

# ARDILL PAYNE & PARTNERS

Civil & Structural Engineers – Project Managers – Town Planners – Surveyors



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## PLANNING PROPOSAL

Submission to Ballina Shire Council

To rezone land so as to permit subdivision and  
development for industrial and bulky goods  
purposes

Approved Lots 2 and 3 (per DA 2009/258 as amended)  
being a re-subdivision of Lot 952 DP 1165266  
and Lots 1 – 5 DP 123781  
Boeing Avenue and Stinson Street, Ballina

for:  
Ballina Shire Council Commercial Services Unit


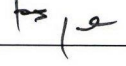
May 2016

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## Attachments

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- Attachment 1**      Aerial photograph of subject and adjoining land and copy of deposited plans
- Attachment 2**      Detailed masterplan (Southern Cross Precinct Master Plan)
- Attachment 3**      Copy of notice of consent – DA 2009/258 (as amended)
- Attachment 4**      Concept subdivision plan

## 1.1 Introduction

This Planning Proposal relates to two (2) approved but not yet created lots (being Approved Lots 2 and 3 – per DA 2009/258), with details on such being provided below in **Section 1.2** below. The land from which these lots has been approved to be created is currently described in real property terms as:

- Lot 952 DP 1165266
- Lots 1 – 5 DP 123781

Approved Lots 2 and 3 are wholly zoned B5 – Business Development Zone under the provisions of the Ballina Local Environmental Plan 2012.

The purpose of the Planning Proposal is to rezone and change the minimum lot size/subdivision standard of Approved Lots 2 and 3 so as to enable their future subdivision and development for general industrial purposes, whilst also expressly permitting the development of “bulky goods premises”.

This planning proposal has been prepared in accordance with the following Department of Planning guidelines:

- ‘A guide to preparing planning proposals’ (October 2012)
- ‘A guide to preparing local environmental plans’ (April 2013)

Council at its Commercial Services Committee Meeting of the 16<sup>th</sup> February 2016 considered a report on the status of its current land holdings in Southern Cross Industrial Estate and adjoining lands and resolved as follows:

1. *That Council resolves to pursue rezoning of Lots 2 and 3 Boeing Avenue from Business B5 to Industrial IN1, with the inclusion of an enabling clause (or use of another suitable mechanism) to permit bulky goods development as an additional permitted use on the land.*
2. *That Council hold a briefing on options for increased flexibility for the existing bulky goods precinct.*

This Planning Proposal has been prepared as a direct consequence of Item 1 above.

## 1.2 Background

Council granted consent to DA 2009/258 on the 4<sup>th</sup> November 2009. Consent was granted in respect of Lot 1 DP 237752, Pt Lot 87 DP 1118585 and Lots 1 – 5 DP 123781, North Creek Road, Boeing Avenue and Stinson Street, Ballina (Southern Cross Industrial area) for the following:

*“To undertake a staged subdivision creating five (5) allotments (proposed Lots 1 – 5) and two open space allotments, filling of land, construction of a road, drainage works, extension of services and landscaping works.*

**Stage 1:** *being the provision of all infrastructure sufficient to facilitate the creation of Lot 1*

**Stage 2:** *being the creation of the remainder of the subdivision.”*

Council granted consent to a Section 96 application to modify DA 2009/258 on the 5<sup>th</sup> March 2010.

Provided at **Attachment 3** is a copy of the notice of consent for DA 2009/258 (as amended).

As a consequence of finalising Stage 1 of DA 2009/258, Lots 951 and 952 were created. The “Harvey Normal Complex” was then approved and constructed on Lot 951. Lots 2 and 3 are subject of an active consent and can thus be created at any time, subject to compliance with the Stage 2 consent conditions.

Council granted consent to DA 2010/118 on the 23<sup>rd</sup> September 2009. Consent was granted in respect of Lot 1 DP 237752, No. 80 North Creek Road, Ballina for the following:

*“The stockpiling of material excavated from the adjacent drainage channel, and the treatment of any potential acid sulphate soil.”*

The Southern Cross Precinct Master Plan 2008 (SCPMP) applies to the subject land and was adopted by Council at its February 2008 Ordinary Meeting.

The SCPMP provides Council with a framework for the detailed planning and release of land in the study area and identifies proposed future land use arrangements for the subject land (including information regarding industrial land use, aviation industry, sporting facilities, environmental management and road networks). This planning proposal only relates to part of the land to which the SCPMP applies.

Provided at **Attachment 1** is an aerial photograph of the subject and adjoining land and copies of the deposited plans.

Provided at **Attachment 2** is 'Illustration 4.2 – Detailed Masterplan' of the SCPMP which shows the land use features for the land as identified in the masterplan.

Ballina Council at its Ordinary Meeting of 23 February 2012 considered a report (Item 9.1) on the outcomes of the Ballina Shire Bulky Goods Retailing Investigation and provided direction to Council's Strategic Services Group with respect to the recommendations of the Study. Council resolved as follows:

- “1. That Council notes the contents of the Ballina Shire Bulky Goods Retailing Investigation report prepared by Hill PDA.*
- 2. That Council proceed to implement a strategic planning framework for bulky goods retailing in Ballina Shire consistent with the recommendations in the Ballina Shire Bulky Goods Retailing Investigation report prepared by Hill PDA.*
- 3. That Council proceed to prepare a planning proposal for the application of a suitable zone over Lot 951 DP 1165266 and the proposed Lots 2 and 3 (as shown in Attachment 2) at the Southern Cross Industrial Estate to facilitate a bulky goods retailing precinct.*
- 4. That in the preparation of a planning proposal in accordance with Point 3, options be canvassed in relation to the co-location of large format retail uses with bulky goods premises.”*

It is as a consequence of the above that the subject land is currently zoned B5 – Business Development Zone.



### **2.1 Objectives**

The objectives of proposed instrument are to rezone and change the minimum lot size/subdivision standard of Approved Lots 2 and 3 to:

1. enable their future subdivision and development for a broad range of general industrial uses (including bulky goods premises) and in particular, uses that are complementary to the Southern Cross Industrial Estate and the Harvey Norman complex
2. ensure that the local road network is designed, upgraded and integrated so as to provide safe, efficient, accessible and practical service provision to the land from the surrounding towns and villages

### **2.2 Outcomes**

The outcomes will be to enable the land to be developed generally in accordance with the Southern Cross Precinct Master Plan, being:

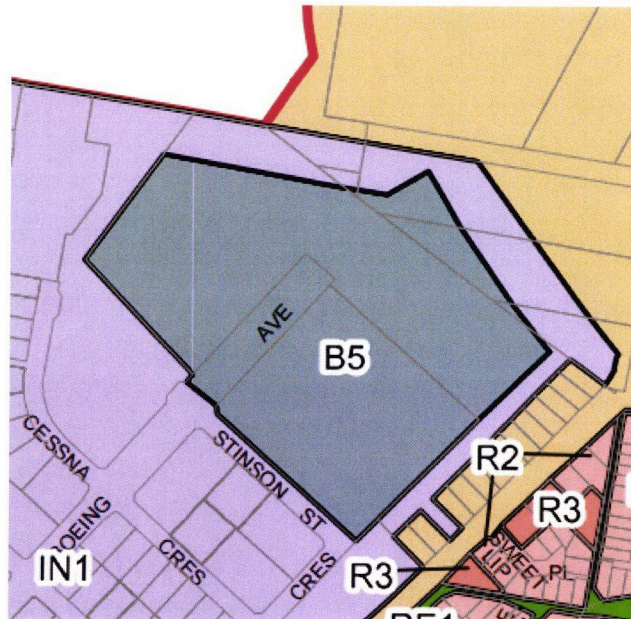
- a. to enable industrial subdivision and uses including general industrial and bulky goods premises
- b. to provide increased employment lands
- c. to provide an increased supply of serviced industrial lots, being an effective extension of the Southern Cross Industrial Estate

3.1 Details of Existing Provisions

This planning proposal relates specifically to Approved Lots 2 and 3 and the Boeing Avenue road reserve (per DA 2009/258 as amended) as shown below in yellow:

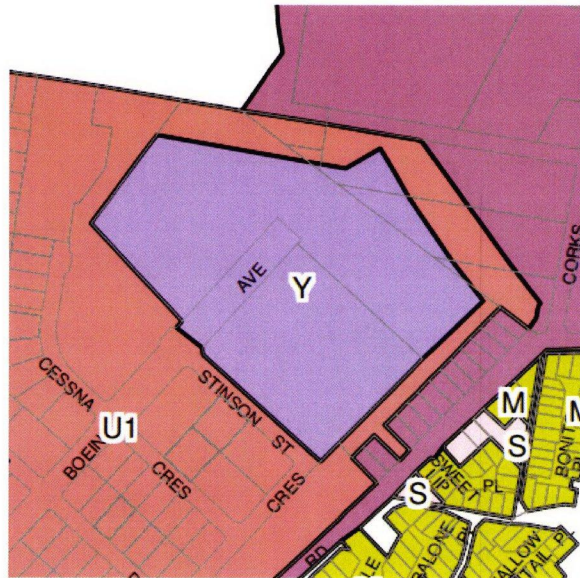


Approved Lots 2 and 3 and the road reserve are currently zoned B5 – Business Development Zone and have a 10,000m² (1ha) minimum lot size under BLEP 2012 as shown below:



Extract: BLEP 2012 – Land Zoning Map Sheet LZN\_006C





Extract: BLEP 2012 – Minimum Lot Size Map Sheet LSZ\_006C

Notwithstanding that Council’s resolution expressly referenced Lots 2 and 3, it is submitted that it would be prudent to also rezone the existing and future Boeing Avenue road reserve to IN1. This would result in the Harvey Norman complex (on Lot 951 DP 1165266) being an effective “B5 island” within IN1 zoned land and would result in Boeing Avenue having the same IN1 zoning as the other roads in the Southern Cross Industrial Estate.

As evident above, Approved Lots 2 and 3 are effectively surrounded by IN1 – General Industrial Zoned Land. The objectives of the IN1 zone are:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To enable non-industrial uses that are compatible with the industrial nature of the locality.*
- *To provide for the efficient use of industrial land.*
- *To encourage development that achieves the efficient use of resources such as energy and water.*
- *To ensure that development does not expose adjoining uses to hazard risks.*

### 3.2 Details of Proposed Instrument

This Planning Proposal seeks to amend the BLEP 2012 for that land shown in yellow above as follows:

- rezone it to IN1 – General Industrial Zone to enable a broad range of general industrial uses (as per the existing permitted uses in the IN1 zoning table of the BLEP) and to also allow “bulky goods premises” to be permitted with consent in that particular IN1 zoned land
- change the existing minimum lot size/subdivision standard from 10000m<sup>2</sup> to 1000m<sup>2</sup> (with no minimum lot size to be applied in respect of Strata or Community Title subdivision) so that it is consistent with the minimum lot size/subdivision standard of other IN1 zoned land in the Southern Cross Industrial Estate
- maintain the existing 10m building height (being consistent with the building heights for the Southern Cross Industrial Estate and the Ballina Byron Gateway Airport)

### 3.3 Method of Proposed Amending Instrument

The proposed changes to the zoning and minimum lot size will simply involve changes to the following maps:

- Lot Size Map – Sheet LSZ\_006C
- Land Zoning Map – Sheet LZN\_006C

It is not the intention of this Planning Proposal to enable “bulky goods premises” to be a permissible use in the other IN1 zoned land in the Shire. The permissibility of such development is to be restricted only to the land shown in **Section 3.1** above.

It is submitted that the appropriate mechanism to enable the development of “bulky goods premises” would involve the use of Clause 2.5 of the BLEP and would involve the subject land being listed in “Schedule 1 – Additional permitted uses” and shown on the “Additional Permitted Uses Map” as follows:

- colouring the land shown in yellow above in **Section 3.1** in blue and being notated “Area F” on the Additional Permitted Uses Map – Sheet APU\_006C



- including a new item into Schedule 1 – Additional permitted uses, viz:

#### **4 Use of certain land at Boeing Avenue, Ballina**

- (1) *This clause applies to land fronting and adjacent to Boeing Avenue, Ballina and identified as “Area F” on the Additional Permitted Uses Map.*
- (2) *Development for the purposes of “bulky goods premises” is permitted with development consent.*

### **3.4 Concept Subdivision Layout**

Provided at **Attachment 4** is a conceptual subdivision and road layout which identifies a possible and practicable subdivision scenario for the land.

This subdivision concept involves the extension of Boeing Avenue and the construction of a new road that will connect with other future roads that will service the industrial estate (extensions of Cessna Crescent and Piper Drive) and which will provide greater connectivity and improved traffic circulation in the estate.

The concept subdivision layout extends onto and integrates with adjoining IN1 zoned land and contains a total 22 lots with areas ranging between approx. 1200 – 9600m<sup>2</sup> in area.

This plan shows smaller lots along Boeing Avenue and the new road and larger lots that would be suitable for uses seeking larger space (including bulky goods) but not requiring a high level of road exposure.

This plan also shows Approved Lot 2 in its current approved size and shape, however, it could also be subject of further subdivision if the Planning Proposal was completed as proposed.

#### **4.1 Constraints**

Preliminary investigations have confirmed that the land (being Approved Lots 2 and 3) is mapped as being subject to a number of constraints. However, due to the actual characteristics and nature of the land, it is not constrained in real terms.

The following information relates expressly to Approved Lots 2 and 3 and the Boeing Avenue road reserve and articulates the type and extent of the identified constraints and provides some preliminary commentary and consideration of such in the context of the Planning Proposal.

It should be again stressed, that the rezoning change relates to two lots which are subject of an active consent and which can be developed at any time (subject to compliance with respective conditions of consent). Therefore the environmental impacts impacts/consequences of the proposed rezoning have largely been addressed in the prior grant of consent to the subdivision and there will not be any tangible changes to such impacts as a consequence of the rezoning.

