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ballina shire council
 geographical information system

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ASSESSMENT OF THE APPLICATION UNDER 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)	No

Ballina LEP 2012 – Zoning, Permissibility and Relevant Clauses	Comments/Is consistency with these provisions achieved?
Aims, objectives of BLEP (Clause 1.2)	The application is generally consistent with the aims and objectives of the Ballina Local Environmental Plan (BLEP) 2012.
Land use definition (Clause 1.4)	<p>Subdivision is not classified as a land use and is not defined in the BLEP 2012.</p> <p>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.</p> <p>Earthworks means excavation or filling.</p>
Zoning under BLEP 2012, permissibility within zone and regard for zone objectives (Clause 2.3)	<p>The subject site is zoned R2 Low Density Residential under the BLEP 2012.</p> <p>The objectives of the R2 Low Density Residential zone are as follows:</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a low density residential environment. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. • To provide for development that is compatible with the character and amenity of the surrounding neighbourhood. • To provide for development that meets the social and cultural needs of the community. • To encourage development that achieves the efficient use of resources such as energy and water. <p>The proposed Torrens Title subdivision, demolition of gazebo, carport and swimming pool, site filling and drainage, infrastructure servicing, vegetation management works and associated works are</p>

	<p>permitted with Council consent within the R2 zone.</p> <p>The proposed Torrens Title subdivision will provide for additional land to suit the housing needs of the community. The subdivision layout is adequate in size and dimension for low density residential development and is consistent with the existing subdivision layout in the immediate locality.</p> <p>The proposal is generally consistent with the objectives of the R2 Low Density Residential zone.</p>
Subdivision – consent requirements (Clause 2.6)	Clause 2.6 provides that the prior consent of Council is required for the subdivision of any land.
Demolition requires development consent (Clause 2.7)	Clause 2.7 provides that demolition of a building or work requires the prior consent of Council. Consent has been sought by the applicant for the demolition of the existing gazebo, carport and swimming pool as part of the subject application.
Minimum subdivision lot size (Clause 4.1)	A detailed assessment of this clause is provided with the associated Council report.
Exceptions to development standards (Clause 4.6)	The applicant has sought a variation to a development standard and is therefore relying upon Clause 4.6 of the BLEP 2012. A detailed assessment of this clause is provided with the associated Council report.
Acid sulfate soils (Clause 7.1)	<p>The subject site is identified as containing Class 2 Acid Sulfate Soils (ASS). As such, development consent is required for works below the natural ground surface or works by which the watertable is likely to be lowered.</p> <p>Council's Environmental Health section has carried out an assessment of the proposal. A condition is recommended to be imposed requiring all works to be carried out in accordance with the signed copy of the Council's Acid Sulfate Soils Management Plan for Minor Works dated 9 January 2020.</p>
Earthworks (Clause 7.2)	<p>Earthworks, including excavation and filling, are proposed on the site. Clause 7.2(3) of the BLEP 2012 states that before granting consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:</p> <p><i>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></p> <p>As the site is required to be filled, a condition is recommended to be imposed on the consent requiring that the adjoining properties are to be drained at the common boundary with the site via a concrete dish drain such that no water ponds on any neighbouring properties due to site filling. The stormwater drainage is required to be discharged to Council's drainage system. Conditions are recommended in this regard.</p>

	<p>Conditions are also recommended ensuring adequate sediment and erosion control measures are in place prior to the commencement of works.</p> <p><i>(b) the effect of the development on the likely future use or redevelopment of the land,</i></p> <p>The excavation and filling of the site for residential purposes is not expected to have a significant impact on the likely future use or redevelopment of the land.</p> <p><i>(c) the quality of the fill or the soil to be excavated, or both,</i></p> <p>A condition is imposed on the consent requiring that any fill material imported to the site is free of contaminants being natural or otherwise, and was obtained from an approved fill source with quality assurance testing.</p> <p>With regard to any soil to be excavated, a Stage 1 Contamination Assessment was submitted by the applicant – see SEPP 55 section of this assessment for discussion.</p> <p>A condition is also recommended requiring that any new information that becomes known during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination must be immediately notified to the Council and the Principal Certifying Authority.</p> <p><i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p>As the site is required to be filled, a condition is recommended to be imposed on the consent requiring that the adjoining properties are to be drained at the common boundary with the site via a concrete dish drain such that no water ponds on any neighbouring properties due to site filling. The stormwater drainage is required to be discharged to Council's drainage system. Conditions are recommended in this regard.</p> <p>The filling of the site has the potential to increase overlooking between the new allotment and adjoining properties. Overlooking and privacy issues are to be addressed as part of a future Development Application for a dwelling house.</p> <p><i>(e) the source of any fill material and the destination of any excavated material,</i></p> <p>A condition is imposed on the consent requiring that</p>
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	<p>any fill material imported to the site is free of contaminants being natural or otherwise, and was obtained from an approved fill source with quality assurance testing.</p> <p>In relation to any further works, a condition is recommended on the consent ensuring any excavated material is disposed of at an approved waste facility.</p> <p><i>(f) the likelihood of disturbing relics,</i></p> <p>Council is not aware of any deposit, artefact, object or material evidence on the subject site that relates to the settlement of the area. Council is also not aware of any item of State or local heritage significance on the subject site. An AHIMS search conducted on the site has determined no Aboriginal cultural items exist on the site.</p> <p><i>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i></p> <p>The subject site is not located in proximity to any waterway, drinking water catchment or environmentally sensitive area. As such, the potential for adverse impacts on these areas are considered to be minimal.</p> <p><i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p> <p>Conditions are recommended to be imposed on the consent with relation to managing sediment and erosion impacts during the construction stage of the development.</p> <p>Given the above, the development is considered acceptable with regard to earthworks.</p>
Flood planning (Clause 7.3)	<p>The subject site is identified as being subject to flooding with the minimum required fill level being noted as RL 2.1m AHD on the flood planning maps. The flood planning level is identified as RL 2.2m AHD. As a freeboard of 500mm is required, the design floor level is required to be RL 2.7m AHD.</p> <p>Clause 7.3(3) of the BLEP 2012 states that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p><i>(a) is compatible with the flood hazard of the land, and</i></p>

