

Ballina Shire Council  
40 Cherry Street  
BALLINA NSW 2478

PO Box 450  
BALLINA NSW 2478

1300 864 444  
council@ballina.nsw.gov.au  
www.ballina.nsw.gov.au

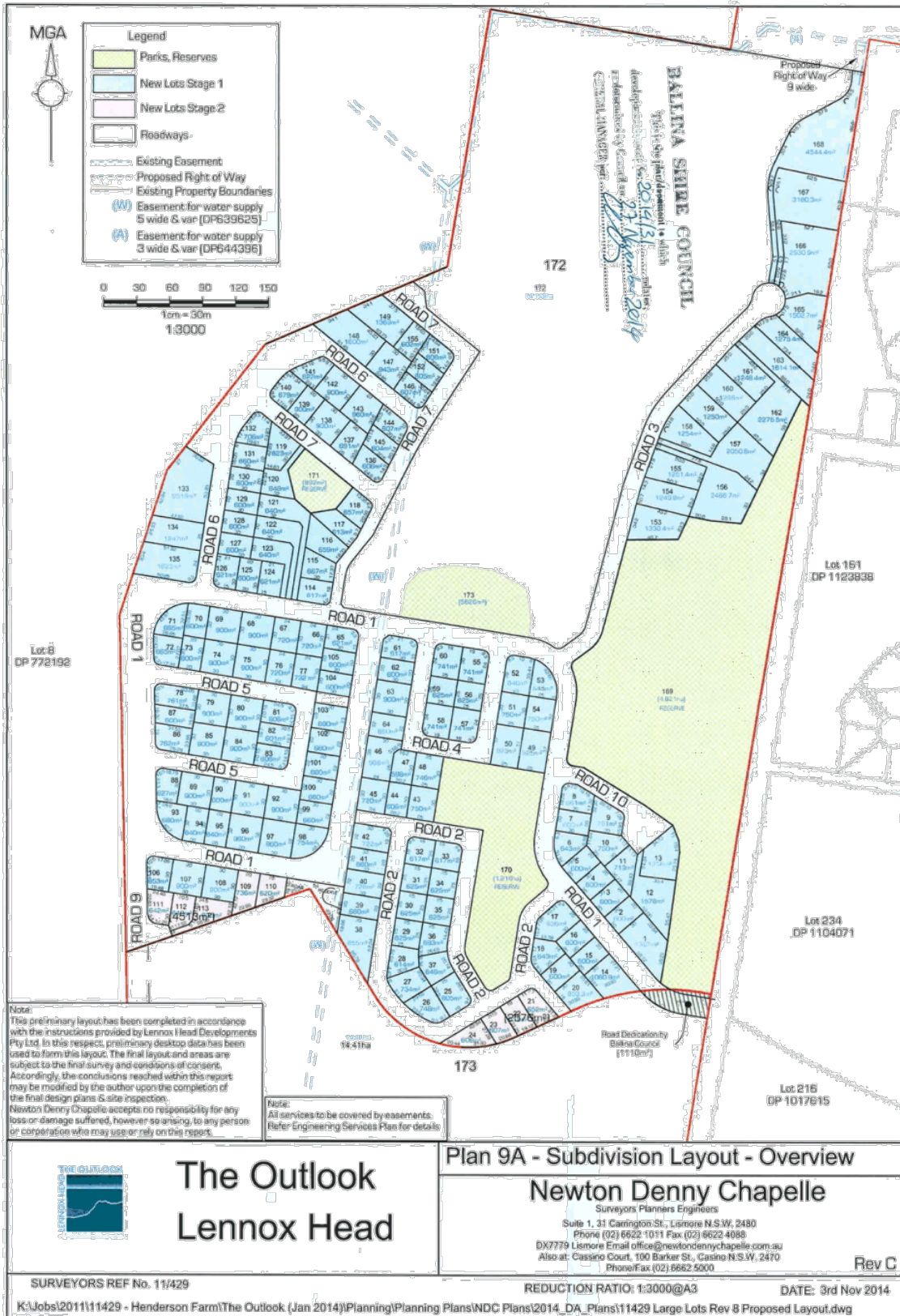


**Attachment 1 - Cadastral Plan  
DA 2014/31.3 - Lennox Rise**

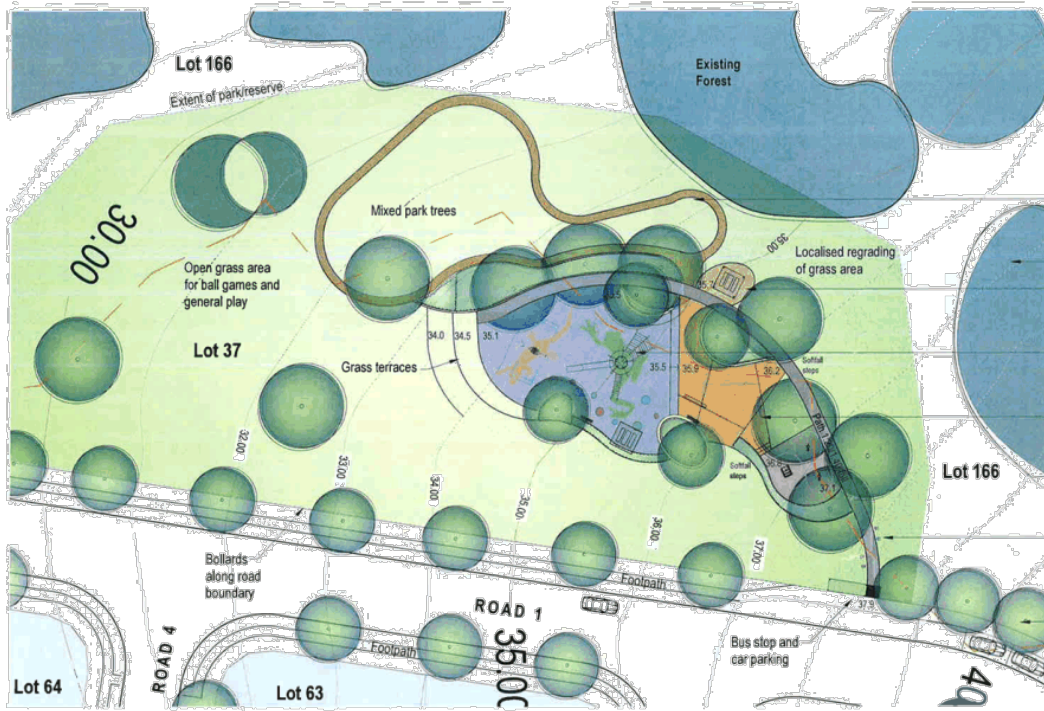
**ballina shire council**  
geographical information system

Projection: GDA94 / MGA zone 56  
Date: 7/10/2020

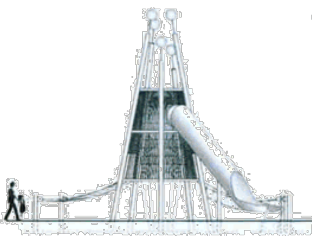
© Ballina Shire Council © NSW Spatial Services 2020  
While every care is taken to ensure the accuracy of this product, Ballina Shire Council and the Local / State / Federal Government departments and their Government representatives herein supply datasets, make no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaim all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs whatsoever which may be incurred as a result of the product being inaccurate or incomplete in any way and for any reason.



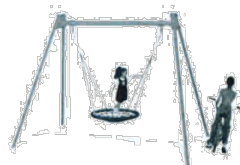
**ACTIVE PARK AREA**  
Plan 1:500



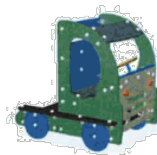
**INDICATIVE PLAY EQUIPMENT**



Large Rope Play Tower and Slide



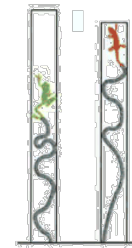
Bird's Nest Swing



Truck



Horse Springer



Colourful park entrance totems



TODDLERS BICYCLE PATH



LARGE ROPE PLAY TOWER



A BIRD'S NEST SWING

- Toddlers bicycle path with linemarking denoting start and finishing areas
- Existing Fig trees and old cattle yards
- Picnic shelter with table settings
- Park play area with equipment suitable for children aged between 1 and 12 years old
- Balancing beams made from recycled timber posts with inset colourful acrylic panels

- Colourful park entrance totems (recycled timber with inset colourful acrylic panels and animal emblems)
- Street trees

This plan is conceptual only, is subject to detailed design and is not suitable for construction.

Play equipment shall be of a rural or rainforest theme.

**BALLINA SHIRE COUNCIL**  
This is the plan/description to which development consent No. 2014/31 is determined by Council on 27 November 2014.  
GENERAL MANAGER [Signature]

**Outlook, Lennox Head Active Park Concept**

13 January 2014 05/17- 04

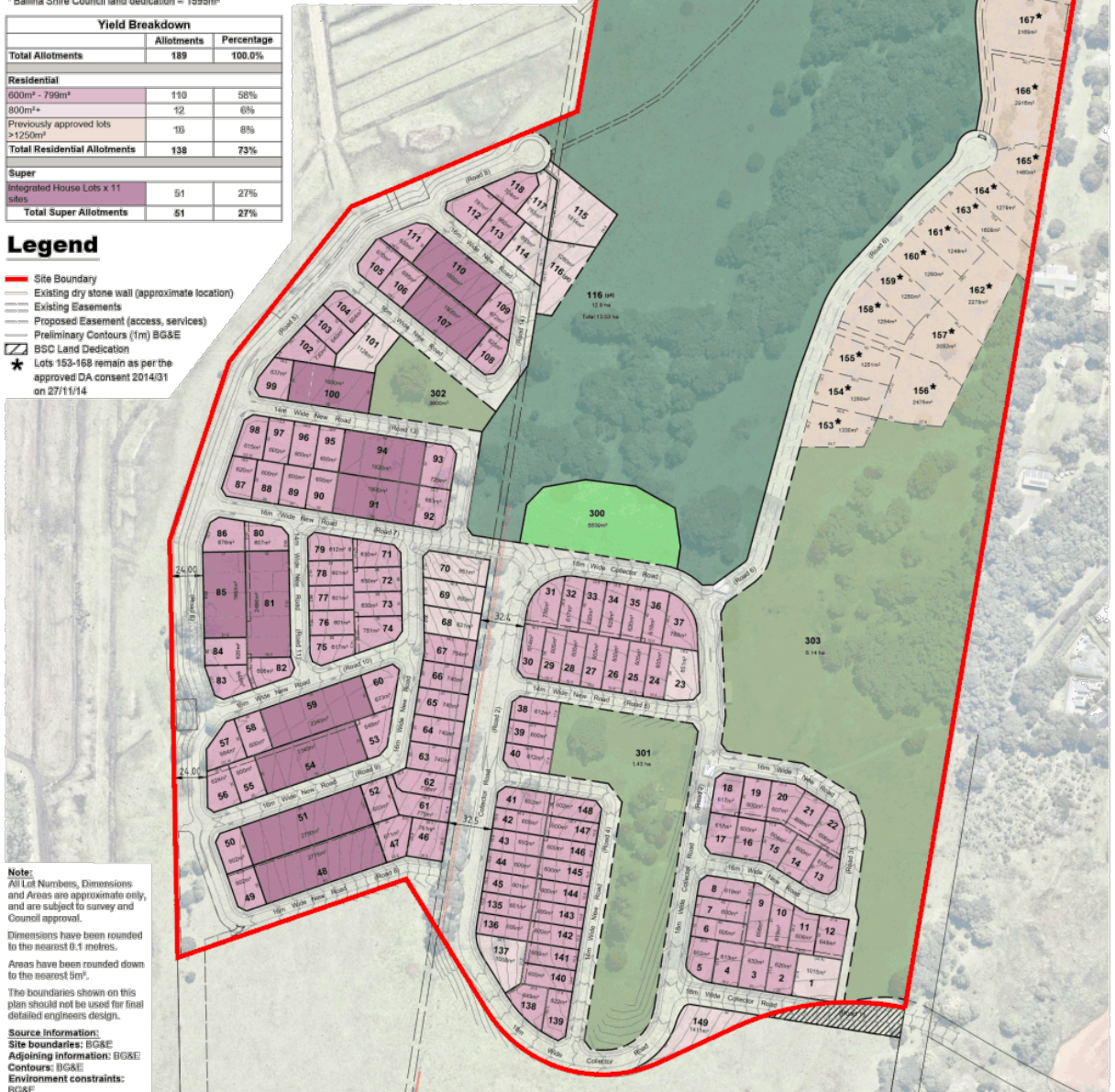
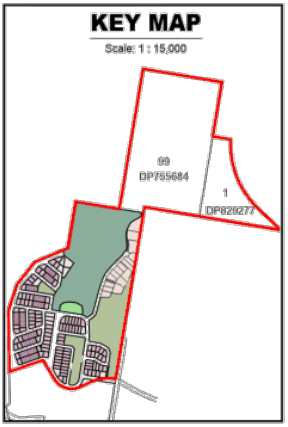
Land Budget		
Land Use	Overall	
	Area	Percentage
<b>Area of Subject Site</b>	<b>78,245 ha</b>	<b>100.0%</b>
<b>Saleable Area</b>		
Single Family Allotments	11,340 ha	14%
Integrated Housing Allotments	2,383 ha	3.0%
<b>Total Area of Allotments</b>	<b>13,723 ha</b>	<b>17.5%</b>
<b>Road</b>		
Collector Streets	2,314 ha	3.0%
Local Access Streets	6,049 ha	7.7%
Access Track	0,039 ha	0.0%
<b>Total Area of New Road</b>	<b>8,393 ha</b>	<b>10.7%</b>
<b>Open Space</b>		
Active Park Lot 300	0,554 ha	0.7%
Passive Open Space Lot 301 & 302	1,763 ha	2.3%
Revegetated open space Lot 303	5,140 ha	6.6%
<b>Total Area of Open Space</b>	<b>7,467 ha</b>	<b>9.6%</b>
<b>Residual Land subject to ERP</b>		
Part proposed Lot 116 pt	12,802 ha	16.5%
99 DP755684 & 1 DP829277	35,734 ha	45.7%
<b>Total Area of Residual Land</b>	<b>48,536 ha</b>	<b>62.2%</b>

\* Ballina Shire Council land dedication = 1595m<sup>2</sup>

Yield Breakdown		
Allotments	Percentage	
<b>Total Allotments</b>	<b>189</b>	<b>100.0%</b>
<b>Residential</b>		
600m <sup>2</sup> - 799m <sup>2</sup>	110	58%
800m <sup>2</sup> +	42	6%
Previously approved lots >1250m <sup>2</sup>	16	8%
<b>Total Residential Allotments</b>	<b>138</b>	<b>73%</b>
<b>Super</b>		
Integrated House Lots x 11 sites	51	27%
<b>Total Super Allotments</b>	<b>51</b>	<b>27%</b>