##### **4.1.1 Flora and fauna/ecological**

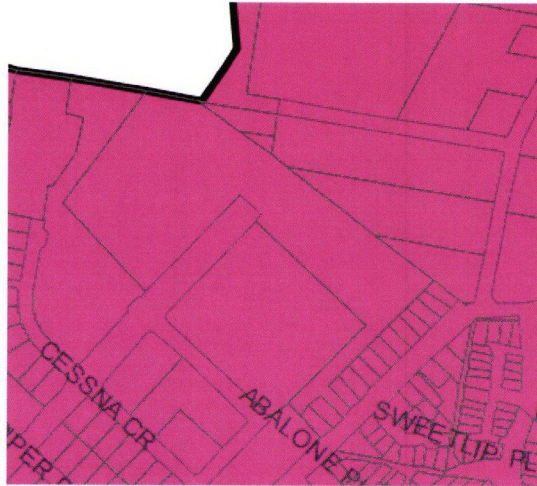
As evidenced on the aerial photograph at **Attachment 1**, the subject land is cleared, being characterised by routinely slashed grassland.

The land has been subject of prior site works (clearing and filling) with Lots 2 and 3 and the Boeing Avenue road reserve being able to be created under an active consent.

Based on the above, it is submitted that there are no flora and fauna/ecological issues associated with the rezoning and there would not be any requirement for a detailed F&F/ecological assessment and report to be prepared to support and inform the rezoning.

##### **4.1.2 Acid sulfate soils**

As evidenced below, the subject land is wholly mapped as being Class 2 acid sulfate soils.



Extract: BLEP 2012 (Acid Sulfate Soils Map – Sheet ASS\_006)

Under the provisions of the BLEP 2012, consent is therefore required for the following:

- works below the natural ground surface
- works by which the watertable is likely to be lowered

As detailed in **Section 4.1.6** of this report, the subject land is mapped as being subject to the 1 in 100 year flood event and thus minimum fill levels have to be complied with to facilitate future urban development.

Lots 2 and 3 and the Boeing Avenue road reserve have consent for their creation which includes a requirement (Condition 6.9 of Stage 2) for the filling of the land to a level of 2.0m AHD to mitigate flood impacts. As a consequence of such site filling, the potential for impact on or disturbance of acid sulfate soils will be substantially reduced.

Based on the above, it is submitted that there are no acid sulfate soils issues associated with the rezoning and there would not be any requirement for an acid sulfate soils assessment or management plan to be prepared to support and inform the rezoning.

### **4.1.3 Agriculture**

The land is mapped on the Northern Rivers Farmland Protection Project as “Committed Urban Uses”, is already zoned for urban purposes (B5 – Business Development Zone) and thus has effectively no agricultural potential.

The proposed rezoning will not result in any land use conflicts with respect to existing or future agricultural uses on the subject or adjoining land.

Based on the above, it is submitted that there are no agricultural issues associated with the rezoning and there would not be any requirement for any agricultural land assessment to be prepared to support and inform the rezoning.

### **4.1.4 Contamination (SEPP 55)**

Preliminary desk-top investigations (including interpolation of historical aerial photographs) have confirmed that the land has not and is not being used for any purpose that may have led to contamination.

Consent exists for the creation of Lots 2 and 3 (including site filling and road/infrastructure works) and there were no issues raised during the assessment of and no conditions imposed on the consent, in respect of contamination.

Based on the above, it is submitted that there are no contamination issues associated with the rezoning and there would not be any requirement for any contaminated land assessment to be prepared to support and inform the rezoning.

### **4.1.5 Geotechnical**

The subject land is flat and level and is not identified as being prone to slip or instability, however sections of the coastal floodplain in Ballina Shire are identified as having geotechnical problems (including soft soils).

Consent exists for the creation of Lots 2 and 3 (including site filling and road/infrastructure works) and there were no issues raised during the assessment in respect of geotechnical/site soils.

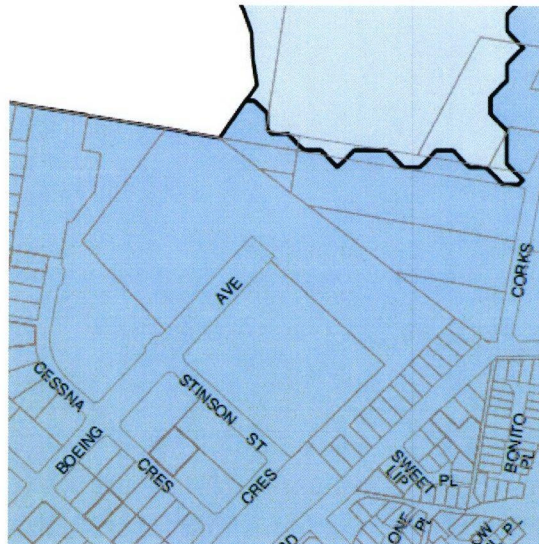


Condition 9.3 (Stage 2) of DA 2009/258 (as amended) requires site filling to be undertaken in accordance with Level 1 NATA Certification and AS 2870-1996 and AS 3798-2007 with certification to be provided from a suitably qualified, registered, practicing Geotechnical Engineer verifying such, prior to the issues of the Subdivision Certificate.

Based on the above, it is submitted that there are no geotechnical issues associated with the rezoning and there would not be any requirement for any geotechnical assessment to be prepared to support and inform the rezoning.

#### 4.1.6 Flooding

The subject land is mapped as being subject to the 1 in 100 year flood event. As shown below, the land is subject of minimum fill height of 2.0m AHD.



Extract: Building Height Allowance Map – Sheet BHA\_006C (BLEP 2012)

Consent exists for the creation of Lots 2 and 3 and includes Condition 6.9 (Stage 2) which requires site filling to 2m AHD, so as to mitigate flood impacts.

Based on the above, it is submitted that there are no flooding issues associated with the rezoning and there would not be any requirement for any flood assessment to be prepared to support and inform the rezoning as such is covered by the terms and conditions of the existing consent.

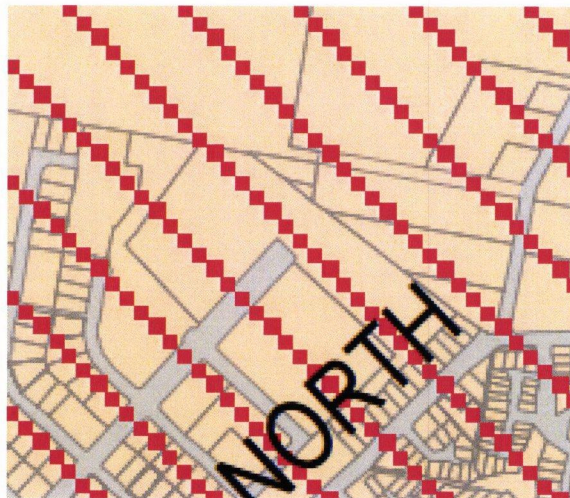
#### 4.1.7 Stormwater

Consent exists for the creation of Lots 2 and 3 and includes a number of conditions (Condition No.s 6.6, 6.7, 6.10, 8.2, 9.7 and 9.8 of Stage 2), which relate to stormwater controls and management.

Based on the above, it is submitted that there are no stormwater issues associated with the rezoning and there would not be any requirement for any stormwater assessment to be prepared to support and inform the rezoning as such is covered by the terms and conditions of the existing consent.

#### 4.1.8 Mosquitoes

The subject land is mapped as being within the “Coastal Plain & Lowlands (Below 10m Contour)” and as being an “Area of High Mosquito Risk” on the Mosquito Management Map Sheet MM\_002\_080 of the Ballina Shire DCP 2012.



Extract: Mosquito Management Map Sheet MM\_020\_008 (Ballina Shire DCP 2012)

Section 3.6 – Mosquito Management of Chapter 2 – General and Environmental Considerations of the Ballina Shire DCP 2012 applies to all development in Ballina Shire.

Section 3.6 does not contain any specific reference to the proposed rezoning however, should any residential development

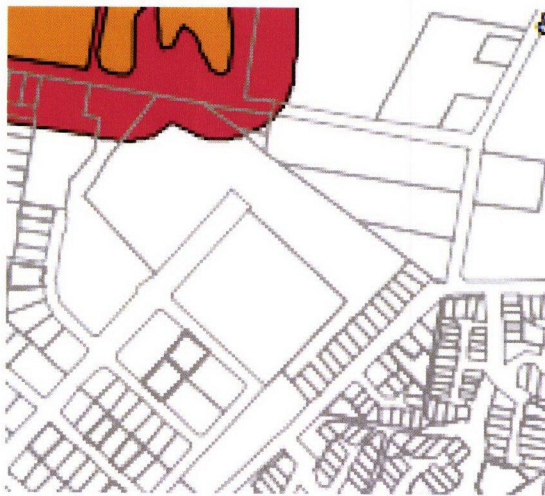


be proposed within the rezoning area, it would have to comply with the relevant development controls of the DCP.

On the basis that the rezoning is to facilitate industrial use (not residential) it is submitted that there is no requirement for a detailed entomological report to be prepared to support and inform the rezoning.

#### 4.1.9 Bushfire

As evidenced below, the north-western section of the subject land is mapped as being bushfire prone, as a consequence of 100m buffer to Vegetation Category 1 vegetation.



Extract: Ballina Bushfire Prone Land Map (21 March 2007)

As a consequence of the above, an asset protection zone (APZ) would ordinarily be required between this stand of bushland and any future buildings on the rezoning land. This APZ is likely to be in the order of 20m which is based on an FDI of 80m, a slope of “upslope/flat” and a forest vegetation formation.

There were no bushfire issues in the assessment of and no bushfire conditions attaching to DA 2009/258 (as amended) and thus the lots can be created without providing any specific APZ.

The subject land will be serviced by reticulated water supply (including fire hydrants), constructed (sealed) public roads and underground electricity supply.

Should there be any further re-subdivision proposed of Approved Lot 3, it would comprise integrated development pursuant to Section 91 of the EP & A Act 1979 and would require a Bushfire Safety Authority to be issued by the NSW RFS. This process would have to be complied with during the assessment of any future DA/SEE for subdivision of Approved Lot 3.

Having regard to the above, it is submitted that there is no requirement for a detailed bushfire threat assessment to be prepared to support and inform the rezoning.

#### **4.1.10 Archaeological/cultural heritage**

The subject land is not listed in Schedule 5 of the BLEP 2012 as being or containing an item of environmental heritage.

The land has been highly disturbed by prior activities (particularly clearing and filling), is not likely to contain any items of cultural significance and is subject of an active consent for the creation of the lots.

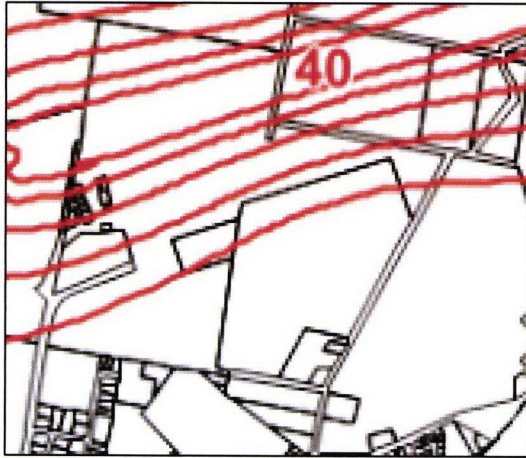
There were no archaeological/cultural heritage issues raised during the assessment of DA 2009/258 (as amended) and the proposed rezoning will not change the impacts on the land in the context of such.

Having regard to the above, it is submitted that there is no requirement for an archaeological/cultural heritage assessment to be prepared to support and inform the rezoning.

#### **4.1.11 ANEF contours**

As evidenced below, the subject land is well clear of any of the ANEF contours (for 2028) for the Ballina Byron Gateway Airport.





Extract: Figure 1 – Ballina Byron Gateway Airport 2028 ANEF Contour Zones of Chapter 4 – Aircraft Noise (Ballina Shire Combined DCP 2006)

## 5.1 Need for Planning Proposal

The need for this Planning Proposal has resulted from the resolution of Commercial Services Committee Meeting on the 16<sup>th</sup> February 2016, wherein it considered a report on the current land holdings in the Southern Cross Industrial Estate and adjoining lands.

As reported to Council, there is a short to medium term shortage of serviced industrial lots in Ballina to meet existing and future demand, as well as decline in/lack of demand for bulky goods lots/premises.

In order to rezone the land as proposed, a Planning Proposal is required to be prepared pursuant to the provisions of the EP & A Act 1979.

### 5.1.1 Is the planning proposal a result of any strategic study or report?

The Southern Cross Precinct Master Plan 2008 (SCPMP) was adopted by Council at its February 2008 Ordinary Meeting and applies to the subject land.

The Detailed Masterplan (refer **Attachment 2**) identifies the subject land as being appropriate as a “Bulky goods retail precinct”, with the existing B5 – Business Development Zone expressly encouraging and permitting such development. The objectives of the B5 zone are:

- *To enable a mix of business and warehouse uses, and bulky goods premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*

### 5.1.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The objectives and intended outcomes of the Planning Proposal are best achieved by amending the BLEP 2012 so that Approved Lots 2 and 3 can be subdivided and developed for general

industrial purposes, whilst maintaining an express ability to also be developed for bulky goods premises.

### **5.1.3 Is there a net community benefit**

There will be significant positive community benefits resulting from the following:

- provision of an increased stock of general industrial and employment zoned land (as an expansion of the Southern Cross Industrial Estate) which will increase choice and competition in the local market place
- preserving the potential for the land to be developed for bulky goods premises
- provision of employment land (services and trades lands) to service the local and broader community
- synergies and integration of the Airport with surrounding industrial type activities which will service and support the airport

### **5.1.4 Sustainable Considerations**

#### **5.1.4.1 Environment**

As articulated in **Section 4** of this report, the subject land is effectively unconstrained, with the environmental impacts having been duly identified and assessed during the grant of consent to DA 2009/258 (as amended). Based on such, the proposed rezoning and future industrial and bulky goods development of the land is able to be undertaken in a manner that will not have significant adverse environmental impacts.

#### **5.1.4.2 Social**

The rejection of this gateway proposal will potentially delay the construction and supply of additional industrial land and industrial uses (including bulky goods premises) which will provide jobs/increase employment opportunities, stimulate growth and have multiplier effects on the economy.

#### **5.1.4.3 Economic**

The rejection of the gateway proposal will potentially delay the economic benefits that are associated with the future subdivision and development of the land for industrial, bulky goods and employment purposes. These development opportunities could also be lost to other areas/Shires where they have available serviced industrial land on the market.