	<p>The site is to be filled in accordance with Council's requirements and include a design floor level of RL 2.7m AHD. The proposed development is considered to be consistent with the zoning of the land (R2 Low Density Residential). In this regard, the proposal is compatible with the flood hazard of the land.</p> <p><i>(b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and</i></p> <p>The development is not considered to adversely affect flood behaviour. The stormwater report submitted demonstrates that a suitable overland drainage system is to be constructed around the perimeter of the development to convey overland stormwater flows to the public drainage system.</p> <p>The report demonstrates how stormwater will be managed at the site to avoid any adverse drainage or flooding impacts on the site or adjoining properties and has been accepted by Council's Civil Services Division.</p> <p><i>(c) incorporates appropriate measures to manage risk to life from flood, and</i></p> <p>The required fill and design floor levels are considered appropriate measures to manage risk to life from flood.</p> <p><i>(d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</i></p> <p>Given appropriate conditions are recommended in relation to erosion and sediment control and the proposal is not located in a riparian area or in proximity to a watercourse, the development is not considered to have an adverse effect on the environment.</p> <p><i>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</i></p> <p>The development is not considered to result in unsustainable social and economic costs to the community as a consequence of flooding.</p> <p>Given the above, the development is considered acceptable with regard to flood planning.</p>
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Essential services (Clause 7.7)	<p>The objectives of Clause 7.7 are to ensure that development is supplied with adequate and appropriate levels of infrastructure servicing.</p> <p>Water supply servicing Water servicing can be provided by connection to the existing system. At the developer's expense, a new connection will be required to service proposed Lot 112. This is to be conditioned within any consent granted.</p> <p>Stormwater servicing A stormwater management plan is not required for the development as it is exempt under Section 2.3 of Council's Stormwater Management Standards for development. The stormwater report by Peter Lucena & Associates titled Engineering Assessment for Stormwater, Dated: 20 July 2020 was submitted to demonstrate how stormwater will be managed at the site to avoid any adverse drainage or flooding impacts on the site or adjoining properties. The report demonstrates that a suitable overland drainage system shall be constructed around the perimeter of the development to convey overland stormwater flows to the public drainage system.</p> <p>The proposed report has been deemed acceptable by Council's Civil Services Division.</p> <p>Sewer servicing Sewer servicing can be provided by connection to the existing system. Council has an existing sewer main running through the site. The proposed development has demonstrated that a suitable building envelope can be provided without encroaching onto the zone of influence of this existing sewer main. The main will therefore not require realignment as a result of the proposed development. However, an easement is required to be created over this main at subdivision stage. This is to be conditioned within any consent granted.</p> <p>Power supply servicing The development does not encroach on the minimum safe distance requirements in regards to buildings and overhead power lines. The developer will be required as part of the terms of any consent granted to service the proposed additional lot with electricity.</p> <p>Existing services The proposed development does not encroach on any easement or the zone of influence of any existing water, sewer or drainage mains.</p>
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State Environmental Planning Policies (SEPPs)

Relevant SEPPs	Comments/Is consistency with these provisions achieved?
SEPP 55 – Remediation of Land	<p>The objective of SEPP 55 is to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.</p> <p>Clause 7 provides that Council must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if so whether the land is suitable in its current state or subject to remediation for the intended land use.</p> <p>Council's Environmental Health Section has carried out an assessment of the proposal and provided the following comments:</p> <p><i>The application was supported with the submission of a Stage 1 Contamination Assessment prepared by ENV Solutions dated February 2020. The Contaminated Land Assessment has been prepared generally in accordance with the requirements of the National Environment Protection Measure (NEPM) 1999 and NSW EPA – Guidelines for Consultants Reporting on Contaminated Sites.</i></p> <p><i>The consultant undertook a Stage 1 investigation in line with the requirements of the Managing Land Contamination Planning Guidelines (DUAP and EPA, 1998). This involved establishing the site history and collecting soil samples.</i></p> <p><i>The results of the soil analysis were compared with Column 1 of the Table 'Soil Investigation Levels for Urban Redevelopment Sites in NSW' (NSW DEC, 2006 and NEPM 2013). Column 1 represents health-based investigation levels (HIL A) for "Residential with garden/accessible soil (home grown produce less than 10% fruit and vegetable intake (no poultry) also includes childcare centres, pre-schools and primary schools".</i></p> <p><i>Six surface (~150mm deep) soil samples were collected in a systematic sampling pattern and homogenized into two composite samples for analysis. The number of samples collected is adequate for the property size assessed and comply with the requirements of 'Contaminated Sites: Sampling Design Guidelines' (NSW EPA 1995). The samples were analysed for heavy metals and organochlorine (OC) pesticides.</i></p> <p><i>The results demonstrated that none of the targeted</i></p>

	<p><i>pollutants exceeded the Human Based Investigation Levels (HBIL) in the collected soil samples. Therefore based on these finding the site is considered suitable for the proposed development without further investigation of contamination.</i></p> <p><i>The new proposed lot at the rear of the proposed development has been assessed for contamination. If further development is proposed at another location within the subject property, further assessment of land contamination may be required.</i></p> <p>A condition is recommended requiring any new information that becomes known during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination must be immediately notified to the Council and the Principal Certifying Authority.</p> <p>Subject to compliance with the recommended conditions of consent, no issues raised in relation to the requirements of SEPP 55.</p>
SEPP (Coastal Management) 2018	<p>The subject site is identified within the Coastal Use Area and Coastal Environment Area as specified within the SEPP.</p> <p>Clause 13 of the SEPP includes controls with respect to the coastal environment area:</p> <p>13 Development on land within the coastal environment area</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> <ul style="list-style-type: none"> <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</i>

	<p><i>persons with a disability,</i></p> <p>(f) <i>Aboriginal cultural heritage, practices and places,</i></p> <p>(g) <i>the use of the surf zone.</i></p> <p>(2) <i>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>(a) <i>the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or</i></p> <p>(b) <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>(c) <i>if that impact cannot be minimised—the development will be managed to mitigate that impact.</i></p> <p>With respect to impacts on the coastal environment, the proposed development is not located in proximity to a foreshore area, nor will the development be visible from such areas. As such, no issues are raised in relation to the requirements of Clause 13.</p> <p>Clause 14 of the SEPP includes controls with respect to the coastal use area.</p> <p>14 Development on land within the coastal use area</p> <p>(1) <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 style="margin-left: 20px;">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 style="margin-left: 20px;">ii) <i>overshadowing, wind funnelling and the loss of views from public places to foreshores,</i></p> <p style="margin-left: 20px;">iii) <i>the visual amenity and scenic qualities of the coast, including coastal headlands,</i></p> <p style="margin-left: 20px;">iv) <i>Aboriginal cultural heritage, practices and places,</i></p> <p style="margin-left: 20px;">v) <i>cultural and built environment heritage, and</i></p> <p>(b) <i>is satisfied that—</i></p> <p style="margin-left: 20px;">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 style="margin-left: 20px;">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>
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	<p><i>iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and</i></p> <p><i>(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.</i></p> <p>The proposed works are not directly adjacent to a foreshore, beach, headland or rock platform. There are no issues with overshadowing, windfunnelling or the loss of views from public spaces to foreshores.</p> <p>There are no issues with visual amenity and scenic qualities of the coast or the use of the surf zone. No issues raised with regard to Aboriginal cultural heritage.</p> <p>In relation to Clause 14(b), the proposal relates to a two lot Torrens Title subdivision, demolition of gazebo, carport and swimming pool, site filling and drainage, infrastructure servicing, vegetation management works and associated works. The bulk and scale of the proposed development is therefore considered acceptable.</p> <p>Given the above, the proposed development is considered acceptable with regard to the Coastal Management SEPP 2018.</p>
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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)

Draft EPI/Planning Proposal	Comments/Is consistency with these provisions achieved?
<p>Draft State Environmental Planning Policy – Remediation of Land</p> <p>Draft Amendment to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.</p> <p>Draft State Environmental Planning Policy (Short-term Rental Accommodation) 2019.</p>	No issues raised in relation to the draft SEPPs.