**Legend**

- Site Boundary
- Existing dry stone wall (approximate location)
- Existing Easements
- Proposed Easement (access, services)
- Preliminary Contours (1m) BG&E
- BSC Land Dedication
- ★ Lots 153-168 remain as per the approved DA consent 2014/31 on 27/11/14



**Note:**  
 All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.  
 Dimensions have been rounded to the nearest 0.1 metres.  
 Areas have been rounded down to the nearest 5m<sup>2</sup>.  
 The boundaries shown on this plan should not be used for final detailed engineers design.  
**Source Information:**  
 Site boundaries: BG&E  
 Adjoining information: BG&E  
 Contours: BG&E  
 Environment constraints: BG&E

PLAN REF: 142550-05K  
 DATE: 27 APRIL 2010  
 CLIENT: Lennox Rise Pty Ltd  
 DRAWN BY: JUP  
 CHECKED BY: PSE



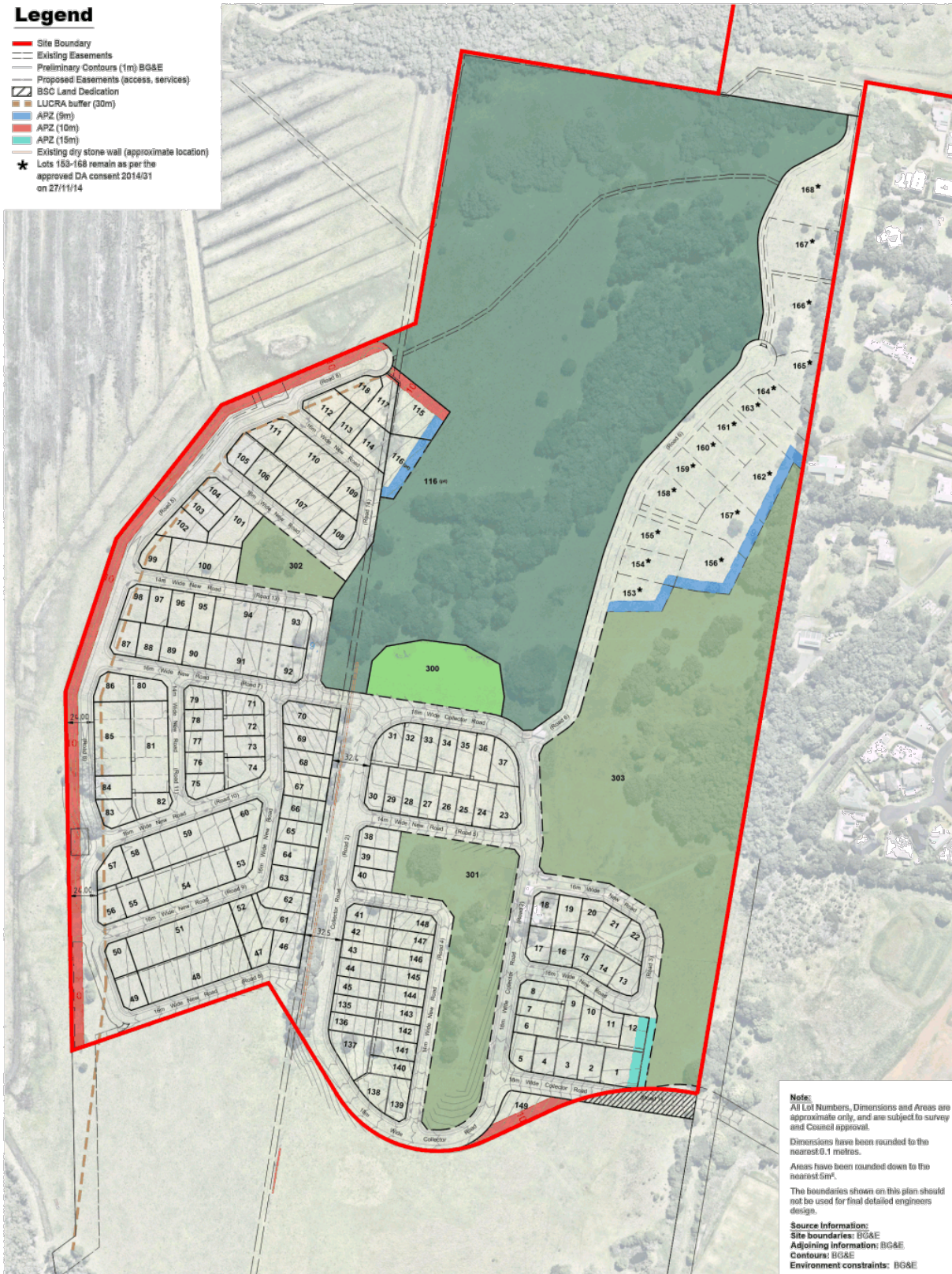
**LENNOX RISE  
 MODIFIED ALLOTMENT LAYOUT  
 (DA2014/31.3)**

**URBAN DESIGN:**  
 Level 4 HQ Suite  
 528 Wickham Street  
 PO Box 9338  
 Parkville Sydney NSW 1585  
 T +61 2 9550 8500  
 W www.rps.com.au

© COPYRIGHT PROTECTED THIS PLAN  
 (under the applicable copyright laws of the relevant jurisdiction). Please contact the author.

**Legend**

- Site Boundary
- Existing Easements
- Preliminary Contours (1m) BG&E
- Proposed Easements (access, services)
- BSC Land Dedication
- LUCRA buffer (30m)
- APZ (9m)
- APZ (10m)
- APZ (15m)
- Existing dry stone wall (approximate location)
- ★ Lots 153-168 remain as per the approved DA consent 2014/31 on 27/11/14



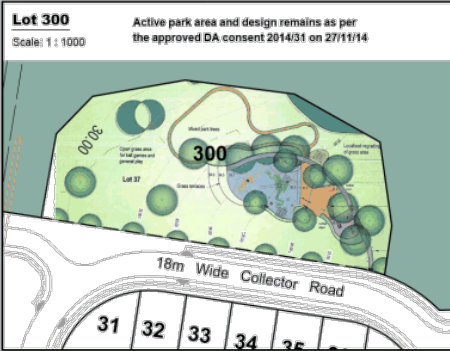
**Note:**  
 All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.  
 Dimensions have been rounded to the nearest 0.1 metres.  
 Areas have been rounded down to the nearest 5m<sup>2</sup>.  
 The boundaries shown on this plan should not be used for final detailed engineers design.

**Source Information:**  
 Site boundaries: BG&E  
 Adjoining information: BG&E  
 Contours: BG&E  
 Environment constraints: BG&E

PLAN REF: **142550-06F**  
 DATE: 29 APRIL 2020  
 CLIENT: Lennox Rise Pty Ltd  
 DRAWN BY: JUP  
 CHECKED BY: PJC

**LENNOX RISE  
 APZ AND LIMITATIONS PLAN**

**URBAN DESIGN**  
 Level 4 HD South  
 630 Wickham Street  
 PO Box 9509  
 Campbellfield VIC 3081  
 T +61 3 9519 6500  
 W www.urbandesign.com.au



- Removal of all lots within LUCRA buffer to provide consistent perimeter road to adjoining land parcel
- Revised layout to avoid relocation of watermain
- Inclusion of house site for residual lot
- Removal of all lots within LUCRA buffer to provide consistent perimeter road to adjoining land parcel
- Increase of open space (Lot 302) to sufficiently cater for fig tree
- Removal of battle axe lots with long driveways
- Rotated block layout to address contours and provide permeable road network
- Conventional block depths, lot frontages and sizes for desired residential land use outcomes
- Lot orientation modified to reduce significant or piece meal retaining wall solutions
- Introduction of perimeter road for increased separation from undeveloped BSC landholding
- Dry stone wall and water main in the road reserve to provide for consistent management by BSC

**Legend**

- Site Boundary
- Existing Easements
- Proposed Easements (access, services)
- ▨ BSC Land Dedication
- Existing dry stone wall (approximate location)

- Reduction of Stage 2 'balance lots' on southern boundary
- Revised entry road alignment for improved road intersection, access to BSC landholding and visual amenity of open space on entry

\* Lots 153-166 remain as per the approved DA consent 2014/31 on 27/11/14

Increase of open space (Lot 303) as a result of revised bus route meeting grade requirements

Increase of open space (Lot 301) to sufficiently cater for fig tree, avenue of trees and create a green link to BSC landholding

Introduction of perimeter road for increased separation from open space

**Note:** All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.

Dimensions have been rounded to the nearest 0.1 metres.

Areas have been rounded down to the nearest 5m<sup>2</sup>.

The boundaries shown on this plan should not be used for final detailed engineers design.

**Source Information:**  
 Site boundaries: BG&E  
 Adjoining information: BG&E  
 Centours: BG&E  
 Environment constraints: BG&E

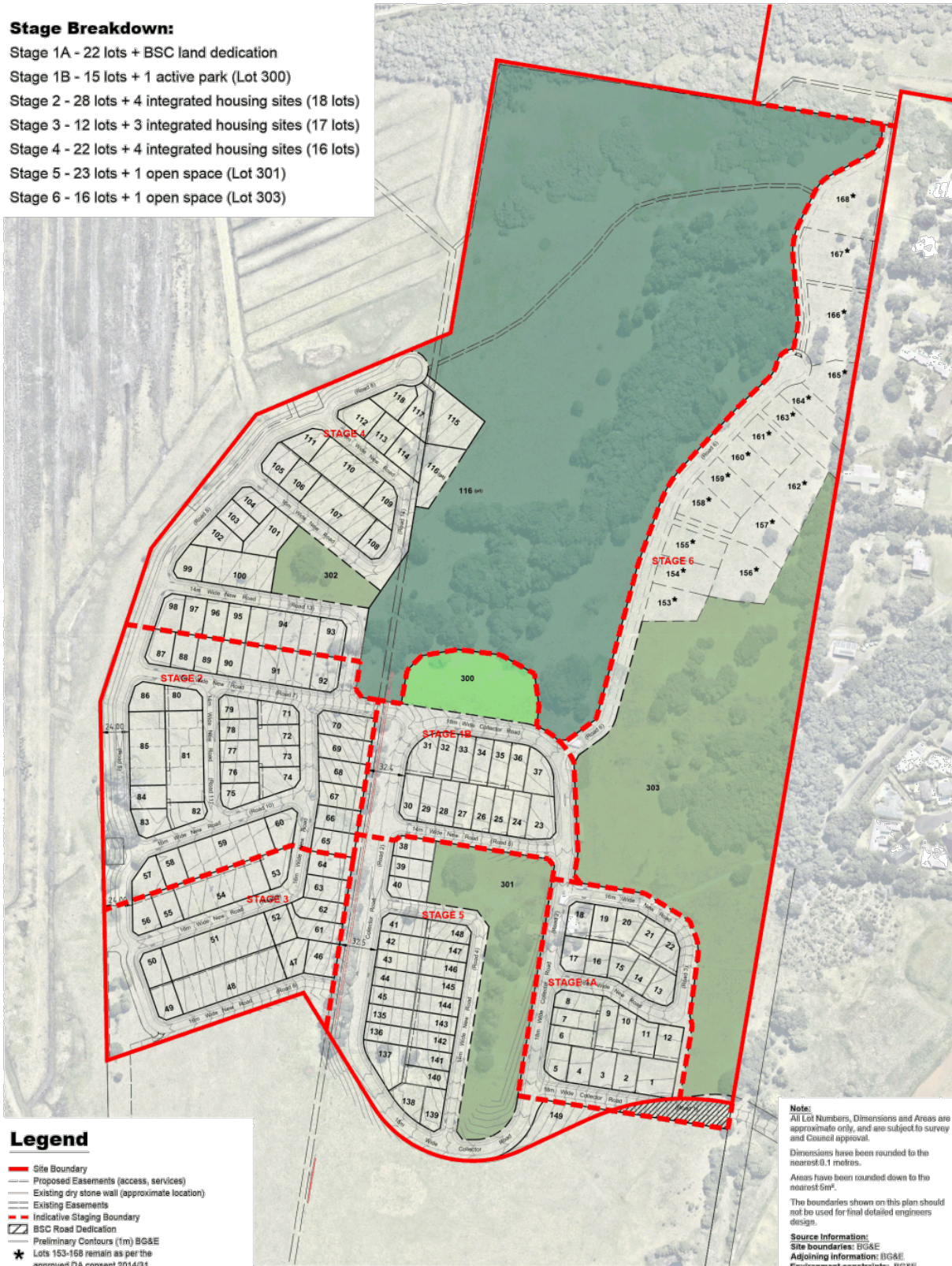
PLAN REF: 142550-08D  
 DATE: 29 APRIL 2020  
 CLIENT: Lennox Rise Pty Ltd  
 DRAWN BY: JUB  
 CHECKED BY: PHE

**LENNOX RISE  
 Layout Improvement Plan**

**URBAN DESIGN**  
 Level 4 HQ Suite  
 528 Wickham Street  
 PO Box 9398  
 Brisbane Valley QLD 4088  
 P +61 7 5539 8500  
 W www.urbandesign.com.au

**Stage Breakdown:**

- Stage 1A - 22 lots + BSC land dedication
- Stage 1B - 15 lots + 1 active park (Lot 300)
- Stage 2 - 28 lots + 4 integrated housing sites (18 lots)
- Stage 3 - 12 lots + 3 integrated housing sites (17 lots)
- Stage 4 - 22 lots + 4 integrated housing sites (16 lots)
- Stage 5 - 23 lots + 1 open space (Lot 301)
- Stage 6 - 16 lots + 1 open space (Lot 303)



**Legend**

- Site Boundary
- Proposed Easements (access, services)
- Existing dry stone wall (approximate location)
- Existing Easements
- - - Indicative Staging Boundary
- ▨ BSC Road Dedication
- ▭ Preliminary Contours (1m) BG&E
- \* Lots 153-168 remain as per the approved DA consent 2014/31 on 27/11/14

**Note:**  
 All Lot Numbers, Dimensions and Areas are approximate only, and are subject to survey and Council approval.  
 Dimensions have been rounded to the nearest 0.1 metres.  
 Areas have been rounded down to the nearest 5m².  
 The boundaries shown on this plan should not be used for final detailed engineers design.  
**Source Information:**  
 Site boundaries: BG&E  
 Adjoining Information: BG&E  
 Environment constraints: BG&E

PLAN REF: 142550-09B  
 DATE: 29 APRIL 2020  
 CLIENT: Lennox Rise Pty Ltd  
 DRAWN BY: JUP  
 CHECKED BY: PSE

**LENNOX RISE**  
 Indicative Staging Plan

**URBAN DESIGN**  
 Level 4 HD South  
 230 Wickham Street  
 PO Box 1939  
 Brisbane QLD 4001  
 T +61 7 3239 4500  
 W www.urbandesign.com.au

© COPYRIGHT PROTECTED THIS PLAN  
 Unauthorised use or disclosure is prohibited. Please contact the author.

