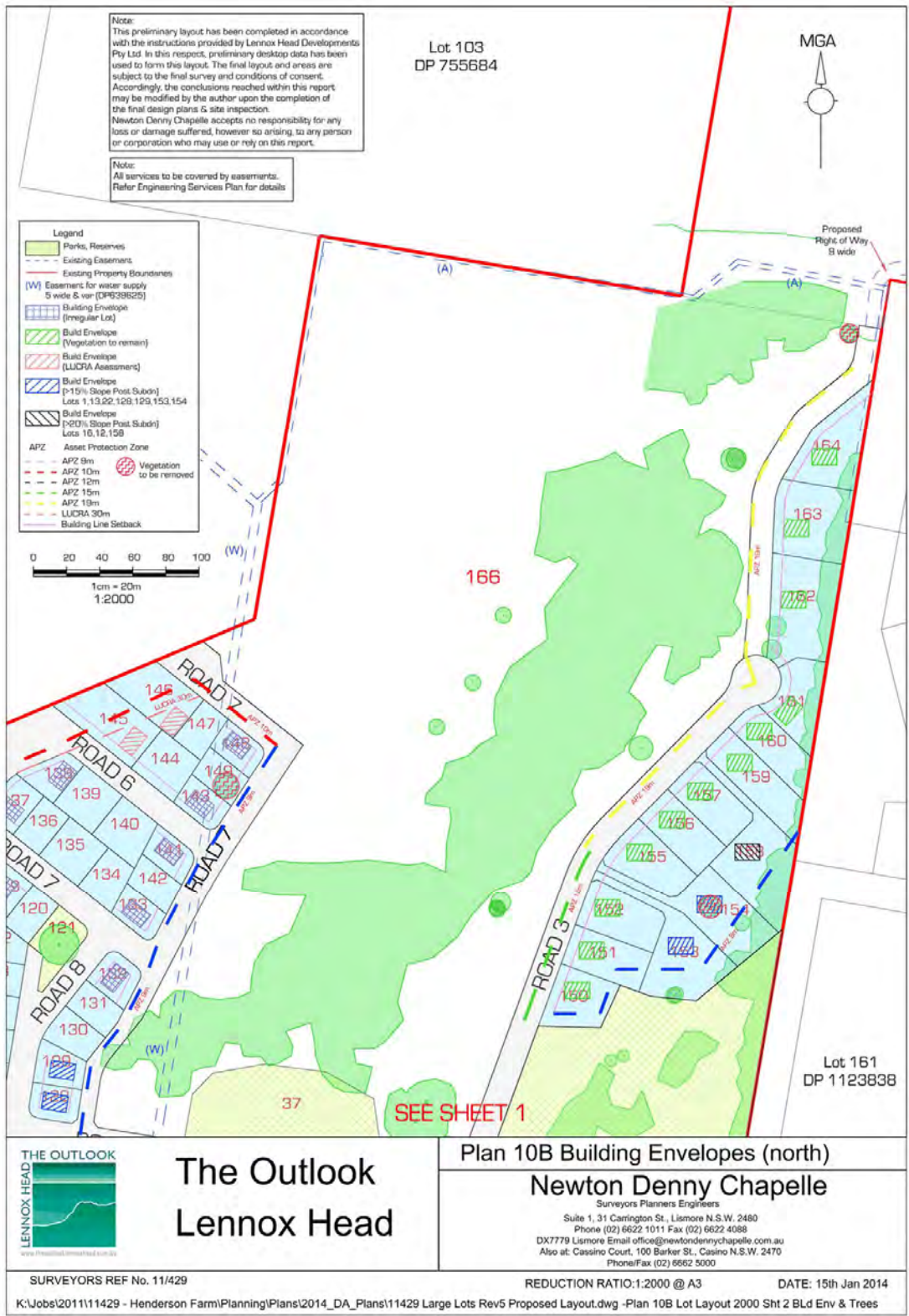
Plan 10A - Building Envelopes (south) Rev A

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4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



3.2.3 Subdivision Configuration

The subdivision configuration has been developed having regard to the topographic and environmental constraints applying to the land together with the applicable town planning and engineering design requirements.

The proposed residential allotments in the southern and central portions of the site generally range between 600m² and 900m². In addition there are a number of lots which are >1,200m² located on the eastern and western edges of the subdivision. The north eastern section is characterised by larger lots ranging from 1,250m² to 2,348m².

3.2.4 Vehicular Access

Vehicular access to "The Outlook" will be via the yet to be constructed road referred to as the Pacific Pines "western connection". Once constructed, the western connection will link "The Outlook" to Hutley Drive which is the major collector road in this part of Lennox Head. The application proposes a "deferred commencement" consent pending the construction of this road. That is, the consent will not commence until the road is built. Detailed discussion concerning the proposed "deferred commencement" consent is provided in **Section 2.1** and **Section 4.4.16** of this report.

3.2.5 Road Hierarchy & Pedestrian Network

The development road layout consists of ten (10) new roads being of a combined length of over 4km. The road layout is best described as a grid/ loop type footprint. Of these ten (10) roads, there are four (4) cul-de-sac's, one (1) collector road and with the remaining roads being local streets. Rear loaded driveway access will be used to service ten (10) lots due to constrained area's arising from the sites sloping ridgeline lands, fig tree retention areas and to minimise impacts upon heritage stone walls. A bushfire access trail (550m long) is also required and will be connected to The Coast Road.

The development's primary access will be via the 'western connection' from within the Pacific Pines Estate that links to Hutley Drive. To access the 'western connection', part road construction and land dedication is required over neighbouring Council's Lot 2 DP 1070446 to which landowner's approval has been secured.

The development will provide an internal pedestrian network via a single 1.2m wide concrete footpath on all internal roads. The major access road/minor collector (ie. Road No. 1) will have 1.2m wide concrete footpath on both sides. Road No. 1 is design to accommodate a bus route and a bus lay bay area is provided adjacent to the Active Park (Lot 37).

3.2.6 Bushfire Management

As the site is mapped as Bushfire Prone Land, the subdivision configuration has been developed in close consultation with Bushfire Certifiers Pty Ltd, with a copy of their Bushfire Threat Assessment Report provided at **Attachment 4**. The following aspects of the project are particularly relevant from a bushfire planning perspective am

A. Bushfire Access

A bushfire access track will be provided through the northern part of the subject land to provide emergency access for bushfire management purposes from the Coast Road. This track will be constructed to a basic operational standard and will be located on a Right of Way over the residue parcel (proposed Lot 166). As the track will not be a public road, it has been designed such that general vehicular access is not possible and pedestrian access is actively discouraged.

The alignment of the track has been developed to ensure compliance with Planning for Bushfire Protection 2006 (PBP) and minimise impacts on Hairy Joint Grass populations on the site.

The bushfire access track will connect to the Coast Road and will require creating an opening in the existing earth mound and landscape treatment along the western side of Coast Road. An Acoustic Impact Assessment regarding this opening has been completed by Tim Fitzroy & Associates and can be found at **Attachment 6**. This assessment advises that the mound in this location is approximately 0.88m high and goes on to conclude that the removal of the mound and associated vegetation will not increase the road traffic noise impacts on residents in Tallow Wood Place, Satinwood Place, The Grove and Greenfield Drive areas of Lennox Head.

B. Asset Protection Zones

Asset Protection zones will be established throughout the subdivision in accordance with PBP. These are illustrated on the NDC Plans 10A and 10B.

3.2.7 Earthworks

As the site involves undulating terrain with significant changes in elevation across the site, bulk earthworks are proposed to modify the landform to accommodate urban subdivision and subsequent construction of dwellings on the allotments. This arrangement is consistent with Council's preferred approach as advised in its letter dated 21 June 2013. As a result of the proposed earthworks works only 13 allotments have a slope greater than 15%. These are illustrated on NDC Plans 10A and 10B. The proposed earthworks are described in more detail in the Engineering Services Report provided at **Attachment 7**.

3.2.8 Open Space & Reserves

Stage 1 of The Outlook involves the embellishment and dedication of five parks and reserves. These are illustrated in detail in the Design Team Ink Landscape Plans provided within the Plan Set and described below:

- **Pine Tree Park** – Lot 165 is 1.216ha in size and is zoned for a combination of public recreation and residential purposes. The site is located in an elevated position along the ridge and contains the existing Norfolk Island Pines. This park is proposed to be embellished as a passive and informal open space area with some seating and picnic facilities.
- **Active Park** – Lot 37 is 5,626m² and is zoned for Environmental Protection Purposes. This park is the main open space area to service future residents and will include a variety of play equipment, toddler's bike path, seating, picnic areas and interpretive signage.
- **SEPP 26 Regeneration Area** – Lot 14 is 4.821 ha and is zoned for environmental protection purposes. As this reserve contains SEPP 26 Littoral Rainforest, the reserve is subject to a Bushland Regeneration Strategy and is not intended for active recreation purposes.
- **Small Passive Park** – Lot 121 is 892m² and contains a mature fig tree. This park will be an informal park area and will include facilities such as a picnic shelter and table setting.
- **Lot 15** is 574m² and provides drainage functions. Lot maintenance landscaping is proposed commensurate with the future function.

Several of the open space areas contain environmentally significant vegetation which require environmental restoration and buffering pursuant to the terms of the Voluntary Planning Agreement applying to the land. The proposed Environmental Restoration Plan for these areas is described in the Peter Parker & Associates report provided at **Attachment 3**.

3.2.9 Heritage Items

There are four Items of Environmental Heritage located on Lot 1 DP 1070446, namely 2 x dry stone walls, 1 x cluster of Norfolk Island Pines and 1 x Fig Tree. Each of these items have been incorporated into the development layout. Further description concerning the management of these areas is provided in **Section 4.4.2**.

3.3 Infrastructure & Servicing

The Engineering Services Report provided at **Attachment 7** provides a detailed description of the proposed infrastructure servicing of the development. In summary, the proposed approach involves the following:

- **Water** – The development proposal will have conventional looped water reticulation networks within the estate that follows the road network. Non-potable reuse water mains are also proposed to service the subdivision in accordance with Council Policy.
- **Sewer** – The development site is a ridgeline configuration which has 3 discrete catchment areas. The eastern catchment is able to be directed by gravity mains to the Lennox Head Trunk Sewer main which in turns discharges to SP3110. This gravity main is to be within the 'Western Connection' road corridor.

It is necessary to locate two (2) pump stations on the western side of the ridgeline. One to service the northern catchment (PS1 – 55 Lots) and one to service the southern catchment (PS2 – 88 Lots). Investigation into providing a gravity line to connect the two catchments concluded that sewer depth would be a key constraint. Should gravity servicing for this estate not be required by Council, use of positive

pressure systems would be an alternative which would enable the removal of Pump Station PS1. Depending upon extent of final levels/lot shaping along the western boundary of the estate, it is anticipated that some 28 allotments would require positive pressure systems.

- **Stormwater** – In order to achieve Ballina Shire Council's water quality and quantity objectives, a range of inter-connected detention and treatment measures are proposed. These include:
 - On-site detention incorporating "leaky" rainwater tanks, bio-retention swale and "in road" detention tanks;
 - Litter baskets on all inlet pits;
 - Gross pollutant traps);
 - Infiltration device for each driveway lot;
 - Swale; and
 - Sediment basins.
- **Electricity** – Preliminary consultation with Country Energy as to the capacity of the existing residential electrical reticulation provided within the Lennox Head locality has identified that Country Energy are aware of the expansion of the Pacific Pines/Hutley Drive residential corridor. Whilst no detailed planning specific to The Outlook has been undertaken by Country Energy, the local infrastructure is able to be readily expanded to accommodate growth.
- **Telecommunications** – Liaison with Telstra representatives has been on the basis that telecommunications are required to be provided by Telstra in accordance with the Universal Servicing Obligation and Digital Data Servicing Obligation requirements of the telecommunications regulations. That is, once a demand is approved, Telstra has an obligation to ensure the network makes due provision for servicing of the full development to the development sites boundary. Thereafter, the development is required to extend the services within the site to each tenancy/unit in the conventional manner.

3.4 Landscape Concept Plan

Design Team Ink has prepared a Landscape Concept Plan for the subdivision which is provided within the **Plan Set** for the project. The Landscape Plan seeks to achieve the following design objectives:

Environment

- Protect and enhance environmental and cultural heritage assets and provide opportunities for residents and visitors to interact with each other and with these assets in a way that facilitates learning and fosters custodianship.

Amenity and Character

- Provide an attractive entrance to the precinct that promotes the natural assets of the site.
- Retain the existing pine trees on the top of the hill as a landmark.
- The existing forest area will form a backdrop for residential areas and be a valuable recreational and visual resource.
- Retain and promote views to the ocean from roads, public and private areas.

Public Places

- Incorporate locally native trees into the road environment.
- Provide public recreation areas that cater for a variety of passive and active recreational and interpretative uses.
- Provide a clear and legible hierarchy of public spaces.
- Ensure passive surveillance opportunities are provided to, and within, all public areas.
- Develop a palette of plants and furnishings that reflect the distinctive qualities of the three character zones.

Access and Permeability

- Parks and open spaces shall be connected via pedestrian pathways which provide convenient and safe access.

Statutory & Policy Planning Assessment

Section 4

Section 4 documents the range of planning controls and policies adopted by Council or other authority applicable to the development as outlined within Section 3 of this report within the meaning of Section 79C(i)(a).

Assessment of the proposal will be in accordance with the relevant Plans and Policy outlined below.

4.1 Local Environmental Plans

The following Local Environmental Plans apply to the subject land:

- **Ballina Local Environmental Plan 2012** applies to the areas of the site identified as being suitable for urban purposes via the rezoning process. This plan also applies to rural zoned land adjacent to "The Grove"; and
- **Ballina Local Environmental Plan 1987** applies to the portions of the site identified through the rezoning process as being suitable for an environmental protection zone.