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

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

Ballina Shire DCP 2012	Comments/Assessment of proposal against provisions of DCP
Chapter 2 – General and Environmental Considerations	<p>Part 2 Chapter Planning Objectives The proposal has addressed and generally complies with the overarching objectives of this chapter.</p> <p>The following relevant sections of the BDCP 2012 have been taken into consideration:</p> <p>Section 3.4 Potentially contaminated land Land contamination has been discussed previously, refer to SEPP 55 of this assessment for further comment.</p> <p>Section 3.6 Mosquito management Council’s Environmental Health section has indicated this section is not applicable to the proposal.</p> <p>Section 3.7 Waste management The demolition of the gazebo, carport and swimming pool is likely to generate a significant amount of waste materials. A condition is recommended requiring all demolition, construction or the like waste to be transported and disposed of to an approved waste facility unless managed in accordance with a current resource recovery order and exemption.</p> <p>Section 3.9 Stormwater management Council’s Civil Services Division has provided the following:</p> <p><i>Given the property has to be filled, a request was sent to the applicant to provide survey details of the adjoining properties to ensure the site filling works will not have an adverse flooding effect on the adjoining properties. This information was included in a report from the applicant prepared by Peter Lucena & Associates, Titled: Engineering Assessment for Stormwater, Dated: 20 July 2020. The report demonstrates that a suitable overland drainage system shall be constructed around the perimeter of the development to convey overland stormwater flows to the public drainage system.</i></p> <p><i>A stormwater management plan is not required for the development as it is exempt under Section 2.3 of Councils Stormwater Management Standards for development. The stormwater report by Peter Lucena & Associates referred to above was submitted to demonstrate how stormwater will be managed at the site to avoid any adverse drainage or flooding impacts on the site or adjoining properties. The proposed report is acceptable.</i></p> <p>Having regard for the above, no issues are raised in relation to stormwater management.</p> <p>Section 3.10 Sediment and erosion control The applicant has proposed that the appropriate sediment and</p>

	<p>erosion controls will be implemented during the demolition and subdivision phase. Details are able to be provided prior to any works commencing on site, as conditioned.</p> <p>Section 3.11 Provision of services The subject site is connected to reticulated water, sewerage, electricity, telecommunication and stormwater services.</p> <p>The new Torrens Title allotment is to be provided with a separate water supply service. Sewer servicing can be provided by connection to the existing system. A new junction will be required at full cost to the developer to service the additional lot. The required additional services are able to be managed by way of conditions on any consent granted.</p> <p>Section 3.19 Car parking and access Car parking for any future dwelling on Proposed Lot 112 will be addressed by way of a separate Development Application. However, the development is capable of compliance.</p> <p>Council's Civil Services Division have commented that the existing sealed pavement in Skinner Street along the site's frontage is approximately 5.5m wide. The sealed pavement is required to be widened along the site's full frontage to suit an ultimate pavement width of 8.0m. The applicant is therefore responsible for the widening on the northern side of the centreline to a width of 4m. Conditions are recommended to be imposed in this regard.</p>
Chapter 2B – Floodplain Management	<p>The subject site is identified as being subject to flooding. Council's Civil Services Division have assessed the proposal in relation to floodplain management. The required fill and floor levels are as follows:</p> <ul style="list-style-type: none"> • Minimum required fill level – RL 2.1m AHD on the flood • Flood Planning Level – RL 2.2m AHD • Design Floor Level – RL 2.7m AHD. <p>The proposal will be conditioned to comply with the required fill and floor levels. Flood planning matters have also been previously addressed within this report – refer to Clause 7.3 of BLEP 2012 assessment for discussion.</p>
Chapter 3 – Urban Subdivision	<p>Part 2 Chapter Planning Objectives</p> <p>The overarching objectives have been considered in relation to the proposal. The proposal is for a two lot Torrens Title subdivision of an existing residential lot, zoned R2 Low Density Residential under the BLEP 2012.</p> <p>Part 3 Urban Subdivision</p> <p>Section 3.1 Minor Subdivision General Controls</p> <p>3.1.2 Minor Subdivision Control Elements</p> <p>A. Element – Modification of Landform</p>

	<p>The subject land comprises one developed residential lot (containing a dwelling house, pool and ancillary structures).</p> <p>B. Element – Road Layout There are no new roads proposed or required as a result of the subdivision. The existing road network is constructed to a suitable standard to service the proposed development. The proposed allotments will have separate vehicular access via Sapphire Court.</p> <p>C. Element – Solar Access The proposal relates to the Torrens Title subdivision of an existing allotment and the retention of the existing dwelling. The proposed new lot will be to the north of the existing dwelling.</p> <p>The design of the house is unknown, however, due to the proposed lot layout, a reasonably sized dwelling can be erected that will provide for adequate solar access to private open spaces and living areas. To demonstrate this, the applicant has provided an indicative building envelope on the proposed vacant lot that indicates that the vacant lot is likely to achieve acceptable solar access. The potential impact on adjoining properties is unknown at this stage but will be a matter for consideration under any future development application for a dwelling house.</p> <p>D. Element – Engineering Design and Construction Requirements The proposed subdivision satisfies the Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual.</p> <p>E. Element – Services and Infrastructure The subject site is connected to reticulated water, sewerage, electricity, telecommunication and services, with the new lot to be duly connected to such.</p> <p>F. Element – Retention of Significant Vegetation The subject site is not mapped as containing environmentally or culturally significant vegetation.</p> <p>G. Element – Minimum Lot Size and Shape</p> <p>Control – Lot Size and Shape</p> <p>The proposal is to create two Torrens Title lots sized 539m² and 600m² from the existing residential 1139m² lot. Proposed Lot 111 will have a 16.74m width fronting Skinner Street, which complies with the required minimum lot width of 12m as specified in Table 3.1.</p> <p>Proposed Lot 112 also exceeds the minimum lot width (20.74m). The applicant has provided a concept building envelope on Proposed Lot 112 to demonstrate that there will be sufficient room to construct a reasonably sized dwelling.</p> <p>Control – Battle-axe lots</p>
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	<p><i>i. The minimum width of an access corridor for a battle-axe lot is 4m with a minimum carriageway width of 3m;</i></p> <p>Complies. A 4m wide battle-axe handle will service proposed Lot 112.</p>
	<p><i>ii. No more than two Torrens Title battle-axe lots are to be served by an access corridor;</i></p> <p>Complies. Only one Torrens Title allotment to be serviced by the proposed access corridor.</p>
	<p><i>iii. The maximum length of the access corridor for a battle-axe lot is 50m with passing bays provided in accordance with Australian Standards; and</i></p> <p>Complies. The length of the access corridor proposed is 30m.</p>
	<p><i>iv. Battle-axe lots must be designed so that a vehicle can enter and exit the site in a forward direction. This may require a building envelope to be nominated at the subdivision stage to demonstrate this provision.</i></p> <p>Complies. With the nominated building envelope, vehicles can enter and exit the site in a forward direction.</p>

4.15 (1) (a) (iiia) – 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

Planning Agreement (or draft)	Comments
None applicable.	