## Planning and Environmental Health Group Section 4.55 Modification Application Assessment Form



### ASSESSMENT OF THE APPLICATION UNDER SECTION 4.55 OF THE EP&A ACT 1979

#### Section 4.55 (2) – Other Modifications (NB: Subsections (1) and (1A) do not apply)

Section 4.55 (2) requirements	Yes/No Comments
Is the development to which the consent as modified relates, substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)?	Yes
Have the relevant Minister, public authority or approval body been consulted in respect of a condition (imposed as a requirement of a concurrence to the consent) or in accordance with the general terms of an approval (proposed to be granted by the approval body) and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent?	Yes
Has the proposed modification been notified in accordance with the EP&A Regulations or Council DCP? (if required)	Yes
Have any submissions made concerning the proposed modification (within any period prescribed by the regulations or provided by the development control plan) been considered? Refer to comments below	Yes

In accordance with 4.55(3), has consideration been given to the reasons given by the consent authority for the grant of the consent that is sought to be modified?	No reasons given by Council for the grant of the original consent.
--	--

### ASSESSMENT OF MODIFICATION VIA SECTION 4.15 (1) of the EP&A ACT 1979

#### 4.15 (1) (a) (i) - the provisions of any environmental planning instrument

##### Local Environmental Plans (LEPs)

Relevant LEP	Applies YES/NO
Ballina Local Environmental Plan 2012	Yes
Ballina Local Environmental Plan 1987 (Note: BLEP 1987 only applies to land identified as "Deferred Matter" on the Land Application Map accompanying the BLEP 2012)	Yes



<b>Ballina LEP 2012 – Zoning, Permissibility and Relevant Clauses</b>	<b>Comments/Is consistency with these provisions achieved?</b>
Aims, objectives of BLEP (Clause 1.2)	The application remains generally consistent with the aims of the Ballina Local Environmental Plan (BLEP) 2012.
Land use definition (Clause 1.4)	Subdivision is not classified as a land use and is not defined in the BLEP 2012. Note: The subdivision of land is classified as a form of development and is defined under Part 6, Clause 6.2 of the Environmental Planning & Assessment Act 1979.
Zoning under BLEP 2012, and regard for zone objectives (Clause 2.3)	<p><b>R2 Zone</b></p> <p>The subject site is partly zoned R2 – Low Density Residential under the BLEP 2012. Lots 153-168 and Road 6 are contained within the R2 portion of the site.</p> <p><b>R2 Objectives of Zone</b></p> <ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a low density residential environment.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• To provide for development that is compatible with the character and amenity of the surrounding neighbourhood.</li> <li>• To provide for development that meets the social and cultural needs of the community.</li> <li>• To encourage development that achieves the efficient use of resources such as energy and water.</li> </ul> <p>The development remains generally consistent with the objectives of the R2 zone. In particular, the development provides 16 larger residential lots within the low density residential portion of the site (as approved) which will be compatible with the character and amenity of the adjacent residential area to the east.</p> <p><b>R3 Zone</b></p> <p>The subject site is partly zoned R3 – Medium Density Residential under the BLEP 2012. Residential Lots 1-116 and the associated road network are contained within the R3 portion of the site.</p> <p><b>R3 Objectives of Zone</b></p> <ul style="list-style-type: none"> <li>• To provide for the housing needs of the community within a medium density residential environment.</li> <li>• To provide a variety of housing types within a medium density residential environment.</li> </ul>

	<ul style="list-style-type: none"> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of residents.</li> <li>• To provide development that is compatible with the character and amenity of the surrounding neighbourhood.</li> <li>• To encourage housing and infrastructure that supports the ageing population.</li> <li>• To provide for development that meets the social and cultural needs of the community.</li> <li>• To encourage development that achieves the efficient use of resources such as energy and water.</li> </ul> <p>The development remains generally consistent with the objectives of the R3 zone. In particular, the development will provide additional residential land (with associated infrastructure) which can accommodate a range of housing types to meet the needs of the community, and each residential lot will be connected to Council's dual water supply system which will minimise use of potable water.</p> <p><b>RE1 Zone</b></p> <p>A small portion of the subject site is zoned RE1 – Public Recreation under the BLEP 2012. The central public park is nominated within this area (although it has an area which is marginally larger than the extent of the RE1 zoning).</p> <p><b>RE1 Objectives of Zone</b></p> <ul style="list-style-type: none"> <li>• To enable land to be used for public open space or recreational purposes.</li> <li>• To provide a range of recreational settings and activities and compatible land uses.</li> <li>• To protect and enhance the natural environment for recreational purposes.</li> <li>• To provide for a diversity of development that meets the social and cultural needs of the community.</li> <li>• To provide for public access to open space and natural recreation areas.</li> <li>• To protect and conserve landscapes in environmentally sensitive areas, particularly in foreshore and visually prominent locations.</li> <li>• To provide for development that is consistent with any applicable plan of management.</li> <li>• To encourage development that achieves the efficient use of resources such as energy and water.</li> </ul> <p>The proposed central park will be embellished to provide public open space for the use and enjoyment of future residents of the development. The park is</p>
--	---


	<p>located in a prominent position on the site (due to the elevated nature of the land and its visibility from surrounding areas) and is designed to preserve a long strand of Norfolk Island Pines which are considered to be key landscape features and are listed as Heritage Items (I66). A large Fig tree will also be contained within the park.</p> <p>The development remains generally consistent with the objectives of the RE1 zone.</p> <p><b>RU1 Zone</b></p> <p>A small portion of the subject site is zoned RU1 – Primary Production under the Ballina LEP 2012. This area is well removed from the residential portion of the site.</p> <p><b>RU1 Objectives of Zone</b></p> <ul style="list-style-type: none"> <li>• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</li> <li>• To encourage diversity in primary industry enterprises and systems appropriate for the area.</li> <li>• To minimise the fragmentation and alienation of resource lands.</li> <li>• To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> <li>• To maintain the rural, cultural and landscape character of the locality.</li> <li>• To enable development that is compatible with the rural and environmental nature of the land.</li> <li>• To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.</li> </ul> <p>The development remains generally consistent with the objectives of the RU2 zone.</p> <p><b>RU2 Zone</b></p> <p>The subject site is zoned RU2 – Rural Landscape under the BLEP 2012. This area is well removed from the residential portion of the site.</p> <p><b>RU2 Objectives of Zone</b></p> <ul style="list-style-type: none"> <li>• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</li> <li>• To maintain the rural landscape character of the land.</li> <li>• To provide for a range of compatible land uses, including extensive agriculture.</li> </ul>
--	--

	<ul style="list-style-type: none"> <li>• To minimise the fragmentation and alienation of resource lands.</li> <li>• To minimise conflict between land uses within the zone and land uses within adjoining zones.</li> <li>• To enable small-scale tourist-orientated development that is compatible with the rural nature of the land.</li> <li>• To encourage development that involves restoration or enhancement (or both) of the natural environment if consistent with the production and landscape character of the land.</li> <li>• To enable development that does not adversely impact on the natural environment, including habitat and waterways.</li> <li>• To ensure that there is not unreasonable or uneconomic demands (or both) for the provision of public infrastructure.</li> </ul> <p>The development remains generally consistent with the objectives of the RU2 zone.</p>
Minimum subdivision lot size (Clause 4.1)	<p>The minimum lot size as shown on the Lot Size Map for the R2 zoned portion of the site is 1,200m<sup>2</sup>. Lots 153-168 are zoned R2 and remain unchanged from the original approval. Each of these lots has an area greater than 1,200m<sup>2</sup> and therefore complies with the prescribed minimum lot size.</p> <p>The minimum lot size as shown on the Lot Size Map for the R3 zoned portion of the site is 600m<sup>2</sup>. Lots 1-116 contain R3 zoning and each lot complies with the prescribed minimum lot size.</p> <p>Eleven Superlots are also proposed within the R3 zone. A separate Planning Proposal has been lodged by the applicant, and seeks to nominate a minimum lot size of 450m<sup>2</sup> to these lots (therefore allowing further subdivision in the future).</p>
Heritage Conservation (Clause 5.10)	<p>The subject site contains a number of heritage items as listed in Schedule 5 of the BLEP 2012. The proposed development comprises:</p> <ol style="list-style-type: none"> <li>1) Demolishing/moving a heritage item, and</li> <li>2) Subdividing land on which a heritage item is located.</li> </ol> <p>Accordingly, development consent is required and Council must consider the effect of the proposed development on the heritage significance of the item under Clause 5.10(4) of the BLEP 2012.</p> <p>These items include the following:</p> <ul style="list-style-type: none"> <li>• Item 167 – Dry Stone Walls (walls known as “wall a” and “wall b” on former Henderson Farm) located</li> </ul>

	<p>on Lots 1 &amp; 2 DP 1070446.</p> <p>The Davies Heritage Consultant report (submitted as part of the original application) indicates that the subject walls were constructed in the late 1800's to early 1900's by Edward Henderson, with possible help from Indian labourers. The walls mark the location of the original property boundaries in this location.</p> <p><b>Wall A</b> has a length of approximately 300m and runs in a north/south direction in the central portion of Lot 1 DP 1070446. The wall adjoins the western littoral rainforest community and extends to the southern property boundary with Lot 2 DP 1070446.</p> <p>The approved plan for the original application showed the dry stone wall (Wall A) being located on the rear property boundary of 11 lots, adjoining Road 1. The proposed amended plans now propose to position the wall entirely within Council's road reserve for Road 2.</p> <p>This area, including the wall itself, will be dedicated to Council for ongoing maintenance and management. If the application is approved, suitable conditions are to be imposed regarding the restoration of the wall and final design of the road reserve, which will be undertaken prior to dedication of the land.</p> <p>Under the original approval, the road network penetrated Wall A in two separate locations. Under the proposed amendment, the northern opening remains the same as approved. However, the southern opening is proposed to be moved approximately 50 metres further to the south.</p> <p>The two openings are required to ensure sufficient traffic permeability throughout the western portion of the estate.</p> <p>A revised Conservation Management Plan (CMP) is required prior to the commencement of works. The CMP must outline how the wall is going to be repaired and requirements for ongoing maintenance. This wall must be repaired (and strangler figs removed) in accordance with the CMP prior to the issue of a subdivision certificate.</p> <p><b>Wall B</b> is located along part of the northeast boundary of Lot 1 DP 1070446 and has a length of 235m. This wall is proposed to be retained in its current alignment and will form part of the rear boundary fencing to proposed Lots 163–168. No additional impacts will occur as a result of the subject modification application.</p>
--	--

	<ul style="list-style-type: none"> <li>Item 165 – Fig Tree (planted by Ted Henderson in 1947 on former Henderson Farm) located on Lot 1 DP 1070446.</li> </ul> <p>This Fig tree is to be retained within the residual portion of proposed Lot 116. No works are proposed within the nominated Tree Protection Zone (TPZ) of this tree. Accordingly, no adverse impacts are expected.</p> <ul style="list-style-type: none"> <li>Item 166 – Norfolk Island Pines located on Lot 1 DP 1070446.</li> </ul> <p>These trees are located within the portion of the site zoned RE1 Public Recreation (proposed Lot 301). This area is to be embellished for the purpose of a public park, with the Norfolk Island Pines retained as key landscape features. Accordingly, no adverse impacts are expected.</p> <p>Lot 2 DP 1070446 is included in the development site as it is proposed to provide a drainage easement along the western boundary of the allotment and dedicate a small portion (approximately 1,110m<sup>2</sup>) of the property for road access purposes. The Lot contains the following Archaeological site:</p> <ul style="list-style-type: none"> <li>Item A4 – Historic “Henderson Farm” items/features (including historic tree plantings – bunya pines, circle of stones, half circle of stones, well site, location of farm buildings and ruts) located on Lot 2 DP 1070446.</li> </ul> <p>Clause (7) - Archaeological sites <i>The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the Heritage Act 1977 applies)—</i></p> <ol style="list-style-type: none"> <li><i>notify the Heritage Council of its intention to grant consent, and</i></li> <li><i>take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</i></li> </ol> <p>Development consent has already been issued to development on Lot 2 (which contains an archaeological site) under the original application.</p> <p>The approved works on Lot 2 comprise road construction and stormwater infrastructure. The proposed changes to the alignment of the main entry road are considered relatively minor and will not have any additional adverse impacts on the archaeological site.</p>
--	---

	<p>The VPA which accompanied the rezoning process requires the following:</p> <ul style="list-style-type: none"> <li>• The Landowner is to cause a Heritage Item Archival Recording to be prepared to the satisfaction of Council before a Subdivision Certificate is issued for any part of the Development on land on which a Heritage Item is situated.</li> <li>• The Landowner is to store any salvageable materials (such as, but not limited to, bricks, rocks and timber) relating to a Heritage Item in a location considered by the Landowner and the Council to be suitable for that purpose.</li> </ul> <p>The proposed modification will not unreasonably impact the significance of the nominated items.</p>
Subdivision of, or dwellings on, land in certain rural, residential or environment protection zones (Clause 5.16)	<p>The objective of this clause is to minimise potential land use conflict between existing and proposed development on land in the rural, residential or environment protection zones concerned (particularly between residential land uses and other rural land uses).</p> <p>This clause applies to the RU1 and RU2 zoned portions of the site.</p> <p>The proposed modification to the development and plans does not raise any matters in relation to Clause 5.16. The development is not incompatible with the existing or desired uses of the land or neighbouring lands.</p>
Part 6 Urban release area (Clauses 6.1-6.4)	The development footprint is not within a mapped urban release area.
Acid Sulfate Soils (Clause 7.1)	Addressed under original assessment. Consent has been conditioned to ensure works are undertaken in accordance with the approved Acid Sulfate Management Plan.
Earthworks (Clause 7.2)	Earthworks will generally be confined to the areas approved under the original application. Suitable conditions were imposed on the original consent to mitigate impacts from earthworks, including soil stability, quality of fill and excavation material, water quality and diversion of runoff.
Flood Planning (Clause 7.4)	The site is not flood affected.
Airspace Operation (Clause 7.5)	The subject application does not seek to significantly increase the height of the finished landform or future development upon it.
Essential Services (Clause 7.7)	All essential services are available to site allotment within the development. Deferred commencement condition A of the consent required the developer to secure adequate legal access to the development with

	<p>a minimum carriageway width of nine metres. The deferred commencement condition has been satisfied.</p>
<p>Strategic Growth Area (Clause 7.8)</p>	<p>The subject site is affected by the Strategic Growth Map, as shown in Figure 1 below.</p>  <p><b>Figure 1 – Strategic Growth Area Map</b></p> <p>The extent of the approved urban footprint remains unchanged under the current modification application.</p> <p>The portion of the site that is mapped as being within the Strategic Urban Growth Area (Lot 99 DP 755684 and Lot 1 DP 829277) was identified under the assessment of the original application as not being suitable for urban development for environmental reasons.</p> <p>The portion of the site that is mapped as being adjacent to the Strategic Urban Growth Area (Lot 1 DP 1070446) remains unchanged from the original approval. Development of this portion of the site will not affect the future development of the neighbouring land (mapped as Strategic Urban Growth Area).</p>