Discussion regarding the application of these two documents to the current subdivision application is provided below.

4.2 Ballina Local Environmental Plan 2012

4.2.1 Zoning & Planning Permissibility

Plate 1 illustrates the zoning framework applied to the land via Ballina Local Environmental Plan 2012.

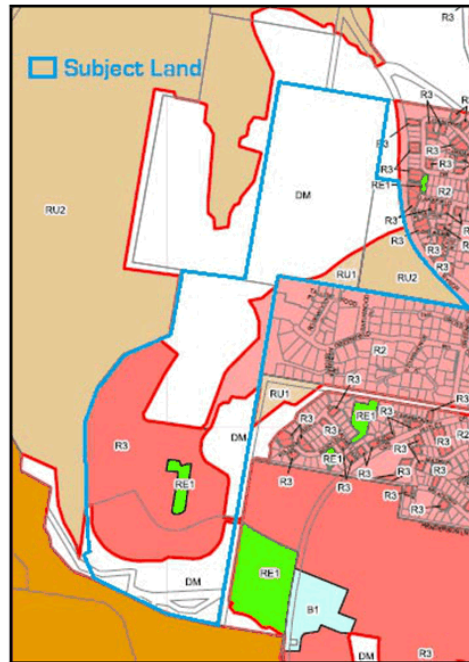


Plate 1: Extract BLEP 2012 Zoning Map.

As illustrated above, the portions of the site proposed for residential subdivision contain a combination of R2 Low Density Residential, R3 Medium Density Residential and RE1 Public Recreation zones. The property also contains areas zones RU1 Primary Production and RU2 Rural Landscape. Table 4.1 illustrates the areas subject to the different zoning.

Table 4.1 - BLEP 2012 Zoning

Zone	Area (Approx)
R2 Low Density Residential	3.37ha
R3 Medium Density Residential	19.34ha
RE1 Public Recreation	0.9ha
RU1 Primary Production	1.23ha
RU2 Rural Landscape	5.68ha

The planning objectives for each of these zones, together with the proposal's response, are provided below.

R2 Low Density Residential Zone

R2 Low Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

Comment: Approximately 3.37ha of the site is zoned R2 Low Density Residential. This portion of the site is proposed to be subdivided into 15 larger residential lots with areas ranging from 1,250m² to 2,348m². This arrangement will provide for an urban form similar in scale and density to the adjoining Greenfield Drive residential area. Within this zone, detached dwelling houses (and secondary dwellings) are the anticipated residential land uses.

R3 Medium Density Residential Zone

Zone R3 Medium Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide development that is compatible with the character and amenity of the surrounding neighbourhood.*
- *To encourage housing and infrastructure that supports the ageing population.*
- *To provide for development that meets the social and cultural needs of the community.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

Comment: Approximately 19.34ha of the site is zoned for Medium Density Residential Purposes and is subject to a minimum lot size of 600m². The current application proposes the subdivision of this area into 149 residential

lots ranging in size from 600m² to 2,519m². Whilst it is envisaged that a majority of these allotments will be developed for detached dwellings, Council's Development Control Plan enables the theoretical development of each allotment at the density of 1 dwelling/250m² subject to compliance with relevant design standards. As such, it is expected that a proportion of the estate will be developed for dual occupancy (and possibly town house) developments.

Accordingly, the proposed subdivision will meet the LEP objectives of providing for a range of housing types to service the local population. The proposed subdivision density is also consistent with that envisaged on the portion of the Pacific Pines Estate located immediately to the east of the site, together with that within the nearby Lennox Meadows. The planning framework for the locality envisages local retail and commercial facilities in the Pacific Pines Estate, and accordingly no provision has been made for such services within the current application.

RE1 Public Recreation Zone

Zone RE1 Public Recreation

1 Objectives of zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To provide for a diversity of development that meets the social and cultural needs of the community.*
- *To provide for public access to open space and natural recreation areas.*
- *To protect and conserve landscapes in environmentally sensitive areas, particularly in foreshore and visually prominent locations.*
- *To provide for development that is consistent with any applicable plan of management.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*

Comment: The portion of the site zoned RE1 Public Recreation is primarily proposed to be embellished and dedicated to Ballina Shire Council for a public park. This proposal is directly compatible with the planning objectives for the zone. We note that some small components of the RE1 zone contain part of Road 2. Roads are permissible with consent in the RE1 zone. We note also that the zoned area equates to approximately 9,030m², whilst the total size of the

proposed park in this location is 1.212ha. As such, the objectives of the zone are considered to have been adequately met.

RU1 Rural Primary Protection & RU2 Rural Landscape

Zone RU1 Primary Production

1 Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To maintain the rural, cultural and landscape character of the locality.*
- *To enable development that is compatible with the rural and environmental nature of the land.*
- *To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

RU2 Rural Landscape

Zone RU2 Rural Landscape

1 Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To enable small-scale tourist-orientated development that is compatible with the rural nature of the land.*
- *To encourage development that involves restoration or enhancement (or both) of the natural environment if consistent with the production and landscape character of the land.*
- *To enable development that does not adversely impact on the natural environment, including habitat and waterways.*
- *To ensure that there is not unreasonable or uneconomic demands (or both) for the provision of public infrastructure.*

Comment: The rural zoned land contained on Lot 99 DP 755684 and Lot 1 DP 829277 is included within the application as it is necessary for a bushfire track to traverse this portion of the site to comply with RFS requirements. No other

development is proposed on this portion of the site. Roads are permissible within both the RU1 and RU2 zones and the provision of the fire trail is not expected to adversely impact on the ongoing capacity of the site to be utilised for grazing.

4.2.2 General Provisions

Clauses 2.6 and 4.1 - Subdivision Consent Requirements

Clause 2.6(1) of BLEP 2012 requires that development consent be received for the subdivision of land, whilst Clause 4.1 and the associated Lot Size Map nominates the minimum lot sizes to be created on the various parts of the site.

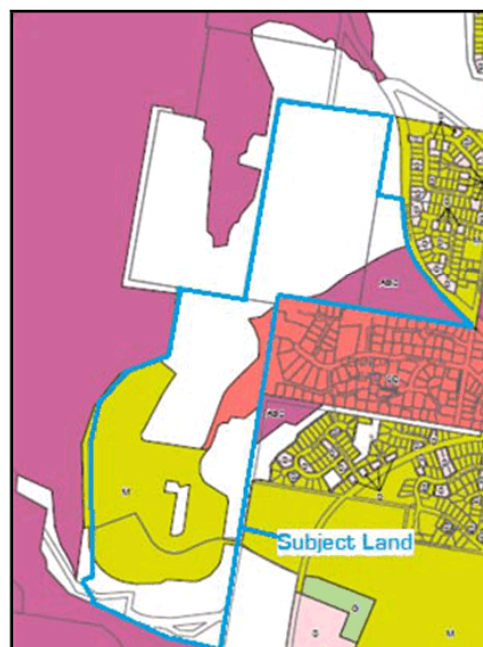


Plate 2: Extract of Ballina LEP 2012 Lot Size Map showing subject land.

Comment: The minimum lot sizes permitted the portions of the site subject to the provisions of the BLEP 21012 varies across the site. **Table 4.2** illustrates the proposed subdivision's compliance with these standards.

Table 4.2 – BLEP 2012 Subdivision Standards

Area	Min. Lot Size	Comment
M	600m ²	As part of Stage 1, 144 residential lots are proposed within Area M. Each of these lots complies with the 600m ² minimum lot size.
U2	1,200m ²	15 residential lots are proposed within this area. Each of these lots is compliant with the 1,200m ² minimum lot size.
AB2	40ha	The proposed residue lot [#166] is 40.96ha in size and is compliant with the nominated 40ha minimum lot size.

Clause 5.5 – Development within the Coastal Zone

Comment: The subject site is located within 1km of the coast and is therefore located within the coastal zone and subject to the NSW Coastal Policy. The following comments are made with respect to the provisions of Clause 5.5

2(a) Foreshore Access – The subject site does not have direct access to the coastal foreshore and, as such, the application does not provide opportunities for improved pedestrian access to the foreshore area.

2(b) Relationship to Surrounding Area – The proposed subdivision is of a density and scale compatible with the existing and approved urban subdivisions to the east of the development site.

2(c) Impact on Amenity of Foreshore – The subject site is removed from the foreshore area and the development of the land as proposed will not adversely impact on the amenity of the foreshore area.

2(d) Visual Amenity and Scenic Qualities – The site is removed from the coastal foreshore and will not have a direct impact on the visual amenity of the coast line. The proposed public park in the centre of the development is located on a ridge and contains a number of mature trees. This will contribute positively to the scenic character of the area.

2(e) Conservation of Biodiversity and Ecosystems – The zoning framework over the land provides for the retention of the core habitat areas. These areas are proposed to be subject to environmental restoration and enhancement via the commitments reached in the Voluntary Planning Agreement. The Flora and Fauna Assessment for the project concludes that *“there would be no significant effect on threatened species, populations, or ecological communities or their habitats”*.

2(f) Cumulative Impact – As outlined in **Section 2.1**, Council's strategic planning for the locality has envisaged that the subject site will be developed for urban purposes. The cumulative impact of the long-term expansion of Lennox Head (including the subject site) was considered as part of these processes.

3 (a) Foreshore Access – Refer comments above.

3 (b) Effluent Disposal – The application involves connection to Council's reticulated sewerage system and no untreated effluent will be discharged into the environment.

3(c) Disposal of Stormwater – The application proposes an integrated approach to the disposal of stormwater, with the proposed approach compliant with Council's DCP targets. No untreated stormwater will be discharged into the environment.

3(d) Coastal Hazards – The site is removed from the immediate coastline and is not subject to Coastal Hazards.

Clause 5.9 – Preservation of Trees or Vegetation

This clause specifies that development consent must be obtained for the removal of trees and vegetation as nominated in Council's Development Control Plan.

Comment: **Plan 4** illustrates the vegetation to be removed to facilitate the subdivision. Discussion regarding this aspect of the application is provided in **Section 4.4.15** of this report.

Clause 5.10 – Heritage Conservation

Clause 5.10 (2) (f) specifies that development consent is required to subdivide land which contains an item of environmental heritage.

Comment: The subject land contains three items of environmental heritage and one archaeological item. A discussion concerning each item and the expected impacts on these items is provided below:

A. Local Item 165: Fig tree (planted by Ted Henderson in 1947 on former "Henderson Farm")

Comment: This fig tree is to be retained within proposed Lot 166 which is the 40.96ha residue lot. No works are proposed within the nominated Tree Protection Zone (TPZ) of this tree. Accordingly, no adverse impacts are expected.

B. Local Item 166: Norfolk Island Pines

Comment: These trees are located within the portion of the site zoned R1 Public Recreation. This area is to be embellished for the purpose of a public park, with the Norfolk Island Pines retained as key landscape features. Accordingly, no adverse impacts are expected.

C. Local Item 167: Dry Stone Walls (walls known as "wall a" and "wall b" on former "Henderson Farm")

Comment: The Davies Heritage Consultant report (refer **Attachment 5**) advises that the subject walls were constructed in the late 1800's to early 1900's by Edward Henderson, with possible help from Indian labourers. The walls mark the location of the original property boundaries in this location.

Wall A has a length of approximately 306m and runs in a north/south direction in the central portion of Lot 1 DP 1070446. The wall adjoins the western littoral rainforest community and extends to the southern property boundary with Lot 2 DP 1070446.

This wall will be retained along its existing alignment and will straddle the western property boundary to Lots 41-45, 46, 49 & 64-67. In this regard, the eastern portion of the wall will be located on the above allotments, each of which will be subject to an 88B Instrument relating to the protection of the wall. The western portion of the wall will be in the Council road reserve. A significant majority of existing trees along the wall alignment will be retained, with building envelopes established to protect this vegetation.

Two openings are proposed in the wall for access and drainage purposes. Minimal tree removal will occur to facilitate these openings.

The openings are considered both necessary and reasonable for the following reasons:

- a) The wall alignment is such that it creates a physical barrier between the eastern and western portions of the site. Wall openings are necessary to provide vehicular and pedestrian connectivity within the subdivision.
- b) The rezoning process identified that the vegetation community

located to the north of the rock wall needed to be retained and protected. Accordingly, it is not desirable to provide east-west road linkages in this location.

- c) The indicative subdivision plans considered through the rezoning process proposed at least one east-west road linkage and up to two pedestrian pathways.
- d) Approximately 285m of the stone wall will remain intact, which represent approximately 93% of its total length. The visual and physical link to the historic property boundary will therefore remain in place.
- e) The existing wall is lined by a stand of native trees (including Guioa, Tuckeroo, Rosewood and Red cedar), the majority of which are proposed to be retained. This will be achieved via the application of rear building lines to the subject lots as illustrated on NDC Plan 10A.
- f) Prior to the issue of a Construction Certificate, a conservation plan for the portion of the wall to be retained is to be prepared by an appropriately qualified person. This plan will include recommendations for restoration and preservation as well as appropriate treatments of the openings through the wall.
- g) Any stones removed to facilitate the construction infrastructure or the openings referred to above will be re-used on site, either in the restoration of the portion of wall to be retained or, alternatively, in landscaping of public land within the development.

Wall B is located along part of the north east boundary of Lot 1 DP 1070446 and has a length of 235m. This wall is proposed to be retained on its current alignment & will form part of the rear boundary fencing to proposed Lots 158-164.

- D. Archaeological Item A4 - Historic "Henderson Farm" items/features (including historic tree plantings - bunya pines, circle of stones, half circle of stones, well site, location of farm buildings and ruts) located on Lot 2 DP 1070446

Comment: Lot 2 DP 1070446 is included within the development application as it is proposed to provide a drainage easement along the western boundary of the allotment and dedicate a small portion

[approximately 1,110m²] of the property for road access purposes. As illustrated on **Plan 2**, both the proposed easement and road dedication are located clear of the listed archaeological site and no adverse impacts are expected.