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

	Comments/Is consistency with these provisions achieved?
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):	All demolition work is to be carried out in accordance with the SafeWork NSW Guidelines, as conditioned.
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?	Not applicable
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)?	Not applicable
If the DA is for the erection of a temporary structure, is the fire	Not applicable

<p>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?</p>	
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4.15 (1) (b) – the likely impacts of that development

Urban and Building Design	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
<p>i) Context and Settings</p>	<p>The proposal seeks consent for a two lot Torrens Title subdivision, demolition of gazebo, carport and swimming pool, site filling and drainage, infrastructure servicing, vegetation management works and associated works.</p> <p>Proposed Lot 111 will result in a total land area of 539m² and Proposed Lot 112 having a total land area of 600m². The existing allotment has a total area of 1139m² and has a stipulated minimum lot size of 600m². As a result, Proposed Lot 111 does not comply with the development standard. The applicant has submitted a written request to vary this standard. This has been addressed in detail within the associated Council report.</p> <p>The proposed development is considered to be appropriate given the existing subdivision layout within the immediate and surrounding locality. The proposal has reasonably demonstrated that the objectives of the standard can be achieved despite the variation to the standard.</p> <p>The proposed Torrens Title subdivision is not likely to have any unreasonable impacts on adjoining properties. Issues raised within public submissions in relation to drainage impacts and overhanging vegetation have been considered and addressed within the associated Council report. In this regard, the development is considered to be appropriate and any amenity impacts will be addressed under future applications.</p>
<p>ii) Site Design and Internal Design</p>	<p>The subject lot is rectangular in shape with frontage to Skinner Street.</p> <p>Existing improvements comprise a two storey brick and tile dwelling. Access to the garage is via an existing driveway off Skinner Street. A second driveway crossing services the existing carport (this structure is</p>

	<p>to be demolished to accommodate the access to proposed Lot 112).</p> <p>The proposal will result in the creation of two Torrens Title lots. A battle-axe handle is to be created to service proposed Lot 112. Proposed Lot 111 will retain the existing dwelling and have a total land area of 539m². Proposed Lot 112 will be vacant land (subject to demolition of existing swimming pool, carport and gazebo) with a total land area of 600m².</p> <p>The proposed lot layout is oriented appropriately to receive an acceptable level of solar access. However, further consideration to solar access will be required under a future application involving a dwelling.</p> <p>The applicant has submitted a plan with a concept building envelope on Proposed Lot 112 to demonstrate that the lot is suitable for residential development. Proposed Lot 112 is of a size that can site an appropriately sized dwelling house that is capable of complying with Council's controls. The existing access will remain to service the existing dwelling on Proposed Lot 111. A battle-axe handle is proposed to service Proposed Lot 112 (vacant lot).</p> <p>The proposal to create one additional residential lot within an established residential area is not likely to have unreasonable impacts on the existing amenity of the locality.</p> <p><u>Building Code of Australia</u></p> <p>Council's Building Services section has carried out an assessment of the proposal.</p> <p>The only issue of concern in relation to the Building Code of Australia is that of fire separation due to the proposed boundary of the battle-axe handle being within 900mm of the existing dwelling.</p> <p>Fire separation is required to prevent the spreads of fire between buildings.</p> <p>A performance solution has been prepared by a Registered Certifier regarding this aspect of the development.</p> <p>The performance solution is based on the handle being used to for vehicular access only and therefore the nearest place that a building could be built to the existing dwelling would be on the allotment located on the opposite side of the handle. This is an acceptable justification.</p>
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	<p>The performance solution also addresses the possible situation where a vehicle could be parked on the access way and thereby spread fire to the existing dwelling. They have proposed a Restriction on Use to be placed on the title to the land under the conveyancing Act to address this.</p> <p>The restriction is proposed to <i>prohibit the long term parking of vehicles on the access handle.</i></p> <p>There is no defined period for <i>long term parking.</i></p> <p>While the Building Code of Australia does not address fire spread from vehicles, as the applicant has proposed the restriction to be placed on the title, it is recommended to be included as a condition of consent.</p> <p>However, the performance solution does not address the possibility of any other structures being built on the access way, such as an awning or carport that could be used for short-term parking.</p> <p>The Building Code of Australia does include minimum boundary setbacks for carports where they are located between dwellings.</p> <p>As the proposed boundary will be less than 900mm from the existing building, this could potentially mean that an awning or carport could be constructed closer to the existing dwelling than permitted by the Building Code of Australia.</p> <p>Therefore, it is recommended to also include a restriction to prohibit the construction of any buildings or structures within the access handle behind the building line, other than paving, drainage and fences.</p> <p>A condition is recommended to be imposed as follows:</p> <ul style="list-style-type: none"> • <i>Restrictions as to User are to be placed on the title of the proposed allotment in accordance with Section 88E of the Conveyancing Act 1919 prohibiting the long term parking of vehicles and the construction of any buildings or structures within the access handle of the proposed lot behind the building line, other than paving, drainage and fences.</i>
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

		<p>development.</p> <p>The subject site currently has two driveways (and associated crossings). The applicant has indicated that the existing arrangements for public road access will be retained for Proposed Lots 111 and 112. Each will utilise the driveways on the northern and southern boundaries respectively.</p> <p>The existing sealed pavement in Skinner Street along the site's frontage is approximately 5.5m wide. The sealed pavement is required to be widened along the site's full frontage to suit an ultimate pavement width of 8.0m. The applicant is responsible for the widening on the northern side of the centreline to a width of 4m. A condition is recommended to this effect.</p> <p>A battle-axe handle is proposed to be created to service Proposed Lot 112. The proposed battle axe lot includes a 4m wide access handle and therefore complies with the DCP requirements.</p> <p>Refer to discussion above regarding Restrictions As To User requirements (to be conditioned).</p>
v)	Public Domain	The proposal is not expected to have any adverse impacts on the public domain. Under the Northern Rivers Local Government guidelines, footpaths are not required for access streets.
vi)	Utilities	The subject site is connected to reticulated water, sewerage, electricity, telecommunication and stormwater services, with the new lots to be connected to such. This has been addressed in further detail above, refer to sections, BDCP 2012 Chapter 2 and Chapter 3.
vii)	Heritage	An AHIMS basic search with 200m buffer was conducted on 4 November 2020. The search concluded that there are no known heritage items on or within the vicinity of the subject site recorded.
viii)	Construction	<p>The proposal is for the demolition of the existing structures and Torrens Title subdivision only. Conditions can be imposed on any approval granted to mitigate potential impacts in relation to sediment and erosion control, hours of noise generating works and protection of adjoining properties.</p> <p>Waste generated from the demolition works has been addressed below. Construction requirements will be assessed as part of any future proposals.</p>
Environmental Impacts		
ix)	Other Land Resources	No adverse impacts anticipated.
x)	Water	No particular issues raised in relation to the servicing of the development. Stormwater management has

		been addressed – refer to discussion under BDCP Chapter 2.
xi)	Soils	<p>The subject site is identified as containing Class 2 Acid Sulfate Soils (ASS). Council's Environmental Health section has carried out an assessment of the proposal. A condition is recommended to be imposed requiring all works to be carried out in accordance with the signed copy of the Council's Acid Sulfate Soils Management Plan for Minor Works dated 9 January 2020.</p> <p>Land contamination has been addressed previously, refer to SEPP 55 section of this assessment.</p>
xii)	Air and Microclimate	No issues raised.
xiii)	Flora and Fauna	<p>Consent is sought for vegetation management works at the rear of the subject property to facilitate the proposed subdivision.</p> <p>The applicant has commented that existing vegetation occurring within the rear of the lot comprises a range of exotic garden and principally non-endemic native species. The following comments were also provided:</p> <ul style="list-style-type: none"> • None of the plant species are listed as endangered or vulnerable under the EPBC Act 1999; • No vegetation constitutes a 'threatened ecological community' under the Act; • No plant species are listed as endangered or vulnerable under Part 7 of Biodiversity Conservation Act 2016; and • No species constitute an endangered ecological community. <p>The applicant has indicated that filling of the entire area the subject of proposed Lot 112 will necessitate the removal of all existing vegetation that would otherwise suffer from filling around roots and the base of tree trunks.</p> <p>A total of 12 trees are proposed to be removed. An assessment of the site was carried out by Tree Shape on 28 September 2019. This assessment identified the trees for removal as follows:</p> <ol style="list-style-type: none"> 1. Murraya (<i>Murraya paniculata</i>) – 5 metres 2. Sweet pittosporum (<i>Pittosporum undulatum</i>) – 2 metres 3. Murraya (<i>Murraya paniculata</i>) – 4 metres 4. Port wine magnolia (<i>Michelia figo</i>) – 1 metre 5. Blueberry ash (<i>Elaeocarpus reticulatus</i>) – 5 metres 6. Laceflower (<i>Brachychiton discolor</i>) – 6 metres 7. Royal palm (<i>Roystonea regia</i>) – 5 metres 8. Madagascar dragon tree (<i>Draceana marginata</i>) – 2.5 metres