<p><b>Ballina LEP 1987 – Zoning, Permissibility and Relevant Clauses</b></p>	<p><b>Comments/Is consistency with these provisions achieved?</b></p>
<p>Aims, objectives of BLEP (Clause 2)</p>	<p>The application remains generally consistent with the</p>



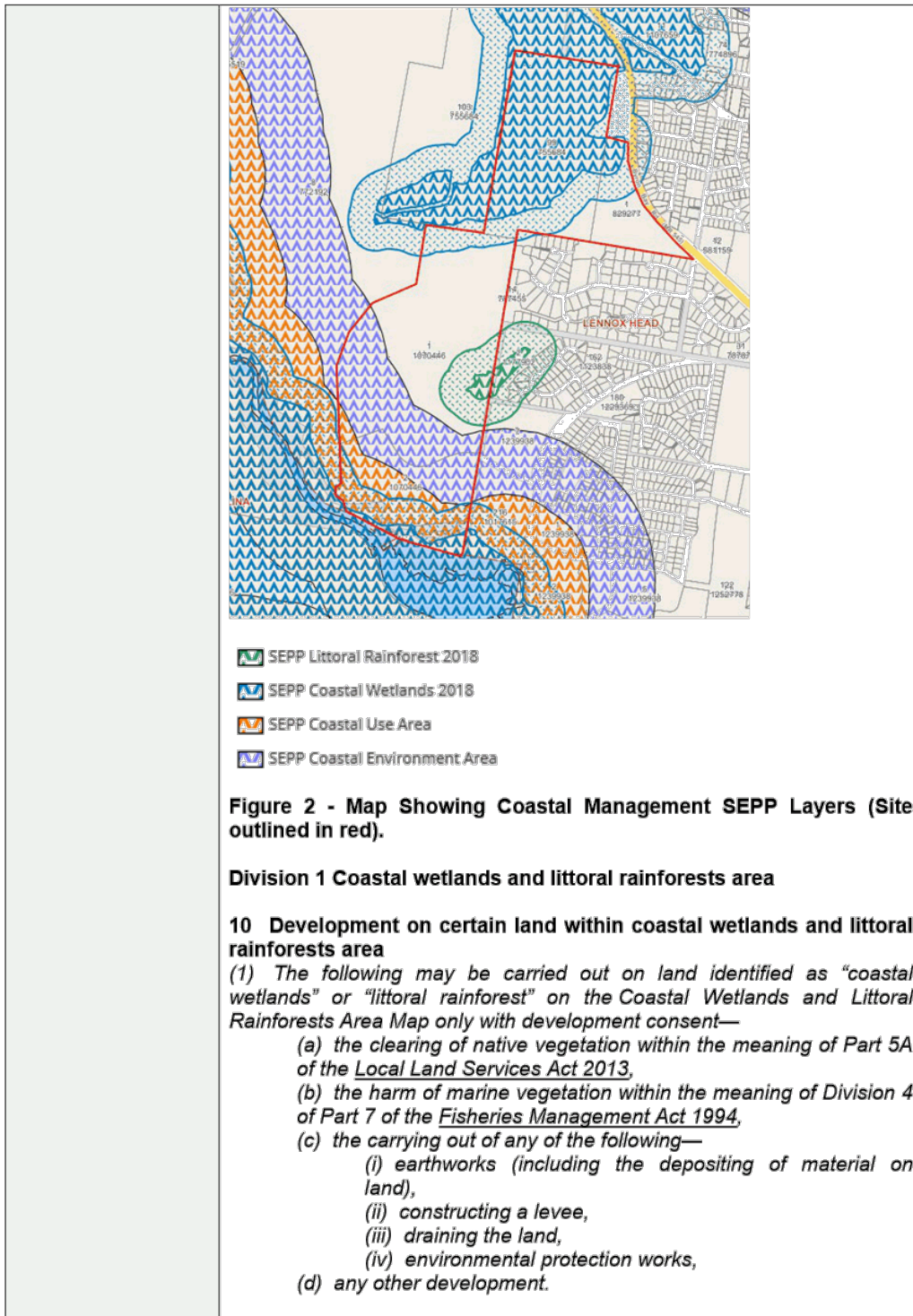
	aims and objectives of the Ballina Local Environmental Plan (BLEP) 1987.
Zoning under BLEP 1987, permissibility within zone and compliance with zone objectives (Clause 9)	<p>7(a) Environmental Protection (Wetlands) and 7(l) Environmental Protection (Habitat) under the Ballina LEP 1987. The urban footprint of the development will not encroach into these areas. These areas will be rehabilitated in accordance with the requirements of the Voluntary Planning Agreement (VPA) and the approved Environmental Rehabilitation Plan.</p> <p>Once rehabilitated, the 7(l) portion of the site (east) will be dedicated to Council.</p>
Items of Environmental Heritage (Clause 18)	<p>Schedule 1 of the Ballina LEP 1987 lists the following Items of Environmental Heritage which are located on the subject properties (some of which are also listed under the BLEP 2012).</p> <ul style="list-style-type: none"> <li>• Item 50 - Fig Tree (planted by Tim Henderson in 1947), Henderson Farm (Lot 1, DP 1070446), Lennox Head.</li> <li>•</li> <li>• Item 51 - Norfolk Island Pines, Henderson Farm (Lot 1, DP 1070446), Lennox Head.</li> <li>•</li> <li>• Item 52 - Dry Stone Wall, Henderson Farm (Lots 1 and 2, DP 1070446), Lennox Head.</li> <li>•</li> <li>• Item 53 - Dry Stone Wall, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>•</li> <li>• Item 54 - Dry Stone Wall, Henderson Farm (Lot 1, DP 1070446), Lennox Head.</li> <li>•</li> <li>• Item 55 - Location of Barn, Henderson Farm (Lot 1, DP 1070446), Lennox Head.</li> <li>• 56 - Bunya Pines, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>• 57 - Circle of Stones, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>• 58 - Half Circle of Stones, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>• 59 - Well, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>• 60 - Location of Original House, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>• 61 - Location of Orchard, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>• 62 - Location of Shed, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> </ul>

	<ul style="list-style-type: none"> <li>• 63 - Location of Well, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> <li>• 64 - Location of Ruts, Henderson Farm (Lot 2, DP 1070446), Lennox Head.</li> </ul> <p>A Heritage Consultant Report was prepared and submitted as part of the original application. The report indicated that the non-Indigenous items within Lot 1 DP 1070446 and Lot 99 DP755684 and Lot 1 DP829277 "all have historic value with individual items having social, scientific and/or aesthetic value". Suitable heritage management requirements in relation to the development were provided. In particular, the developer is required to fully document the bails/dairy, Hay shed, Garage, house and shed prior to development commencing.</p> <p>The development, as amended, will not result in additional impacts on the significance of these items from the original approval (refer to previous commentary under BLEP 2012 Clause 5.10 in this report).</p>
Development of land at Henderson Farm, Lennox Head (Clause 33)	<p>Development consent may be granted for development on land to which this clause applies for the purpose of stormwater management systems.</p> <p><b>Stormwater management system</b> means—</p> <p>(a) works for the collection, detention, harvesting, distribution or discharge of stormwater (such as channels, aqueducts, pipes, drainage works, embankments, detention basins and pumping stations), and</p> <p>(b) stormwater quality control systems (such as waste entrapment facilities, artificial wetlands, sediment ponds and riparian management), and</p> <p>(c) stormwater reuse schemes.</p> <p>The development incorporates a suitable stormwater management system.</p>
Exceptions to development standards (Clause 39)	Not applicable. Application made prior to commencement of provision (20 December 2019).

**State Environmental Planning Policies (SEPPs)**

<b>Relevant SEPPs</b>	<b>Comments/Is consistency with these provisions achieved?</b>
SEPP 44 – Koala Habitat Protection	<p>SEPP 44 was repealed and replaced by SEPP (Koala Habitat Protection) 2019 when it was published on the NSW legislation website on 1 March 2020.</p> <p>Clause 15 of SEPP (Koala Habitat Protection) 2019 states that a development application made, but not finally determined, before the commencement of this Policy in relation to land to which this Policy</p>

	<p>applies must be determined as if this Policy had not commenced.</p> <p>The provisions of SEPP 44 were considered not to apply to the development in the Flora and Fauna Assessment that was submitted under the original application, on the basis that the identified core koala food trees would not be impacted or disturbed. This remains unchanged as part of the proposed modification.</p>
SEPP 55 – Remediation of Land	<p>Clause 7 of State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) provides that contamination and remediation are to be considered in the determination of development applications.</p> <p>The provisions of SEPP 55 were considered in the assessment of the original application, and suitable conditions were imposed. As a consequence, the applicant submitted a Detailed Contamination Land Assessment and Remedial Action Plan for the development. A validation report and statement will be required to demonstrate that the Remedial Action Plan has been successfully implemented, and the site is deemed suitable for the approved development (and future residential development of the land).</p> <p>The proposed modification does not raise any further issues in relation to land contamination.</p>
SEPP (Coastal Management) 2018	<p>The original application was determined prior to SEPP (Coastal Management) 2018 being published. However, the proposed amendment is subject to the provisions of the Plan.</p> <p>As shown in Figure 2, the subject site is mapped within the Littoral Rainforest, Coastal Wetlands, Coastal Use Area and the Coastal Environment Area. Accordingly, the application is subject to the following provisions of SEPP (Coastal Management) 2018.</p>



	<p>(2) Development for which consent is required by subclause (1), other than development for the purpose of environmental protection works, is declared to be designated development for the purposes of the Act.</p> <p>(3) Despite subclause (1), development for the purpose of environmental protection works on land identified as "coastal wetlands" or "littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map may be carried out by or on behalf of a public authority without development consent if the development is identified in—</p> <p style="padding-left: 40px;">(a) the relevant certified coastal management program, or  (b) a plan of management prepared and adopted under Division 2 of Part 2 of Chapter 6 of the <u>Local Government Act 1993</u>, or  (c) a plan of management under Division 3.6 of the <u>Crown Land Management Act 2016</u>.</p> <p>(4) A consent authority must not grant consent for development referred to in subclause (1) unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland or littoral rainforest.</p> <p>(5) Nothing in this clause requires consent for the damage or removal of a priority weed within the meaning of clause 32 of Schedule 7 to the <u>Biosecurity Act 2015</u>.</p> <p>(6) This clause does not apply to the carrying out of development on land reserved under the <u>National Parks and Wildlife Act 1974</u> if the proposed development is consistent with a plan of management prepared under that Act for the land concerned.</p> <p>No works are proposed within the mapped coastal wetlands.</p> <p>The area mapped as littoral rainforest is subject to the approved Environmental Management Plan and the area will be dedicated to Council once the environmental protection works are complete. No other works are proposed within mapped littoral rainforest.</p> <p><b>11 Development on land in proximity to coastal wetlands or littoral rainforest</b></p> <p><b>Note.</b></p> <p><i>The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" or both.</i></p> <p>(1) Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—</p> <p style="padding-left: 40px;">(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or</p>
--	---

	<p><i>(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</i></p> <p><i>(2) This clause does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map.</i></p> <p>The development, as amended, will not result in any additional impacts on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.</p> <p><b>Division 3 Coastal environment area</b></p> <p><b>13 Development on land within the coastal environment area</b></p> <p><i>(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—</i></p> <p><i>(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,</i>  <i>(b) coastal environmental values and natural coastal processes,</i>  <i>(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,</i>  <i>(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,</i>  <i>(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i>  <i>(f) Aboriginal cultural heritage, practices and places,</i>  <i>(g) the use of the surf zone.</i></p> <p><i>(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</i></p> <p><i>(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or</i>  <i>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i>  <i>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</i></p> <p>The southernmost portion of the development is located within the mapped coastal environment area. The amended development does not result in any additional impacts on the matters raised in subclause (1).</p> <p>The site is not located in close proximity to a foreshore, beach, surf zone, headland, rock platform or sensitive coastal lake and therefore will not have impacts on these areas or restrict access to these areas.</p>
--	--

	<p><b>Division 4 Coastal use area</b></p> <p><b>14 Development on land within the coastal use area</b></p> <p>(3) <i>Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—</i></p> <p>(a) <i>has considered whether the proposed development is likely to cause an adverse impact on the following—</i></p> <p>(i) <i>existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,</i></p> <p>(ii) <i>overshadowing, wind funnelling and the loss of views from public places to foreshores,</i></p> <p>(iii) <i>the visual amenity and scenic qualities of the coast, including coastal headlands,</i></p> <p>(iv) <i>Aboriginal cultural heritage, practices and places,</i></p> <p>(v) <i>cultural and built environment heritage, and</i></p> <p>(b) <i>is satisfied that—</i></p> <p>(i) <i>the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or</i></p> <p>(ii) <i>if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</i></p> <p>(iii) <i>if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i></p> <p>(c) <i>has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i></p> <p>The development, as amended, is consistent with the provisions contained in Clause 14. The site is not located in close proximity to a foreshore, beach, headland or rock platform and therefore will not have impacts on these areas. The amended development does not result in any additional cultural heritage impacts. The amended subdivision configuration has had regard for the conservation and long-term preservation of certain identified environmental heritage items (refer to body of Council Report for detailed commentary). The proposed bulk, scale and size of the development is considered to be appropriate for the location.</p> <p><b>Division 5 General</b></p> <p><b>15 Development in coastal zone generally—development not to increase risk of coastal hazards</b></p> <p><i>Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.</i></p> <p>The development is not likely to cause increased risk of coastal hazards on the subject land or other land.</p> <p><b>16 Development in coastal zone generally—coastal management</b></p>
--	--

	<p><i>programs to be considered</i></p> <p><i>Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.</i></p> <p>No Coastal Management Plans are applicable to the land.</p>
--	---

**4.15 (1) (a) (ii) – any proposed instrument that is or has been the subject of public consultation under the EP&A Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)**

	Comments/Is consistency with these provisions achieved?
<b>Draft EPI/Planning Proposal</b>	
BSCPP 19/002	This Planning Proposal relates to Lot 1 DP 1070446 and is directly related to the subject modification application. It seeks to change the minimum lot size of the proposed superlots (zoned R3 under the BLEP 2012) from 600m <sup>2</sup> to 450m <sup>2</sup> . Refer to the body of the Council report for detailed commentary on the Planning Proposal and its relevance to the subject application.
Draft State Environmental Planning Policy - Remediation of Land.	The proposed development is not inconsistent with the draft SEPPs.
Draft State Environmental Planning Policy (Short-term Retail Accommodation) 2019.	
Draft Amendment to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.	