In addition to the above, we note that the Voluntary Planning Agreement (VPA) binds the proponent to undertake archival recording of several heritage items that do not warrant preservation, but that may add to the historic record of the locality. This recording will occur in accordance with the commitments reached within the VPA.

Clause 7.1 – Acid Sulfate Soils

As illustrated in **Plate 3**, the lower portions of the site are mapped as Class 2 Acid Sulfate Soils, whilst the “transition area” between the elevated and lowlands is identified as Class 5 ASS.

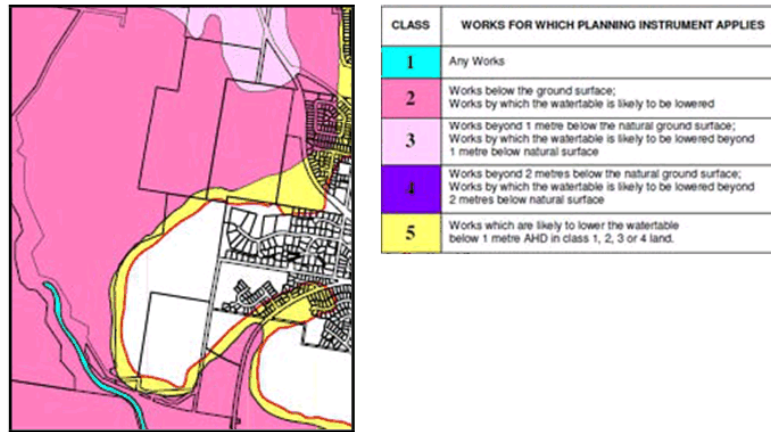


Plate 3: Extract of Ballina LEP 2012 Acid Sulfate Soils Map.

Comment: The development proposal incorporates only minimal earthworks for drainage channel, pump station wells and stormwater outlet lines at levels that maybe below RL1.0m AHD, with the majority of site works predominately above RL3.0m AHD.

The subdivision is expected to have minimal disturbance upon acid sulfate soils given the infrastructure works are not excessively deep. The exception is for the

sewer pump stations which may extend down to RL-2m AHD. Accordingly, a preliminary Acid Sulfate Management Plan has been prepared to address the likely works anticipated in accordance with Design Control (a) requirements and is provided as an appendix to the Engineering Services Report.

Clause 7.2 – Earthworks

Clause 7.2 requires development consent be obtained for earthworks not classified as exempt development and establishes certain assessment criteria relating to such activities.

Comment: Discussion with Council's Subdivision Panel as to the extent of re-contouring of the landform given the sloping nature of the site, identified a planning preference for undertaking more significant works during the subdivision phase (as opposed to landowner modification post subdivision) as greater control of earthworks compaction and the integration of retaining walls between allotments is possible. Details with respect to the proposed earthworks are provided within the Engineering Services Report,

Clause 7.7 – Essential Services

Clause 7.7 of BLEP 2012 requires that development be supplied with adequate and appropriate levels of infrastructure servicing.

Comment: As outlined in the Engineering Services Report provided at **Attachment 7**, each lot in the proposed subdivision is proposed to be connected to reticulated urban infrastructure in accordance with Council's requirements.

Clause 7.8 – Strategic Urban Growth Areas

As illustrated in **Plate 4**, portions of the site are identified on the Strategic Urban Growth Areas Map as being either within a Strategic Urban Growth Area or within a buffer there-to.

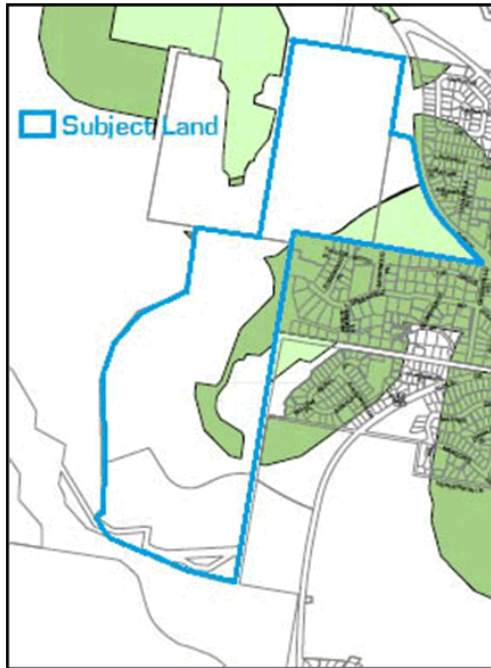


Plate 4: Extract Ballina LCP 2102 Strategic Urban Growth Area Map

The provisions of Clause 7.8 advise as follows:

Development consent must not be granted to development on land identified in subclause (2) (a) unless the consent authority has considered whether the development may preclude future urban or employment land uses on the land having regard to:

- (a) the orderly and coordinated provision of infrastructure, and*
- (b) the maintenance of amenity and scenic values, and*
- (c) land use conflict impacts associated with stormwater or wastewater discharge and emissions, including noise, dust and odour, and*
- (d) site access, generation of traffic and the efficient functioning of transport infrastructure*

In this instance, the development of the site has been the subject of extensive consideration via the rezoning process. The proposed residential subdivision has been designed having regard to infrastructure delivery, maintenance of amenity and scenic values, land use conflict issues and traffic and engineering matters.

With respect to the dark green areas nominated on the plan, these are located in proximity to land currently zoned for urban investigation purposes pursuant to the BLEP 1987. We noted that these areas were all nominated for an environmental protection zoning via the draft Standard Instrument LEP and accordingly exhibit qualities which indicate that they are unlikely to be developed for urban purposes in the future.

The light green areas illustrated on the northern section of the property were deferred from the rezoning of the broader parcel of land due to the existence of Hairy Joint Grass. The proposed subdivision currently before Council provides for a bushfire access track through this land. Should the land be rezoned for residential purposes in the future, the alignment of the fire access will be able to be reviewed and incorporated into a future subdivision layout.

Clause 7.10 – Stormwater Management Systems

Clause 7.10 provides that development for the purpose of a Stormwater Management System is permitted with development consent on any land. The clause utilises the definition of Stormwater Management System as contained within Clause 110 of SEPP Infrastructure. This definition is reproduced below:

stormwater management system means:

- (a) works for the collection, detention, distribution or discharge of stormwater (such as channels, aqueducts, pipes, drainage works, embankments, detention basins and pumping stations), and*
- (b) stormwater quality control devices (such as waste entrapment facilities, artificial wetlands, sediment ponds and riparian management), and*
- (c) stormwater reuse schemes.*

The current application proposes the installation of a stormwater management system on Lot 2 DP 1070446. A detailed description of the proposed system is provided within the Engineering Services Report contained at **Attachment 7**.

4.3 Ballina Local Environmental Plan 1987

Plate 5 illustrates the zoning framework applied to the land via Ballina Local Environmental Plan 1987.

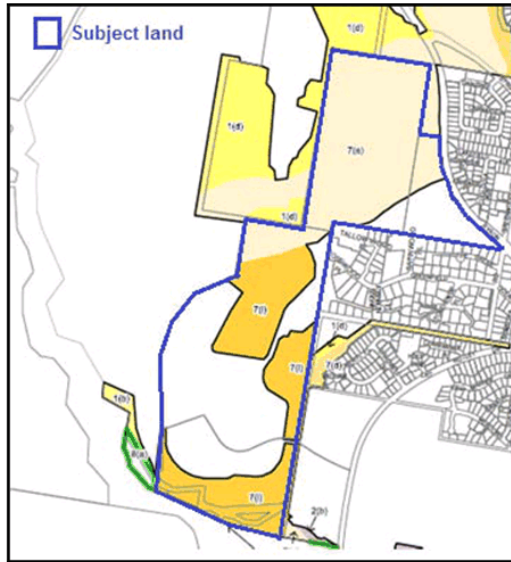


Plate 5: Zoning Framework Ballina LEP 1987.

As illustrated above, the subject site includes areas subject to the following zones pursuant to Ballina Local Environmental Plan 1987:

- 7(l) Environmental Protection (Habitat) Zone;
- 7(a) Environmental Protection Wetlands Zone; and
- Rural 1(d) Urban Investigation Zone.

The planning objectives for these zones and the proposal's response are provided below:

7(a) Environmental Protection (Wetlands) Zone Objectives

A The primary objectives are:

- (a) to protect and conserve significant wetlands, and
- (b) to prohibit development which could destroy or damage a wetland ecosystem.

B The exception to these objectives is development of public works and services, outside the parameters specified in the primary objectives, only in cases of demonstrated and overriding public need and subject to the impact on wetland ecosystem being minimised as much as is reasonably practical.

Comment: The portion of the site zoned 7(a) Environmental Protection Wetlands zone is largely removed and therefore not impacted by the current

proposal. The exception to this is the provision of a fire trail through a small portion of the 7(a) land. Roads are permitted with development consent within the 7(a) zone. Given the Lot configuration and topography, there are no alternate feasible options to locate this important infrastructure. An assessment with respect to the environmental impact of this portion of road is provided within the assessment completed by Peter Parker & Associates and provided at **Attachment 3**.

7 (l) Environmental Protection (Habitat) Zone

- A The primary objective is to protect areas of particular habitat significance.*
- B The secondary objective is to enable development of a similar nature to that intended as being the primary and secondary objectives of Zone No. 1 (b), except for development which would conflict with the primary objective of this zone.*
- C The exception to these objectives is development of public works and services, outside the parameters of the primary and secondary objectives, but only in cases of demonstrated and overriding public need and subject to the impact on the habitat area being minimised as much as is reasonably practical.*

Comment: The following aspects of the development application are proposed within the 7(l) zone.

- **Public Reserves (Proposed Lots 14 & 37)** – Two areas are proposed to be dedicated to Council as public reserves. Details with respect to the proposed Environmental Restoration Plan for these areas are provided within the Peter Parker & Associates assessment contained at **Attachment 3**. The proposed restoration and dedication are considered to be directly consistent with the 7(l) zone objectives.
- **Stormwater Infrastructure (Southern Precinct)** – The proposed stormwater swale and pipe to be contained within the easement over Lot 2 DP 1070446 will be located, in part, on land zoned 7(l). With respect to permissibility, “utility installations” are permissible with development consent in the zone.

“Utility installations” are defined within the Model Provisions (as adopted by BLEP 1987) as follows:

“Utility Installations means a building or work used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premise or as a showroom.

A "Public Utility Undertaking" is defined within the Model Provisions as follows:

"Public Utility Undertaking means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

(a) railway, road transport, water transport, air transport, wharf or river undertakings,

(b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking shall be construed as including a reference to a council, county council, Government Department, corporation, firm or authority carrying on the undertaking".

In this instance, the proposed stormwater infrastructure will be constructed on land owned by Ballina Shire Council and will ultimately form part of the Council's public stormwater drainage network. As such, the works can reasonably be considered to be a public utility undertaking and is therefore permissible with consent in the zone.

- **Stormwater Infrastructure (Northern Precinct)**

The stormwater management plan for the northern (large lot) precinct involves stormwater from the road network being discharged onto the residue lot (Lot 166).

The Ecological Assessment contained at **Attachment 3** provides detailed consideration of the ecological characteristics of the site and concludes that there "would be no significant impact on threatened species, populations or ecological communities or their habitats" as the result of the development.

Zone No. 1 (d) Rural (Urban Investigation) Zone

1 Objectives of Zone

A The primary objectives are:

(a) to identify land which may be needed in the future and will be thoroughly investigated with respect to its suitability or otherwise for urban land uses and the environmental consequences associated with the land's release for urban purposes,

(b) to regulate the subdivision and use of land so as to prohibit development which could prejudice the possible future release of land within this zone for urban purposes, and

(c) to ensure that the release of land for urban purposes, by rezoning, shall not take place unless:

- (i) urban structure planning has been completed by the council,*
- (ii) the council reviews urban suitability investigations for individual planning units, and detailed land use allocations for each planning unit have been determined by the council,*
- (iii) sufficient demand exists for the release of urban land, and*
- (iv) appropriate urban infrastructure and facilities are available to the land or can be provided to the land in a manner which does not create an unreasonable or uneconomic demand, or both, for the provision or extension of such services.*

B The secondary objective is to regulate the subdivision and use of land to permit development for agriculture and a range of other purposes complementary to the prime objectives, particularly tourist facilities, recreation establishments and recreation facilities, subject to these developments:

- (a) maintaining the semi-rural character of the locality,*
- (b) by their nature being compatible with the possible urban development, particularly residential uses, of the land in the locality, in the future, and*
- (c) not creating unreasonable and uneconomic demands, or both, for the provision or extension of public amenities or services.*

C The exception to these objectives are development of land within the zone for public works and services, outside the parameters specified in the primary and secondary objectives.

Comment: The areas zoned 1(d) had been proposed for an environmental protection zoning via the rezoning process for the site. No areas currently zoned Rural 1(d) are impacted by the current subdivision proposal.

4.3.1 General Provisions

Clause 10 – Subdivision of Land Generally

Except as otherwise provided in this plan, a person may not subdivide land to which this plan applies except with development consent.

Comment: The proposed urban subdivision is predominately located free of land subject to the provisions of the BLEP 1987. However, 3 allotments proposed within the subdivision involve land subject to the subdivision provisions of BLEP 1987. Further information regarding these allotments and compliance with BLEP 1987 is provided below.

Clause 11 – Subdivision of Land within Zone No. 1(a1), 1(a2), 1(b), 1(d), 1(e), 7(a), 7(c), 7(d), 7(d1), 7(f), 7(i) or 7(l)

Comment: Table 4.3 provides information with respect the three allotments subject to the subdivision provisions of the BLEP 1987. Each of these allotments are subject to a 40 hectare minimum lot size pursuant to the provisions of BLEP 1987.