The proposed rezoning will have positive economic impacts on the sustainability, profitability and operations of the Southern Cross Industrial Estate, the Ballina Byron Gateway Airport, the Shire and the broader region.

There are diminishing supplies of industrially zoned land/lots within the Shire and in particular within the Southern Cross Industrial Estate, with demand for such remaining steady.

The inability to provide serviced industrial lots to the market place will likely result in a loss of development and employment opportunities in the local area and broader region.

## **5.2 Relationship to Strategic Planning Framework**

### **5.2.1 Far North Coast Regional Strategy 2006-31 (FNCRS)**

The purpose of the FNCRS is to manage the Region's expected high growth rate in a sustainable manner. The Strategy aims to protect the unique environmental assets, cultural values and natural resources of the Region whilst ensuring that future planning maintains the character of the Region and provides for economic opportunities.

The land is mapped as "Employment Lands" and is **NOT** mapped as "Indicative areas of high level constraints within Proposed Future Urban Release Areas and Potential Employment Lands".

The proposed rezoning and future subdivision and industrial and bulky goods development of the land is thus consistent with the Strategy.

### **5.2.2 Southern Cross Precinct Master Plan 2008 (SCPMP)**

A copy of the SCPMP detailed masterplan map is provided at **Attachment 2**. As shown on this plan, the land to which this planning proposal relates is identified on the masterplan as “Bulky good retail precinct”.

*Section 1.1 of the SCPMP advises that the Master Plan “..will provide a framework for the detailed planning and release of land in the study area...The Master Plan for this area will inform the upcoming preparation of the new comprehensive local environmental plan for the Ballina Shire..”*

The master plan is a strategic planning document (that is now some 8 years old) which establishes a basic framework to inform the detailed planning and release of the land. As a consequence of changes in the market place (diminishing supply of and increased demand for general industrial lots coupled with a reduced demand for bulky goods land), the proposed rezoning and concept subdivision layout is such that is sufficiently consistent with the framework, purpose, intent and structure of the SCPMP.

The rezoning in the manner proposed will maintain the ability for the land to be developed for bulky goods purposes and thus it will enjoy development potential for general industrial and bulky goods purposes.

### **5.2.3 Ballina Local Environmental Plan 2012 (BLEP)**

The BLEP 2012 came into effect on the 4<sup>th</sup> February 2013. The subject land is mapped as follows under the BLEP 2012:

- B5 – Business Development Zone
- Y – 10,000m<sup>2</sup> minimum lot size
- Class 2 acid sulfate soils
- C – 2m AHD minimum fill level (building height allowance)



- flood planning area
- K – 10m maximum building height

#### **5.2.4 Northern Rivers Farmland Protection Project (NRFPP)**

The subject land is mapped as “Committed Urban Uses and Rural-Residential zones” in the NRFPP.

Local Planning Direction 5.3 *Farmland of State and Regional Significance on the NSW Far North Coast* does not apply to the proposed rezoning on the basis that it applies only when Council prepares a draft LEP for land mapped as:

- State significant farmland; or
- Regionally significant farmland; or
- Significant non-contiguous farmland

#### **5.2.5 Ballina Shire Council Growth Management Strategy (26 July 2012) (BSCGMS)**

The subject land is mapped in the BSCGMS as “Urban zoned undeveloped land”. Some of the strategic actions of the Strategy that are of relevance to this planning proposal are to:

- *Investigate, through the rezoning process, land development opportunities and the provision of public infrastructure identified in the Southern Cross Precinct Industrial Master Plan.*
- *Establish a more detailed planning framework for the long term use and development of industrial areas through Council’s development control plan.*
- *Establish a clustered bulky goods retailing precinct.*
- *Investigate future road connection between Ballina and Lennox Head via North Creek Road.*

The proposal to expressly enable the development of bulky goods premises on the land to be rezoned, will allow the market to determine the actual size of the bulky goods precinct and will thus not compromise the current and future ‘developability’ of the precinct for such purposes.

### **5.2.6 Ballina Shire Bulky Goods Retailing Investigation (January 2012) (BSBGRI)**

Hill PDA was commissioned by Ballina Council to undertake a bulky goods retailing investigation, with the BSBGRI ('the Study') being prepared in January 2012. The primary purpose of the Study was to investigate the demand for bulky goods and large format retail (LFR) premises in Ballina Shire over the 2012-2026 period.

Below is the Executive Summary of the Study which articulates the situation as at January 2012. It should be noted that a number of things have occurred and changed since this date, details of which are as follows:

- a B5 – Business Development Zone was applied to Approved Lots 1-3 Boeing Avenue, Southern Cross Industrial Estate (per DA 2009/258 as amended) under the BLEP 2012
- the Harvey Norman complex has been constructed on Approved Lot 1
- there have been on-going problems with securing tenants and filling all of the tenancies in the HN Complex – the HN Complex is still not fully tenanted
- with the recent decision by Woolworths to close the Masters hardware chain, developers are unlikely to be seeking to develop bulky goods developments if they cannot tenant the completed buildings – this closure will result in the very large Masters building in Lismore being vacant
- it is understood that Council has confirmed in writing that the consent for the Homemaker Centre (Smith Drive, West Ballina) has been enacted and has not lapsed
- Bunnings (Big Prawn site) has been constructed and is in operation
- since Approved Lots 2 and 3 were zoned B5, there Council's Commercial Services Group have advised that there has only been one conditional offer to buy Lots 2 and 3
- there has been a general drop in demand in the market place for bulky goods sites (both in NSW and nationally)

# 1. EXECUTIVE SUMMARY

Hill PDA was commissioned by Ballina Shire Council to undertake the Ballina Bulky Goods Retailing Investigation ('the Study'). The primary purpose of the Study was to investigate demand for bulky goods and Large Format Retail (LFR) premises in Ballina Shire over the 2011 to 2026 period. This is in order to inform the establishment of a planning framework for such premises in the emerging Ballina Standard Instrument Local Environmental Plan.

Currently bulky goods and LFR businesses are distributed over several locations in Ballina including:

- the Ballina Town Centre (around 5,000sqm including Retravision and Snooze);
- Kerr Street retail precinct (around 5,000sqm including Super Amart);
- Clarke Street industrial area (around 2,000sqm including Vast Furniture);
- West Ballina Pacific Highway (around 4,000sqm including Good Guys); and
- The Southern Cross industrial precinct (around 17,000sqm occupied and 3,000sqm unoccupied space)<sup>1</sup>.

The largest concentration of bulky goods retailers is in the recently opened Harvey Norman Centre (13,000sqm) in the Southern Cross Precinct.

Demand modelling suggests that Ballina could currently support around 52,000sqm of bulky goods retailing increasing to almost 70,000sqm by 2026 due to population growth. Current bulky goods floor space at around 32,220sqm occupied and 4,100sqm vacant suggests that Ballina is undersupplied. There is a further potential for non-bulky goods LFR space – up to 17,000sqm by 2026.

Ballina will require around 49,500sqm of additional bulky goods and LFR space over and above existing levels by 2026. Assuming development at 0.4:1 FSR then around 12 hectares of land will be required to meet growth in demand for bulky goods and LFR space to 2026.

There are currently several approved and mooted developments including:

- Homeworld 29,000sqm homemaker centre in West Ballina (DA consent until late 2012);
- Masters 13,500sqm DIY and hardware store in West Ballina (rezoning request declined by Council);
- Bunnings 11,000sqm hardware house on the Big Prawn site in West Ballina (DA under assessment);
- 6 hectares of vacant land adjacent to the Harvey Norman centre to accommodate additional retailers<sup>2</sup>.

If all proposed developments were to proceed (including the Masters site) then there will be sufficient supply to meet demand to 2026. However due to competition between owners over retailers it is unlikely that all proposed developments will proceed prior to 2026. A more likely scenario is that a combination of currently permitted and

<sup>1</sup> Note: Existing floorspace derived from Hill PDA floorspace audit in August 2011 which includes 13,100sqm of floorspace at the Harvey Norman Centre of which 2,017sqm is assumed to be vacant (this accounts for a 790sqm Eureka Furniture store which opened following the floorspace survey) in addition to retailers such as Bunnings (3,000sqm), BBQ Galore (884sqm) and ToolSpot Hardware (489sqm)

<sup>2</sup> Note: Site area approximated and measured using Neermap

mooted development will be implemented. Significantly, Council declined a request to enable a Masters outlet on land at West Ballina in August 2011, meaning that Masters may consider an alternative site such as Homeworld or the Southern Cross Precinct. Furthermore, it is not certain that substantial commencement will occur on the Homeworld site prior to the lapsing of consent in late 2012.

It would be advantageous for bulky goods and LFR floorspace to be concentrated on one location. In our view Ballina Shire Council should seek to encourage a bulky goods and LFR cluster in the Southern Cross Precinct in and around the Harvey Norman Centre. This would include the Harvey Norman Centre itself and vacant land to the north and west. Bulky goods premises and LFR floorspace should thus be restricted elsewhere in Ballina Shire. Council may seek to achieve this by zoning the Harvey Norman centre and its surrounds B5 Business Development in the emerging Ballina LEP.

In the event that the development of the Homeworld site for bulky goods retailing purposes does not proceed, and in light of Council's decision to decline the Masters request to rezone land at West Ballina, a further 3 hectares of land (in addition to land adjoining the Harvey Norman Centre referred to above) will be required to meet demand to 2026<sup>9</sup>. It is noted that Greenfield land mooted for the expansion of the Southern Cross industrial estate is located northward of the established Harvey Norman Centre.

We concur with all other land zonings in the draft Ballina LEP 2011 related to precincts which have been considered in this Study for potential future bulky goods and LFR floorspace. We also concur with the definition of B6 Enterprise Corridor zoning in the draft Ballina LEP 2011 which excludes bulky goods premises as a permissible use.

Having regard to the above, it is submitted that the proposed zoning amendment will achieve the objectives and recommendations of the Study, whilst also being cognisant of and responsive to the current status of the market place in that:

- the HN Complex site/lot will retain its B5 "bulky goods" zone, which is reflective of the existing consent for and development on the land
- the IN1 zone and 1000m<sup>2</sup> minimum lot size will enable the future subdivision of a broad range of sized and serviced industrial lots to service current and future demand for such
- the IN1 zone (using Clause 2.5 and Schedule 1) will enable general industrial development whilst also expressly permitting development for bulky goods purposes – this will enable the market to be the final determinant of the appropriate land use
- the IN1 zoned land that is able to be expressly developed for bulky goods purposes will be immediately adjacent to the B5 zone and HN Complex – retaining the ability for development of a bulky goods precinct
- the possible future subdivision will provide new roads and improved circulation and connectivity for traffic – this will



be to the betterment of the HN Complex and other sections of the Southern Cross Industrial Estate

### **5.2.7 State Environmental Planning Policies (SEPPs)**

A number of SEPPs apply to the local area. The following identifies each and provides brief comment in regards to such.

#### **SEPP 14 – Coastal Wetlands**

There are no mapped SEPP 14 wetlands on or adjacent to the subject land. A number of SEPP 14 wetlands exist in the locality however are physically and spatially removed from the land subject of the planning proposal.

#### **SEPP 26 – Littoral Rainforests**

There are no mapped SEPP 26 littoral rainforests on or adjacent to the subject land.

#### **SEPP 44 – Koala Habitat Protection**

The land is subject to the provisions of the policy as the land is greater than 1ha in area. The site is devoid of any significant native vegetation and consent exists for the subdivision of the subject land. There were no Koala or habitat issues in the assessment and determination of DA 2009/258 (as amended) and it is submitted that there are no Koala issues with the proposed rezoning.

#### **SEPP 55 – Remediation of Land**

There is an active consent for the subdivision of the land and there were no contamination issues during the assessment of such. There are no contamination/SEPP 55 issues with the proposed rezoning.

#### **SEPP 71 – Coastal Protection**

The whole of the subject land is contained within the coastal zone and is thus subject to SEPP 71 – Coastal Protection. No part of the subject land is identified as being a 'sensitive coastal location'.

Any future development on this land will need to have regard to the provisions of SEPP 71.



## **SEPP (Rural Lands) 2008 (RLSEPP)**

Due to the B5 zoning of the subject land, the RLSEPP does not apply.

### **5.2.8 Ministerial Directions**

A number of Ministerial Directions made under Section 117 of the EP & A Act 1979 apply to the land. The following identifies each of the key Directions which are relevant to the land and planning proposal and makes brief comment in regards to each.

#### *Direction 1.1 – Business and Industrial Zones*

The subject land is identified in the SCPMP as a “bulky goods retail precinct”. The subject land is mapped in the FNCRS as “employment lands”. The proposed rezoning will simply change the existing B5 zone to an IN1 zone with no reduction in the size of the zoned land. The rezoning will facilitate the future development of the land for industrial and bulky goods purposes which will service Ballina, the Shire and the Region.

Based on the above, it is submitted that the rezoning is consistent with the objectives and provisions of Direction 1.1. In the context of the above, it could also be considered to be of “minor significance”.

#### *Direction 1.2 – Rural Zones*

This direction does not apply due to the fact that the proposal does not involve an existing or proposed rural zone. The land is zoned for urban purposes (B5) and is proposed to be changed to another urban zone (IN1).

#### *Direction 1.3 – Mining, Petroleum Production and Extractive Industries*

This direction does not apply.

#### *Direction 1.4 – Oyster Aquaculture*

This direction does not apply.

#### *Direction 1.5 – Rural Lands*

This direction does not apply due to the fact that the land is not subject to SEPP (Rural Lands) 2008.

### *Direction 2.1 – Environment Protection Zones*

The proposed rezoning of the land will not compromise the continued protection of high conservation vegetation in the broader locality utilising existing and proposed environmental protection zones. The proposed rezoning does not seek to modify or reduce the environmental protection zones or standards applying to the land.

The subject land does not contain any environmentally sensitive or significant areas that require protection and conservation via zoning.

### *Direction 2.2 – Coastal Protection*

The subject land is contained within the coastal zone. The subject land is not identified as being subject of coastal processes or erosion.