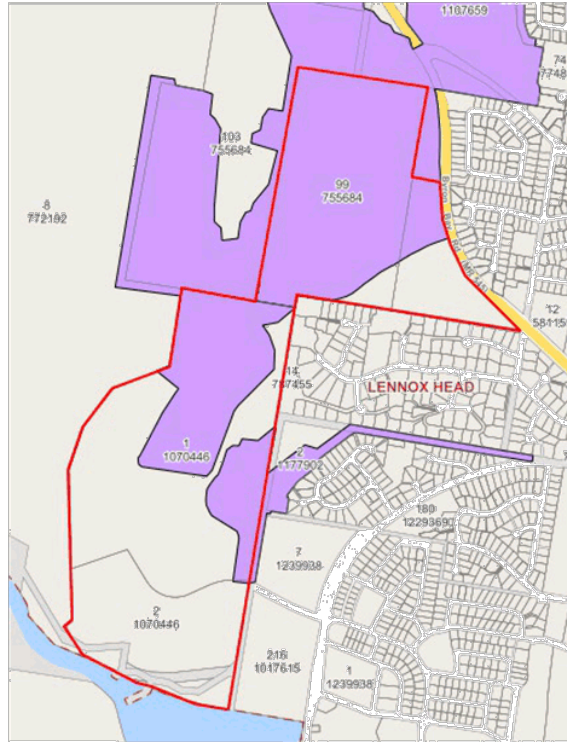
**4.15 (1) (a) (iii) – any development control plan (DCP)**

DCPs currently in force:	
<b>Ballina Shire Development Control Plan 2012</b>	<input checked="" type="checkbox"/>

<b>Ballina Shire DCP 2012</b>	Comments/Assessment of proposal against provisions of DCP
<b>Chapter 1 - Administration</b>	The development remains generally consistent with the objectives of the Ballina DCP 2012.
<b>Chapter 2 – General Environmental Considerations</b>	<p><b>3.1 Land Use Conflict</b> No additional matters raised as a result of the proposed modification.</p> <p><b>3.2 Ridgelines and Scenic Areas</b></p>



The site is mapped as containing Ridgelines and Scenic Areas, as shown below in Figure 3.



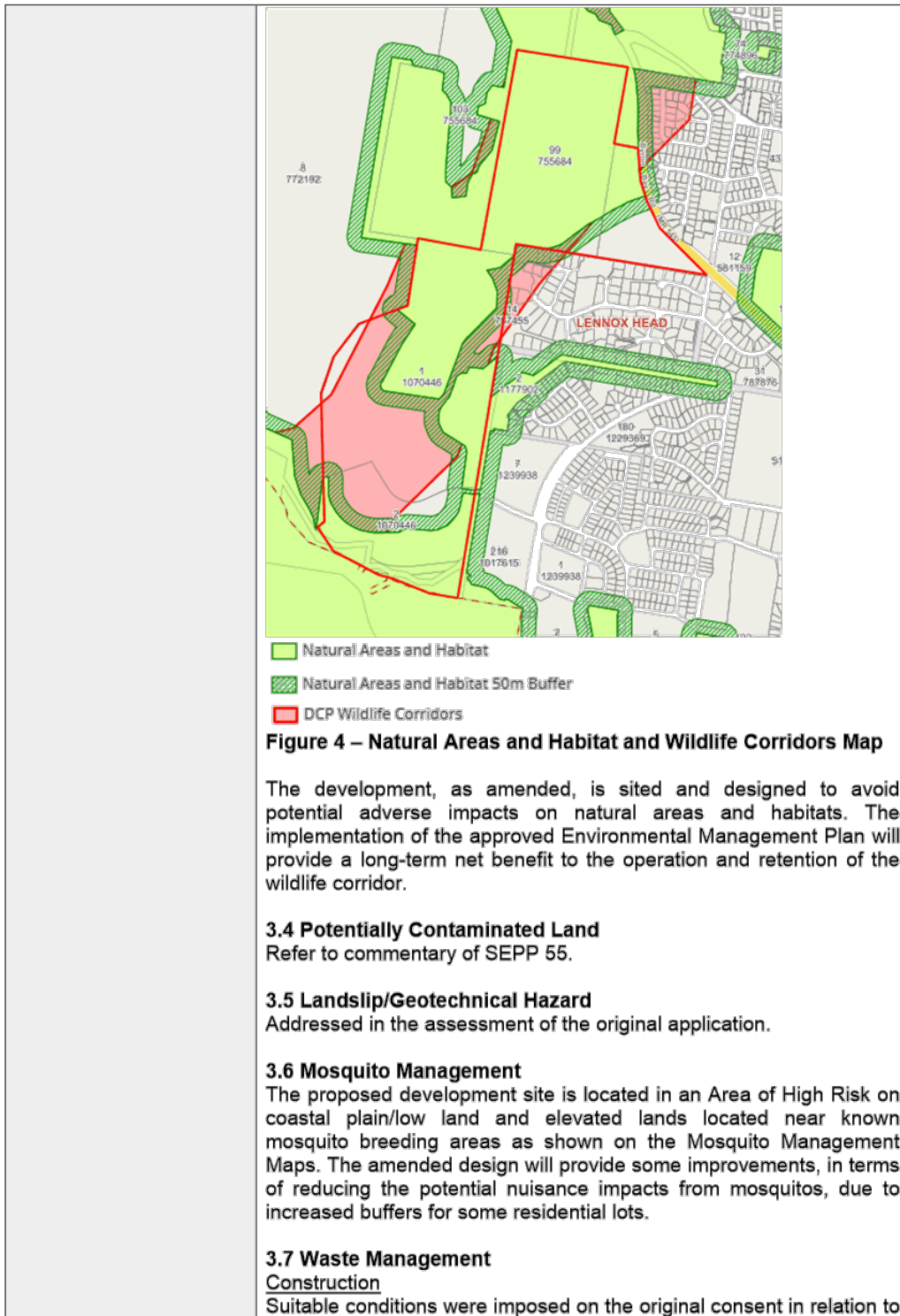
■ DCP Ridgelines Scenic Areas

**Figure 3 – Ridgelines Scenic Areas Map**

The development footprint avoids the areas mapped as Ridgelines and Scenic Areas. Implementation of the approved Environmental Management Plan will improve the scenic qualities and environmental attributes of these areas.

**3.3 Natural Areas and Habitat**

The site is affected by the Natural Areas and Habitat and Wildlife Corridors maps, as shown below in Figure 4.



	<p>management of construction waste.</p> <p><u>Operational</u> All proposed residential lots can be serviced by Council's kerbside collection service.</p> <p><b>3.9 Stormwater Management</b> A stormwater plan has been provided which is generally acceptable (report by BG&amp;E dated 1 May 2020, and satisfies the requirements of DCP chapter 2 Stormwater Management.</p> <p>Note: The proposed rainwater tanks as part of the treatment train are not appropriate in a re-use area. An updated SWMP can be provided at Construction Certificate stage.</p> <p><b>3.10 Sediment and Erosion Control</b> Addressed by way of condition.</p> <p><b>3.11 Provision of Services</b> Satisfactory. Refer to Clause 7.7 of this assessment for further comments.</p> <p><b>3.12 Heritage</b> Addressed previously in this report and the body of the Council report.</p> <p><b>3.15 Crime Prevention through Environmental Design</b> The four principles that need to be used in the assessment of development applications to minimise the opportunity for crime are:</p> <ul style="list-style-type: none"> <li>• Surveillance</li> <li>• Access Control</li> <li>• Territorial Reinforcement</li> <li>• Space Management</li> </ul> <p>Surveillance: The amended development allows for sufficient natural surveillance of the street system and proposed parks.</p> <p>Access Control: Access to residential lots can be defined by pathways and landscaping, and restricted through fencing/gates.</p> <p>Territorial Reinforcement: Territorial management is reinforced through fencing and landscaping. There will be a visible distinction between public and private land.</p> <p>Space Management: Space management is achieved through site cleanliness and appropriate landscaping. Council's open space will manage the proposed parks and road reserve area in the vicinity of Wall A.</p> <p>The amended development is not expected to increase the likelihood of crime in the area.</p> <p><b>3.18 Protection of Foreshore and Public Open Space Areas</b> This part of the DCP relates to land adjoining foreshore and public open space areas. The proposed development will not have</p>
--	--

	<p>unreasonable impacts on the adjoining public open space area (sporting fields provided as part of the EPIQ Lennox development) located to the east of Lot 2 DP 1070446.</p> <p><b>3.19 Car Parking and Access</b> The existing external road network is constructed to a suitable standard to service the proposed development.</p> <p>A road reserve between Hutley Drive through the Epiq Estate has been created and there is a deed of agreement over the Council owned portion of the proposed entry access to the estate. Therefore, suitable access can be achieved to the site.</p> <p>The revised lot layout gives greater traffic permeability through the estate and reduced travel times to occupants in the north-western portion of the estate.</p> <p><b>3.21 Bushfire Management</b> Portions of the subject site are mapped as bushfire hazard. The area to be vegetated under the Environmental Management Plan will also increase the size of the bushfire hazard. Accordingly, the original application was lodged as Integrated Development and was subject to a Bushfire Safety Authority issued by the Rural Fire Service.</p> <p>The Rural Fire Service has assessed the modification application and has issued a revised Bushfire Safety Authority. These conditions will form part of the consent, should the modification application be approved.</p>
<b>Chapter 2b – Floodplain Management</b>	<p>A revised stormwater plan has been provided and the requirements of DCP Chapter 2 Stormwater Management have been addressed.</p> <p>The submitted stormwater plan (BG&amp;E, dated 1 May 2020) is generally acceptable.</p>
<b>Chapter 3 Urban Subdivision</b>	<p><b>3.2 Major Subdivision Requirements</b> This section applies to applications for major subdivision for sites with the potential of accommodating more than 10 lots (based on the minimum lot sizes specified in the BLEP 2012).</p> <p><i>A. Element – Master Plan Preparation</i> As the application seeks to amend and approved development, the applicant has not engaged in a formal master planning process with Council.</p> <p>Under clause 3.2.3(A)(iii) the provisions of Section 3.1 still apply. Refer to assessment below.</p> <p><i>B. Element – Consultation and Pre-Lodgement Process</i> A pre-lodgement meeting was held on 30 January 2019. The comments provided by Council staff were generally considered in the preparation of the section 4.55 application.</p> <p><i>C. Element – Vision, Concept and Master Plan Content</i> As the application seeks to amend an approved development, the applicant has not engaged in a formal master planning process with Council.</p>

	<p>The following assessment has been undertaken against the section 3.1 Minor Subdivision General Controls.</p> <p><i>A. Element – Modification of Landform</i> The development, as amended (and approved), comprises significant earthworks and re-contouring of the development footprint.</p> <p>The proposal will exceed the prescribed maximum cut or fill of 1500mm from natural ground level for a single cut/fill, and a maximum of 1100mm per cut/fill where more than one cut/fill proposed for the lot, as it incorporates retaining walls of up to 3000mm in height. This is not inconsistent with that approved under the original application. Steeper sites have been benched, to reduce the extent of cut and fill, and promote split-level dwelling designs (eg 61-70).</p> <p>A geotechnical report was submitted as part of the original application. Additional geotechnical information is therefore not required as this stage. Individual geotechnical assessments can be undertaken for any future dwellings on each new lot.</p> <p>Lot 69 is identified as being over 15% in slope and Lot 70 is over 20% slope. Despite being relatively steep, these lots are capable of accommodating suitably designed dwellings. A notification on title is not considered necessary in this instance.</p> <p>Vehicular access can be provided to each proposed lot which achieves the desirable maximum gradient of 1:6.</p> <p><i>B. Element - Road Layout</i> The amended development provides for improvements in road layout and design. The internal road network is designed to:</p> <ul style="list-style-type: none"> <li>• Provide a clear and legible hierarchy for traffic movements;</li> <li>• Provide a road network based on a grid pattern where practicable;</li> <li>• Minimise the use of cul-de-sacs;</li> <li>• Facilitate the use of public transport;</li> <li>• Enable convenient pedestrian and cycle movements;</li> <li>• Provide for perimeter roads adjacent to high conservation lands; and</li> <li>• To provide legal and practical access to lots.</li> </ul> <p>The road design can meet the requirements of the Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual.</p> <p><i>C. Element - Solar Access</i> The majority of lots are generally designed and orientated to maximise potential solar access in accordance with Figure 3.1 of Chapter 3.</p> <p><i>D. Element – Engineering Design and Construction Requirements</i> Development shall meet the requirements of the Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual, and relevant</p>
--	--

	<p>requirements of Planning for Bushfire Protection 2006 (in relation to access and servicing).</p> <p><i>E. Element – Services and Infrastructure</i> The proposed lots will be fully serviced with water, sewer, roads, drainage, underground electricity and communication services. All service infrastructure is to be designed and constructed in accordance with the Northern Rivers Local Government Development and Design Manual.</p> <p><i>F. Element – Retention of Significant Vegetation</i> Environmentally and culturally significant vegetation is to be retained where practicable. The amended development does not result in the removal of additional numbers of trees.</p> <p>Condition 38 of the consent states the following:</p> <p><i>A 24m radius from the centre of the Fig Trees on lots 170 and 171 shall be dedicated to Council as public reserve. Where a road frontage is adjacent to the fig tree the projected canopy of 20m can extend over the verge to the back of kerb.</i></p> <p>The amended plans as part of the modification application have satisfied this condition by increasing the size of the proposed parks (now labelled lots 301 and 302). This condition can therefore be deleted.</p> <p>Since approval of the original application, Council has adopted a policy for Urban Vegetation on Public Land. This policy requires a minimum setback of 40 metres from the centre of the tree trunk of a Fig tree to neighbouring structures. The amended plans therefore do not comply with these new standards (despite being considered acceptable in the assessment of the original application). To minimise the potential future impacts from these trees on neighbouring buildings and structures in the future, it is recommended that root barriers be installed by the developer, prior to the dedication of these lots as public lands.</p> <p><i>G. Element – Minimum Lot Size and Shape</i> As shown in the following table, the proposal complies with the minimum lots size and specifications outlined in Table 3.1 of Chapter 3 (as they relate to dwellings on R2 and R3 zones).</p>
<p><b>Chapter 7 – Rural Living and Activity</b></p>	<p><b>3.2 Rural Subdivision</b> This clause applies to the subdivision of land zoned RU1, RU2, E2, E3, W1 and W2, which in this case, relates to Lot 99 DP 755684 and Lot 1 DP 829277. These lots are not proposed to be developed or altered as part of this development (with the exception of accommodating a new fire trail, as approved under the original application).</p> <p><b>3.2.3 Development Controls</b></p> <p><i>i. All subdivision applications must demonstrate that the relevant zone objectives set out in the BLEP will be achieved;</i></p>