Table 4.3 – BLEP 1987 Minimum Lot Sizes

Proposed Lot	Comment
Lot 166	Lot 166 is the proposed residue parcel and has a total area of 40.96ha. As such, it complies with the minimum lot size specified within BLEP 1987.
Lot 14	This allotment will have an area of 4.821ha and is proposed to be dedicated to Council for the purpose of a public reserve. As the allotment does not comply with the 40ha minimum lot size, a SEPP 1 objection to the application of the development standard is provided at Attachment 8 . This objection provides a detailed rationale as to the reasons why the application of the development standard is unreasonable in this instance.
Lot 37	This allotment will have an area of 5,626m ² and is proposed to be dedicated to Council for the purpose of a public reserve. A SEPP 1 objection to the application of the subdivision standard in this instance is also provided in Attachment 8 .
Lot 167	Lot 167 will be a residue allotment following the dedication of the small portion of Lot 2 DP 1070446 for road access purposes. Whilst the portion of the site to be dedicated is located within the R3 Residential Zone pursuant to the BLEP 2012, the allotment as a whole includes land subject to the 7(l) Habitat Zone and associated 40 hectare minimum lot size pursuant to BLEP 1987. Following land dedication, Lot 167 will have an area of 14.41ha. Accordingly, a SEPP 1 objection has been provided with respect to the creation of this lot.

Clause 18 – Items of Environmental Heritage

Comment: As a result of Amendment No. 103 to the Ballina LEP there are listed items of environmental heritage, as described in Schedule 1 of the Ballina LEP. The proposed subdivision configuration has been developed to retain all of these Items. Further discussion regarding this aspect of the proposal is contained in Section 4.2.2.

Clause 23 – Development within Zone No. 1(d), 7(c), 7(d), 7(d1), 7(f), 7(i) or 7(l)

Comment: This application proposes a limited range of works within land zoned 7(l) for the purpose of restoring and embellishing the proposed public reserves to be dedicated to Council. Consent is sought for these works as part of the current application.

Clause 24 – Development within Zone No. 7(a)

Comment: The proposed bushfire track traverses land zoned 7(a). Given the configuration of the subject land, no feasible alternatives are available for the route of the track. The Ecological Assessment contained within **Attachment 3** provides an assessment with respect to the likely impacts of this track. In summary, the assessment supports the conclusion that the proposed track is

unlikely to adversely impact on the flora and fauna found in the wetlands nor have a significant impact on the water table.

Clause 26 – Development within Zone No. 7(l)

Comment: As advised above, the application involves the provision of public reserves and stormwater infrastructure within the 7(l) zone. The Ecological Assessment and Environmental Restoration Plan provided at **Attachment 3** provide a full assessment of the likely effects of the works.

With respect to the proposed public reserves, these areas will be subject to an environmental restoration and management plans with the intent of embellishing and enhancing the environmental qualities of these locations prior to dedication to Council. As such the proposed subdivision is expected to result in environmental benefits in these areas.

The proposed drainage works for the southern precinct are considered in detail within the reports prepared by Peter Parker & Associates.

Clause 36 – Development on Land Identified on Acid Sulfate Soils Planning Maps

As outlined in Section 4.2.2, parts of the site are classified and containing Class 2 and Class 5 Acid Sulfate Soils. Information with respect to the management of these areas is provided in the Engineering Services Report contained in **Attachment 7**.

4.4 Ballina Development Control Plan 2012

4.4.1 Introduction

Ballina Development Control Plan 2012 applies to the subject land. The elements of the DCP of particular relevance to the current application are as follows:

- **Chapter 2 – General and Environmental Considerations**
 - Section 3.1 Land Use Conflict
 - Section 3.2 Ridgelines and Scenic Areas
 - Section 3.3 Natural Areas and Habitat

Section 3.4	Potentially Contaminated Land
Section 3.5	Land Slip/Geotechnical Hazard
Section 3.6	Mosquito Management
Section 3.7	Waste Management
Section 3.9	Stormwater Management
Section 3.10	Sediment & Erosion Control
Section 3.11	Provision of Services
Section 3.12	Heritage
Section 3.18	Protection of Foreshores and Public Open Space Areas
Section 3.21	Bushfire Management

- **Chapter 2a – Vegetation Management**
- **Chapter 3 – Urban Subdivision**
 - Section 3.1 Minor Subdivision Controls
 - Section 3.2 Major Subdivision Provisions

An assessment against the relevant sections of the DCP is provided below. This assessment has been structured such that the overarching DCP requirements are considered first, with the more detailed DCP provisions following.

4.4.2 Chapter 2, Section 3.1 – Land Use Conflict

Comment: A Land Use Conflict Risk Assessment (LUCRA) is provided at **Attachment 9**. In summary, this assessment concludes that a 30m buffer to the adjoining low intensity grazing activity is appropriate given the circumstances of the case.

4.4.3 Chapter 2, Section 3.2 – Ridgelines & Scenic Areas

Comment: The rezoning of the subject land provided for the visually prominent portion of the ridgeline (including the Norfolk Island Pines) to be contained within a public park. As such, the key visual qualities of the ridge will be retained as the surrounding residential area develops.

4.4.4 Chapter 2, Section 3.3 – Natural Areas & Habitat

Comment: The environmental qualities of the site was subject to detailed consideration via the rezoning process. During this process, core habitat areas were allocated an environmental protection zoning. Furthermore, the Voluntary Planning Agreement (VBA) commits the landowners to various outcomes relating to the restoration of these areas. The development application is consistent with these commitments.

The Flora & Fauna Assessment and Environmental Rehabilitation Plan prepared by Peter Parker Environmental Consultants Pty Ltd provides an assessment of the impacts of the development on the ecological values of the area. The conclusions of this assessment are summarised below:

"Vegetation has been mapped in four communities: littoral rainforest, forest to open woodland, sedgeland and grassland..."

The vulnerable plant, white laceflower, was recorded in the littoral rainforest and as an isolated tree within the grassland. Hairy joint grass was recorded in the grassland and sedgeland and was relatively common in the northeastern part of the site..."

One vulnerable vertebrate species, the grey-headed flying fox, was recorded during the fauna survey. However, it is anticipated that a number of other threatened species would occur at the site based on the suitability of habitats..."

In an assessment of the potential impact of the proposal, it was concluded that there would be no significant effect on threatened species, populations or ecological communities or their habitats.

Environmental enhancement works include extensive reforestation and weed control. These works will increase the area and diversity of the littoral rainforest, improve corridor function, reduce weed infestation and enhance local biodiversity values."

4.4.5 Chapter 2, Section 3.4 – Potentially Contaminated Land

Comment: As part of the rezoning process, Coffey Geosciences undertook a preliminary site assessment, which is contained at **Attachment 10**. This assessment concluded that there was a low risk of soil contamination at levels which would impact on human health or the environment. The Coffey assessment also recommended that prior to development assessment occur

relating to the residential buildings and sheds with respect to possible storage of fuels and chemicals. This assessment is proposed to occur prior to the issue of a Construction Certificate for the project.

4.4.6 Chapter 2, Section 3.5 - Land Slip/ Geotechnical Hazard

Comment: The Coffey Geosciences report contained at **Attachment 10** also contains a preliminary geotechnical study. This report advises that large scale instability of the natural slopes is considered unlikely. The report found that:

"It is considered that the majority of the slopes where slope angles are 15 degrees or less are considered to have a Low Likelihood of slope instability. This constitutes the majority of the crest and slopes of the ridge line occupying the southern part of the site."

Small localised areas within the residential footprint were identified with a "Medium Likelihood" and an area of "Medium/High Likelihood" instability found in the littoral rainforest locality in the eastern portion of the site. A soakage wet area was also identified to which subsoil drainage will be required to be implemented in the vicinity of Lot 162.

Details of the Medium Likelihood and High Likelihood instability areas have been incorporated onto the NDC Engineering Drawings (Retaining Wall Plan Drg Civ 18). Appropriate engineering solutions will be adopted through the construction phase in recognition of the differing geotechnical conditions through the site.

4.4.7 Chapter 2, Section 3.6 - Mosquito Management

Comment: The site is located in relatively close proximity to known and suspected mosquito breeding areas. Key areas impacting the site are:

- The coastal wetlands & marshlands located to the south and north of the proposed residential zones; and
- The poorly drained rural (grazing) land to the west.

A Mosquito Impact Assessment was completed by Mosquito Consulting Services Pty Ltd as part of the rezoning documentation. A copy of this report is provided at **Attachment 11**. The findings of the impact assessment informed

the allocation of the residential zones over the site. In summary, the report concludes that the preferred buffer width for the purpose of managing mosquito impacts on future residents is 30m. The current application proposes that all residential lots will be separated from the key mosquito habitat areas by at least 30m. In this regard:

- The southernmost allotments are separated from the wetlands to the south by Lot 2 DP 1070446;
- The allotments along the western side of the development have available dwelling envelopes located 30m from the property boundary (refer **Plans 10A and 10B**);
- The dwellings fronting Road 7 and Road 3 will be setback 30m from the key vegetation on proposed Lot 166. The setback in this area will comprise a combination of building line setbacks (6m), road corridor (14m) and "open" vegetation on the land zoned 7(1) (approx. 10m).

4.4.8 Chapter 2, Section 3.7 – Waste Management

Comment: A construction waste management plan will be submitted for approval as part of the construction documentation. Waste collection for future residential development will be via Council's standard residential waste collection service.

4.4.9 Chapter 2, Section 3.9 – Stormwater Management

Comment: A detailed Stormwater Management Plan is provided as part of the Engineering Services Report provided at **Attachment 7**. In order to achieve Ballina Shire Council's water quality and quantity objectives, a range of inter-connected detention and treatment measures are proposed. This includes:

- On-site detention incorporating "leaky" rainwater tanks, bio-retention swale and "in road" detention tanks;
- Litter baskets on all inlet pits;
- Gross pollutant traps;
- Infiltration device for each driveway lot;
- Swale; and
- Sediment basins.

4.4.10 Chapter 2, Section 3.10 – Sediment & Erosion Control

Comment: A Sediment and Erosion Control Plan (prepared in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004) will be submitted to Council as part of the Construction Certificate documentation.

4.4.11 Chapter 2, Section 3.11 – Provision of Services

Comment: The proposed subdivision will be fully serviced with reticulated urban infrastructure. Engineering design plans and a detailed description of the proposed servicing approach, is provided within the Engineering Services Report at **Attachment 7**.

4.4.12 Chapter 2, Section 3.12 – Heritage

Comment: An assessment on the impact of heritage items located on site is provided within **Section 4.2.2**.

4.4.13 Chapter 2, Section 3.18 – Protection of Foreshores & Public Open Space Areas

Comment: The proposed subdivision involves the establishment of 6 public reserves. Of these, 3 are intended to be readily accessible and utilised by the community, whilst the remainder are either drainage reserves or habitat areas. The principles documented within Section 3.18 relating to the protection of these areas have been incorporated into the subdivision design.

4.4.14 Chapter 2, Section 3.18 – Bushfire Management

Comment: A comprehensive Bushfire Threat Assessment Report has been prepared by Bushfire Certifiers, a copy of which is provided at **Attachment 4**.

This report has addressed all matters required by clause 44 of the Rural Fires Regulation for an application for a Bush Fire Safety Authority. In particular, the report has established that future buildings within the subdivision are capable of

being constructed to AS 3959-2009 and Planning for Bushfire Protection 2006 (PBP). Furthermore, the intent of PBP is satisfied via a combination of "acceptable" and "alternate" solutions.

4.4.15 Chapter 2a, Vegetation Management

Comment: The application proposes removal of the vegetation illustrated on **NDC Plan 8** and is described below:

- A Moreton Bay fig in Lot 149. This tree has a damaged crown and can be compensated by extensive plantings of figs;
- A Small-leaved fig located in Road Reserve No. 1 is surrounded by Camphor laurels and rainforest saplings. Its loss will be compensated by extensive plantings of figs;
- Isolated Tuckeroos in Road 2 and Lots 33 & 46. A single Tuckeroo in Road 9. These will be compensated by reforestation;
- A clump of regrowth vegetation dominated by Umbrella cheese tree on the emergency access road;
- Removal of hairy joint grass where the emergency access road is proposed. This road has been designed to minimise the impact of road construction by selecting a route which avoids high density hairy joint grass stands; and
- Removal of two Swamp she-oak where the stormwater drainage is to be diverted into North Creek.

Details with respect to the impact of removing the vegetation are considered in the Flora and Fauna Assessment contained at **Attachment 3**.

4.4.16 Chapter 3 – Urban Subdivision

Section 3.2 – Major Subdivision Provisions

Chapter 3 establishes separate planning pathways for major (>10 lots) and minor (<10 lots). The core difference between the two processes relates to the requirement that major subdivisions be developed in the context of a master plan, with formal engagement processes with Council at various stages of the process. Following is an assessment against the provisions of Section 3.2.

Pre-lodgement Meetings with Ballina Shire Council

Several Pre-lodgement meetings and discussions with Council staff have occurred regarding this project in accordance with the framework established in Council's Development Control Plan. The pre-lodgement meetings were coordinated pursuant to Clause 3.2.3(B) Chapter 3 of the Ballina Development Control Plan 2012. In particular, meetings occurred on the following occasions:

1. 13 June 2013
2. 1 August 2013

Discussions through this process focussed on the following primary matters:

- **Deferred Commencement Consent:** The application will be lodged in a manner which seeks a deferred commencement approval under Section 80(3) of the EPA Act based on the securing of vehicular access from the Pacific Pines Estate which borders Henderson Farm on its eastern boundary. The Pacific Pines Estate and the associated road link has been approved within Part 3A approval 07_0026 by the Department of Planning & Infrastructure.

The primary matters of consideration associated with the deferred commencement are listed below together with commentary on each matter:

- Approval of the access road;
- Certainty of the access road;
- Timing for construction of the access road;
- Development risk.