The planning proposal is required to include provisions that give effect to and are consistent with the:

- NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997
- Coastal Design Guidelines 2003
- manual relating to the management of the coastline for the purposes of section 733 of the Local Government Act 1993 (the NSW Coastline Management Manual 1990)

### *Direction 2.3 – Heritage Conservation*

The subject land is not identified in the BLEP 2012 or the North Coast REP 1988 as comprising/containing items, areas or objects of environmental or cultural heritage significance.

Due to the highly disturbed nature of the site and the terms and conditions of DA 2009/258 (as amended), the subject land is not likely to have any heritage significance or contain any items of cultural/indigenous heritage.

### *Direction 2.4 – Recreation Vehicle Areas*

This direction does not apply.

*Direction 2.5 – Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs*

This direction does not apply.

*Direction 3.1 – Residential Zones*

This direction does not apply.

*Direction 3.2 – Caravan Parks and Manufactured Home Estates*

This direction does not apply.

*Direction 3.3 – Home Occupations*

This direction does not apply.

*Direction 3.4 – Integrating Land Use and Transport*

The subject land is identified in the FNCRS as “Employment Lands” and in the BSGMS as “Urban zoned un-developed land”.

The planning proposal involves the change of a B5 zone to an IN1 zone and thus the “employment lands” nature of the land and the existing accessibility (from a transport perspective) will not change.

The proposed change from one urban zone to another urban zone is consistent with the provisions of Direction 3.4.

*Direction 3.5 – Development Near Licensed Aerodromes*

The subject land is approx. 400m from the Ballina Byron Gateway Airport. The subject land is not subject of any ANEF contours or OLS for the airport.

*Direction 3.6 – Shooting Ranges*

This direction does not apply.

*Direction 4.1 – Acid Sulfate Soils*

The subject land is mapped as containing Class 2 acid sulfate soils. The proposed rezoning will not have any initial impact on the Class 2 acid sulfate soils present on the land.

Future development on the land will be required to comply with the Acid Sulfate Soils Planning Guidelines and Clause 7.1 of the Ballina LEP 2012.

*Direction 4.2 – Mine Subsidence and Unstable Land*

This direction does not apply.

*Direction 4.3 – Flood Prone Land*

The subject land is identified as being subject to the 1 in 100 year flood event. The land is required to be filled to mitigate flooding under the terms and conditions of DA 2009/258 (as amended).

Floodplain management and development control provisions are contained in Chapter 2b of the Ballina Development Control Plan 2012.

*Direction 4.4 – Planning for Bushfire Protection*

Part of the subject land is mapped as being bushfire prone. Development of bushfire prone land is managed and controlled by the provisions of Section 79BA of the Environmental Planning and Assessment Act 1979 and Section 100B of the Rural Fires Act 1997.

There were no bushfire issues during the assessment of DA 2009/258 (as amended) and there are no bushfire conditions attaching to the subdivision. The future subdivision and development of the land will contain fully constructed urban roads, a reticulated water supply system (with fire hydrants) and underground electricity supply. Appropriate APZs and buffers would be able to be achieved in any future development of the land.

The NSW RFS is required to be consulted as part of the planning proposal.

*Direction 5.1 – implementation of Regional Strategies*

The subject land is identified in the FNCRS as being “Employment Lands”.



The proposed rezoning will preserve the land's ability to be developed as employment land and is therefore consistent with the Strategy and thus with the provisions of Direction 5.1.

*Direction 5.2 – Sydney Drinking Water Catchment*

This direction does not apply.

*Direction 5.3 – Farmland of State and Regional Significance on the NSW Far North Coast*

The subject land is mapped on the Northern Rivers Farmland Protection Project, Final Map 2005 (Section 117(2) Direction) as “Committed Urban Uses and Rural-Residential Uses” and thus Direction 5.3 does not apply.

*Direction 5.4 – Commercial and Retail Development along the Pacific Highway, North Coast*

This direction does not apply.

*Direction 5.8 – Second Sydney Airport: Badgerys Creek*

This direction does not apply.

*Direction 5.9 – North West Rail Link Corridor Sydney*

This direction does not apply.

*Direction 5.10 – Implementation of Regional Plans*

This direction does not apply.

*Direction 6.1 – Approval and Referral Requirements*

The proposed rezoning of the land does not seek any additional concurrence, consultation or referral of development applications to the Minister or other public authority or any designated development provisions.

The proposed rezoning is thus consistent with the provisions of Direction 6.1.

*Direction 6.2 – Reserving Land for Public Purposes*

This direction does not apply.

*Direction 6.3 – Site Specific Provisions*

No detailed subdivision or other specific developments are provided in the Planning Proposal. The Planning Proposal is consistent with the Direction.

*Direction 7.1 – Implementation of A Plan for Growing Sydney*

This direction does not apply.

*Direction 7.2 – Implementation of Greater Macarthur Land Release Investigation*

This direction does not apply.

**5.3 Environmental, social and economic impacts**

**5.3.1 Critical Habitat and Threatened Species**

Due to the heavily disturbed nature of the site the land is not likely to contain any critical habitat or threatened species. There were habitat and threatened species issues raised during the assessment of DA 2009/258 (as amended).

**5.3.2 Environmental Effects and Management**

There are no specific environmental effects and/or management measures that will need to be implemented for the rezoning as all such impacts were considered during the assessment of DA 2009/258 (as amended), with the environmental management conditions attaching thereto being such that will mitigate any environmental impacts.

**5.3.3 Social and Economic Effects**

The proposed rezoning will provide additional land for industrial/bulky goods purposes which will have positive social and economic impacts for the community.

## **5.4 State and Commonwealth interests**

### **5.4.1 Public Infrastructure**

The subject land is within an area that is fully serviced with all necessary reticulated public infrastructure services. Preliminary investigations into these services (particularly in respect of water and sewerage) have confirmed that sufficient capacity exists in the services to accommodate likely future loads/demands that would be imparted by the subdivision and development of the land.

### **5.4.2 State and Commonwealth Consultation**

This section of the planning proposal will be completed following consultation with State and Commonwealth agencies identified in the “gateway exhibition and determination process”.

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## 6 Community Consultation

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The proposal is considered to be a “low impact proposal” and should thus be subject to a minimum 14 day community consultation exhibition period (per Section 5.5.2 – Community Consultation of “*A guide to preparing local environmental plans*”, DoP 2013).

The requirement for community consultation will ultimately be a matter for Council, however it is suggested that a minimum 14 day exhibition period would suffice in this instance.



|                     |   |
|---------------------|---|
| <b>Attachment 1</b> | Aerial photograph of subject and adjoining land and copy of deposited plans |
| <b>Attachment 2</b> | Detailed masterplan (Southern Cross Precinct Master Plan)                   |
| <b>Attachment 3</b> | Copy of notice of consent – DA 2009/258 (as amended)                        |
| <b>Attachment 4</b> | Concept subdivision plan  |

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ATTACHMENT 1

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**Attachment 1**  
Aerial photograph of subject  
and adjoining land and copy  
of deposited plans



## Aerial photograph of subject and adjoining land

Lot 952 DP 1165266 and Lots 1-5 DP 123781



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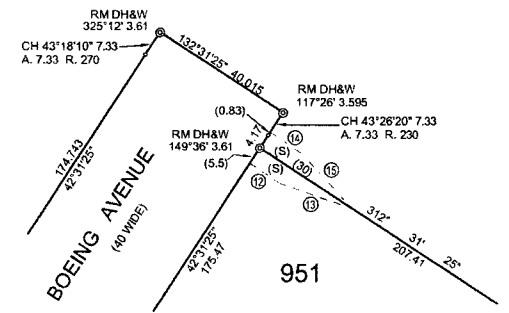
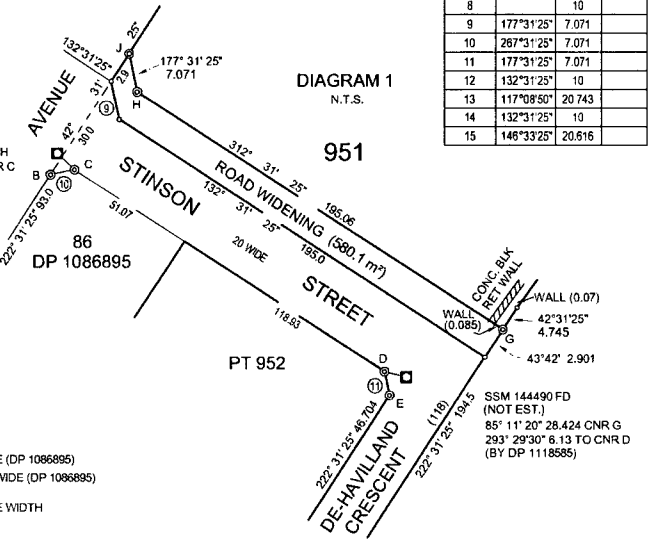
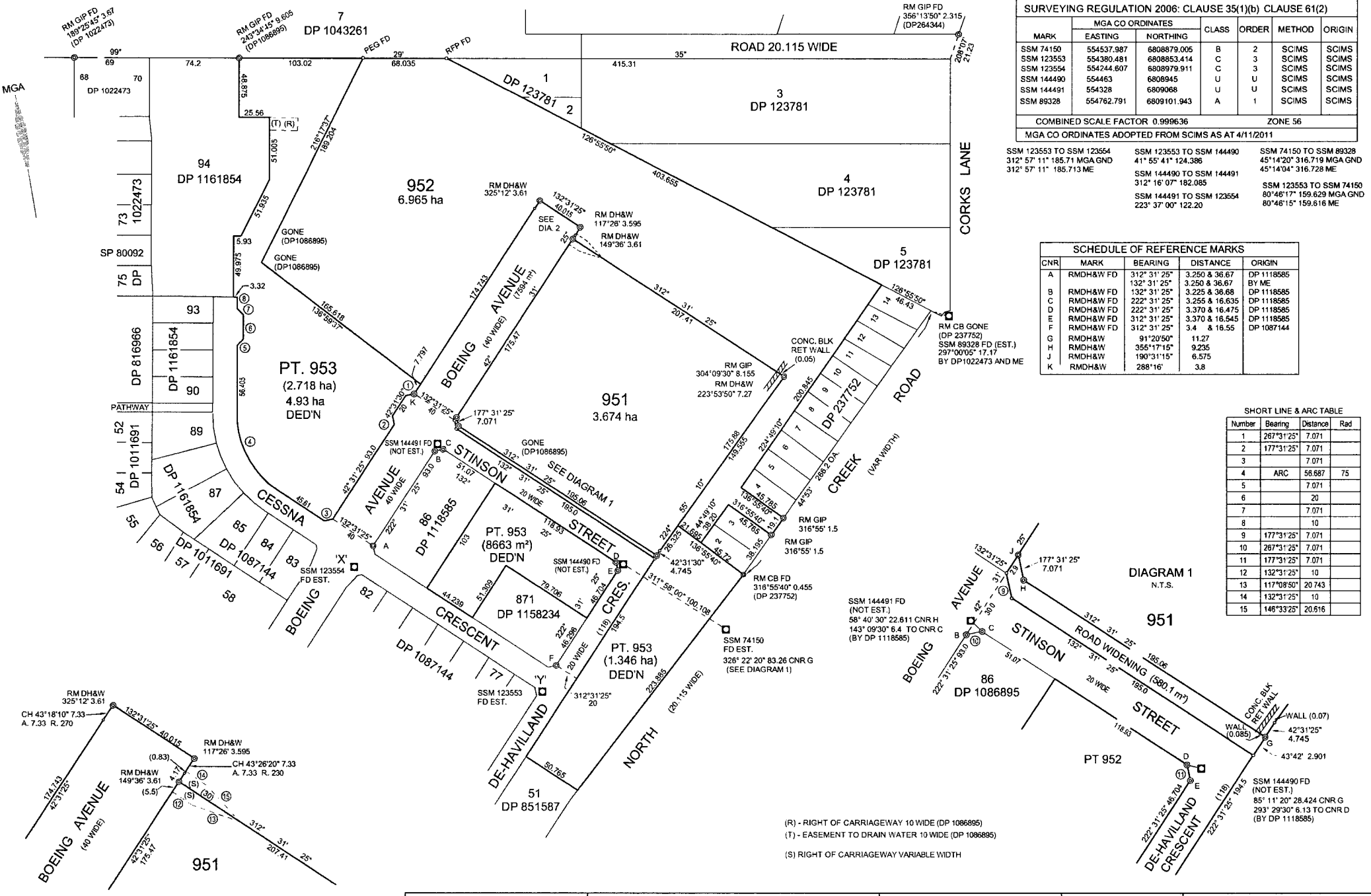
| MARK       | MGA CO ORDINATES |             | CLASS | ORDER | METHOD | ORIGIN |
|------------|------------------|-------------|-------|-------|--------|--------|
|            | EASTING          | NORTHING    |       |       |        |        |
| SSM 74150  | 554537.987       | 6808879.005 | B     | 2     | SCIMS  | SCIMS  |
| SSM 123553 | 554380.481       | 6808853.414 | C     | 3     | SCIMS  | SCIMS  |
| SSM 123554 | 554244.607       | 6808979.911 | C     | 3     | SCIMS  | SCIMS  |
| SSM 144490 | 554463           | 6808945     | U     | U     | SCIMS  | SCIMS  |
| SSM 144491 | 554328           | 6809068     | U     | U     | SCIMS  | SCIMS  |
| SSM 89328  | 554762.791       | 6809101.943 | A     | 1     | SCIMS  | SCIMS  |