	<p>The application, as modified, achieves the objectives of the relevant zones. Refer to previous assessment in this report.</p> <p><i>ii. Subdivision of land must not result in a significant diminution of the agricultural production potential of the land the subject of the application or land nearby or must result in a significant environmental benefit;</i></p> <p><i>The development will result in significant environmental benefits through the implementation of the EMP over the rural zoned portions of the site.</i></p> <p><i>iii. Subdivision which achieves or promotes farm build-up must not provide an ability for additional allotments, or dwellings to be created in the future;</i></p> <p>The proposed development does not result in the additional rural allotments, or dwelling entitlements within the rural zone.</p> <p><i>iv. Subdivision design must not create a situation where the relative position of existing or proposed improvements and rural activities on the new lots is likely to result in land use conflict.</i></p> <p>The amendments to the subdivision design will not result in additional land use conflicts.</p> <p><i>v. The size and shape of the proposed new allotments and their setting must be suited to their intended use;</i></p> <p>The size and shape of the proposed rural lots are appropriate and remain unchanged.</p> <p><i>vi. Vehicular access to and within the proposed allotments must be adequate having regard for the intended use of the land. The creation of allotments solely dependent on rights of carriageway for access provision is discouraged;</i></p> <p>No change proposed.</p> <p><i>vii. Applications for subdivision must provide an assessment of the need for harvesting and storage of surface or groundwater for use on the allotments; and</i></p> <p>No change proposed.</p> <p><i>viii. Applications for subdivision are to be supported with sufficient information detailing that all relevant infrastructure, including on-site sewage management systems, are able to be wholly contained within each proposed allotment.</i></p> <p>Not required in this instance, and there is no change proposed to the lots containing rural zones.</p>
--	--

**4.15 (1) (a) (iia) – any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

<b>Planning Agreement (or draft)</b>	<b>Comments</b>
Henderson Farm Planning Agreement	<p>The development is subject to a Voluntary Planning Agreement (VPA) between the landowner and Council.</p> <p>The VPA relates to Development Contributions (Part 2), Environmental Rehabilitation Works (Part 3), and Archival Recording of Local Heritage (Part 4).</p> <p>The developer is obliged to satisfy the terms of the VPA in undertaking the development.</p>

**4.15 (1) (a) (iv) – any matters prescribed by the regulations**

	<b>Comments/Is consistency with these provisions achieved?</b>
If the DA is for the demolition of a building, consider the provisions of AS 2601-1991: The demolition of structures (as in force 1 July 1993):	The amended proposal does not seek to demolish any additional buildings/structures than that approved under the original application.
If the DA is only for a change of use or the use of an existing building as a place of public entertainment, is the fire protection and structural capacity of the building appropriate to the building's proposed use?	N/A
If the DA involves the rebuilding/ alteration/enlargement/extension of an existing building, is the existing building required to be brought into total or partial conformity with the Building Code of Australia (BCA)?	N/A
If the DA is for the erection of a temporary structure, is the fire protection and structural capacity of the structure appropriate to the proposed use of the structure?, and is the ground or other surface, on which the structure is to be erected, sufficiently firm and level to sustain the structure while in use?	N/A

**4.15 (1) (b) – the likely impacts of that development**

	<b>Discuss whether or not the impact is acceptable or not? If not, then describe the adverse impacts and the steps taken to mitigate the impacts</b>
<b>Urban and Building Design</b>	
i) Context and Settings	The subject land is situated in Lennox Head and is located to the north west of the Residential Estate of



	EPIQ Lennox. The site comprises Lots 1 and 2 in DP 1070446, Lot 1 DP 829277, and Lot 99 DP 755684.  The land the subject of this modification application is referred to Locally as "the Henderson Farm".
ii) Site Design and Internal Design	The proposed modified plan is considered acceptable and provides numerous benefits in terms of heritage conservation, road layout and grades, and lot configuration and design. Each proposed residential lot meets the minimum lot size and has sufficient dimensions to accommodate future residential development.
iii) Ecologically Sustainable Building Design	Not applicable.
iv) Access, Transport and Traffic	The existing external road network is constructed to a suitable standard to service the proposed development.  A road reserve between Hutley Drive through the Epiq Estate has been created and there is a deed of agreement over the Council owned portion of the proposed entry access to the estate. Therefore, suitable access can be achieved to the site.  The revised lot layout gives greater traffic permeability through the estate and reduced travel times to occupants in the north-western portion of the estate.
v) Public Domain	The development, as amended, will not have an unreasonable impact on the existing or future public domain, when compared to the approved subdivision design.
vi) Utilities	Each proposed residential lot will be connected to essential services.  The southern portion of the existing Rous watermain which transverse the site in a north-south direction will be positioned within the road reserve of Road 2.
vii) Heritage	Refer to body of Council report for detailed assessment on matters of heritage.
viii) Construction	Suitable conditions were imposed on the original approval to mitigate potential impacts resulting from the construction phase of the development.
<b>Environmental Impacts</b>	
ix) Other Land Resources	Acceptable.
x) Water	All residential lots will be connected to Council's dual reticulated water system.  The proposed stormwater system is considered to be adequate for the development.
xi) Soils	Acceptable. Addressed by way of conditions.
xii) Air and Microclimate	Acceptable.

xiii) Flora and Fauna	The urban footprint of the development will not encroach into the 7(a) and 7(l) zoned areas. These areas will be rehabilitated in accordance with the requirements of the Voluntary Planning Agreement (VPA) and the approved Environmental Management Plan.
xiv) Waste	Acceptable.
xv) Energy	Acceptable. Residential allotments are generally located and orientated so as to maximise solar access.
<b>Hazards</b>	
xvi) Noise and Vibration	Some noise and vibration impacts may occur during the construction phase of the development. These impacts can be managed by way of conditions.
xvii) Natural Hazards	Bushfire – Acceptable, subject to compliance with the terms of the Bushfire Safety Authority.
xviii) Technological Hazards	Acceptable.
xix) Safety, Security and Crime Prevention (CPTED)	Acceptable. Addressed previously in this report.
<b>Social and Economic Impacts</b>	
xx) Social Impacts in the Locality	The development, as amended, will provide additional residential land in Lennox Head (with associated infrastructure and open space) which is capable of accommodating a range of housing types to meet the needs of the community. Therefore, the proposed development is expected to have positive social impacts.
xxi) Economic Impact in the Locality	The proposed development is expected to have a positive impact during the construction of the subdivision and thereafter when residential construction occurs.
<b>Cumulative Impacts</b>	
xxii) Cumulative Impacts	The proposed development, as amended, is not expected to result in unreasonably cumulative impacts.

**4.15 (1) (c) – The suitability of the site for the development**

	Comments
i) Does the proposal fit in the locality?	The proposed development, as amended, fits in the locality.
ii) Are the site attributes conducive to development?	The attributes of the site are considered conducive to the development, and the proposed lot layout has regard for the physical characteristics and zoning of the land and site constraints.

**4.15 (1) (d) Any submission made in accordance with this Act or the Regulations?**

Is advertising required because the development is designated or “advertised” development?	No
Is advertising required in accordance with established Council policy and practice?	Yes

If YES, how many submissions were received?	Three
---	-------

Document general terms of issues raised in any submission and how they are being considered/assessed:

Public Submissions:	Refer to body of Council report for detailed assessment.
Public Authority Submissions:	<p><b>NSW Rural Fire Service</b> – Bushfire Safety Authority issued on 27 July 2020.</p> <p><b>NSW Natural Resources Access Regulator</b> – Email response provided on 19 May 2020 indicating that previously issued General Terms of Approval are adequate, remain current, and no further assessment by the agency is necessary.</p> <p><b>NSW Department of Planning, Industry and Environment</b> – Email response provided on 3 October 2019 indicating that no further concurrence is required.</p>

**4.15 (1) (e) The public interest**

Federal, State & Local Government interests and Community interests	Having regard for the matters of consideration outlined in section 4.15 of the EP&A act 1979, approval of the modification application is considered to be in the public interest.
Section 64 and Section 94 Contributions	<p>The proposed development, as amended, attracts developer contributions.</p> <p>Amendments are required to be made to schedule 1 of the consent to reflect the changes to the proposal.</p>

*Patricia W Barrett*  
*Villa 128*  
*15 Hale Road*  
*Mosman NSW 2088*  
*Telephone 02 9904 2420*  
*Mobile 0414 764122*

1<sup>st</sup> October, 2019

The Manager  
Development and Environmental Health  
Ballina Shire Council  
P.O.Box 450  
Ballina NSW 2478

Attention: Peter Drew

Dear Sir

Re: Development Application 2014/31.03  
Henderson Lane, Lennox Head.

Further to my previous correspondence (dated 11<sup>th</sup> August,2014) regarding storm water disposal from the proposed abovementioned D.A. concerning the piping of stormwater into North Creek via the drain from my floodgates to North Creek.

The application from Lennox Rise Pty Ltd to amend the development consent 2014/31 from 159 lots to 190 lots can only mean an increase in the amount of stormwater being discharged into North Creek.

As North Creek and the portion of drain that connects it to my floodgates are tidal, the floodgates can only discharge water runoff from my property at low tide. As the tide rises, so the floodgates close and allow no further drainage of my property until the next low tide.

My concern is that during periods of significant rainfall, the scouring out of the drain from the increased flow from the proposed 190 block subdivision will cause blockage of the drain resulting in a rise in the water level precluding my floodgates from opening, resulting in my property flooding.

The existing drainage system on my property has been in place for many years and works as it should. It was never designed to cope with the demands of stormwater from a 190 lot, hard surfaced subdivision on neighbouring elevated land.

As mentioned in previous correspondence, what happens when the drain blocks and my property floods? The individual owners of the 190 lots will have no responsibility

*Patricia W Barrett  
Villa 128  
15 Hale Road  
Mosman NSW 2088  
Telephone 02 9904 2420  
Mobile 0414 764122*

so that leaves the Council and me. Why should I be impacted when I have no interest in it and nothing to gain from it, and foresee only problems arising from it.

Kindly direct any correspondence to my business address at 18 Kanoona Avenue, Homebush NSW 2140 for the attention of my son, Andrew Barrett. (Ph 02 97468970)

Patricia Barrett

# CROFTAG PTY LTD

A.B.N. 29 050 336 082  
18 Kanoona Avenue, Homebush 2140  
Telephone: (02) 9746 8970 Facsimile: (02) 9746 8560

1<sup>st</sup> October, 2019

The Manager  
Development and Environmental Health  
Ballina Shire Council  
P.O.Box 450  
Ballina NSW 2478

Attention: Peter Drew

Dear Sir

Re: Development Application 2014/31.03  
Henderson Lane, Lennox Head.

Further to my previous correspondence (dated 11<sup>th</sup> August, 2014) regarding storm water disposal from the proposed abovementioned D.A. concerning the piping of stormwater into North Creek via the drain from my floodgates to North Creek.

The application from Lennox Rise Pty Ltd to amend the development consent 2014/31 from 159 lots to 190 lots can only mean an increase in the amount of stormwater being discharged into North Creek.

As North Creek and the portion of drain that connects it to my floodgates are tidal, the floodgates can only discharge water runoff from my property at low tide. As the tide rises, so the floodgates close and allow no further drainage of my property until the next low tide.

My concern is that during periods of significant rainfall, the scouring out of the drain from the increased flow from the proposed 190 block subdivision will cause blockage of the drain resulting in a rise in the water level precluding my floodgates from opening, resulting in my property flooding.

The existing drainage system on my property has been in place for many years and works as it should. It was never designed to cope with the demands of stormwater from a 190 lot, hard surfaced subdivision on neighbouring elevated land.

As mentioned in previous correspondence, what happens when the drain blocks and my property floods? The individual owners of the 190 lots will have no responsibility

## **CROFTAG PTY LTD**

A.B.N. 29 050 336 082

18 Kanoona Avenue, Homebush 2140

Telephone: (02) 9746 8970 Facsimile: (02) 9746 8560

so that leaves the Council and me. Why should I be impacted when I have no interest in it and nothing to gain from it, and foresee only problems arising from it.

Kindly direct any correspondence to my business address at 18 Kanoona Avenue, Homebush NSW 2140 for the attention of my son, Andrew Barrett. (Ph 02 97468970)

Patricia Barrett  
Director

*Patricia W Barrett  
Villa 128  
15 Hale Road  
Mosman NSW 2088  
Telephone 02 9904 2420  
Mobile 0414 764122*



9<sup>th</sup> October, 2019

The Manager  
Development and Environmental Health  
Ballina Shire Council  
P.O.Box 450  
Ballina NSW 2478

Attention: Peter Drew

Dear Sir

Re: Development Application 2014/31.03  
Henderson Lane, Lennox Head.

Since my correspondence of the 1<sup>st</sup> October, I've now received a map of the proposed 190 block subdivision's water drainage plan showing drainage outlets 1 to 4.

I wish to point out the following.

Outlet 4.

Water discharged at outlet 4 will have to find its way to Birrung Creek over approximately 200 meters of my property where no agricultural drain exists. There is nothing to stop it going north west towards outlet 3. A dedicated drain from outlet 4 to Birrung Creek should be constructed so no water can go back into my property.

Outlet 3.

Outlet 3 is approx. 1 km from outlet 1. The existing agricultural drains were built around 1970 to drain a cane farm and some casual runoff from the pastured hillside. They were not designed to cope with piped runoff from someone else's hard surfaced subdivision.

Outlet 2.

Outlet 2 is approx. 400 meters from outlet 1. With the increased volume of water in my drain from outlet 3, plus the discharge from outlet 2, my drains and floodgates will be unable to cope.

Outlet 1.

Outlet 1 is outside my floodgates and is where the stormwater should be piped too. If the suggested drain from outlet 4 to Birrung creek was installed, and the piping




*Patricia W Barrett  
Villa 128  
15 Hale Road  
Mosman NSW 2088  
Telephone 02 9904 2420  
Mobile 0414 764122*

proposed in the earlier 2014 stormwater plan to outlets 1 and 4 was installed, it would significantly reduce the discharge from outlets 2 and 3.