Matters for Consideration	Commentary
Access Approval	<p>The western connection has been approved via the Project Approval for the first stage of the Pacific Pines development (07_0026). The road had initially been approved as part of sub-stage 1C within the Project Approval. Modification No. 2 to the Project Application (07_0026) consolidated Stage 1B and 1C thus bringing forward timing for the construction of the western connection. On 13 March 2013, the authorised delegate of the Minister approved both the modification of the concept plan (concept plan modification) and the modification of the project approval (modified project approval).</p> <p>The approval modification approves the following modified development:</p>

	<p><i>"A 65 lot residential subdivision comprising:</i></p> <p><i>(1) 51 residential lots ranging in size from 600m² to 900m²;</i></p> <p><i>(2) 7 super lots for future development as follows:</i></p> <p><i>(a) Super Lot 1 [1.44ha];</i></p> <p><i>(b) Super Lot 3 [0.21 ha];</i></p> <p><i>(c) Super Lot 4 [0.18ha];</i></p> <p><i>(d) Super Lot 5 [4.2ha];</i></p> <p><i>(e) Super Lot 6 [0.24ha];</i></p> <p><i>(f) Super Lot 7 [5.59ha];</i></p> <p><i>(g) Super Lot 8 [4.98ha].</i></p> <p><i>(3) Two open space lots of 910m and 641m;</i></p> <p><i>(4) Earthworks;</i></p> <p><i>(5) Associated roads and civil works; and</i></p> <p><i>(6) Landscaping."</i></p> <p>Through the issuing of the amended Concept Plan by the Department of Planning & Infrastructure, the layout of the road network within the approved Pacific Pines subdivision is fixed by the modified project approval. Further, that approval imposes detailed conditions concerning road construction and infrastructure provision works that will be undertaken when the extension of Hutley Drive and the western link road are both constructed.</p>
<p>Certainty of the access road</p>	<p>The environmental impact of each of the road construction works and the infrastructure provision works for the Pacific Pines Estate are all detailed in and regulated by the modified Project Approval.</p> <p>Similarly, the proposed new roads within Lot 234 (within the Pacific Pines Estate) have been designed to accommodate all projected motor vehicle and pedestrian traffic for both development within Lot 234 and for the areas adjacent to that lot that will secure road access through it. The modified Project Approval does not require any further traffic studies to be undertaken. Specifically, the road network within Lot 234 has been designed to accommodate traffic that will be generated by the subdivision and development of "The Outlook". The road network to be constructed within Lot 234 will link up adjoining areas and will become part of the established road infrastructure for the entire locality in a manner consistent with the Project Approval and the associated technical assessments completed by the Department of Planning & Infrastructure.</p> <p>As a result, there is no uncertainty concerning the location or construction of the new roads that will provide access to "The Outlook".</p>
<p>Timing for construction</p>	<p>In respect to the timing for the construction and dedication of the western connection together with the extension of Hutley Drive, the road had initially been approved as part of sub-stage 1C within the Project Approval. Modification No. 2 to the Project Application [07_0026] consolidated Stage 1B and 1C thus bringing forward timing for the construction of the western connection.</p>

	<p>The project approval requires the proponent to construct Hutley Drive within the site boundaries and the western link for the playing fields as part of Stage 1B. As such, these road upgrades will be constructed in time for future residents of Stage 1B within the Pacific Pines Estate which is the next Stage to be released with the Stage 1A commenced by the proponent of the Pacific Pines Estate.</p> <p>It is our view that there is every reason to believe that the extension to Hutley Drive and the western connection will each be dedicated and constructed, given the terms and requirements of the modified project approval issued for the Pacific Pines project.</p>
Development risk	<p>Should the proponent of the Pacific Pines Estate abandon its proposed subdivision development, resulting in Hutley Drive not being extended and the western connection never being dedicated and constructed, then that circumstance will simply result in the lapsing of any deferred commencement consent secured for the current Development Application. This application is seeking a deferred commencement determination as such, identifies acceptance of the development risk which will be fully borne by the proponent and places no external responsibility for the completion of Hutley Drive or the Western extension on any third party.</p>

This application relates solely to the land outlined within Section 1 of this report and as such development consent for the construction of either the western connection or the extension of Hutley Drive is not sought as part of this Development Application. The construction of the roads upon which the site will ultimately rely for public road access is the subject of the Project Application (07_0026) issued by the Department of Planning & Infrastructure.

We submit Council can be satisfied that once the extension of Hutley Drive is dedicated and constructed, and once the western connection is fully dedicated and substantially constructed, there will be public road access to the site. The only construction work that will be required outside the site will relate to the construction of the relevant part of the Crown road between the end of the dedicated and Council owned public road reserve (within former Lot 234) and the site. Any necessary construction work will be undertaken within a public road, with Council as the roads authority for the part of the dedicated road within former Lot 234 that is not fully constructed.

Based on the status of the Pacific Pines Estate approvals, it is reasonable to conclude that the western connection is definite and will be provided within a reasonable timeframe. The recent consolidation of the Pacific Pines Stages 1B and 1C, the planned commencement of Stage 1A and

the commencement of neighbourhood retail development design plans within the Pacific Pines Estate support the conclusion that the road network will be provided within the short to medium term, being a time period recognised and accepted by the landowner of "The Outlook" in lodging this application for a deferred commencement consent.

- **Voluntary Planning Agreement:** Discussion occurred regarding the requirement to resolve the matter of dedication of land which is subject to the Environmental Rehabilitation Plan (ERP) under the Voluntary Planning Agreement (VPA).

Council advised that it is prepared to accept land nominated within this proposal, based on the following conditions:

- The land dedication area proposed on the eastern side of the site is to include a trafficable, slashable Asset Protection Zone, free of surface rocks, along the perimeter of lots fronting the proposed reserve with adequate turning facilities;
 - Trafficable access is to be established along the road reserve between the proposed land dedication and Lots 161 & 234; and
 - The proposed reserve is to be rehabilitated to Council's standard.
- **Road Gradient:** The proposed road design options were presented to Council focusing on proposed road gradients incorporating isolated sections whereby 16% maximum grades are unavoidable given constraints of vegetation/heritage walls and naturally steep slopes.

Council has advised of their understanding that there will be limited sections of 16% grades on the collector road due to site constraints.

- **Stormwater Attenuation:** Discussion also occurred associated with the Ballina Development Control Plan in relation to attenuation and the use of rainwater tanks.

Council has advised that on-site stormwater treatment and attenuation systems including soakage pits, rainwater tanks and treatment areas are all acceptable. Further advice was provided in respect to rainwater tanks to be used for attenuation only and cannot be connected to internal plumbing in place of the recycled water system.

- **Stormwater Quality:** It was clarified that infrastructure (ie. GPT's, attenuation chambers) will mostly be contained upon the development site, but that softer treatments (ie. vegetation/swales/open channel flow paths) will be within an easement upon the subject land and adjoining lands where easements have been secured.

Council has advised upgrading and utilising existing drainage flow paths and channels on neighbouring properties to achieve DCP stormwater quality objectives would be acceptable, if the appropriate easements are created or the land acquired. If it is not possible to obtain the relevant easements then stormwater quality devices will be required onsite.

- **Sewer & Water Services:** Council in reviewing the preliminary subdivision design plans identified an opportunity to optimise the number of pump stations to two. Similarly flows from PS3 to Council's pump station should be gravity fed if possible. Council has requested details of the viability of these two options to be presented as part of the development application.

The Water Supply Plan Rev A indicates connections to the proposed water mains in the current Development Service Plan (DSP). Council advised there is a draft DSP on exhibition and confirmation of the proposed water reticulation route should be confirmed. In this regard, in the event an alternative connection is required, that connection could be made through The Outlook estate from the main that connects Greenfield Road from the north-west. Potential upsizing of pipes and connections to existing mains can be negotiated with the Water and Sewer Section.

- **Bushfire Access:** Discussions were had with respect to the preferred standard of bush fire access. Council preference is for the fire access track to be kept to a basic operational standard (ie. only seal steeper slopes), that the access is preferred to be within an easement rather than dedicated public road reserve (so as to limit general public right of access) and that gated entry/exit devices would be desired to prevent unrestricted vehicle movement.

Council has also advised that it is not their intention to encourage pedestrian or unrestricted vehicle access along the bush fire track. Therefore the access track is to be an all-weather surface constructed to the minimum standards outlined in the NSW Rural Fire Service Guide Planning for Bush Fire Protection, Access [2] - Property Access with suitable access treatments.

Correspondence relating to this process is provided in **Attachment 1**.

Major Subdivision Control Elements

Table 4.4 provides an assessment against the Major Subdivision Control Elements contained in Section 3.2 of the DCP.

Table 4.4 – Major Subdivision Control Elements

A. Element – Master Plan Preparation	
i	<p>Master Plan must be prepared in accordance with consultation processes outlined in Element B</p> <p>Comment: Details concerning the pre-lodgement consultation process is provided in above and in Attachment 1.</p>
ii	<p>Master Plan and Development Application must demonstrate compliance with Section 3.1 or clearly justify variations there-to.</p> <p>Comment: An assessment of the subdivision against the provisions of Section 3.1 is provided later in this SEE.</p>
iii	<p>Request for a Master Plan may be waived under certain circumstances</p> <p>Comment: Not Applicable.</p>

B. Element – Consultation and Pre-Lodgement Process	
i	<p>Application to be prepared in accordance with the process outlined in Figure 3.2.</p> <p>Comment: Details concerning the pre-lodgement engagement with Council is provided in above and in Attachment 1.</p>

C. Element – Vision, Concept and Master Plan Content	
i	<p>Vision and concept presented to Subdivision Panel is to include certain information.</p> <p>Comment: Details concerning the pre-lodgement engagement with Council is provided in Section 1.4.</p>
ii	<p>Master Plan must include information required for item “i” as well as the issues identified via the pre-lodgement consultations.</p> <p>Comment: This application includes consideration of the matters raised in the pre-lodgement consultations with Council.</p>
	<p>Regard must be had to the principles of the NSW Coastal Design Guidelines.</p> <p>Comment: The proposed subdivision complies with the 5 principles for coastal settlement structure contained within the Coastal Design Guidelines as outlined below.</p>
iii	<p>Defining the footprint and boundary of the settlement</p> <p>Comment: The boundary of the zoned urban area of Lennox Head has been established via the strategic and rezoning processes undertaken by Council. The current application is consistent with these processes.</p>

Connecting open spaces	<p>Comment: The proposed subdivision provides for:</p> <ul style="list-style-type: none"> • Preservation of key areas of environmental, heritage and visual importance; • Appropriate buffers and setbacks to protect significant natural environments as well as ensuring bushfire and mosquito management objectives; • A central park upon the ridgeline, which takes maximum advantage of views; • The majority of heritage items to be located within the open space network; • Contemporary management of stormwater to minimise impacts on natural environments; • Streets as "edges" to open space areas wherever possible; • Pedestrian connectivity through the site; and • Local parks within the subdivision. District parks and playing fields are located elsewhere in Lennox Head.
Protecting the natural edges	<p>Comment. Provisions relating to foreshore areas and coastal erosion are not applicable to current application. The proposed subdivision incorporates appropriate buffers are provided to the core natural areas, including those listed under SEPP 14 and SEPP26.</p>
Reinforcing the street pattern	<p>Comment: The proposed subdivision provides for:</p> <ul style="list-style-type: none"> • A legible street hierarchy in a modified grid pattern which responds to the landform; • Ready access to key views and vistas; • Roads as "edges" to key open space areas wherever possible; and • Legible pedestrian networks.
Appropriate buildings in a coastal context	<p>Comment: Future dwellings will be subject to the applicable DCP design controls.</p>
<p>Regard must be had to subdivision design standards produced by the Queensland Government Urban Land Development Authority as summarised in Table 3.2.</p>	
<p>Access</p>	
Design Standard	Comment
Maximum 400m walk to recreation park	<p>Comment: Stage 1 of the project involves 159 residential allotments and all but 4 of the proposed lots are located within 400m of a public park. The 4 lots in question are lots 161 – 164 which are located at the northern edge of the development. This arrangement is considered reasonable for the following reasons.</p> <ul style="list-style-type: none"> • The non-compliant allotments represent only 2.5% of the overall subdivision yield. • The four allotments in question are relatively large (ranging from 1,289m²–1,345m²), providing recreation opportunities on site. • The zone configuration is such that there is a long "finger" of urban zone land extending along

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

	the north-east boundary of Lot 1. Given the 1,200m ² subdivision standard for this part of the site, a relatively lower residential density can be achieved in this area. Provision of a public park in this area (to achieve full compliance for all allotments) would represent an ongoing maintenance burden for the benefit of relatively few residents.
Clear & Direct Access to a neighbourhood centre	Comment: The proposed Pacific Pines Neighbourhood Centre will be readily accessible by residents of The Outlook.
90% of dwellings within 400m of a bus stop	Comment: Proposed Road 1 will be the bus route through the subdivision. All dwellings, other than Lots 161 - 164 will be located within 400m of this road.
Dwelling Density	
Average net density of 15 dwellings/ha unless constrained by topography or other constraints	Comment: The area of the proposed subdivision (including lots, roads and reserves 37, 121, 165 & 210) is approximately 24.24ha, within which 159 residential lots are proposed. This equates to 6.5 dwellings/hectare. Assuming 25% of the allotments are developed for the purpose of dual occupancy (as enabled by the LEP) a density of 8.25 dwelling/hectare will be achieved. Given the topographic and environmental constraints of the site, together with the LEP subdivision standards, this is considered to be the optimum development outcome on the site.
Higher densities to be located near activity nodes and connector streets	Comment: The subdivision density has been developed compliant with the subdivision standards applicable within the LEP.
Land Use	
Neighbourhood centres should serve several neighbourhoods	Comment: The proposed Pacific Pines Neighbourhood Centre will service the day to day commercial needs of residents of The Outlook.
District and major parks should be located at the periphery of neighbourhoods.	Comment: Not applicable to current application. Neighbourhood parks to service local community located within subdivision.
Street Network	
Subdivision should utilise a grid pattern or modified grid responsive to site characteristics.	Comment: Subdivision design provides a modified grid pattern which responds to the site characteristics.
Where slope allows, orientation within 15 degrees of north-south or east-west.	Comment: Majority of streets provided in an east-west and north-south orientation.
Connector and main streets are orientated to landmarks.	Comment: Road 1 (being the core access and circulation route) is located such that key open space areas and vegetation landmarks are readily visible.