	<p>9. Kentia palm (<i>Howea forsteriana</i>) – 4 metres 10. Cheese tree (<i>Glochidion ferdinandi</i>) – 2.5 metres 11. Weeping bottle brush (<i>Callistemon viminalis</i>) 12. Weeping bottle brush (<i>Callistemon viminalis</i>)</p> <p>A 600m² minimum lot size is applicable to the subject land. As such, the Biodiversity Offset Scheme (BOS) applies to clearing of 0.25ha or more. The Biodiversity Assessment Method (BAM) is not required given the removal of vegetation would not exceed the required BOS threshold.</p> <p>The subject land is not identified on the Biodiversity Values Map (BV Map).</p> <p>Given the above, no issues are raised with respect to the removal of the identified vegetation as proposed.</p> <p>Conditions are recommended to be imposed on the consent to manage potential impacts during the tree removal works.</p>
xiv) Waste	The demolition of the gazebo, carport and swimming pool is likely to generate a significant amount of waste materials. A condition is recommended requiring all demolition, construction or the like waste to be transported and disposed of to an approved waste facility, unless managed in accordance with a current resource recovery order and exemption.
xv) Energy	Each lot will be required to connect to the available electricity system, as conditioned.
Hazards	
xvi) Noise and Vibration	Minor noise impacts are expected during the demolition works. Demolition noise can be managed by way of conditions.
xvii) Natural Hazards	<p>The subject site is identified as being subject to flooding. The proposal will be conditioned to ensure filling of the site occurs in accordance with Council's requirements. Refer to Clause 7.3 of BLEP 2012 and Chapter 2b of the BDCP 2012 for further discussion regarding flooding.</p> <p>The subject site is not mapped as bushfire prone land or affected by landslip.</p> <p>Subject to compliance with the recommended conditions of consent, there is not likely to be any adverse natural hazard effects from the proposed subdivision.</p>
xviii) Technological Hazards	No issues raised – refer to SEPP 55 section of this assessment.
xix) Safety, Security and Crime Prevention (CPTED)	No issues raised in relation to CPTED.

Social and Economic Impacts	
xx) Social Impacts in the Locality	The proposed development is considered to be consistent with the surrounding residential properties. The proposal is not likely to have any adverse impacts on the existing community structure and character of the locality.
xxi) Economic Impact in the Locality	The proposed Torrens Title subdivision is not expected to have an adverse economic impact on the locality.
Cumulative Impacts	
xxii) Cumulative Impacts	No cumulative issues raised as a result of the proposal. Refer to assessment via Clause 4.6 in the Council report.

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

	Comments
i) Does the proposal fit in the locality?	The proposed development is considered to be consistent with the character of the locality. The size and dimensions of the proposed allotments is consistent with the properties within the immediate and surrounding locality and are of a size to allow for a reasonably sized dwelling to be erected without significantly impacting on the surrounding properties.
ii) Are the site attributes conducive to development?	The attributes of the site are considered to be conducive of the development, particularly as there are no real identified 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
If YES, how many submissions were received?	N/A
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:

Comments relating to the public submission are contained within the Council report.

4.15 (1) (e) The public interest

Federal, State & Local Government interests and Community interests	The proposed development is considered to be in the interest of the Federal, State and Local Governments and in the interest of the wider community.
Section 64 Contributions and Section 7.4 Contributions	Contributions are applicable and are to be included as conditions of consent.

Variation to Development Standard(s) Application and Supporting Information



Clause 4.6 of the Ballina Local Environmental Plan (BLEP) 2012 and
SEPP 1 Ballina Local Environmental Plan (BLEP) 1987

Lodge Applications at Ballina Shire Council • 40 Cherry Street Ballina (Mon-Fri 8.15am to 3.00pm)
mail PO Box 450 Ballina 2478 • **e** council@ballina.nsw.gov.au
t 1300 864 444 • **w** ballina.nsw.gov.au

This form guides you to what should be included in a written request. Please complete the form and submit it with your Development Application. Further documentation may be attached to support your submission.

Note: If more than one Development Standard is proposed to be varied, an application is required for each variation (eg. floor space ratio (FSR) and height).

Development Standard Details

1. What is the name of the Environmental Planning Instrument (EPI) that applies to the land? *eg. BLEP 1987 or BLEP 2012*

BLEP 2012 & BDCP 2012

2. What is the zoning of the land?

R2 - Low Density Residential

3. What are the objectives of the zone?

- " To provide for the housing needs of the community within a low density residential environment.
- " To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- " To provide for development that is compatible with the character and amenity of the surrounding

4. What is the Development Standard being varied? *eg. FSR, height, lot size*

Minimum lot size & side boundary setbacks

5. Under what clause is the Development Standard listed in the relevant BLEP?

Clause ... BLEP 2012 & Clause ... BDCP 2012

6. What are the objectives and purpose of the Development Standard? How are the objectives / purpose of the standard relevant to your development?

- (a) subdivision is compatible with the character of the locality,
- (b)(i) the subdivision pattern reflects and reinforces the current or planned subdivision pattern, and
- (ii) lot configurations are suitable to enable development consistent with relevant development controls,

7. What is the numeric value of the Development Standard in the relevant BLEP?

600m²

8. What is the proposed numeric value of the Development Standard in your Development Application?

540m²

9. What is the percentage variation (between your proposal and the relevant BLEP)?

10%

10. How is strict compliance with the Development Standard unreasonable or unnecessary in this particular case?

The proposed lot size is equal to or greater than lot sizes in the locality and immediately adjoining the site and is therefore consistent with the surrounding subdivision pattern. Accordingly, strict adherence to the standard would constrain development while maintaining an arbitrary lot size that isn't locally consistent.

11. How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Environmental Planning and Assessment Act 1979? *relevant for BLEP 1967/SEPP1 applications only*

Strict compliance would hinder further development that is compatible with the character of the locality and that creates lots of the size and density within the context of the local subdivision pattern.

12. Demonstrate how the objectives of the zone and the objectives of the development standard have been complied with despite the variation to the development standard.

The proposed subdivision is permissible within the zone with Council consent providing the land is used for residential purposes consistent with the zoning objectives and adequately caters for the low density housing needs of the surrounding environment;

13. Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why? Will approval of the variation of the Development Standard set a precedent? Why or why not?

Approval for the variation will in no way set any precedent as the surrounding lots already fail to comply with the standard but adequately accommodate existing dwellings and comply with all setbacks, access, private open space and car parking and manoeuvring area requirements.

14. Are there sufficient environmental planning grounds to justify contravening the Development Standard? *provide details*

Yes. Please refer accompanying Statement of Environmental Effects.