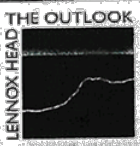
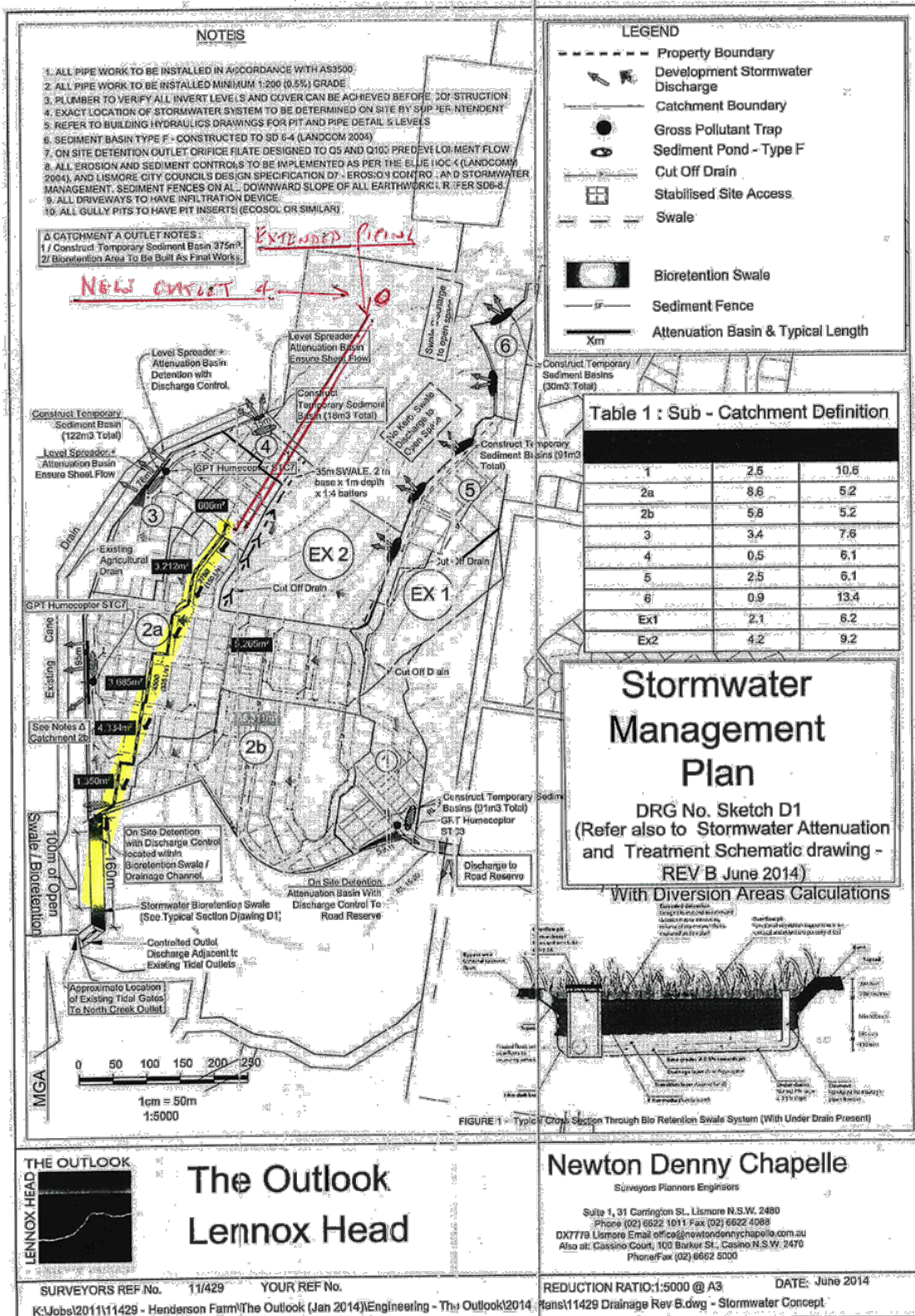
As both North Creek and Birrung Creek are tidal, I suggest the bulk of the runoff should be directed into them and not through my private property as is being proposed.

I would have no objection to a drain from outlet 4 to Birrung Creek being constructed through my property at the developers expense.

Kindly direct any correspondence to my business address at 18 Kanoona Avenue, Homebush NSW 2140 for the attention of my son, Andrew Barrett. (Ph 02 97468970)



Patricia Barrett



**The Outlook  
Lennox Head**

**Newton Denny Chapelle**  
 Surveyors Planners Engineers

Suite 1, 31 Carrington St., Lismore N.S.W. 2480  
 Phone (02) 6622 1011 Fax (02) 6622 4089  
 DX7779 Lismore Email office@newtondennychapelle.com.au  
 Also at: Casino Court, 100 Barker St., Casino N.S.W. 2470  
 Phone/Fax (02) 6662 5000

SURVEYORS REF No. 11/429 YOUR REF No.  
 K:\Jobs\2011\11429 - Henderson Farm\The Outlook (Jan 2014)\Engineering - The Outlook\2014

REDUCTION RATIO: 1:5000 @ A3 DATE: June 2014  
 Plans\11429 Drainage Rev B.dwg - Stormwater Concept

Storm Event	Runoff Volume (m <sup>3</sup> )			
	Outlet 2		Outlet 3	
	Pre	Post	Pre	Post
1EY	1521	1269	761	731
50%	2045	1764	1079	1052
0.5EY	2717	2018	1354	1400
20%	3800	1725	1860	2097
0.2EY	3932	1723	1926	2183
10%	2739	1776	2742	1687
5%	3382	1727	1698	2151
2%	4932	1905	2461	3177
1%	5640	2128	2805	3677

TABLE 1  
STORMWATER VOLUME COMPARISON  
PRE VS POST DEVELOPMENT

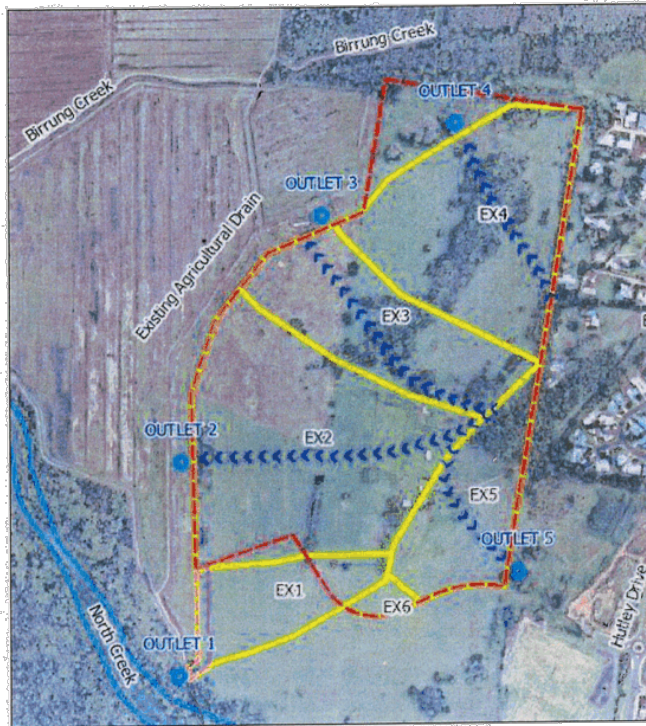


FIGURE 1  
STORMWATER CATCHMENTS  
PRE DEVELOPMENT

Developed Catchments	Outlet	Description
C3	Outlet 1	Council Easement then to North Creek
C4	Outlet 2	Existing agricultural drain on western adjacent property
C5, C6	Outlet 3	Existing agricultural drain on western adjacent property
C7, C8, C9, C10	Outlet 4	Birrung Creek
C1, C2	Outlet 5	Hutley Drive

TABLE 2  
STORMWATER CATCHMENT DESCRIPTION  
POST DEVELOPMENT

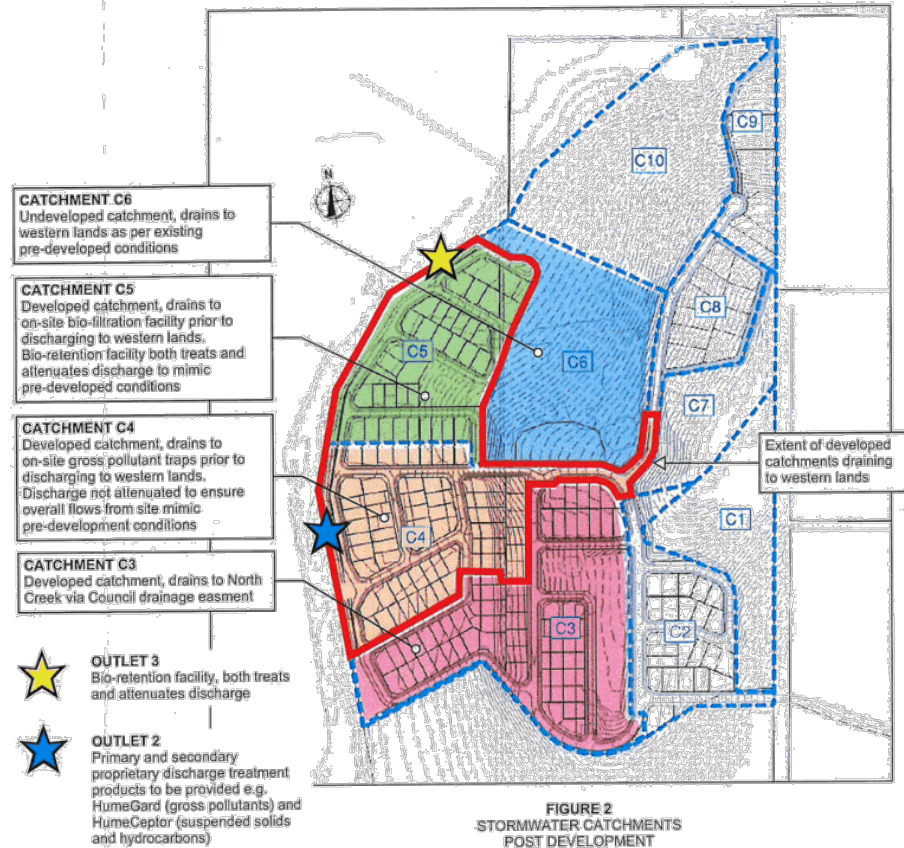


FIGURE 2  
STORMWATER CATCHMENTS  
POST DEVELOPMENT

B11852 - PRE AND POST DEVELOPED CATCHMENT SUMMARY SKETCH (8/13/2018)

**Lennox Head Heritage Committee (LHHC)**



42 Dress Circle Drive  
LENNOX HEAD N S W 2478  
Contact: 0412 660 994  
Email: [lennoxheritagecommittee@gmail.com](mailto:lennoxheritagecommittee@gmail.com)  
8 October 2019

The General Manager  
Ballina Shire Council  
40 Cherry Street  
BALLINA N S W 2478  
Email [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)

Dear Sir

**Dry Stone Wall and Heritage Trees DA 2104/31.3 Lennox Rise Pty Ltd  
Lot 1 DP 829277, Lot 99 DP755684, Lots 1 and 2 DP 1070446 Henderson Lane and  
78 Hutley Drive, Lennox Head. Notice in *Ballina Shire Advocate*, 25 September 2019.**

DA 2014/31 was discussed by Council on 27 June 2019 and matters concerning LEP heritage listed items were raised with conditions applied.

Amended plans subject of this application have addressed some concerns. I note additional space has been allowed for the fig tree; water supply easement, protection and building exclusion zones applied around the dry stone wall and lot sizes west of the wall increased. However, the wall remains the back boundary of 23 private properties.

It is believed to be the first dry stone wall in Lennox Head, constructed in the 1860s by John Austin Henderson.

There appears to be roughly a one metre space between the wall and the water supply easement on the western side which could give rise to gardens or other structures being built against the stones.

The 6m protection zone and 9m no-build zones to the east are of assistance in maintaining the integrity of the wall. However, it is noted that lots adjoining to the east of the wall are in the 600 to 700 sqm range. Owners who lose 9m from their back boundary and a 3m building setback to the street will find quite significant restrictions on size of their dwellings and may lead to incursions into the no-build zone.

From documentation provided with the amended plans there is no clear definition of what types of structures are intended as 'no build'. For example, it is unclear whether this area precludes construction of a fence or shed.

Given propensity of owners to surround properties with fences, the question also arises as to how a low level dry stone wall will provide the degree of privacy and practicality for families with children and pets unless more significant fences are constructed immediately adjacent to the wall. There is potential for the integrity of the stone wall to be compromised during construction and ongoing maintenance of such fences.

This development proposes the heritage listed dry stone wall becomes jointly owned by adjoining neighbours on private property. LH Heritage Committee has significant concerns as to how realistic it is to expect ongoing collaboration by initial and subsequent landowners to maintain the integrity of the wall and how the effectiveness of this collaboration is monitored with the wall not readily available for inspection by the public or Council.

LH Heritage Committee strongly recommended these concerns be taken into account when the amended application is considered by Council.

Sincerely

**Robyn Hargrave  
Convenor**

**From:** Robyn Hargrave [mailto:harg1rob@gmail.com]  
**Sent:** Wednesday, 25 September 2019 3:46 PM  
**To:** Ballina Shire Council  
**Subject:** DA 2014/31.3 Lennox Rise Pty Ltd - notification in today's Ballina Shire Advocate

Dear Council

When this application appeared before Council on 27 June 2019 matters concerning the LEP heritage listed dry stone wall were raised with conditions applied.

I have read through the documents on Council's DA site this day and although there is mention of buffer zones and building exclusion zones around the wall, it is not clear to me that these apply to both sides of the wall.

Rather than wasting everyone's time in making a submission when the revised plans may well satisfy requirements, I should be pleased to speak with one of the Development Planning personnel who are handling this application.

For our heritage records we would also be pleased to sight any photographic record of the original buildings noted in the Newton Denny Chapelle Site Survey contained in the Engineering Report before they are demolished and removed. I look forward to a positive response to this request as soon as

---

possible.

Regards

Robyn

**Robyn Hargrave**  
**+ 61 (0) 412 660 994**

**Convenor, Lennox Head Heritage Committee**  
**Executive Officer, North Coast Zone of Historical Societies**

**DETAILS OF AMENDMENT No. 2**

**New Description**

Residential subdivision comprising 138 residential lots, eleven superlots, four public reserve lots, and tree removal, civil infrastructure works and associated easements.

**Deleted Conditions**

29, 36, 39, 67, 73, 90, and 98.

**New Conditions**

41A Details of the proposed embellishment of the park on lot 300 must be submitted to and approved by Council (as future landowner) prior to the issue of a Construction Certificate.

The playground must include but is not be limited to the following minimum requirements.

- Play equipment for a range of age groups;
- An approved shade structure to cover the play equipment;
- Rubberised compound soft fall under the entire play equipment;
- Two sheltered picnic tables capable of seating up to eight people each.

66A Root barriers must be installed on proposed Lots 301 and 302 under the supervision of a qualified Arborist (minimum AQF level five) in accordance with the approved root barrier report.

**Amended Conditions**

1 Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including:

Plans prepared by	Drawing No.	Drawing Title	Dated
RPS	142550-05k	Lennox Rise Modified Layout (DA2014/31.3)	27 April 2020
RPS	142550-06F	Lennox Rise APZ and Limitations Plan	29 April 2020
Design Team Ink	05/17-04	Landscape Concept Plan – Active Park Concept	13 January 2014

except as modified by any condition in this consent.