To minimise cut and fill, streets follow ridges, gullies, and/or are perpendicular to slope.	Comment: Given the topographic characteristics, the subdivision proposes modification to the land form at subdivision stage to facilitate the construction of future dwellings on the land. This approach was endorsed by Ballina Shire Council through the pre-lodgement consultations.
The street network includes: <ul style="list-style-type: none"> • neighbourhood streets within neighbourhoods; • neighbourhood connector streets [approx. 800 metre grid] linking neighbourhoods; • major connector streets linking groups of neighbourhoods; • neighbourhood main streets in centres; and • rear lanes. 	Comment: The street network provides for a legible hierarchy of neighbourhood streets and connector road.
Block Sizes	
Blocks are designed to incorporate: <ul style="list-style-type: none"> • Length 100-200 metres. • Mid-block providing a pedestrian link when blocks are over 130 metres. • Depth 40-80 metres. 	Comment: Street block lengths range from 120m to 180m and have typical depths between 40m-60m. Whilst no mid-block pedestrian linkages are provided for street blocks longer than 130m, pedestrian connectivity is achieved to key attractions and circulation routes.
Urban Lot Layout	
Lots intended for mixed use or multiple residential uses take up entire street block or are located on highly accessible block ends, corner lots and lots with dual road frontage.	Comment: No specific multi-dwelling housing sites provided within estate. However within the R3 zone a wide range of residential land uses are permitted subject to compliance with key design criteria.
One lot type is not to dominate a street block.	Comment: A variety of lot shapes are provided within the subdivision. The R3 zoning enables a range of housing types within the subdivision subject to compliance with DCP design requirements.

Conclusion

In conclusion, the project team has worked with Council in accordance with the "Major Subdivision" processes and requirements as documented in Section 3.2 of the Subdivision DCP. This process has resulted in an agreed Master Plan (within the meaning of the DCP) and the subdivision layout presented within this development application is generally in conformity with that Master Plan.

4.5 North Coast Regional Environmental Plan (Deemed SEPP)

The North Coast Regional Environmental Plan (REP) applies to those portions of the subject site to which the Ballina Local Environmental Plan 1987 applies. These areas are those which had been proposed for an environmental protection zoning via rezoning process. These areas are not proposed for development as part of the current application and accordingly the REP has limited application to the project. Notwithstanding the above, the following comments are made with respect to the REP.

Clause 29 – Natural Areas and Water Catchments

Comment: The environmental qualities of the site were subject to detailed consideration during the rezoning process and associated Voluntary Planning Agreement. The impacts of the development on key natural habitats in the locality is discussed elsewhere in this report and in **Attachment 3**.

Clause 32A – Coastal Lands

In determining an application for consent to carry out development on such land, the Council must take into account:

- (a) the NSW Coastal Policy 1997;
- (b) the Coastline Management Manual; and
- (c) the North Coast: Design Guidelines.

Consideration is given to the NSW Coastal Policy 1997 and North Coast Design Guidelines elsewhere in this report. The Coastline Management Manual is not relevant to the site.

Clause 45 – Hazards

Comment: As outlined elsewhere in this Report, the subdivision configuration has been developed having regard to the bushfire characteristics of the site.

4.6 State Environmental Planning Policies

4.6.1 SEPP No. 14 – Coastal Wetlands

Comment: The subject land contains two areas which are subject to State Environmental Planning Policy No. 14 – Coastal Wetlands (SEPP 14). The proposed urban subdivision is located well clear of these areas and no adverse impacts are envisaged. In this regard, the ecological assessment prepared by Peter Parker Environmental Consultants Pty Ltd concludes that there would be no significant effect on threatened species, populations or ecological communities or their habitats. Furthermore, the assessment concludes that the extensive environmental enhancement works proposed will enhance local biodiversity.

4.6.2 SEPP No. 26 – Littoral Rainforest

Comment: The site contains vegetation listed pursuant to State Environmental Planning Policy No. 26 – Littoral Rainforests. No works are proposed within the SEPP 26 core area, however a range of activities are to occur within the 100m buffer to the core. These works include:

- Environmental Rehabilitation Works;
- Roads, footpaths and infrastructure services (located on urban zoned land approximately 80m from the core); and
- 2 x 1.5m retaining walls located adjacent to the road reserve as illustrated on NDC Plan CIV 18 – Retaining Walls.

Pursuant to Clause 4(1)(b) of SEPP 26, development consent is required to undertake most works within the buffer area. Consent cannot be granted to such works without the concurrence of the Minister for Planning, who in turn must consider any representations made by the Director of National Parks and Wildlife.

The ecological impacts of the proposed subdivision have been considered in detail within the Peter Parker Environmental Consultants Pty Ltd report contained at **Attachment 3**. In summary, this assessment concludes “*that there would be no significant effect on threatened species, populations or*

ecological communities or their habitats". Furthermore, the report advises that the "Environmental enhancement works include extensive reforestation and weed control. These works will increase the area and diversity of the littoral rainforest, improve corridor function, reduce weed infestation and enhance local biodiversity values."

4.6.3 SEPP No. 55 – Remediation of Land

Comment: Council must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated;*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable after remediation) for the purposes for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

A preliminary soil assessment by Coffey Geosciences Pty Ltd has been completed for the site and identified a low risk of contamination. The assessment was provided within the Planning Proposal for Henderson Farm and was endorsed by Council. It is noted that the report recommended further investigations occur in the vicinity of the existing structures on the land. These investigations will occur prior to the issue of a Construction Certificate over the land.

4.6.4 SEPP No. 71 – Coastal Protection

The northern portion of the site is located in the coastal zone to which SEPP 71 applies. It is also within 100m of a SEPP 14 Coastal Wetland. It is therefore defined as being a sensitive coastal location.

A. Master Plan/DCP

As outlined in Section 4.1(A) of this report, Clause 18(1) of State Environmental Planning Policy No. 71 – Coastal Protection], requires that a Master Plan adopted by the Minister must accompany an application for the subdivision of land within a residential zone if part or all of the land is in a sensitive coastal location. Further to that provision, Schedule 6 Clause 95 of the Environmental

Planning and Assessment Act 1979 provides that any requirement of an Environmental Planning Instrument relating to Master Plans may be construed as a requirement for a Development Control Plan under Section 74D of the Act.

Section 83C of the states that if an Environmental Planning Instrument (in this instance SEPP 71) requires the preparation of a Development Control Plan before any development is carried out, then such obligation may be satisfied by the making and approval of a Staged Development Application pursuant to S83B of the Act. Such applications must contain the information required to be included in the Development Control Plan by the relevant Environmental Planning Instrument or Regulation.

Table 4.5 tabulates compliance of this application with the list of provisions required to be incorporated within a SEPP 71 Master Plan

Table 4.5 – SEPP 71 Master Plan Requirements

Requirement	Comment
20 (2) A draft master plan is to illustrate and demonstrate, where relevant, proposals for the following:	
<i>(a) design principles drawn from an analysis of the site and its context</i>	A site analysis is provided within Section 2.3 and NDC Plans 2 & 3 . The vision and design principles for The Outlook are documented on the Design Team Ink Plan No. 05/17-01 .
<i>(b) desired future locality character</i>	The vision and design principles for The Outlook are documented on the Design Team Ink Plan No. 05/17-01
<i>(c) the location of any development, considering the natural features of the site, including coastal processes and coastal hazards,</i>	Detailed consideration occurred at rezoning stage with respect to the environmental features of the site. These assessments (together with those undertaken during the preparation of this application) have established the available development footprint. The site is removed from the coastal foreshore and is not subject to coastal hazard processes.
<i>(d) the scale of any development and its integration with the existing landscape,</i>	The scale of development has been developed having regard to Council and RFS requirements, the topographic and ecological characteristics of the site and intensity of development in nearby areas.
<i>(e) phasing of development,</i>	The Engineering Services Report provided at Attachment 7 provides details with respect to the critical infrastructure items required to service the various catchments within the Estate. The phasing of the release of development will be subject to more detailed consideration at construction certificate stage.
<i>(f) public access to and along the coastal foreshore,</i>	The site is removed from the coastal foreshore and therefore no opportunities are available for access.

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

<i>(g) subdivision pattern,</i>	The subdivision pattern is illustrated in detail within the NDC plan set. The subdivision pattern has been developed having regard to Council and RFS requirements, the topographic and ecological characteristics of the site and the scale and intensity of development in nearby areas.
<i>(h) infrastructure provision,</i>	The proposed subdivision will be fully serviced with reticulated urban infrastructure in accordance with Council's requirements. Details with respect to the proposed approach is contained within the Engineering Services Report contained at Attachment 7 .
<i>(i) building envelopes and built form controls</i>	Future residential development will be subject to the provisions of Council's development control plan which provides detailed controls with respect to building envelopes, setbacks and open space requirements. NDC Plans 10A and 10B illustrates available building envelopes for lots subject to specific design constraints (vegetation to be retained, slopes greater than 15%, LUCRA buffers and bushfire APZs).
<i>(j) heritage conservation</i>	The rezoning process identified a number of heritage items on the site. Those items which warranted listing in BLEP2102 have been retained within the subdivision layout. A number of other items will be documented in accordance with the provisions of the VPA prior to destruction. Further details regarding these matters can be found in Section 4.2.2 and Attachments 2 & 5 .
<i>(k) remediation of the site</i>	Attachment 10 provides a preliminary contamination completed as part of the rezoning process. Additional testing will occur in the vicinity of the existing dwelling and farm buildings prior to issue of a Construction Certificate.
<i>(l) provision of public facilities and services</i>	Public facilities to service the future residents will be provided by way of payment of applicable S94 development contributions.
<i>(m) provision of open space, its function and landscaping</i>	The Design Team Ink plan set provides full details with respect to the proposed opens space within the development.
<i>(n) conservation of water quality and use</i>	The subdivision will be supplied with dual reticulation in accordance with Ballina Council requirements. In addition, future dwellings will be required to comply with BASIX commitments.
<i>(o) conservation of animals and plants.</i>	The ecological values of the site have been subject to detailed consideration through both the rezoning and development application processes. Attachment 3 provides a detailed assessment of ecological issues associated with the project together with a Vegetation Management Plan for those areas zoned for environmental protection purposes.
<i>(p) conservation of fish and marine vegetation.</i>	

B. SEPP 71 – Clause 8

Table 4.6 sets out the matters for consideration as contained within Clause 8 of SEPP No. 71 as well as comments in relation to those matters. Having regard to the assessment within this table, it is submitted that the application complies with SEPP No. 71.

Table 4.6 – SEPP 71 Matters for Consideration

Part/ Clause	Matter for Consideration	Comments
Part 2 Clause 8	<i>The aims of the Policy set out in Clause 2.</i>	
	<i>Natural, cultural, recreational and economic attributes of the NSW coast.</i>	The Henderson Farm Planning Proposal demonstrated the urban development of the land should provide for the retention and embellishment of existing natural vegetation on the site. The proposed subdivision is consistent with the approach advocated via the planning proposal process and associated VPA.
	<i>Public access to coastal foreshores.</i>	The subject site does not provide any opportunities for enhanced coastal foreshore access.
	<i>New opportunities for public access to coastal foreshores.</i>	The site proposed for development contains no opportunities for coastal foreshore access.
	<i>Aboriginal heritage.</i>	The development site is not known to be recorded on any register as being a place of Aboriginal heritage.
	<i>Visual amenity.</i>	Views of the site from the coast are restricted by surrounding vegetation and landform. The subdivision retains the key vegetation features along the ridgeline.
	<i>Beach environments and amenity.</i>	No direct access to beach environments exists.
	<i>Native coastal vegetation.</i>	The subdivision layout ensures that existing native vegetation on the site is retained and embellished. Detailed assessment regarding this matter is provided elsewhere in this report.
	<i>Marine Environment</i>	Stormwater from the site will be treated prior to discharge into the local waterway system.
	<i>Rock platforms.</i>	No rock platforms are located in the vicinity of the development site.
	<i>Ecologically sustainable development.</i>	The proposed subdivision provides for the development of the urban zoned portions of the land in accordance with the available minimum lot sizes applying to the site. The significant natural environment existing within the site and in close proximity to it are being protected and enhanced in accordance with agreements made at rezoning stage.
	<i>Type, bulk and scale of the development in relation to the location and natural scenic qualities.</i>	The site is not visible from the coastal foreshore and the proposed development will not impact on the amenity of the foreshore area. The suitability of the site for urban development was established via the recent rezoning process. The retention of the two stands of littoral rainforest as well as the prominent Norfolk Pines in a public reserve will assist in minimising the visual impact of the subdivision.