15. Is compliance with the development standard unreasonable or inappropriate due to the current use of the land and current environmental character of the particular parcel of land? Should the particular parcel of land have been included within the current zone?

Refer 10-12 above.

Applicant Details

Applicant Name

Victor Holmes - Victor Holmes Town Planning

Property Details

23 Skinner Street, Ballina

DA Number *if known*

Applicant Signature



Date

17.08.2012

Privacy Protection Notice

The completed Application for a Variation to a Development Standards form contains personal information which is being collected for the purpose of assessing this application. The information will be processed by the Planning and Environmental Health Division and may be made available to public enquiries under the Government Information (Public Access) Act. The information will be stored in Councils electronic document management system.

Ballina Shire Council
Planning and Environmental Health Division
P O Box 450
BALLINA NSW 2478
Attention: Georgia Lee



Re: DA 2019/669

Lot 1 DP 587542

23 Skinner Street

BALLINA

We refer your recent advice regarding a neighbouring development application in relation to the above property.

Before we would consent to this application, we would require some additional clarification in relation to the following aspects:

Drainage – could the drainage proposal please be investigated and explained clearly regarding any impact to the neighbouring property at 14 Prosper Place, Ballina.

Vegetation – whilst we are aware that some tree lopping is proposed, could this also include tree lopping/pruning of remaining vegetation currently over-hanging neighbouring properties.

We look forward to receiving a reply in relation to our concerns at your earliest convenience.

Regards

••

A handwritten signature in black ink that reads "Bevan Johnson".

Bevan Johnson

Owner – 14 Prosper Place, Ballina



Ballina Shire Council
Planning and Environmental Health Division
P O Box 450
BALLINA NSW 2478
Attention: Georgia Lee

Re: DA 2019/669

Lot 1 DP 587542

23 Skinner Street

BALLINA

We refer your recent advice regarding a neighbouring development application in relation to the above property.

Before we would consent to this application, we would require some additional clarification in relation to the following aspects:

. Drainage – could the drainage proposal please be investigated and explained clearly regarding any impact to the neighbouring property at 9 Prosper Place, Ballina.

. Vegetation – whilst we are aware that some tree lopping is proposed, could this also include tree lopping/pruning of remaining vegetation currently over-hanging neighbouring properties.

We look forward to receiving a reply in relation to our concerns at your earliest convenience.

Regards

A handwritten signature in blue ink that reads "Kevin O'Donnell".

Kevin O'Donnell

Owner – 9 Prosper Place, Ballina

A handwritten signature in blue ink that reads "Narelle O'Donnell".

Narelle O'Donnell

Owner – 9 Prosper Place, Ballina



9 PROSPER PLACE

From: Daralyn Jones
Sent: Monday, 25 November 2019 1:01 PM
To: Ballina Shire Council
Subject: DA 2019/669

Attention: Georgia Lee

RE: Lot 1 DP 587542 - 23 Skinner Street, Ballina

Dear Georgia,

We refer to the above mentioned matter and your letter of 12 November, 2019.

Our concerns in relation to developing 23 Skinner St (the property directly next door to us) is the drainage.

We have lived in our property for 17.6 years and each time it rains the water currently drains from 23 Skinner St into our backyard and then pools before it eventually disperses down our stormwater drain. The length of time this takes depends on the amount of rain received and the height of the current tides.

We have created and built gardens along our mutual fence line to try and help absorb this run off from number 23.

We have witnessed first hand the disaster of development at 17 Skinner Street which now has 5 units on the land. The land has been built up to Councils height regulations prior to the buildings being erected. Their immediate next door neighbour, at 19 Skinner Street (who is also our mutual neighbour) is flooded each time it rains, even into their garage. I have taken photos and videos of their property over the years, at least 30cm underwater. Their land never flooded prior to their neighbours development.

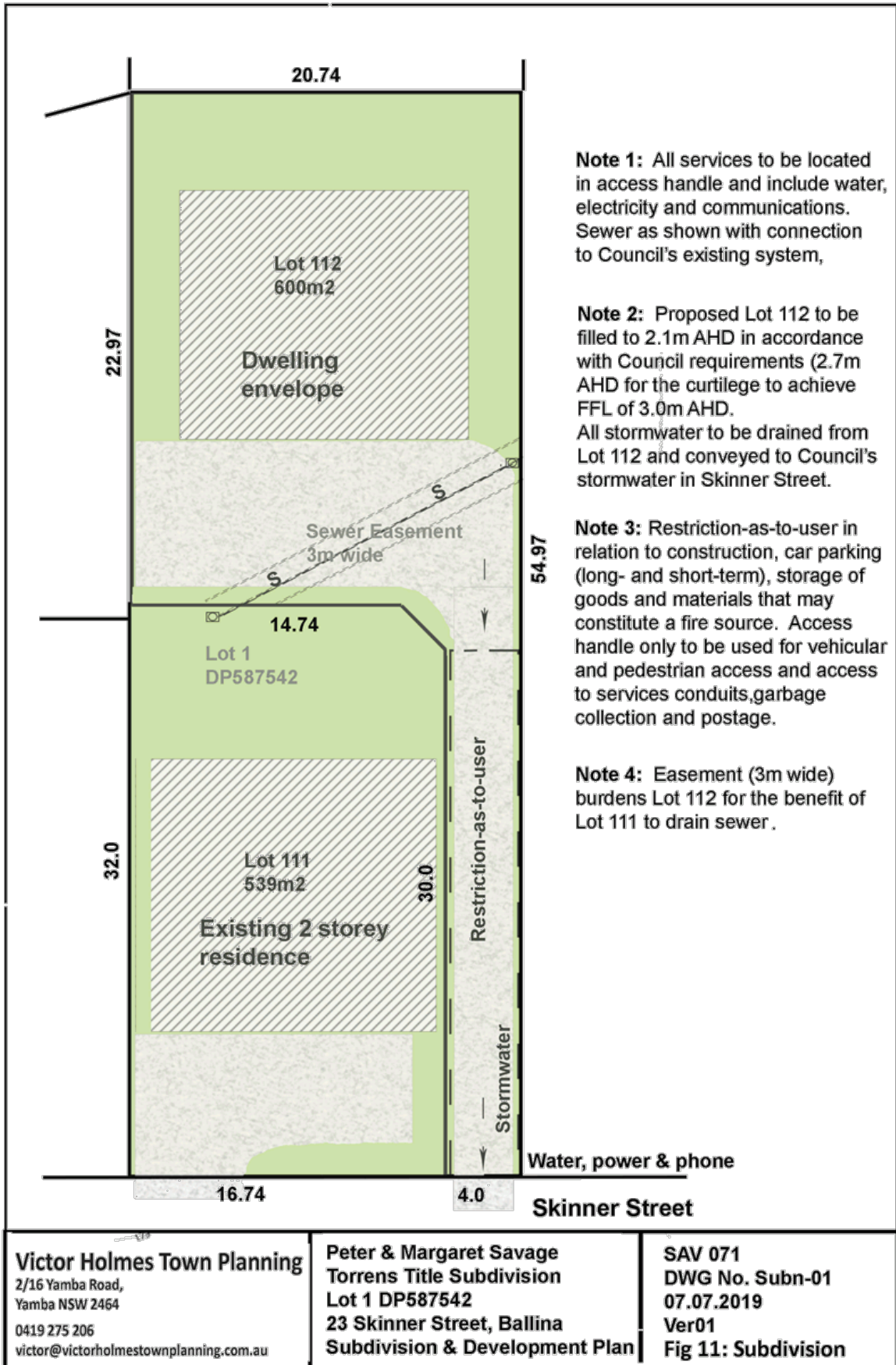
So, as you could image, we are extremely concerned about the drainage of 23 Skinner St and the effect it will have on our property, our house, our inground pool.