COMBINED SCALE FACTOR 0.999636 ZONE 56  
MGA CO ORDINATES ADOPTED FROM SCIMS AS AT 4/11/2011

SSM 123553 TO SSM 123554 312° 57' 11" 185.71 MGA GND 312° 57' 11" 185.713 ME  
SSM 123553 TO SSM 144490 41° 55' 41" 124.386  
SSM 144490 TO SSM 144491 312° 16' 07" 182.085  
SSM 144491 TO SSM 123554 223° 37' 00" 122.20  
SSM 74150 TO SSM 89328 45° 14' 20" 316.719 MGA GND 45° 14' 04" 316.728 ME  
SSM 123553 TO SSM 74150 80° 46' 17" 159.629 MGA GND 80° 46' 15" 159.616 ME

| SCHEDULE OF REFERENCE MARKS |           |              |                |            |
|-----------------------------|-----------|--------------|----------------|------------|
| CNR                         | MARK      | BEARING      | DISTANCE       | ORIGIN     |
| A                           | RMDH&W FD | 312° 31' 25" | 3.250 & 36.67  | DP 1118585 |
| B                           | RMDH&W FD | 132° 31' 25" | 3.250 & 36.67  | BY ME      |
| C                           | RMDH&W FD | 222° 31' 25" | 3.225 & 36.68  | DP 1118585 |
| D                           | RMDH&W FD | 222° 31' 25" | 3.255 & 16.635 | DP 1118585 |
| E                           | RMDH&W FD | 312° 31' 25" | 3.370 & 16.475 | DP 1118585 |
| F                           | RMDH&W FD | 312° 31' 25" | 3.370 & 16.545 | DP 1118585 |
| G                           | RMDH&W FD | 312° 31' 25" | 3.4 & 16.55    | DP 1087144 |
| H                           | RMDH&W    | 91° 20' 50"  | 11.27          |            |
| I                           | RMDH&W    | 355° 17' 15" | 9.235          |            |
| J                           | RMDH&W    | 190° 31' 15" | 6.575          |            |
| K                           | RMDH&W    | 288° 16'     | 3.8            |            |

| SHORT LINE & ARC TABLE |              |          |     |
|------------------------|--------------|----------|-----|
| Number                 | Bearing      | Distance | Rad |
| 1                      | 267° 31' 25" | 7.071    |     |
| 2                      | 177° 31' 25" | 7.071    |     |
| 3                      |              | 7.071    |     |
| 4                      | ARC          | 58.687   | 75  |
| 5                      |              | 7.071    |     |
| 6                      |              | 20       |     |
| 7                      |              | 7.071    |     |
| 8                      |              | 10       |     |
| 9                      | 177° 31' 25" | 7.071    |     |
| 10                     | 267° 31' 25" | 7.071    |     |
| 11                     | 177° 31' 25" | 7.071    |     |
| 12                     | 132° 31' 25" | 10       |     |
| 13                     | 117° 08' 50" | 20.743   |     |
| 14                     | 132° 31' 25" | 10       |     |
| 15                     | 146° 33' 25" | 20.616   |     |



|                              |  |   |                  |
|------------------------------|--|---|------------------|
| Surveyor: ANTHONY JOHN DENNY | PLAN OF SUBDIVISION OF LOT 1 DP 237752 AND LOT 95 DP 1161854 | LGA: BALLINA                                  | Registered       |
| Date of Survey: 12/10/2010   |  | Locality: BALLINA                             | 1.6.2011         |
| Surveyors Ref: 10/420        |  | Subdivision No.: 19/2011                      | <b>DP1165266</b> |
|                              |  | Lengths are in metres. Reduction Ratio 1:2000 |                  |

Box:e-DeX /Doc:DP 1165266 P /Rev:01-Jun-2011 /sts:SC.OK /Prt:02-Jun-2011 01:35 /Pgs:ALL /Seq:1 of 2 DP1165266  
WARNING : Electronic Document Supplied by LPI NSW for Your Internal Use Only.

PLAN OF PART OF LOTS 32,39,45 TO 48 incl. D.P.2952  
(Vol. 11155 Fol. 131)

D. P. 123781

Registered: 18.6.1991

C.A.: \_\_\_\_\_

Title System: TORRENS

Purpose: DEPARTMENTAL

Ref. Map: PARISH

Last Plan: D.P. 2952\*

Mun./Shire/City BALLINA

Town or Locality \_\_\_\_\_

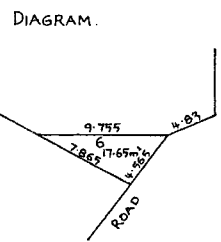
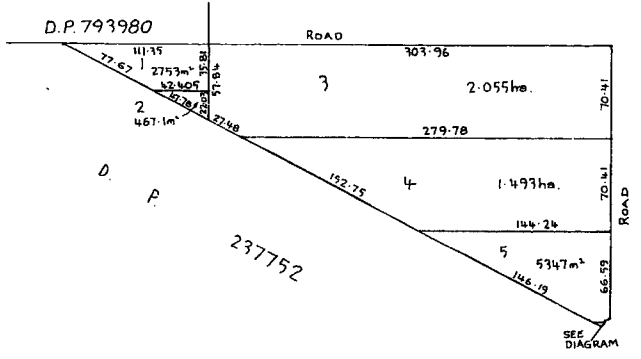
Parish BALLINA

County ROUS

Reduction Ratio 1: 3000 Lengths are in metres

10 20 30 40 50 60 70 Table of mm 110 120 130 140

This negative is a photograph made as a permanent record of a document in the custody of the Registrar General this day. 18th June, 1991



B  
1  
D  
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Z

BALLINA



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ATTACHMENT 2

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**Attachment 2**  
Southern Cross Precinct  
Master Plan



- 1 Existing Southern Cross Industrial Estate
- 2 Bulky goods retail precinct
- 3 Future industrial area with conventional 50 x 25 m lots
- 4 New airport link road
- 5 Realigned road to facilitate the design of the North Creek Road Intersection
- 6 Sovereign Gardens aged care community
- 7 Existing residential
- 8 Live / work precinct
- 9 Ballina airport terminal
- 10 Future expansion of airport terminal and related facilities
- 11 Future airport related industry and infrastructure subject to airport specific masterplanning
- 12 Existing airport related uses
- 13 Existing water body to be filled in and site rehabilitated for environmental protection
- 14 Existing and expanded environmental protection areas and open space corridors
- 15 Existing council owned land parcels for future determination
- 16 Existing water filled borrow pit to incorporate bird exclusion measures
- 17 Area to be rehabilitated under a biobanking scheme
- 18 New commercial venture / future runway expansion
- 19 Existing and expanded bicycle track network
- 20 Future western arterial road
- 21 Existing and expanded drainage network
- 22 Waste management facility site boundary
- 23 Equestrian centre
- 24 Regional sporting facility
- 25 Short-medium term waste management operations Long term expansion of sporting facilities
- 26 Possible long term expansion of sporting facilities or commercial venture
- 27 New airport access connection to Pacific Highway
- 28 Privately owned land not subject to masterplan considerations





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ATTACHMENT 3

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**Attachment 3**  
Copy of notice of consent –  
DA 2009/258 (as amended)

**Bob Thornton**

**DA: 2009/258**  
**Ph: 66 861254**

**Environmental Planning And Assessment Act, 1979**

*Notice To Applicant Of Determination Of Application  
To  
Amend Development Consent*

**TO:**

Geolink  
PO Box 9  
LENNOX HEAD NSW 2478

Being the applicant in respect of an application seeking amendment of Development Consent No. DA **2009/258** following use:

To undertake a staged subdivision creating five (5) allotments (proposed Lots 1-5) and two open space allotments, filling of land, construction of road, drainage works, extension of services and landscaping works.

**Stage 1:** being the provision of all infrastructure sufficient to facilitate the creation of Lot 1.

**Stage2:** being the creation of the remainder of the subdivision.

**SUBJECT LAND**

Lot 1 DP 237752, Pt Lot 87 DP 1118585, Lots 1-5 DP 123781, North Creek Road, Boeing Avenue and Stinson Street, Ballina – Southern Cross Industrial Area.

Pursuant to Section 96 of the Act, notice is hereby given that the application seeking amendment of the subject development consent has been determined by granting approval to the modifications specified in this notice.

**DETAILS OF AMENDMENT**

**Condition 2.1 to be deleted and replaced by the following;**

- 2.1 Prior to the issue of the Construction Certificate, engineering design drawings shall be submitted to and approved by Council under section 138 of the Roads Act 1993 for the following road and drainage works.
- The modification of the existing intersection of the Pacific Highway and Southern Cross Drive to a left in/left out arrangement.
  - Upgrading the existing intersection of the Pacific Highway and North Creek Road to a two lane round about.

- Modification of the existing Southern Cross Drive centreline at the intersection of Southern Cross Drive and Boeing Avenue to meet the minimum requirements for an Urban Right Turn Treatment as per the Austroads Guide to Traffic Engineering Practice – Part 5: Intersections at Grade, 2005.
- The extension of Boeing Avenue to the Heavy Vehicle Crossing as per the concept plans by Geolink Plan Reference No's:1231/02 to 1231/24
- The construction of the most southerly two (2) Vehicular Crossings in accordance with the designs contained in the above mentioned plans.

The applicant shall be responsible for all costs associated with the design and construction of these works. The engineering designs shall comply with the minimum requirements of the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing) and shall be submitted with a completed Certification Report as set out in Annexure DQS-A of the manuals. Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.

Condition 6.1 to be deleted and replaced by the following;

- 6.1 Prior to the issue of the Construction Certificate, engineering design drawings shall be submitted to and approved by Council under section 138 of the Roads Act 1993 for the following road and drainage works.
- The extension of Boeing Avenue as per the concept plans by Geolink Plan Reference No's:1231/02 to 1231/24
  - The construction of the most northerly Vehicular Crossings in accordance with the designs contained in the above mentioned plans.

The applicant shall be responsible for all costs associated with the design and construction of these works. The engineering designs shall comply with the minimum requirements of the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing) and shall be submitted with a completed Certification Report as set out in Annexure DQS-A of the manuals. Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.

(NB: In all other respects the terms and conditions in Council's development consent No. DA 2009/258 dated 4 November 2009 remain applicable).

You are advised that Section 96(6) of the Environmental Planning and Assessment Act 1979 provides that you may appeal to the NSW Land and Environment Court if you are dissatisfied with Council's determination of your application to modify the development consent.

Rod Willis  
**Group Manager**  
**Regulatory Services**

**Dated: 5 March 2010**



**Bob Thornton**

**DA: 2009/258**

Geolink  
PO Box 9  
LENNOX HEAD NSW 2478

**NOTICE TO APPLICANT OF DETERMINATION OF A  
DEVELOPMENT APPLICATION**

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

**Development Application No:** DA 2009/258

**Applicant:** Geolink

**Subject Land:** Lot 1 DP 237752, Pt Lot 87 DP 1118585, Lots 1-5 DP 123781, North Creek Road, Boeing Avenue and Stinson Street, Ballina – Southern Cross Industrial area.

**Development Proposal:** To undertake a staged subdivision creating five (5) allotments (proposed Lots 1-5) and two open space allotments, filling of land, construction of a road, drainage works, extension of services and landscaping works.

**Stage 1:** being the provision of all infrastructure sufficient to facilitate the creation of Lot 1

**Stage 2:** being the creation of the remainder of the subdivision.

**Determination:** The development application has been determined by Ballina Shire Council on 4 November 2009 by way of **the grant of consent subject to the conditions specified below:**

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Assessment Officer

## 1. GENERAL CONDITIONS

### General

- 1.1. Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including the following;-

| Prepared by | Plan no | Revision | Date       |
|-------------|---------|----------|------------|
| Geolink     | 1231/02 | A        | 30/04/2009 |
| Geolink     | 1231/03 | A        | 30/04/2009 |
| Geolink     | 1231/04 |          | Oct 2008   |
| Geolink     | 1231/05 |          | Oct 2008   |
| Geolink     | 1231/06 |          | Oct 2008   |
| Geolink     | 1231/07 |          | Oct 2008   |
| Geolink     | 1231/08 |          | Oct 2008   |
| Geolink     | 1231/09 |          | Oct 2008   |
| Geolink     | 1231/10 |          | Oct 2008   |
| Geolink     | 1231/11 |          | Oct 2008   |
| Geolink     | 1231/12 |          | Oct 2008   |
| Geolink     | 1231/13 |          | Oct 2008   |
| Geolink     | 1231/14 |          | Oct 2008   |
| Geolink     | 1231/14 |          | Oct 2008   |
| Geolink     | 1231/16 |          | Oct 2008   |
| Geolink     | 1231/17 |          | Oct 2008   |
| Geolink     | 1231/18 |          | Oct 2008   |
| Geolink     | 1231/19 |          | Oct 2008   |
| Geolink     | 1231/20 | A        | 30/04/2009 |
| Geolink     | 1231/21 | A        | 30/04/2009 |
| Geolink     | 1231/22 |          | Oct 2008   |
| Geolink     | 1231/23 | A        | 30/04/2009 |
| Geolink     | 1231/24 |          | Oct 2008   |
| Geolink     | 1231/26 | A        | 30/04/2009 |

except as modified by any condition in this consent.

- 1.2. All power reticulation within the development shall be provided underground.
- 1.3. Council shall accept the stormwater management system (per watershed catchment) 'on-maintenance" only once the system is complete in it's entirety and demonstrated to be functionally operating as designed to the satisfaction of Council's Engineer.
- 1.4. In accordance with the EP&A Act (Section 109 F) a construction certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.
- 1.5. The applicant shall be responsible for the design and installation of public street lighting within the development. All street lighting must be designed in accordance with AS/NZS 1158 and based on the installation of Country Energy Style 1 lanterns

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fitted with high pressure sodium lighting. Engineering design plans and specifications must be submitted to and approved by Council prior to the commencement of works.

## **STAGE 1**

### **2 PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE (Subdivision)**

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

2.1. Prior to the issue of the Construction Certificate, engineering design drawings shall be submitted to and approved by Council under Section 138 of the Roads Act 1993 for the following road and drainage works.

- The modification of the existing intersection of the Pacific Highway and Southern Cross Drive to a left in/left out arrangement.
- Upgrading the existing intersection of the Pacific Highway and North Creek Road to a two lane roundabout.
- Modification of the existing Southern Cross Drive centreline at the intersection of Southern Cross Drive and Boeing Avenue to meet the minimum requirements for an Urban Right Turn Treatment as per the Austroads Guide to Traffic Engineering Practice – Part 5: Intersections at Grade, 2005.
- The extension of Boeing Avenue to the Heavy Vehicle Crossing as per the concept plans by Geolink Plan Reference No's: 1231/02 to 1231/24.
- The construction of the three (3) Vehicle Crossings in accordance with the designs contained in the above mentioned plans.