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement

<i>Strategic approach to coastal management.</i>	The suitability of the site for urban development was established via the rezoning and other strategic planning processes undertaken by Council and the Department of Planning & Infrastructure.
<i>Public access to coastal foreshores.</i>	The site is not located along the coastal foreshore.
<i>New opportunities for public access to coastal foreshores.</i>	The site is not located along the coastal foreshore.
<i>Suitability of the development given its type, location and design and its relationship to the surrounding area.</i>	The proposed subdivision is responsive to the endorsed Planning Proposal for the Henderson farm.
<i>Amenity of the coastal foreshore.</i>	The amenity of the coastal foreshore is not likely to be adversely impacted by the proposal.
<i>Scenic qualities of the NSW coast.</i>	The scenic quality of the coastal foreshore is not likely to be adversely impacted by the proposed development.
<i>Threatened flora and fauna.</i>	The proposed subdivision will retain significant vegetation on the site. Detailed assessment of this matter is provided elsewhere in this report.
<i>Fish and marine vegetation and habitats.</i>	The Ecological Assessment provided at Attachment 3 concludes that no adverse impacts are expected on habitats for fish and marine vegetation.
<i>Wildlife corridors.</i>	The subdivision layout and revegetation plans provide for linkages between the two areas of littoral rainforest on the site.
<i>Coastal processes and hazards.</i>	The subject land is not designated as being subject to coastal processes.
<i>Conflict between coastal activities.</i>	Surrounding land uses have been considered in this report. The land use recommendations adopted by Ballina Shire Council for the Planning Proposal associated with the Henderson Farm are preserved within the subdivision layout.
<i>Aboriginal heritage.</i>	Refer to previous comments.
<i>Water quality.</i>	Stormwater will be treated prior to discharge in accordance with the stormwater management plan annexed to this report.
<i>Items of heritage, archaeological or historical significance.</i>	Items of historical significance have been identified on the site via the Planning Proposal process and have been protected in accordance with the agreements reached through that process. Further discussion regarding this matter is discussed elsewhere in this report.
<i>Draft LEP</i>	No draft Local Environmental Plan applies to the subject site.

Part 3	<i>Significant Coastal Development</i>	The proposed development is not impacted upon by the provisions of Part 3.
Part 4	<i>Flexible Zone Provisions</i>	No flexible zone provisions are utilised in the delivery of the proposed subdivision.
	<i>Public Access</i>	Reference should be made to previous comments regarding public access.
	<i>Effluent Disposal</i>	Effluent generated by the development will be directed to Council's reticulated sewage system.
	<i>Stormwater</i>	Stormwater will be treated prior to discharge in accordance with the stormwater management plan annexed to this report.

4.7 Voluntary Planning Agreement

As outlined elsewhere in this Report, the site is subject to a Voluntary Planning Agreement (VPA) pursuant to **Section 93f** of the Act which was entered into by our clients as part of the rezoning process for the land. The following table tabulates compliance of the current application with respect to the commitments reached within the VPA.

VPA Commitment	Comment
Part 3 – Environmental Rehabilitation Work	
Item 9 – An Environmental Rehabilitation Plan is to be prepared for the areas to be zoned Environmental Protection. This ERP is to be submitted with any development application on the land.	The ERP is contained within the Peter Parker Environmental Consultants Report contained at Attachment 3 . The ERP incorporates the following elements as required by the VPA: <ul style="list-style-type: none"> • Specifies requirements for future Vegetation Management Plans; • Identifies lands in which rehabilitation works are to occur; • Provides a list of appropriate species to be used in the rehabilitation works; • Provides an outline of the processes by which the finalised works will be dedicated to Council; • Provides a mechanism for the handover of land.
Item 10 – Vegetation Management Plans are to be prepared either as a single document or multiple plans (where development is staged). These plans are to be prepared and approved by Council prior to the issue of a Construction Certificate.	Vegetation Management Plan/s will be prepared and submitted to Council for endorsement prior to the issue of a Construction Certificate.

<p>Items 11-14 - Establishment, Management, Inspection, Completion and Dedication of Environmental Management Land.</p>	<p>The commitments reached within these items will be complied with as the development progresses.</p>
<p>Part 4 - Archival Recording of Local Heritage.</p>	
<p>Item 15 - A Heritage Item Archival Recording is to be completed for those items listed in Schedule 2 of the VPA prior to the issue of a Subdivision Certificate.</p>	<p>Heritage Item Archival Recording and submitted to Council prior to the issue of a Subdivision Certificate.</p>

4.8 Section 79C(j) Environmental Planning & Assessment Act 1979

In determining a Development Application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the Development Application:

[a] The provisions of:

i. any environmental planning instrument

Comment: Relevant aspects of the Ballina Local Environmental Plan 1987 and Ballina Local Environmental Plan 2012 have been discussed in **Section 4.1 & 4.2** of this report. Furthermore, the provisions of the applicable Regional Environmental Plan and State Environmental Planning Policies have been considered in **Sections 4.4 & 4.5**.

ii. any development control plan

Comment: Relevant aspects of the Ballina Development Control Plan 2012 have been addressed within **Section 4.3** of this report.

iii. the regulations [to the extent that they prescribe matters for the purposes of this paragraph]

Comment: The provisions of the NSW Coastal Policy have been considered in **Section 4.4** of this report.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Comment: The site has been the subject of detailed assessment at both rezoning and development application stage, with the subdivision layout proposed herewith reflecting the outcomes of these assessments. Accordingly, it is concluded that the proposed subdivision will not adversely impact on the environmental or built qualities of the locality. The subdivision will, however, deliver additional residential land to accommodate projected population growth and is therefore expected to deliver social and economic benefits.

Further comments are provided in this regard below.

Primary Matters	Proposal
Context & Setting	The proposed subdivision fits within the strategic planning framework for Lennox Head and has been the subject of detailed planning consideration via the rezoning process over the site. The subdivision protects the environmental, scenic and heritage values of the site and is compatible with the form and density of existing residential development in the locality.
Transport, Access & Parking	The subdivision has been designed with a modified grid layout reflecting the topographic characteristics of the site. The street hierarchy provides for a bus route linking through the site. Pedestrian linkages are also provided within the street and reserve network.
Utilities	As outlined in the Engineering Services Report, the subdivision will be fully serviced with reticulated urban infrastructure including water, sewer, drainage, electricity and telecommunication infrastructure.
Heritage	The heritage values of the site have been a key factor guiding the layout of the subdivision. All items listed within the BLEP 2012 are retained and protected within the subdivision.
Water	Stormwater management systems will be constructed as an integral component of the development. No adverse impacts are envisaged on water quality in any local water body.
Soils	The geotechnical assessment completed at rezoning stage provides an assessment of the soil and geotechnical characteristics of the site.
Air & Microclimate	The proposed subdivision of the parcel as proposed is not expected to adversely impact on air quality or micro climate.
Flora & Fauna	Detailed assessment of the impacts of the development on flora and fauna in the locality is provided within the Peter Parker & Associates report provided at Attachment 3 . This report concludes that there would be no significant effect on threatened species, populations or ecological communities or their habitats. Furthermore, the assessment advises that the extensive environmental enhancement works proposed will enhance local biodiversity.

Hazards	Environmental hazards have been considered through both the rezoning and development application stage. Soil contamination risks have been identified as being low, however some additional assessments will occur in the vicinity of the existing structures on the land prior to the issue of a construction certificate for the project. Geotechnical characteristics have been the subject of detailed consideration as part of the Rezoning and Development Application preparation. Further details are provided in the Engineering Services Report.
Waste	A construction waste management plan will be submitted as part of the construction certificate documentation. Waste generated by future occupants of the land will be collected via Council's urban waste collection service. In this regard, the street network and cul-de-sac heads have been designed to facilitate a garbage truck to manoeuvre through the site.
Energy	The subdivision has been designed such that the street network generally runs in a north/south and east /west alignment thereby facilitating solar access to future dwellings.
Noise & Vibration	The proposed bushfire access track will connect to the Coast Road on the north eastern side of the site. Tim Fitzroy and Associates completed a noise impact assessment relating to the removal of the landscaping along the Coast Road to facilitate this opening. This assessment focussed on impacts for residents in the Grove and concluded that the proposed opening will not result in adverse road traffic noise in the locality.
Site Design & Internal Layout	The subdivision layout has been developed having regard to the zoning pattern, engineering design requirements, topographic characteristics, heritage & environmental values and relationship to nearby residential development.
Safety, Security & Crime Prevention	The proposed subdivision provides for passive surveillance of the street network and public parks.
Construction	Construction will be completed in accordance with appropriate standards and conditions of consent.

[c] the suitability of the site for development

Comment: The suitability of the land for residential development was the subject of detailed consideration via the previous Planning Proposal for the Henderson Farm. The assessments undertaken to support the current development application confirm that the portions of the site zoned for residential purposes are suitable for subdivision and development for that purpose.

[e] the public interest

Comment: The proposed residential subdivision will deliver 159 additional residential allotments in a manner which protects and enhances the environmental, cultural and visual qualities of the site, whilst being in keeping with the existing and approved subdivision pattern in the locality. The subdivision also complies with the various

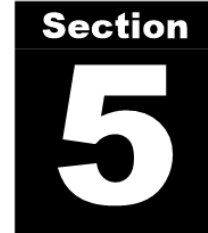
local and state planning policies documented within this report as well as the commitments reached via the Voluntary Planning Agreement entered into at rezoning stage.

Vehicular access to the site is able to be obtained within a reasonable timeframe via the "western connection" approved as part of the Pacific Pines Estate. The issuing of a deferred commencement to the application pending the construction of the western connection will ensure that legal access is able to be obtained to the site prior to issue of a construction certificate for the subdivision of the land.

Given the above, the proposal is considered to be in the public interest.

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Conclusion



This Development Application Report, when read in conjunction with the accompanying subdivision design, successfully addresses the issues relevant to Council's assessment of this application for the proposed subdivision.

In consideration of the issues and information provided, approval of the Development Application is warranted in the manner prepared, subject to the inspection of reasonable and relevant conditions.

The grounds for this approval are summarised below:

- The proposal is consistent with the applicable provisions of the Ballina Local Environmental Plan 1987 and Ballina Local Environmental Plan 2012;
- The subdivision configuration has been developed in accordance with the processes established via Ballina Development Control Plan 2012 and largely conforms with the design parameters established by the DCP. Any variations to Council's DCP are considered reasonable given the topographic and environmental characteristics of the site;
- The proposed layout protects the key environmental, scenic and heritage qualities of the site;
- The proposal will deliver additional housing stock in a manner which is compatible with the physical and environmental character of the site and surrounds.

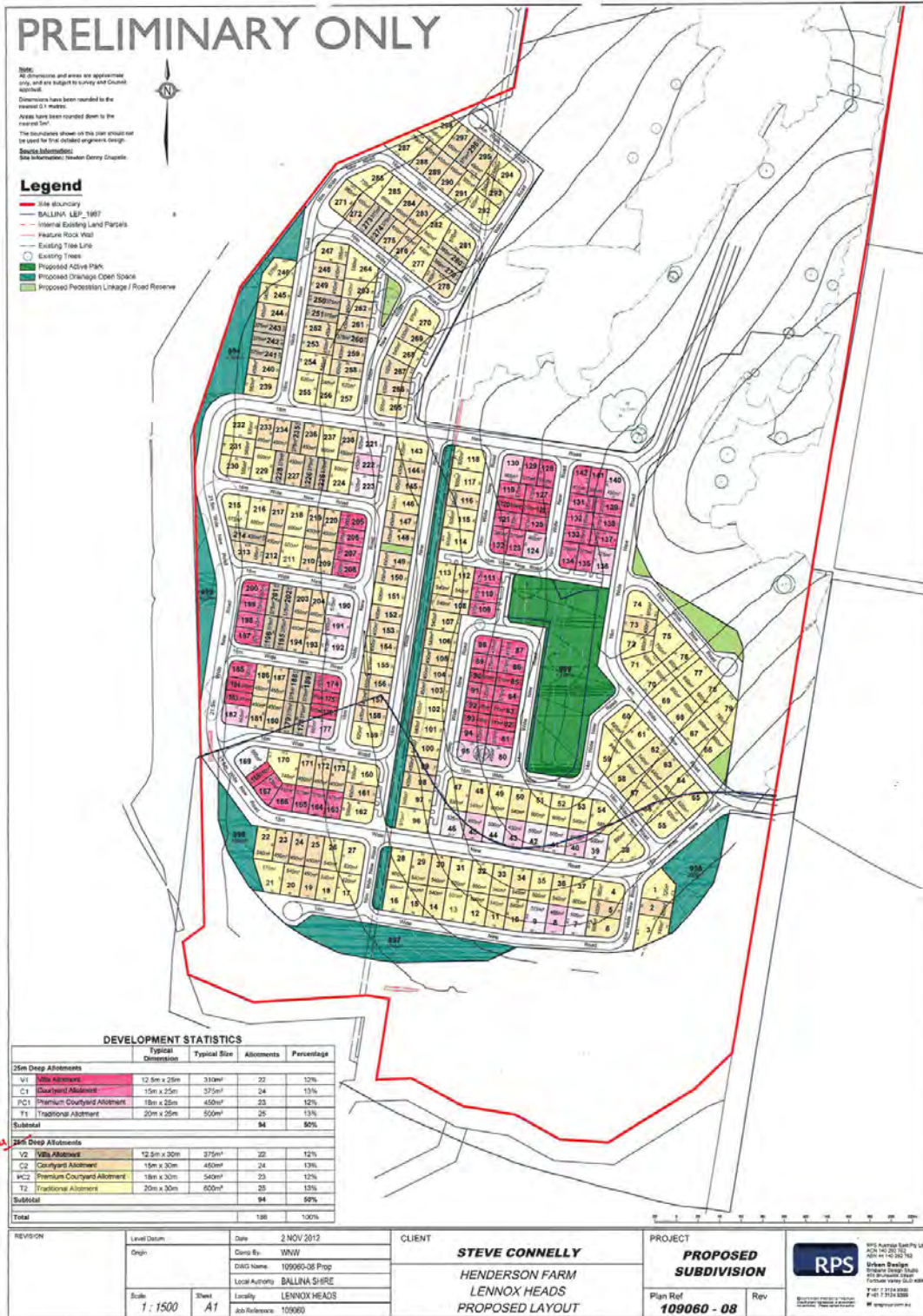
Dai Chapelle

DAMIAN CHAPELLE

Town Planner, BTP, CPP.