Could you please assist us with further information regarding the proposed drainage that will be required for 23 Skinner St.

Thank you for your time and assistance.

Kind regards

Andrew & Daralyn Jones
21 Skinner Street, Ballina.



DA 2019/669 – DRAFT CONDITIONS**GENERAL****1. Approved Plan**

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

Plan prepared by	Drawing No.	Drawing Title	Dated
Victor Holmes Town Planning	SAV-DEVT-01 070719	Development Plan	7 July 2019
Victor Holmes Town Planning	SAV 071 Subn-01	Subdivision and Development Plan	7 July 2019

2. Driveway construction

The driveways and parking bays within the development are to be constructed of reinforced concrete or similar paved material. All driveway areas are to be adequately graded and drained to stormwater treatment areas. These areas must discharge to Council's stormwater system to ensure that stormwater is not directed onto adjoining properties.

3. Electricity

All power reticulation for the development is required to be provided underground.

4. Trees to be removed

This consent authorises the removal of trees on the subject land as shown on the approved plan. Separate approval from Council is to be obtained for the removal/pruning of any further vegetation unless such removal/pruning meets the exempt requirements within Chapter 2a – Vegetation Management of the Ballina Shire Development Control Plan 2012.

PRIOR TO ISSUE OF SUBDIVISION WORKS CERTIFICATE

The following conditions in this section of the consent must be complied with prior to the issue of any Subdivision Works Certificate relating to the approved development.

5. Civil works

Prior to the issue of the Subdivision Works Certificate, engineering design drawings shall be submitted to and approved by Council for civil/subdivision works required by this consent. These drawings shall also include associated works required under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act for the following civil works. Details are to be in accordance with the current Northern Rivers Local Government Development Design and Construction Manuals and/or in accordance with other design requirements from Austroads, Australian Standards and/or Roads & Maritime Services where specified.

- Half road reconstruction**

At the developer's expense, the Skinner Street frontage shall have the road pavement widened on the northern half of the nominal centreline. The road widening shall be to suit an ultimate total width of 8.0m, with the development required to widen the existing road pavement to a nominal 4.0m width north of the nominal centreline. This shall include a 300mm width reconstructed overlap into the existing pavement. The pavement shall consist of a minimum 300mm of compacted road base quality material plus a minimum 25mm asphalt wearing surface. Inspection of the road widening is required by Council's Engineer (Ph.

No. 1300 864 444) at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory subgrade material, the developer shall be required to remove the unsuitable material for a further depth of 700mm and replace with approved sand fill. Details are to be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

- **Ballina Island road pavement widening**

At the developer's expense, the Skinner Street frontage shall have the following treatment between the final sealed pavement width of 8m and the existing kerb and gutter.

The surface is to consist of a minimum 300mm of compacted road base quality material overlaid by topsoil (mix of crushed rock and loam) and turf to the satisfaction of Council's Engineer.

A 25mm sealed asphalt driveway shall be constructed that connects from the kerb and gutter to the widened road pavement and be constructed upon a minimum of 300mm of compacted road base.

Details are to be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

- **Footpath and gutter crossing**

The provision of a footpath and gutter crossing for each lot within the development. Details are to be in accordance with Standard Drawing R05 and R06 of Northern Rivers Local Government Development Design and Construction Manuals. Details are to be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

6. **Flooding and Stormwater**

The provision of stormwater controls on site shall be in accordance with the Site Stormwater Management Plan by Peter Lucena & Associates, Titled: Engineering Assessment for Stormwater, Dated: 20 July 2020. Overland flow paths must not be impeded by structures or landscaping. A detailed design must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

7. **Filling of the site (minimum level)**

The whole of the allotment must be filled to a minimum level of RL 2.1 metres AHD with the finished floor height of the building at RL 2.7 metres AHD. Masonry retaining walls shall be constructed, and wholly contained, within side and rear boundaries. The adjoining properties shall be drained at the common boundary with the site via a concrete dish drain such that no water ponds on any neighbouring properties due to site filling. The stormwater drainage shall be discharged to Council's drainage system. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

8. **Sewer Connection (standard)**

Each lot within the development shall be connected to Council's sewer system in accordance with the Northern Rivers Local Government Development Design & Construction Manuals. Design plans are to be submitted to and approved by Council prior to issue of the Subdivision Works Certificate.

9. Water connection (standard)

The applicant shall be responsible for all costs associated with the connection of Council's reticulated water supply system to each lot within the development in accordance with the Northern Rivers Local Government Development Design & Construction Manuals. Design plans are to be submitted to and approved by Council prior to issue of the Subdivision Works Certificate.

10. Electricity supply

The applicant shall be responsible for all costs associated with the connection of underground reticulated electricity to each lot within the development. Design plans are to be submitted to and approved by the Principal Certifying Authority prior to issue of the Subdivision Works Certificate.

11. Civil Inspection Fee, Subdivision Works Certificate Fee and Construction Bond

Prior to the issue of a Subdivision Works Certificate, a Subdivision Works Certificate application is to be made as well as the following fees and bond are to be paid to Council which includes the amount of Goods and Services Tax payable. The fees and bond are subject to review and may vary from the time of consent till time of payment see Council's schedule of Fees and Charges for the current rates:

- Subdivision Works Certificate Fee
- Civil Inspection Fee
- Civil Construction Bond: Equal to 5% of the estimated cost of civil works (min \$1,000)

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

12. Asset listing

The Subdivision Works Certificate application for subdivision works shall be accompanied by an electronic listing of all road, stormwater, water and sewer assets generated by the development. Copies of the Asset spreadsheet are available from Council's website.

13. Erosion and Sediment Control

An Erosion and Sediment Control Plan (ESCP) shall be submitted to and approved by the Principal Certifying Authority (PCA), prior to the issue of the Subdivision Works Certificate. The ESCP shall be prepared in accordance with the requirements of Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.

14. Developer Contributions

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

Contribution Plan/Development Servicing Plan	Adopted
Cumalung Urban Release Area Precinct A Contributions Plan 2015	26 February 2015
Ballina Shire Roads Contribution Plan Version 4.1	26 July 2018
Ballina Shire Open Spaces and Community Facilities Contributions Plan 2016	1 January 2017

Ballina Shire Carparking Contributions Plan 2014	14 May 2014
Ballina Shire Heavy Haulage Contribution Plan	24 October 2019

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.

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

15. Developer Charges

Prior to issue of a Subdivision Works Certificate, 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.

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**).

16. Schedule of compliance

Prior to the issue of a Subdivision Works Certificate, a Schedule of Compliance detailing how each "Prior to the issue of a Subdivision Works Certificate" condition of consent has been complied with shall be submitted to Council for approval at each stage of the development.

PRIOR TO TREE REMOVAL COMMENCING

The following conditions in this section of the permit must be complied with or addressed prior to the commencement of the approved tree removal works.

17. Marking of Vegetation

All vegetation to be removed is to be clearly marked prior to the commencement of work at the site. The boundary of the subject property shall be clearly delineated so that no works associated with the vegetation management works extends beyond the boundaries of the subject land.