The applicant shall be responsible for all costs associated with the design and construction of these works. The engineering designs shall comply with the minimum requirements of the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing) and shall be submitted with a completed Certification Report as set out in Annexure DQS-A of the manuals. Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.

2.2. At the expense of the applicant, Council's sewer reticulation network shall be extended to service proposed Lot 1. Given that this development is unable to be serviced by Council's gravity sewer system, the development shall be serviced using a pressure sewer system in accordance with Council's "Pressure Sewer Policy" (as current at the time of construction works commencing). Design plans are to be approved by Council prior to issue of the Construction Certificate.

2.3. At the expense of the applicant, Council's water reticulation network shall be extended to service proposed Lot 1. This shall include the following:

- Extending the potable water main to service Lot 1.
- Extending the reclaimed effluent water main to service Lot 1

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Assessment Officer

The design shall comply with the minimum requirements of Council's "Water Reticulation Specification 2004" as current at the time of construction works commencing. Engineering design plans must be submitted to and approved by Council prior to the issue of the Construction Certificate.

- 2.4. A landscape plan for the public open space lots and the entire drainage channel shall be prepared by a person competent in the field, and submitted to Council for approval prior to the issue of a Construction Certificate for Stage 1. The plan shall show the mature height, location, quantity and species of all plantings and should also give details of soil conditions and the planting and maintenance program. The selection of appropriate plants shall be made generally in accordance with the Policy Statement No. 6 of *Ballina Shire Council Development Control Plan No. 1 – Urban Land* and the *Bushland Friendly Nursery Scheme Environmental Weeds and Native Alternatives*.

- 2.5. **Civil inspection fee, construction certificate fee & construction bond**  
Prior to the issue of a Construction Certificate, the following fees and bond are to be paid to Council which includes the amount of Goods and Services Tax payable. The fees and bond are subject to review and may vary at the actual time of payment:

- Civil Construction Certificate Fee: Refer to Council's Schedule of Fees and Charges.
- Civil Inspection Fee: Refer to Council's Schedule of Fees and Charges.
- Civil Construction Bond: Equal to 5% of the estimated cost of the civil works (min \$1000)

The Civil Construction Bond is taken and may be used by Council to cover the cost of any damage to Council's assets (e.g. Sewer systems, footpaths, kerb and guttering etc) arising from private development work. The bond will be refunded upon completion of the development should no such damage occur.

- 2.6. The applicant shall be required to submit a Construction Management Plan for Stage 1 that will include but not be limited to the following information:
- Traffic Management Plan
  - Vehicle Movement Plan
  - Environmental Management Plan
  - Construction Staging Plan

Details must be submitted to and approved by Council prior to the issue of a Construction Certificate.

- 2.7. The applicant shall be required to develop a Stormwater Management Plan for Stage 1, detailing the provision of on-site stormwater controls in accordance with Water Sensitive Design requirements of Council's Development Control Plan No. 13 - Stormwater Management. The Stormwater Management Plan shall need to consider both the construction and operational phases of the development. The plan shall include but not be limited to the following:

- The water quality performance targets to be achieved.
- The proposed treatment system for each stage of the development.
- The proposed water quality testing regime and frequency of site inspections.

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Assessment Officer

- The reporting requirements to Council.

A detailed modelling report and design must be submitted to and approved by Council prior to issue of a Construction Certificate.

- 2.8. Overland flow paths shall be provided within the subdivision such that these flow paths are contained within road or public reserve to the approval of Council's Engineer. Details are to be included in the stormwater designs and submitted to and approved by Council prior to issue of a Construction Certificate.
- 2.9. A 2.0 metre wide concrete shared footpath/cycleway shall be constructed along the entire length of proposed Lot 1 within the eastern verge of Boeing Avenue. The design shall also include a 2.0m wide path across the Boeing Avenue median adjacent to the southern boundary of proposed Lot 1.

The shared footpath/cycleway shall be designed and constructed in accordance with the Austroads Guide to Traffic Engineering Practice Part 14 Bicycles and Standard Drawing R-07 of Northern Rivers Local Government *Development Design and Construction Manuals*. Engineering design drawings must be submitted to and approved by Council prior to the issue of the Construction Certificate for each stage.

- 2.10. The area occupied by proposed Lot 1 shall be filled with a suitable foundation material in accordance with Section 4.7 of Council's *Subdivision Code* (as current at the time of construction commencing) to a minimum level of RL 2.0 metres AHD. Road levels may be filled to up to 300 mm less than RL 2.0 metres AHD subject to flow velocity depth relationship not exceeding a 0.4 ratio. Details of bulk earthworks, road levels and associated drainage are to be included on the engineering design plans submitted prior to the issue of the Construction Certificate.
- 2.11. No filling is to be placed on the site that will cause surface water flooding of any adjoining property. The development shall make due provision for the diversion of the existing stormwater quantities that discharge onto the site via adjacent properties. The development shall be required to provide a suitable drainage system and demonstrate that the pre-development performance of the existing stormwater and overland drainage system is maintained. Details are to be included in the stormwater designs and submitted to and approved by Council prior to issue of the Construction Certificate.
- 2.12. Prior to the release of the Construction Certificate, a Construction Noise Management Plan prepared by a suitably qualified person, as identified in the Environmental Noise Impact Assessment (ENIA), dated 1 April 2009 prepared by Carter Rytenskild Group (CRG), shall be submitted to and be approved by the Council.
- 2.13. Identified acoustic construction measures, as specified in recommendations of Environmental Noise Impact Assessment (ENIA), dated 1 April 2009 prepared by Carter Rytenskild Group (CRG), and or as amended, shall be incorporated into the final construction plans and be implemented during construction works.

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Assessment Officer



### 3 PRIOR TO CONSTRUCTION WORKS COMMENCING

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

- 3.1. Soil erosion and sediment control measures shall be, installed and maintained in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.
- 3.2. The advisory sediment and erosion sign issued with this approval is to be posted at the entrance to the site at all times during the construction of the project. **Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**
- 3.3. All traffic control during construction shall be in accordance with the Roads and Traffic Authority – *Traffic Control at Work Sites*. Details are to be submitted to and approved by Council prior to the commencement of Construction.

### 4 DURING CONSTRUCTION

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

- 4.1. All civil construction works shall be undertaken in accordance with the minimum requirements of the Northern Rivers Local Government *Development Construction Manuals* (as current at the time of construction works commencing). Inspections and approval of the road, drainage, water & sewer works shall be required by Council's Engineer (or an approved certifying authority) in accordance with the Manual. Where details are not addressed in these Manual, the works are to comply with the requirements of Council's *Subdivision Code*.
- 4.2. The applicant shall be required to implement the approved Stormwater Management Plan to ensure that the stormwater system maintains a nil pollutant load increase during the construction phase. Detailed reporting must be submitted to Council's Engineer during the construction phase to demonstrate compliance with the requirements of the approved Stormwater Management Plan.
- 4.3. A single all weather accessway is to be provided on site, the accessway shall have a shake down grid or equivalent. All construction vehicles are to enter and exit the site via this accessway so as to minimise erosion on site and prevent the movement of soil material onto surrounding roadways (if required provide a 'shake down' grid area for truck wheel washing). When necessary, roadways shall be swept and all drains and gutters cleaned of sediment material. **Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**
- 4.4. A water truck designed to suppress dust from exposed surfaces and access roads shall be available at the site or in the immediate vicinity at all times. Exposed surfaces and access pads shall be regularly wetted to suppress dust generation until such time that construction is completed and areas have been revegetated. All disturbed areas shall be revegetated immediately they are completed.

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- 4.5. Suitable covering and protection must be provided to all stockpiles and completed works to ensure that no material is removed by wind from the site, causing a nuisance to neighbouring properties.
- 4.6. All disturbed and exposed areas shall be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the development.
- 4.7. Kerb and guttering, footpaths, utility services or roads damaged as a result of construction works related to the development shall be immediately reinstated to a satisfactory condition.
- 4.8. There shall be no storage of building materials, plant or equipment on the road, footway or reserve areas without the prior written consent of Council.
- 4.9. **Hours of Operation - Construction:**  
The hours of operation for any **noise generating construction activity** (including the delivery of materials to and from the site) on the proposed development are to be limited to within the following times:
- Monday to Friday 7.00am to 6.00pm  
Saturday 8.00am to 1.00pm
- No noise generating construction activities are to take place on Sundays or public holidays.
- 4.10. The applicant shall ensure that any fill material imported to the site for the proposed development shall only be obtained from other fill sources with approved testing. The supplier of the fill material must certify to Council at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.

## 5 PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

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

### 5.1. **Developer Contributions for Subdivision**

Prior to the issue of a Subdivision Certificate, total payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979 and Development Servicing Plans prepared under the Section 64 of the Local Government Act 1993 and Section 306 of the Water Management Act, 2000:

| <b>Contribution Plan/Development Servicing Plan</b>                           | <b>Adopted</b>  |
|---|-----------------|
| Ballina Shire Contributions Plan 2008   | 23 October 2008 |
| Ballina Road Contribution Plan October 2002                                   | 24 October 2002 |
| Ballina Shire Council Water Supply Infrastructure Development Servicing Plans | 27 May 2004     |
| Ballina Shire Council Sewerage Infrastructure Development Servicing Plans     | 27 May 2004     |
| Rous Water Development Servicing Plan   | 21 May 2003     |

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|   |                  |
|---|------------------|
| Ballina CBD Car Parking Contribution Plan   | 25 November 2004 |
| Lennox Head Village Centre Car Parking Contribution Plan  | 12 February 2004 |
| The Council of the Shire of Ballina Section 94 Contributions Plan:<br>Heavy Vehicle Traffic Generating Development - Maintenance and<br>Construction of Roads | 9 February 1996  |

The Contribution Plans and Development Servicing Plans provide for the indexing of contribution amounts. The rates payable will be indexed rates at the time payment is made. Copies of the Contribution Plans and Development Servicing Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

It is noted that the Rous Water Servicing Development plan fee may be waived where the development can demonstrate to Rous Water's satisfaction that it is a non-profit and charitable organization, which by virtue of carrying out such development is considered by Rous Water to be making a significant and positive contribution to the community.

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

- 5.2. All civil works approved under Section 138 of the Roads Act 1993 are to be completed to the satisfaction of Council prior to issue of a Subdivision Certificate. All works are to be completed in accordance with the approved designs.
- 5.3. All site filling for proposed Lot 1 shall be completed in accordance with the approved plans and the requirements of Level 1 NATA Certification consistent with:
  - AS 2870 – 1996 Residential Slabs and Footings Code
  - AS 3798 – 2007 Guidelines on Earthworks for Commercial and Residential Developments.

Prior to the release of the Subdivision Certificate, certification from a suitably qualified, registered, practicing Geotechnical Engineer verifying such site filling is in accordance with AS2870, AS3798 and Northern Rivers Construction Manual. Additionally the compacted fill is to possess adequate bearing capacity for building construction with details submitted to Council in accordance with the Northern Rivers Construction Manual (as current at the time of construction). Certification shall also be provided verifying that any fill material imported to the site is free of contaminants, being natural or otherwise, and was obtained from an approved fill source with quality assurance testing. This is to be obtained via extraction receipts and sampling from the borrow source.

- 5.4. All street lighting applicable to Stage 1 must be installed, prior to the release of the Subdivision Certificate.
- 5.5. All road signage for Stage 1 including street name signs, must comply with the requirements of *Australian Standards 1742, 1743 & 1744* and be installed prior to issue of the Subdivision Certificate.
- 5.6. Prior to the issue of a Subdivision Certificate, all water supply and sewer works for Stage 1 must be completed in accordance with the approved plans and Councils

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Assessment Officer

*Subdivision Code* (as current at the time of construction works commencing). All works must be approved by Council.

- 5.7. Prior to the issue of a Subdivision Certificate, all stormwater works for Stage 1 must have been completed and certified in accordance with the approved design plans and the approved Stormwater Management Plan lodged with the Development Application. This certification is to be provided by a registered certified practicing Civil Engineer competent in the field of stormwater design and familiar with all aspects of the project.
- 5.8. Prior to issue of a Subdivision Certificate, Council is to be provided with a comprehensive maintenance and management plan for all stormwater controls and assets to be inherited by Council. This management plan is to be prepared by a suitably qualified engineer experienced in stormwater management.
- 5.9. Prior to the issue of a Subdivision Certificate, certification is to be provided that electricity and telephone services have been provided to Stage 1 to the satisfaction of the relevant authorities.
- 5.10. Prior to the issue of a Subdivision Certificate, the following maintenance bond must be paid to Council which includes the amount of Goods and Services Tax payable. The bond is subject to review and may vary at the actual time of payment:
  - Civil Maintenance Bond: Equal to 5% of the estimated cost of the civil works (min \$1000)

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

- 5.11. Prior to the issue of a Subdivision Certificate for the release of Stage 1, the proposed landscaping works within the open space area on the eastern side of the proposed development, and the landscaping within the completed section of the drainage channel must be completed.
- 5.12. A landscaping bond equal to the value of the landscaping works, shall be lodged with Council prior to the issue of a Subdivision Certificate for Stage 1. This bond is refundable four (4) months after Council's receipt of a written notice advising that the approved site landscaping has been implemented and, upon inspection, Council is satisfied that the landscaping appears to be well established.
- 5.13. Prior to the release of the Subdivision Certificate, the applicant shall submit to Council a hard copy of a 'Works-as-Executed' (WAE) drawing and a computer disk copy of the WAE information for the works completed. Separate drawings shall be provided for sewer and stormwater drainage and are to be at a scale of 1:500. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.
- 5.14. In connection with the "Works-As-executed" drawings, the proponent shall submit an electronic listing of all road, stormwater, water and sewer assets generated by Stage 1. The developer shall be required to contact Council's Engineer on telephone 6686 4444 to obtain an electronic copy of the lists required.

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Assessment Officer

- 5.15. Where permanent survey marks have been placed or existing survey marks have been connected to the Australian Height Datum under the requirements of the Surveying Regulation 2006, those values are to be provided to Council and shown on the Works-as-Executed drawings.
- 5.16. All allotments created by this consent shall include a Restriction as to User which requires all buildings with plumbing (including industrial, commercial and the like) to make provision for non-potable water service plumbing and facilities to the approval of Ballina Shire Council's "Dual Water Supply – Plumbing Guidelines" and "Plumbers Quick Checklist for Plumbing in Areas with dual Water Supply" policies or any superseding policies. Details must be submitted to and approved by Council prior to the release of the Subdivision Certificate.