Date: 4 February 2014

4.1 Lennox Developments - Adjoining Owners' Deed of Agreement



4.2 Property Development Reserve - Cash Flow Amendment

4.2 Property Development Reserve - Cash Flow Amendment

Delivery Program Commercial Services

Objective To seek Council's concurrence to amend the Property Development Reserve Budget.

Information

The latest forecasts for the Council's Property Development, as per our Long Term Financial Plan (LTFP) are attached to this report.

Key Issues

- Timing of cash flows

Information

The attached cash flow notes funding for the Wollongbar Urban Expansion Area – Development (BSC Wollongbar Residential Estate Stage 2) is as follows:

Item	2015/16	2016/7
Wollongbar Urban Expansion Area - Development	\$100,000	\$2,448,000

Development consent has been granted for Stage 2 (DA 2015/599) and a construction certificate has been prepared for lodgement to construct eighteen serviced residential lots. To date sale contracts have been exchanged on four lots and another two are pending exchange. It is hoped construction works will commence in August 2016.

The allocation of \$100,000 for the 2015/16 financial year has been overdrawn by \$37,100 due to the compensation payable to the Brown Family (developers of Avalon Estate) for easements to drain sewer and stormwater. At the Commercial Services Meeting of 17 November, 2015, Council resolved to pay \$80,000 in costs to the Brown Family with the funds to be drawn from the Property Development Reserve and the Water and Wastewater Funds on a 50/50 basis.

Bringing forward \$100,000 from the 2016/2017 budget will bring the overdrawn allocation back into credit and allow payment of a 50% deposit of \$37,262.50 for the design, supply and installation of electrical reticulation for Stage 2 with these works now proceeding.

It is important this task gets underway as soon as possible given the approval delays currently being encountered with Essential Energy.

4.2 Property Development Reserve - Cash Flow Amendment

Funding of about \$10,000 is also required for geotechnical investigations to be undertaken for Stage 3 of Council's Estate to determine the suitability of material on that site for fill on Council's Boeing Avenue sites. The geotechnical investigations are also required to assist consultants in preparing quotes to undertake a development application for Stage 3. Any surplus funds will be applied to any invoices received prior to 30 June, 2016.

Legal / Resource / Financial Implications

An amendment of \$100,000 to the Property Reserve Development budget for the 2015/2016 and 2016/2017 years is required to fund costs associated with Stages 2 & 3 of BSC's Wollongbar Residential Estate.

Consultation

Not Applicable

Options

This is largely a timing issue with the 2015/16 financial year almost over however to ensure that the 2015/16 and 2016/17 budgets reflect the actual likely cash flows, it is recommended that Council reallocate \$100,000 from the 2016/17 financial year to the 2015/16 financial year in the Property Development Reserve, for the Wollongbar Urban Expansion Area, with this information to be included in our LTFP.

RECOMMENDATION

That Council authorises an amendment to the current forecasts for the Property Development Reserve with \$100,000 of the \$2,448,000 allocated in 2016/17 for the Wollongbar Urban Expansion Area to be brought forward to 2015/16 to reflect the current timing of expenditures.

Attachment(s)

1. Cash Flow - Property Development Reserve - Forward Financial Plan

Cash Flow - Property Development Reserve - Forward Financial Plan														
Updated as at May 2016														
Item	2011/12 Actual	2012/13 Actual	2013/14 Actual	2014/15 Actual	2015/16 Estimate	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
Opening Balance (Excluding Airport)	303,500	4,438,100	4,613,900	3,777,600	2,536,800	3,114,000	4,191,000	3,273,600	3,111,600	3,019,300	2,863,200	2,850,800	3,128,500	2,890,800
Less Airport Overdraft Opening Balance	(302,000)	(454,400)	(454,400)	(592,500)	(724,200)	(444,800)	(173,400)	0	0	0	0	0	0	0
Revised Opening Balance with Airport	1,500	3,983,700	4,159,500	3,185,100	1,812,600	2,669,200	4,017,600	3,273,600	3,111,600	3,019,300	2,863,200	2,850,800	3,128,500	2,890,800
Add: Cash Inflows														
Interest Accrued	261,000	178,000	181,200	110,000	73,000	78,000	105,000	82,000	78,000	75,000	72,000	71,000	78,000	72,000
Internal Loans Repaid - Waste	288,500	0	0	0	0	0	0	0	0	0	0	0	0	0
Rental - Norfolk Homes	133,600	136,500	140,000	143,000	140,000	147,000	149,300	151,500	153,800	156,900	160,100	163,400	166,700	170,100
Rental - ARC (50%)	159,100	161,300	165,000	169,800	129,500	125,400	127,300	129,200	131,100	133,800	136,500	139,200	142,000	144,900
Sale - Alstonville Tennis Courts	0	0	0	0	0	0	1,500,000	0	0	0	0	0	0	0
Sale - Alstonville Plaza	0	0	0	195,300	0	0	0	0	0	0	0	0	0	0
Sale - ARC Residual (50%)	0	269,000	302,500	0	455,000	0	0	0	0	0	0	0	0	0
Sale - Bagotville Quarry	0	0	0	0	450,000	0	0	0	0	0	0	0	0	0
Sale - Balance Skennars Hd	0	0	400,700	0	0	0	0	0	0	0	0	0	0	0
Sale - Ballina High School Road Reserve	0	0	0	33,600	0	0	0	0	0	0	0	0	0	0
Sale - Harvey Norman	4,246,000	0	0	0	0	0	0	0	0	0	0	0	0	0
Sale - 7 North Creek Road	0	0	0	0	150,000	0	0	0	0	0	0	0	0	0
Sale - 54 North Creek Road	0	0	0	0	0	2,500,000	0	0	0	0	0	0	0	0
Sale - Land Adjoining BP (50%)	0	0	250,000	0	0	0	0	0	0	0	0	0	0	0
Sale - Russellton (Major Sales (Two))	0	0	0	0	0	0	1,000,000	0	0	0	0	0	0	0
Sales - Russellton (Standard Lots)	0	413,000	0	0	0	0	0	360,000	360,000	360,000	360,000	360,000	360,000	360,000
Sales - Southern Cross (Standard Lots)	0	0	0	210,300	750,000	725,000	0	600,000	600,000	600,000	600,000	600,000	600,000	600,000
Sales - WUEA (Standard Lots)	0	0	0	2,250,000	590,000	1,800,000	1,800,000	1,800,000	1,800,000	1,800,000	400,000	0	0	0
Sub Total	5,088,200	1,157,800	1,439,400	3,112,000	2,737,500	5,375,400	4,681,600	3,122,700	3,122,900	3,125,700	1,728,600	1,333,600	1,346,700	1,347,000
Less: Cash Outlays														
Operating Expenditure														
Outgoings - ARC (50%)	3,100	2,800	1,500	600	4,500	4,600	4,700	4,800	4,900	5,000	5,100	5,300	5,400	5,600
Internal Overheads - Southern Cross	132,400	67,000	69,000	34,000	43,000	35,000	35,700	36,400	37,100	37,800	38,600	39,400	40,200	41,000
Internal Overheads - Russellton	60,000	80,000	66,000	32,000	41,000	33,000	33,700	34,400	35,100	35,800	36,500	37,200	37,900	38,700
Internal Overheads - WUEA	0	0	75,000	37,000	48,000	38,000	38,800	39,600	40,400	41,200	42,000	0	0	0
Russellton - Operating Exps	35,400	30,000	8,500	14,500	25,000	25,600	26,200	26,800	27,400	28,000	28,600	29,200	30,200	30,900
Southern Cross - Operating Exps	65,600	66,000	59,200	47,800	160,000	71,100	72,600	74,000	75,400	76,800	78,200	79,700	81,200	82,700
WUEA - Operating Expenses	7,200	15,000	10,300	43,000	44,000	45,000	46,000	47,000	48,000	49,100	50,200	0	0	0
Sub Total	303,700	260,800	289,500	208,900	365,500	252,300	257,700	263,000	268,300	273,800	279,400	191,100	194,900	198,900
Community Infrastructure														
Animal Shelter	0	0	370,000	0	0	0	0	0	0	0	0	0	0	0
Ballina Surf Club	0	0	228,000	0	0	0	0	0	0	0	0	0	0	0
Wollongbar Sports Fields	0	0	0	400,000	0	0	0	0	0	0	0	0	0	0
Community Infrastructure Dividend	0	0	0	0	0	0	0	1,000,000	800,000	1,700,000	1,100,000	500,000	0	700,000
Sub Total	0	0	598,000	400,000	0	0	0	1,000,000	800,000	1,700,000	1,100,000	500,000	0	700,000
Property Projects														
Airport Lease - Feasibility	0	0	0	83,300	0	0	0	0	0	0	0	0	0	0
Airport Boulevard Road - Consent	0	0	0	0	100,000	0	0	0	0	0	0	0	0	0
ARC Residual - Selling Costs	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Bridge Club Sale Legals	42,000	0	0	0	0	0	0	0	0	0	0	0	0	0
Lennox Head Community Centre Legals	0	0	165,800	0	0	0	0	0	0	0	0	0	0	0
North Creek Dredging	5,000	0	0	0	0	0	0	0	0	0	0	0	0	0
North Creek Road (54) - Land Development	0	0	0	14,000	22,000	1,020,000	0	0	0	0	0	0	0	0
89 Tamar Street	0	0	0	0	1,500	0	0	0	0	0	0	0	0	0
Russellton - Land Development	60,400	0	86,000	63,700	20,000	100,000	4,100,000	0	0	0	0	0	0	0
Southern Cross - Land Development	198,000	115,000	0	50,100	84,000	0	900,000	0	0	950,000	0	0	1,000,000	0
Southern Cross - Masterplan	63,000	110,000	51,500	0	200,000	100,000	0	0	0	0	0	0	0	0
Wigmore Arcade - Redevelopment	0	0	219,200	1,735,900	140,500	0	0	0	0	0	0	0	0	0
Wigmore Arcade - Roof	0	0	0	0	630,000	0	0	0	0	0	0	0	0	0
Wollongbar Urban Expansion Area - Development	0	48,000	256,700	1,329,500	100,000	2,448,000	0	1,680,000	1,800,000	0	0	0	0	0
Sub Total	368,400	273,000	779,200	3,276,500	1,298,000	3,668,000	5,000,000	1,680,000	1,800,000	950,000	0	0	1,000,000	0
Dividends														
General Fund	281,500	448,200	609,000	467,400	496,800	378,100	341,300	341,700	346,900	358,000	361,600	364,800	389,500	393,500
Total Outlays	953,600	982,000	2,275,700	4,352,800	2,160,300	4,298,400	5,599,000	3,284,700	3,215,200	3,281,800	1,741,000	1,055,900	1,584,400	1,292,400
Closing Balance (Excluding Airport)	4,438,100	4,613,900	3,777,600	2,536,800	3,114,000	4,191,000	3,273,600	3,111,600	3,019,300	2,863,200	2,850,800	3,128,500	2,890,800	2,945,400
Net Change in Airport Overdraft Balance	(152,400)	0	(138,100)	(131,700)	279,400	271,400	173,400	0	0	0	0	0	0	0
Closing Airport Reserve Overdraft	(454,400)	(454,400)	(592,500)	(724,200)	(444,800)	(173,400)	0	0	0	0	0	0	0	0
Revised Closing Balance with Airport	3,983,700	4,159,500	3,185,100	1,812,600	2,669,200	4,017,600	3,273,600	3,111,600	3,019,300	2,863,200	2,850,800	3,128,500	2,890,800	2,945,400
Net Movement - Increase / (Decrease)	4,134,600	175,800	(836,300)	(1,240,800)	577,200	1,077,000	(917,400)	(162,000)	(92,300)	(156,100)	(12,400)	277,700	(237,700)	54,600

4.3 Leasing Proposal - Shop 8 Wigmore Arcade Complex

4.3 Leasing Proposal - Shop 8 Wigmore Arcade Complex

Delivery Program Commercial Services

Objective To seek Council's concurrence for the proposal for occupation of Shop 8 Wigmore Arcade Ballina

Background

Council staff have been progressing negotiations with a prospective tenant for Shop 8 in the Wigmore Arcade Complex.

A confidential report included later in this agenda deals with the actual lease details.

Key Issues

- Lease terms and conditions

Information

Negotiations have now concluded with a prospective tenant for Shop 8 in the Wigmore Arcade Complex. Specific details are contained in a confidential report also included in this agenda. A leasing plan is included as attachment one to this report.

Legal / Resource / Financial Implications

- If Council resolves to lease Shop 8 there will be no vacancy within the Arcade Complex.

Consultation

Negotiations have been conducted with prospective tenants on an ongoing basis.

Options

This report is for information only.

RECOMMENDATION

That Council notes the contents of this report in respect to the lease negotiations for Shop 8 Wigmore Arcade Complex.

Attachment(s)

1. Leasing Plan

4.4 Land Acquisition - Opportunity

4.4 Land Acquisition - Opportunity

Delivery Program Commercial Services

Objective To provide Council with information on land that has been offered for sale.

Background

Council has been approached by a landowner to determine if they are interested in acquiring a parcel of land that is proposed to be put to the market for sale.

Key Issues

- Site development constraints
- Funding

Information

A confidential report has been included in the agenda for this meeting that contains information on the subject property.

Legal / Resource / Financial Implications

Information relating to financial implications are contained in the confidential report.

Consultation

Internal consultations with Council staff have been undertaken.

Options

This report is for noting only.

RECOMMENDATION

That Council notes the contents of this report regarding a potential land acquisition opportunity.

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 Leasing Proposal - Shop 8 Wigmore Arcade Complex - Terms

Refer to Item 4.3 of this agenda.

5.2 Land Acquisition - Opportunity Details

Refer to Item 4.4 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 Leasing Proposal - Shop 8 Wigmore Arcade Complex - Terms

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 and the release of any information could prejudice those negotiations.

5.2 Land Acquisition - Opportunity Details

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 as the release of this information may prejudice any commercial discussions forthcoming.