3 This consent approves construction and release of the subdivision in multiple stages provided that:  
 a) The applicant supplies an updated staging plan when lodging a Construction Certificate application showing each of the preceding stages and the proposed stages of the subdivision;

- b) At the end of any temporary cul-de-sac created in any stage of the development, a turning area with a single coat spray seal is provided with a minimum radius of 11 metres; and
- c) The applicant complies with all conditions of consent relevant to the particular stage of the works.
- 7 Prior to the issue of a Construction Certificate, a Cultural Heritage Management Plan (CHMP) is to be prepared by a suitably qualified and accredited Heritage Consultant and submitted to and approved by Council. The CHMP is to provide details regarding the restoration works required to Heritage Item 'Wall A' and what works are required to be undertaken to ensure the ongoing conservation of the Heritage Item. The CHMP is to address the following at a minimum:
- Safe removal of the two 'strangler fig trees' located within the southern end of the wall,
  - Reuse of the rocks removed to facilitate the construction of proposed roads,
  - Details of the plinth to be used to provide end protection of the wall where the wall is cut by the proposed new roads, and
  - Recommendations for Council's ongoing maintenance and management of the wall.
- 8 The applicant must make connection to the constructed public road network as part of the first stage of the subdivision. The access road width must have a minimum carriageway width of 9 metres. Details are to be included on the engineering design plans submitted prior to the issue of the Construction Certificate.
- 10 Prior to the issue of a Construction Certificate, an Open Spaces and Reserves Handover Plan is to be prepared and approved by Council's Manager of Open Spaces. The plan is to address the following at a minimum:
- Works proposed to all land that is to be handed over to Council;
  - All grass areas are to be de-rocked and smoothed;
  - A 4m buffer between the required rehabilitation area of proposed Lot 303, private land and adjoining roads. The buffer is to be de-rocked and smoothed so that it is to be suitable for mowing;
  - Proposed Lots 301 and 302 are to be de-rocked and smoothed; and
  - Proposed Lot 300 is to be fenced and all proposed works as shown on the Landscape Concept Plan, Active Park Concept prepared by design team ink dated 13 January 2014 are to be completed.
- 11 An easement to drain and treat stormwater shall be created over proposed Lot 2 DP 1070446, 20m wide and generally in accordance with Newton Denny Chapelle, Proposed Easement and Access Plan, EM2 Rev A, June 2014. Details are to be submitted to and approved by Council prior to the issue of a Construction Certificate.
- 24 Prior to the issue of a Subdivision Works Certificate, Subdivision Works Certificate and Section 138/68 applications are to be made as well as the following fees and bond are to be paid to Council which includes the amount of Goods and Services Tax payable. The fees and bond are subject to review and may vary from the time of consent till time of payment:
- Subdivision Works Certificate Fee: If Council is the certifier, Refer to Council's Schedule of Fees & Charges
  - Civil Inspection Fee: Equal to 3% of the estimated cost of the civil works generated by Councils Asset Spreadsheet (Refer to Council's Schedule of Fees & Charges for minimum fees)

- Civil Construction Bond: Equal to 5% of the estimated cost of civil works generated by Council's Asset Spreadsheet (Refer to Council's Schedule of Fees & Charges for minimum fees)

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

- 31 The applicant shall be required to submit a Stormwater Management Plan detailing the provision of onsite stormwater controls in accordance with Water Sensitive Design requirements of Council's Development Control Plan Chapter 2 - Stormwater Management and generally in accordance with the Preliminary Stormwater Management Plan, Rev D, prepared by BG&E, Dated 1 May 2020. The Stormwater Management Plan must consider both the construction and operational phases of the development. The plan must 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 report and computer modelled design must be submitted to and approved by the Principal Certifying Authority prior to issue of the Construction Certificate

- 35 The retaining wall fronting private residual lot 116 is to be wholly located on Lot 116. A positive covenant is to be placed on the title of proposed Lot 116 for the ongoing maintenance and renewal of the retaining wall. Details are to be provided to and approved by Council prior to the issue of the Construction Certificate.
- 38 A report is to be prepared by a suitably qualified Arborist (minimum AQF Level 5) in relation to the provision of root barriers to protect future residential development and infrastructure on neighbouring land from the Fig trees located on proposed Lots 301 and 302.

The report must consider Australian Standards AS 4373-2007 Pruning of amenity trees and AS4970-2009 Protection of trees on development sites.

In addition, as part of the report:

A. Plans are to be prepared in relation to both proposed Lots 301 and 302, which show the following:

- (i) The provision of a root barrier parallel to the northern, western and southern boundaries of Lots 301 and 302 and 1 metre within the property boundaries. The barrier may be terminated at the eastern end at a point where it exceeds a distance of 40 metres from the trunk of the Fig tree.

B. Details are to be provided as to the appropriate methods of excavation and installation of root barrier to ensure the ongoing survival of each tree and compliance with the relevant Australian Standards.

C. Details are to be provided as to the installation of the required root barriers within proposed Lot 301 and 302 (as per A above) which are to meet the following minimum requirements:

- (i) The root barriers are to be a minimum of 1m in depth.



- (ii) The root barriers are to be proud of the finished ground level by 50mm and include a hob;
- (iii) The root barrier product shall be specifically for large aggressive tree root management and be installed compliant with the manufacturer's specifications;
- (iv) All exposed roots requiring removal should be cut by sharp clean implements and are to be cleaned by a suitable anti-bacterial and anti-mould spray prior to and after use;
- (v) A general purpose fungicide should be applied to damaged roots. All roots to be pruned, should be pruned with a final cut to undamaged wood; and
- (iv) The methodology must include provisions for the supervision of the works by a qualified Arborist (minimum AQF Level 5)

A work method statement is to be developed and appended to the report and plans detailing how compliance with the above requirements will be achieved during construction.

The report, detailed plans and work method statement compliant with these requirements are required to be submitted to and approved by Council prior to the issue of the first Subdivision Works Certificate for the development.

- 68 Prior to issue of a Subdivision Certificate where subdivision work is proposed, payment to Council of non-refundable monetary contributions shall be made towards the provision of public services, infrastructure and amenities, which are required as a result of the development in accordance with the following contribution plans prepared under Section 7.11 of the Environmental Planning & Assessment Act, 1979:

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

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

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

- 69 Prior to issue of a Subdivision Certificate where subdivision work is proposed, payment to Council of non-refundable monetary charges shall be made towards the provision of bulk water supply, water reticulation and sewer infrastructure which are required as a result of the development in accordance with the charges set by Ballina Shire Council and Rous Water as water supply authorities under the Water Management Act 2000. The amount payable will be the assessed additional equivalent tenements generated by the development multiplied by the charge applicable at the time of payment.

Certificates of Compliance pursuant to Section 306 of the Water Management Act 2000 shall be deemed to have been issued where the required charges have been paid and

all construction works required by the water supply authority for the development have been completed.

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

Water Supply Authority	Contribution Plan/Development Servicing Plan	Adopted
Ballina Shire Council	Ballina Shire Council Water Supply Infrastructure Development Servicing Plans	27 February 2015
Ballina Shire Council	Ballina Shire Council Sewerage Infrastructure Development Servicing Plans	27 February 2015
Rous Water	Development Servicing Plan for Bulk Water Supply	15 June 2016

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

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

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

Note: The contributions outlined in Schedule 1 are payable for each new lot (other than open space and reserve lots) created as part of the development approved under DA 2014/31, as amended, with the exception of the final residential lot to be created as part of this development, to which a credit will be applied by Council in recognition of dwelling entitlement for the existing rural lot at the development site.

- 85 The applicant shall be responsible for the design and installation of public street lighting. All street lighting within the development must be designed in accordance with AS / NZS 1158 and based on the installation of Country Energy Style 1 lanterns fitted with light emitting diode street lights for category P areas. Engineering design plans and specifications must be submitted to and approved by the Principal Certifying Authority. All works must be completed and commissioned prior to the release of the Subdivision Certificate.
- 91 A bond covering the total cost of construction of the playground required within this condition shall be submitted to Council prior to the release of the Subdivision Certificate for the first stage of the development. The playground shall be constructed in accordance with the approved plan at the applicant's expense and be operational six months after the release of the Subdivision Certificate for stage 1B of the development.
- 96 An easement to drain stormwater shall be created over Proposed Lot 116 for the benefit of Council. Details are to be submitted to and approved by Council prior to the issue of the subdivision certificate.
- 97 The construction certificate plans must include a methodology for protection of the retained trees along the western side of Road 2. The methodology must be prepared by a minimum AQF level five Arborist in accordance with AS 4970 - 2009 Protection of trees on development sites. The methodology must include provisions for the supervision of the works by a minimum AQF level five Arborist.

**Amended Schedule****Schedule 1 – Developer Contributions**

<b>Contribution</b>	<b>Receipt Code</b>	<b>Contribution Unit</b>	<b>Rate per contribution Unit</b>	<b>Total Contribution Units Payable</b>	<b>TOTAL COST</b>
Lennox Head Local Parks	4009	equivalent residential allotment	\$230.00	0	\$0.00
Lennox Head District Parks	4009	equivalent residential allotment	\$933.46	1	\$933.46
Lennox Head Playing Fields	4009	equivalent residential allotment	\$1,827.63	1	\$1,827.63
Regional Open Space Facilities	4016	equivalent residential allotment	\$865.35	1	\$865.35
Open Space Administration	4017	equivalent residential allotment	\$35.80	1	\$35.80
Lennox Head District Community Facilities	4210	equivalent residential allotment	\$1,366.57	1	\$1,366.57
Regional Community Facilities - Amend 1	4213	equivalent residential allotment	\$3,868.32	1	\$3,868.32
Community Facilities Administration	4214	equivalent residential allotment	\$69.86	1	\$69.86
Lennox Head Roads 2010	5202	equivalent residential allotment	\$10,868.84	1	\$10,868.84
Roads Administration 2010	5203	equivalent residential allotment	\$164.16	1	\$164.16
Henderson Land Sewerage (DSP Area D)	3013	equivalent tenement	\$5,301.00	1	\$5,301.00
Lennox Head Water (DSP Area B)	2004	equivalent tenement	\$3,463.00	1	\$3,463.00
Rous Water 2009	5001	equivalent tenement	\$8,878.00	1	\$8,878.00
<b>TOTAL</b>					<b>\$37,642.00</b>

**Schedule 2 – RFS General Terms of Approval**



**NSW RURAL FIRE SERVICE**

**Ballina Shire Council**  
 PO Box 450  
 BALLINA NSW 2478

Your reference: 2014/31.03  
 Our reference: DA-2014-00544-S4.55-(none)

**ATTENTION: Mr Peter Drew**

Date: Monday 27 July 2020

Dear Sir/Madam,

**Integrated Development Application**  
 s100B – Subdivision – Torrens Title Subdivision  
 Henderson Lane & 78 Hutley Drive Lennox Head NSW 2478, 1//DP1070446, 2//DP1070446, 99//DP755684,  
 1//DP829277.

I refer to your correspondence dated 15/06/2020 seeking general terms of approval for the above Integrated Development in accordance with s4.55 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

**General Conditions**

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by RPS titled 'APZ and Limitations Plan', numbered 142550-06F and dated 29th April, 2020.

**Asset Protection Zones**

*Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact. To achieve this, the following conditions shall apply:*

2. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entirety of the proposed residential lots shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

3. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the western boundary as identified on the drawing titled 'APZ and Limitations Plan' prepared by RPS, numbered 142550-06F and dated 29th April, 2020 shall be managed as an inner protection area (IPA) for a

1

**Postal address:**

NSW Rural Fire Service  
 Locked Bag 17  
 GRANVILLE NSW 2142

**Street address:**

NSW Rural Fire Service  
 4 Murray Rose Ave  
 SYDNEY OLYMPIC PARK NSW 2127

T: (02) 8741 5555  
 F: (02) 8741 5550  
[www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



distance of 10 metres as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

4. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires (or until further subdivided) any residual lot must be managed as an inner protection area (IPA) for a distance of 10 metres from any residential lot boundary as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

5. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the reserves identified as Lots 300, 301 and 302 must be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' and shall be detailed within a Plan of Management, specific to the proposed reserves.

6. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919' shall be placed upon proposed Lots 1, 12, 149, 115, 116, 117, 153, 156, 157, 162 & 163 restricting habitable buildings within the areas identified as APZs as indicated on the drawing titled 'APZ and Limitations Plan' prepared by RPS, numbered 142550-06F and dated 29th April, 2020.

7. A Vegetation Management Plan is to be prepared prior to issue of subdivision certificate ensuring Lots 303 and Part Lot 116 as having a vegetation classification of rainforest in accordance with section 5 of the correspondence prepared by Planning Resolutions titled 'Second Response to Request for Further Information, Lennox Rise Subdivision, Development Application 2014/31.3' and dated 1st May, 2020.

**Access – Public Roads**

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

8. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006', except for the following areas, that have been assessed as being satisfactory using an alternative solution to the specific performance criteria, within 'Planning for Bush Fire Protection 2006':
- A perimeter road has not been provided.
  - Cul-de-sac heads are permitted with a 10 m radius.
  - Roads DW1 – DW5 are permitted to be 6.5 m in width.
  - Roads DW1 (S) and DW1 (N) may be separated by bollards, removable by emergency services.
  - An alternative access road has not been provided for road No.9 (exceeds 200 m in length), however will utilise a fire trail connecting the northern end of the cul-de-sac to The Coast Road, located to the north-east.

**Access – Fire Trails**

*The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:*

9. Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.

10. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed upon proposed Lot 166 (within the subdivision) and Lot 1 DP 829277 providing for the creation of a right of way over the proposed fire trail, as noted on the plan titled 'Plan of Roads with RFS Notation', noted as DWG CIV 2, prepared by Newton Denny Chapelle and dated 21/1/14.

**Water and Utility Services**

*The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:*

2



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

**General Advice - Consent Authority to Note**

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

It is noted that the development application seeks approval under Clause 80(3) of the Environmental Planning and Assessment Act, 1979 (as amended) as a Deferred Commencement, based on securing vehicle access from the "Pacific Pines Estate" to the immediate East.

This letter is in response to a further assessment of the application submitted and supersedes our previous general terms of approval dated 20th July, 2017 (RFS Ref. D14/0473). Please ignore the following paragraph, which is automatically generated in the RFS database.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 05/02/2020.

For any queries regarding this correspondence, please contact Danette Cook on 1300 NSW RFS.

Yours sincerely,

Alan Bawden  
Team Leader, Dev. Assessment & Planning  
Planning and Environment Services





## **BUSH FIRE SAFETY AUTHORITY**

Subdivision – Torrens Title Subdivision  
Henderson Lane & 78 Hutley Drive Lennox Head NSW 2478, 1//DP1070446, 2//DP1070446,  
99//DP755684, 1//DP829277  
RFS Reference: DA-2014-00544-S4.55-(none)  
Your Reference: 2014/31.03

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA-2014-00544-S4.55-1 issued on 05/02/2020 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

**Alan Bawden**

Team Leader, Dev. Assessment & Planning  
Planning and Environment Services

Monday 27 July 2020