## STAGE 2

### **6 PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE (Subdivision)**

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

- 6.1. Prior to the issue of the Construction Certificate, engineering design drawings shall be submitted to and approved by Council under Section 138 of the Roads Act 1993 for the following road and drainage works.
- The extension of Boeing Avenue as per the concept plans by Geolink Plan Reference No's: 1231/02 to 1231/24.

The applicant shall be responsible for all costs associated with the design and construction of these works. The engineering designs shall comply with the minimum requirements of the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction works commencing) and shall be submitted with a completed Certification Report as set out in Annexure DQS-A of the manuals. Where details are not addressed in these Manuals, the design is to comply with the requirements of Council's *Subdivision Code*.

- 6.2. At the expense of the applicant, Council's sewer reticulation network shall be extended to service the proposed Lots. Given that this development is unable to be serviced by Council's gravity sewer system, the development shall be serviced using a pressure sewer system in accordance with Council's "Pressure Sewer Policy" (as current at the time of construction works commencing). Design plans are to be approved by Council prior to issue of the Construction Certificate.
- 6.3. At the expense of the applicant, Council's water reticulation network shall be extended to service the proposed Lots. This shall include the following:
- Extending the potable water main to service the proposed Lots;
  - Extending the reclaimed effluent water main to service the proposed Lots.

The design shall comply with the minimum requirements of Council's "Water Reticulation Specification 2004" as current at the time of construction works

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Assessment Officer



commencing. Engineering design plans must be submitted to and approved by Council prior to the issue of the Construction Certificate.

6.4. **Civil inspection fee, construction certificate fee & construction bond**

Prior to the issue of a Construction Certificate, the following fees and bond are to be paid to Council which includes the amount of Goods and Services Tax payable. The fees and bond are subject to review and may vary at the actual time of payment:

- Civil Construction Certificate Fee: Refer to Council's Schedule of Fees and Charges.
- Civil Inspection Fee: Refer to Council's Schedule of Fees and Charges.
- Civil Construction Bond: Equal to 5% of the estimated cost of the civil works (min \$1000)

The Civil Construction Bond is taken and may be used by Council to cover the cost of any damage to Council's assets (e.g. Sewer systems, footpaths, kerb and guttering etc) arising from private development work. The bond will be refunded upon completion of the development should no such damage occur.

6.5. The applicant shall be required to submit a Construction Management Plan that will include but not be limited to the following information:

- Traffic Management Plan
- Vehicle Movement Plan
- Environmental Management Plan
- Construction Staging Plan

Details must be submitted to and approved by Council prior to the issue of a Construction Certificate.

6.6. The applicant shall be required to develop a Stormwater Management Plan detailing the provision of on-site stormwater controls in accordance with Water Sensitive Design requirements of Council's Development Control Plan No. 13 - Stormwater Management. The Stormwater Management Plan shall need to consider both the construction and operational phases of the development. The plan shall include but not be limited to the following:

- The water quality performance targets to be achieved.
- The proposed treatment system for each stage of the development.
- The proposed water quality testing regime and frequency of site inspections.
- The reporting requirements to Council.

A detailed modelling report and design must be submitted to and approved by Council prior to issue of a Construction Certificate.

6.7. Overland flow paths shall be provided within the subdivision such that these flow paths are contained within road or public reserve to the approval of Council's Engineer. Details are to be included in the stormwater designs and submitted to and approved by Council prior to issue of a Construction Certificate.

6.8. A 2.0 metre wide concrete shared footpath/cycleway shall be constructed within the eastern verge, along the entire length of Boeing Avenue.

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The shared footpath/cycleway shall be designed and constructed in accordance with the Austroads Guide to Traffic Engineering Practice Part 14 Bicycles and Standard Drawing R-07 of Northern Rivers Local Government *Development Design and Construction Manuals*. Engineering design drawings must be submitted to and approved by Council prior to the issue of the Construction Certificate for each stage.

- 6.9. The remainder of the site (exclusive of the open space areas and residue lots) shall be filled with a suitable foundation material in accordance with Section 4.7 of Council's *Subdivision Code* (as current at the time of construction commencing) to a minimum level of RL 2.0 metres AHD. Road levels may be filled to up to 300 mm less than RL 2.0 metres AHD subject to flow velocity depth relationship not exceeding a 0.4 ratio. Details of bulk earthworks, road levels and associated drainage are to be included on the engineering design plans submitted prior to the issue of the Construction Certificate.
- 6.10. No filling is to be placed on the site that will cause surface water flooding of any adjoining property. The development shall make due provision for the diversion of the existing stormwater quantities that discharge onto the site via adjacent properties. The development shall be required to provide a suitable drainage system and demonstrate that the pre-development performance of the existing stormwater and overland drainage system is maintained. Details are to be included in the stormwater designs and submitted to and approved by Council prior to issue of the Construction Certificate.
- 6.11. Prior to the release of the Construction Certificate, a Construction Noise Management Plan prepared by a suitably qualified person, as identified in the Environmental Noise Impact Assessment (ENIA), dated 1 April 2009 prepared by Carter Rytenskild Group (CRG), shall be submitted to and be approved by the Council.
- 6.12. Identified acoustic construction measures, as specified in recommendations of Environmental Noise Impact Assessment (ENIA), dated 1 April 2009 prepared by Carter Rytenskild Group (CRG), and or as amended, shall be incorporated into the final construction plans and be implemented during construction works.

## 7 PRIOR TO CONSTRUCTION WORKS COMMENCING

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

- 7.1. Soil erosion and sediment control measures shall be, installed and maintained in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.
- 7.2. The advisory sediment and erosion sign issued with this approval is to be posted at the entrance to the site at all times during the construction of the project. **Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**
- 7.3. All traffic control during construction shall be in accordance with the Roads and Traffic Authority – *Traffic Control at Work Sites*. Details are to be submitted to and approved by Council prior to the commencement of Construction.

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Assessment Officer

## 8 DURING CONSTRUCTION

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

- 8.1. All civil construction works shall be undertaken in accordance with the minimum requirements of the Northern Rivers Local Government *Development Construction Manuals* (as current at the time of construction works commencing). Inspections and approval of the road, drainage, water & sewer works shall be required by Council's Engineer (or an approved certifying authority) in accordance with the Manual. Where details are not addressed in these Manual, the works are to comply with the requirements of Council's *Subdivision Code*.
- 8.2. The applicant shall be required to implement the approved Stormwater Management Plan to ensure that the stormwater system maintains a nil pollutant load increase during the construction phase. Detailed reporting must be submitted to Council's Engineer during the construction phase to demonstrate compliance with the requirements of the approved Stormwater Management Plan.
- 8.3. A single all weather accessway is to be provided on site, the accessway shall have a shake down grid or equivalent. All construction vehicles are to enter and exit the site via this accessway so as to minimise erosion on site and prevent the movement of soil material onto surrounding roadways (if required provide a 'shake down' grid area for truck wheel washing). When necessary, roadways shall be swept and all drains and gutters cleaned of sediment material. **Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.**
- 8.4. A water truck designed to suppress dust from exposed surfaces and access roads shall be available at the site or in the immediate vicinity at all times. Exposed surfaces and access pads shall be regularly wetted to suppress dust generation until such time that construction is completed and areas have been revegetated. All disturbed areas shall be revegetated immediately they are completed.
- 8.5. Suitable covering and protection must be provided to all stockpiles and completed works to ensure that no material is removed by wind from the site, causing a nuisance to neighbouring properties.
- 8.6. All disturbed and exposed areas shall be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the development.
- 8.7. Kerb and guttering, footpaths, utility services or roads damaged as a result of construction works related to the development shall be immediately reinstated to a satisfactory condition.
- 8.8. There shall be no storage of building materials, plant or equipment on the road, footway or reserve areas without the prior written consent of Council.
- 8.9. **Hours of Operation - Construction:**  
The hours of operation for any **noise generating construction activity** (including the delivery of materials to and from the site) on the proposed development are to be limited to within the following times:

\_\_\_\_\_ (initial)  
Assessment Officer

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

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

- 8.10. The applicant shall ensure that any fill material imported to the site for the proposed development shall only be obtained from other fill sources with approved testing. The supplier of the fill material must certify to Council at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.

## 9 PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

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

### 9.1. **Developer Contributions for Subdivision**

Prior to the issue of a Subdivision Certificate, total payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 94 of the Environmental Planning & Assessment Act, 1979 and Development Servicing Plans prepared under the Section 64 of the Local Government Act 1993 and Section 306 of the Water Management Act, 2000:

| <b>Contribution Plan/Development Servicing Plan</b>   | <b>Adopted</b>   |
|---|------------------|
| Ballina Shire Contributions Plan 2008   | 23 October 2008  |
| Ballina Road Contribution Plan October 2002   | 24 October 2002  |
| Ballina Shire Council Water Supply Infrastructure Development Servicing Plans   | 27 May 2004      |
| Ballina Shire Council Sewerage Infrastructure Development Servicing Plans   | 27 May 2004      |
| Rous Water Development Servicing Plan   | 21 May 2003      |
| Ballina CBD Car Parking Contribution Plan   | 25 November 2004 |
| Lennox Head Village Centre Car Parking Contribution Plan  | 12 February 2004 |
| The Council of the Shire of Ballina Section 94 Contributions Plan: Heavy Vehicle Traffic Generating Development - Maintenance and Construction of Roads | 9 February 1996  |

The Contribution Plans and Development Servicing Plans provide for the indexing of contribution amounts. The rates payable will be indexed rates at the time payment is made. Copies of the Contribution Plans and Development Servicing Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

It is noted that the Rous Water Servicing Development plan fee may be waived where the development can demonstrate to Rous Water's satisfaction that it is a non-profit and charitable organization, which by virtue of carrying out such development is considered by Rous Water to be making a significant and positive contribution to the community.

\_\_\_\_\_(initial)  
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The Contribution amounts applicable at the time this consent is issued are as per **Schedule 2 (attached)**.

- 9.2. All civil works approved under Section 138 of the Roads Act 1993 are to be completed to the satisfaction of Council prior to issue of a Subdivision Certificate. All works are to be completed in accordance with the approved designs.
- 9.3. All site filling shall be completed in accordance with the approved plans and the requirements of Level 1 NATA Certification consistent with:
- AS 2870–1996 Residential Slabs and Footings Code
  - AS 3798–2007 Guidelines on Earthworks for Commercial and Residential Developments.

Prior to the release of the Subdivision Certificate, certification from a suitably qualified, registered, practicing Geotechnical Engineer verifying such site filling is in accordance with AS2870, AS3798 and Northern Rivers Construction Manual. Additionally the compacted fill is to possess adequate bearing capacity for building construction with details submitted to Council in accordance with the Northern Rivers Construction Manual (as current at the time of construction). Certification shall also be provided verifying that any fill material imported to the site is free of contaminants, being natural or otherwise, and was obtained from an approved fill source with quality assurance testing. This is to be obtained via extraction receipts and sampling from the borrow source.

- 9.4. All street lighting must be installed, prior to the release of the Subdivision Certificate.
- 9.5. All road signage including street name signs, must comply with the requirements of *Australian Standards 1742, 1743 & 1744* and be installed prior to issue of the Subdivision Certificate.
- 9.6. Prior to the issue of a Subdivision Certificate, all water supply and sewer works must be completed in accordance with the approved plans and Councils *Subdivision Code* (as current at the time of construction works commencing). All works must be approved by Council.
- 9.7. Prior to the issue of a Subdivision Certificate, all stormwater works must have been completed and certified in accordance with the approved design plans and the approved Stormwater Management Plan lodged with the Development Application. This certification is to be provided by a registered certified practicing Civil Engineer competent in the field of stormwater design and familiar with all aspects of the project.
- 9.8. Prior to issue of a Subdivision Certificate, Council is to be provided with a comprehensive maintenance and management plan for all stormwater controls and assets to be inherited by Council. This management plan is to be prepared by a suitably qualified engineer experienced in stormwater management.
- 9.9. Prior to the issue of a Subdivision Certificate, certification is to be provided that electricity and telephone services have been provided to the satisfaction of the relevant authorities.

\_\_\_\_\_(initial)  
Assessment Officer

9.10. Prior to the issue of a Subdivision Certificate, the following maintenance bond must be paid to Council which includes the amount of Goods and Services Tax payable. The bond is subject to review and may vary at the actual time of payment:

- - Civil Maintenance Bond: Equal to 5% of the estimated cost of the civil works (min \$1000)

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

9.11. Prior to the issue of a Subdivision Certificate, all approved landscaping works must be completed.

9.12. A landscaping bond equal to the value of the landscaping works, shall be lodged with Council prior to the issue of a Subdivision Certificate. This bond is refundable four (4) months after Council's receipt of a written notice advising that the approved site landscaping has been implemented and, upon inspection, Council is satisfied that the landscaping appears to be well established.

9.13. Prior to the release of the Subdivision Certificate, the applicant shall submit to Council a hard copy of a 'Works-as-Executed' (WAE) drawing and a computer disk copy of the WAE information for the works completed. Separate drawings shall be provided for sewer and stormwater drainage and are to be at a scale of 1:500. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.

9.14. In connection with the "Works-As-executed" drawings, the proponent shall submit an electronic listing of all road, stormwater, water and sewer assets generated by Stage 1. The developer shall be required to contact Council's Engineer on telephone 6686 4444 to obtain an electronic copy of the lists required.

9.15. Where permanent survey marks have been placed or existing survey marks have been connected to the Australian Height Datum under the requirements of the Surveying Regulation 2006, those values are to be provided to Council and shown on the Works-as-Executed drawings.

9.16. All allotments created by this consent shall include a Restriction as to User which requires all buildings with plumbing (including industrial, commercial and the like) to make provision for non-potable water service plumbing and facilities to the approval of Ballina Shire Council's "Dual Water Supply – Plumbing Guidelines" and "Plumbers Quick Checklist for Plumbing in Areas with dual Water Supply" policies or any superseding policies. Details must be submitted to and approved by Council prior to the release of the Subdivision Certificate.

\_\_\_\_\_(initial)  
Assessment Officer



## Schedule 1

| Contribution                              | Account<br>-Unique<br>No. after<br>PLD 013<br>/9999 | Contribution<br>Unit                          | Rate per<br>contribution<br>Unit | Total<br>Contribution<br>Units<br>Payable | TOTAL COST          |
|---|---|---|----------------------------------|---|---------------------|
| North & West<br>Ballina Roads             | 1   | per<br>equivalent<br>residential<br>allotment | \$2,153.10                       | 1.0000                                    | \$2,153.10          |
| North Ballina<br>Sewerage<br>(DSP Area B) | 93  | per square<br>metre                           | \$10.12                          | 34876.0000                                | \$352,945.12        |
| North Ballina<br>Water (DSP<br>Area B)    | 91  | per square<br>metre                           | \$4.67                           | 34876.0000                                | \$162,870.92        |
| Rous Water                                | TT 9451   | per square<br>metre                           | \$3.69                           | 34876.0000                                | \$128,692.44        |
| <b>TOTAL</b>                              |   |   |                                  |   | <b>\$646,661.58</b> |

## Schedule 2

| Contribution                              | Account<br>-Unique<br>No. after<br>PLD 013<br>/9999 | Contribution<br>Unit                          | Rate per<br>contribution<br>Unit | Total<br>Contribution<br>Units<br>Payable | TOTAL COST            |
|---|---|---|----------------------------------|---|-----------------------|
| North & West<br>Ballina Roads             | 1   | per<br>equivalent<br>residential<br>allotment | \$2,153.10                       | 2.0000                                    | \$4,306.20            |
| North Ballina<br>Sewerage<br>(DSP Area B) | 93  | per square<br>metre                           | \$10.12                          | 60005                                     | \$607,250.60          |
| North Ballina<br>Water (DSP<br>Area B)    | 91  | per square<br>metre                           | \$4.67                           | 60005                                     | \$280,223.35          |
| Rous Water                                | TT 9451   | per square<br>metre                           | \$3.69                           | 60005                                     | \$221,418.45          |
| <b>TOTAL</b>                              |   |   |                                  |   | <b>\$1,113,198.60</b> |

\_\_\_\_\_(initial)  
Assessment Officer

## **REASONS FOR CONDITIONS**

- ensure compliance with the requirements of the Environmental Planning & Assessment Act, 1979;
- ensure compliance with the objectives of the Ballina Local Environmental Plan, 1987;
- ensure an appropriate level of amenities and services is available;
- protect the existing and likely future amenity of the locality;
- maintain, as far as practicable, the public interest;
- ensure compliance with the Building Code of Australia and relevant Australian Standards;
- ensure satisfactory compliance with relevant Council plans, codes and policies.

## **ADVISORY MATTERS**

### **1. *Disability Discrimination Act 1992***

The granting of this consent does not imply or confer compliance with the requirements of the *Disability Discrimination Act 1992 (DDA)*. The applicant is advised to investigate any liability that may apply under that Act. *Australian Standard AS 1428 – Design for Access and Mobility* should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.

Compliance with the BCA does not guarantee compliance with the DDA. The BCA provides important access provisions however:

- (a) it does not cover all developments that are subject to the provisions of the DDA;
- (b) it focuses primarily on access for people with disabilities which affect their mobility and does not address other disabilities, such as sensory disabilities; and
- (c) while it mandates improved access for people with disabilities, it is not framed in terms of “equality of access”.

You are therefore advised to investigate your liability under the DDA with respect to any existing and proposed future works.

### **2. *Protection of the Environment***

The development is to be operated in accordance with the provisions of the *Protection of the Environment and Operations Act 1997* as it applies to issues of air quality, noise generation, water and wastewater quality.

### **3. *Noise control***

Use of the premises/services/equipment/ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the *Protection of the Environment & Operations Act 1997*.

### **4. *WorkCover requirements***

The premises shall be operated in accordance with the requirements of the WorkCover Authority.

### **5. *Wastewater management advice***

All work carried out in connection with this approval must comply with any applicable standard established by the *Local Government (Approvals) Regulation 1993*, the *Local Government (Water, Sewerage and Drainage) Regulation 1993*, or by or under the Act.

\_\_\_\_\_(initial)  
Assessment Officer

The consent shall lapse on **4 November 2014** unless the development has commenced in accordance with the provisions of section 95 of the Act.

**Other Approvals:** **The following is a list of general terms of other approvals and their general terms which are integrated as part of the consent:**

None applicable.

**Signed:** \_\_\_\_\_ on **4 November 2009**

Rod Willis  
**Regulatory Services**  
**Group Manager**  
On behalf of Ballina Shire Council

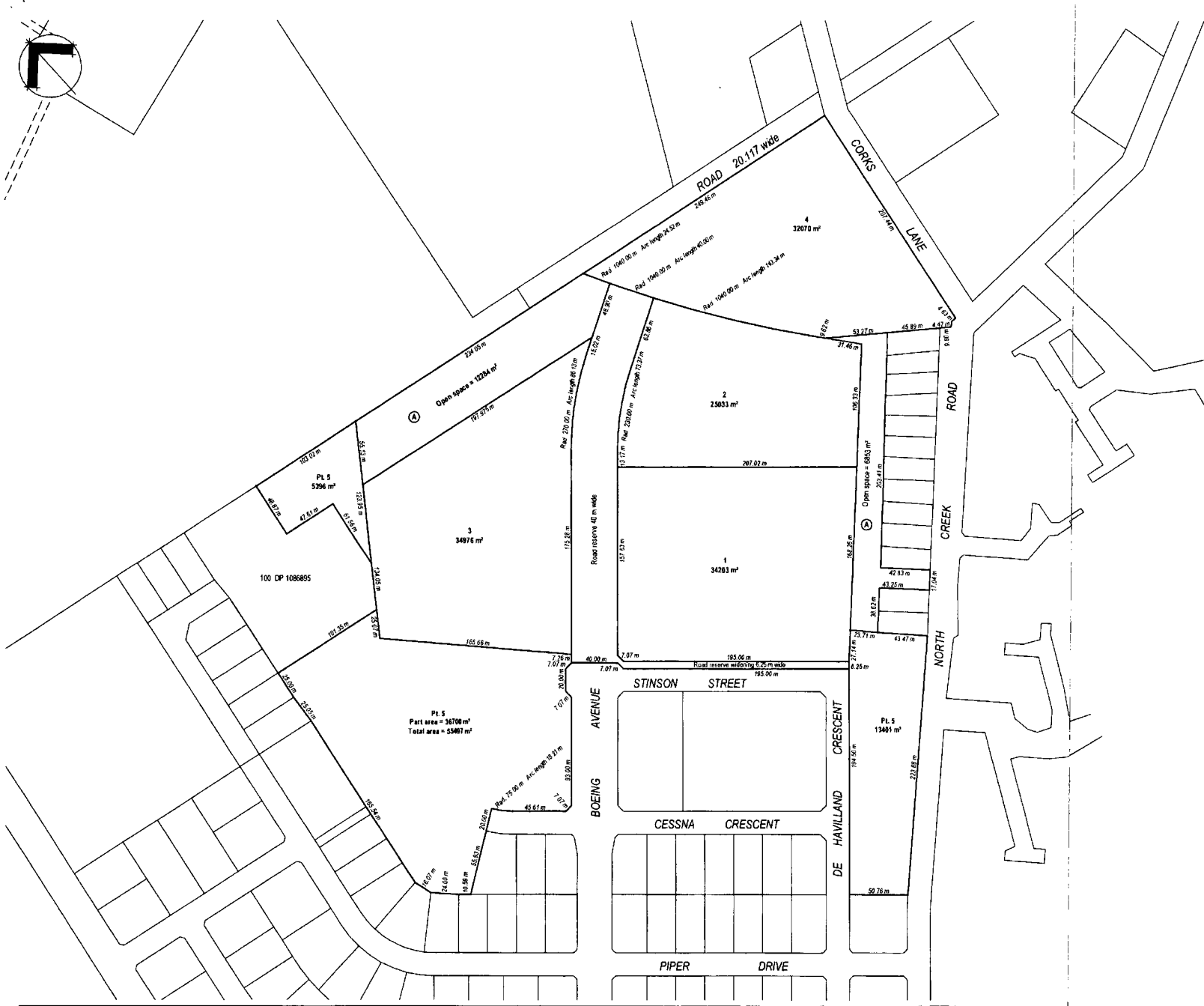
**Right of Appeal:** If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice or the date on which the application is taken to have been determined under Section 82(1).

Section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for local development that has been the subject of a Commission of Inquiry.

**Review of Determination:** Section 82A of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to request the Council to review the determination of your application. This request must be made within the time prescribed by Section 82A(2A) and be accompanied by the fee prescribed by Section 257 of the EP & A Regulation 2000. Review provisions do not apply to:

- (a) a determination to issue or refuse to issue a complying development certificate, or
- (b) a determination in respect of designated development, or
- (c) a determination in respect of integrated development, or
- (d) a determination made by the Council under Section 116E in respect of an application by the Crown.

\_\_\_\_\_ (initial)  
Assessment Officer



Ⓐ Open space to be dedicated as public reserve

| No | Description | Date | Initial |
|----|-------------|------|---------|
|    |             |      |         |

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quality solutions sustainable future

Project Title  
**Southern Cross Industrial Estate**

Client  
**Bellingen Shire Council**

|          |     |       |          |         |  |
|----------|-----|-------|----------|---------|--|
| Designed | MVE | Drawn | TRE      | Checked |  |
| Approved |     | Date  | Oct 2008 |         |  |

Scale  
0 15 30 45 60 75 meters

Drawing Title  
**Final Lot Layout**

1/21192  
1231/26

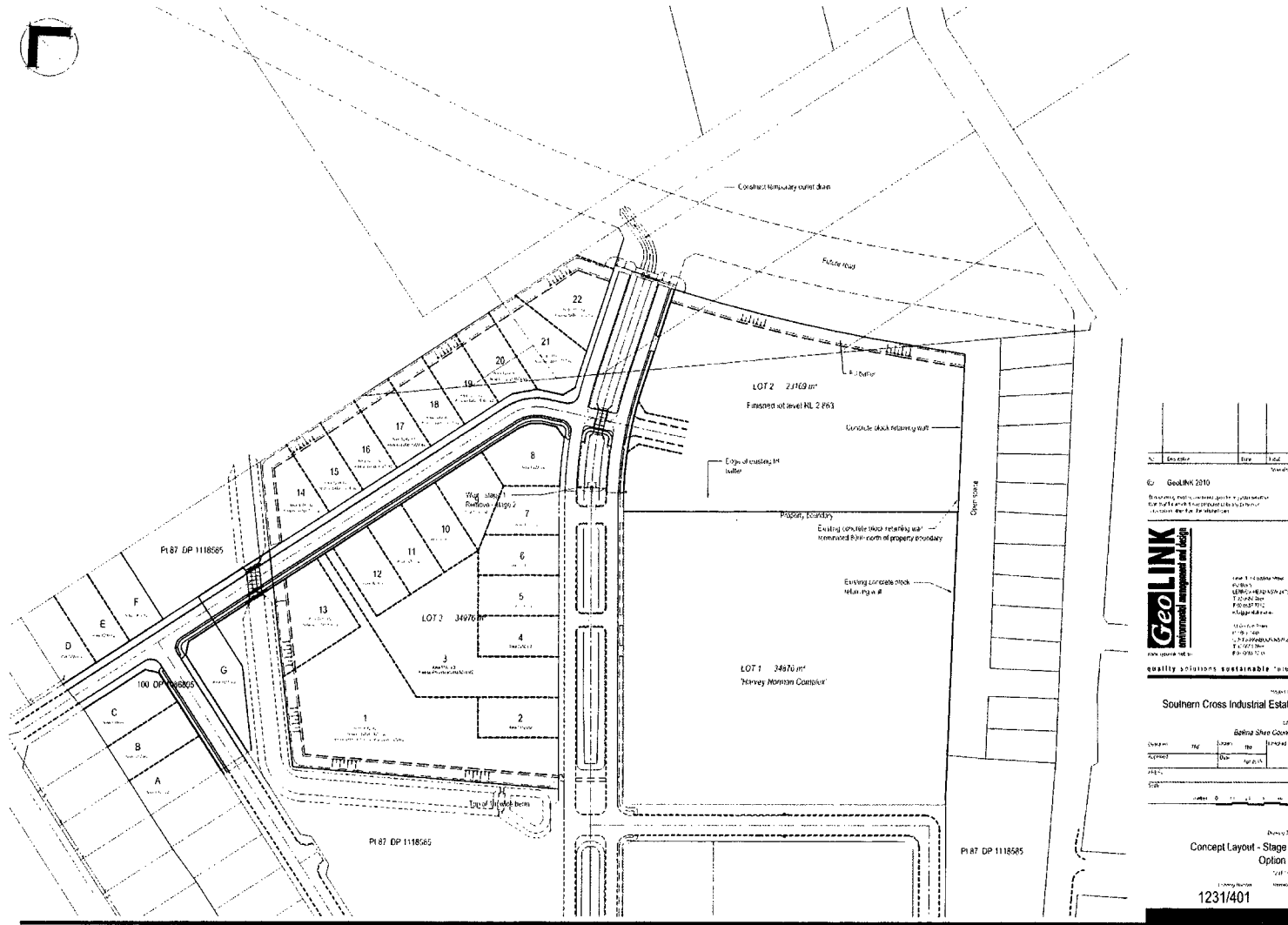
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ATTACHMENT 4

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**Attachment 4**  
Concept subdivision plan





| No. | Description | Date | Stage |
|-----|-------------|------|-------|
|     |             |      |       |

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 1231/401  
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quality solutions sustainable futures

Southern Cross Industrial Estate

| Drawn by | Checked by | Date | Stage |
|----------|------------|------|-------|
|          |            |      |       |

Ballina Shire Council

Project No: 1231/401  
 Drawing Title: Concept Layout - Stage 3 Option A  
 Drawing No: 1231/401