18. Public Liability Insurance

Prior to the commencement of the removal of the tree, a copy of the contractor's Public Liability Insurance Policy to the value of \$10 million shall be provided to Council.

19. Sediment and Erosion Control

To prevent the pollution of waterways, the applicant is to ensure adequate sediment and erosion control measures are in place prior to the commencement of works on site and are to be maintained during the removal of the tree until the site has been stabilised by permanent vegetation cover. This is to include the prevention of soil erosion and the transportation of sediment material into any roadway, natural or constructed drainage systems, watercourse and or adjoining land.

Failure to comply with this requirement may result in an on-the-spot fine being issued by an Authorised Officer of Council.

DURING TREE REMOVAL WORKS

The following conditions in this section of the permit must be complied with or addressed during the course of carrying out the approved tree removal works.

20. Hours of Work

Any tree removal work involving the use of noisy mechanical plant or noisy equipment must only be carried out within the following hours:

Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday and Public Holidays	No noisy work at all

21. Australian Standard

All tree removal works are to be undertaken in accordance with Australian Standard AS 4373-2007.

22. Works on the Subject Site

All tree removal works are to be undertaken on the subject site. No works are to be undertaken beyond the boundary of the subject land.

23. Integrity of Retained Vegetation

All vegetation removal is to be undertaken in a manner that ensures the ongoing integrity of the adjoining vegetation to be retained.

24. Disposal of Removed Vegetation

All vegetation from the removal works is to be reused on the site or removed from the site and disposed of in an appropriate manner.

25. Revegetation of Disturbed Areas

All disturbed and exposed areas are to be revegetated. Revegetation of such areas shall be implemented as soon as tree removal works are completed.

26. Repair Damaged Infrastructure

Any damage to Council infrastructure such as water mains, utility services or road works resulting from this work, shall be immediately reinstated to a satisfactory condition.

PRIOR TO CONSTRUCTION WORK COMMENCING

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

27. Notice of commencement of civil works

Prior to the commencement of construction, the contractor must submit a completed copy of the "Notice of Commencement of Civil Development Work" form and a copy of their \$20M Public Liability Insurance Policy to Council. Copies of the form are available from Council's website.

28. Traffic control

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

29. Soil erosion and sediment control

Soil erosion and sediment control measures shall be designed, installed and maintained in accordance with Managing Urban Stormwater - Soils and Construction, LANDCOM, March 2004.

DURING CONSTRUCTION

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

30. Construction

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

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

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

31. Site contamination

Any new information that becomes known during remediation, demolition or construction works which has the potential to alter previous conclusions about the site contamination must be immediately notified to the Council and the Principal Certifying Authority.

32. Demolition work

All work, including demolition, excavation and building work shall comply with Australian Standard AS 2436:2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* and *NSW Interim Construction Noise Guidelines* (DECC 2009).

33. Waste management

All demolition, construction or the like waste is to be transported and disposed of to an approved waste facility unless managed in accordance with a current resource recovery order and exemption. If alternative disposal methods are to be sought, written approval is to be granted by the Principal Certifying Authority (PCA).

It is an offence to transport waste to a place that cannot lawfully be used as a waste facility.

34. Erosion and Sediment Control

An Erosion and Sediment Control Plan (ESCP) which has been prepared in accordance with the requirements of *Managing Urban Stormwater – Soils and Construction*, LANDCOM, March 2004 shall be implemented in full during the construction period.

35. Discharge of sediment and waste materials

The discharge of sediment and waste materials including concrete waste, paint, plaster and the like material into any roadway, natural or constructed drainage system, watercourse and/or adjoining land constitutes a breach of development approval conditions. Council's Authorised Officers may issue a Clean Up Notice, Prevention Notices and/or an on-the-spot fine in accordance with the Protection of the Environment Operations Act 1997.

36. Dust management

Dust shall be managed using water suppression, re-establishment of vegetation cover, stockpile management, covering loads, preventing spoil tracking onto roads and halting works on site in extreme wind events. Further guidance can be sourced from 'No Dust No Fuss: Guidelines for controlling dust from construction sites' NSW EPA.

37. Acid Sulfate Soils Management Plan

All works shall be carried out in accordance with the signed copy of the Council's Acid Sulfate Soils Management Plan for Minor Works dated 9 January 2020.

38. Fill sources

The applicant shall ensure that any fill material imported to the site for the proposed development is obtained from fill sources that have an approved testing regime. The supplier of the fill material must certify to the Principal Certifying Authority (PCA) at the completion of the construction of the development that the material was free of contaminants, being natural or otherwise.

39. No Burn Policy

No burning of cleared vegetation or other waste material shall occur on site prior to or during the construction phase of the development. Council has a No Burn Policy which aims to minimise air pollution by prohibiting the burning of any waste in residential areas. All vegetation waste should be removed to a licenced waste management facility. If an alternative method of disposal is sought written approval of Council is required.

40. Civil Works

All civil construction works shall be completed in accordance with the minimum requirements of the Northern Rivers Local Government Development Construction

Manuals (as current at the time of construction works commencing) and/or in accordance with other design requirements from Austroads, Australian Standards or Roads & Maritime Services where specified. Inspections and approval of the road and sewer works shall be required by Council's Engineer in accordance with the Manual.

41. Traffic Control

All traffic control during construction shall be in accordance with the Roads and Maritime Services – Traffic Control at Work Sites Manual and the certified traffic control plan. At least one person at the site must be qualified to "Apply Traffic Control Plans" (Yellow Card).

42. Inspection (road works)

Inspection and approval of the road works approved within the road reserve is required by Council's Engineer (Ph. No. 1300 864 444) at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory subgrade material, the developer shall be required to remove the unsuitable material for a further depth of 700 mm and replace with approved sand fill.

43. Inspection (footpath and gutter crossing)

Council's Engineer must inspect and approve works associated with the construction of the footpath and gutter crossing for the development. Council's Engineer must be contacted on telephone 1300 864 444 at the time of excavation and at least 24 hours prior to the concrete pour.

44. Filling of the site

The whole of the allotment is to be filled to a minimum level of RL 2.1m AHD. A Surveyor's certificate verifying compliance with this minimum fill level is to be submitted to the Principal Certifying Authority.

45. Filling (standards)

All site filling shall be in compliance with the requirements of Level 1 geotechnical testing for:

- AS 2870 – 2011 Residential Slabs and Footings Code
- AS 3798 – 2007 Guidelines on Earthworks for Commercial and Residential Developments

46. Inspection (sewer)

Council's Engineer must inspect and approve construction works associated with the connection of the development to Council's sewer mains. Council's Engineer must be contacted on telephone 1300 864 444 at the time of the excavation and connection.

47. Damage to Council infrastructure

Damage to any grass verge, footpath, kerb and guttering, utility services or road within the road reserve as a result of construction works related to the development shall be immediately reinstated to a satisfactory and safe condition. Council's Engineer must be contacted on telephone 1300 864 444 at the time any damage occurs to ensure appropriate reinstatement works are undertaken.

48. Dust suppression

Exposed/disturbed surfaces at the site shall be regularly wetted to suppress dust generation.

49. Revegetation

All disturbed and exposed areas shall be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the development.

50. Excavation on public land

All excavations and backfilling on public land associated with the development must be executed in accordance with the appropriate safety standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life and property.

51. Equipment storage

There shall be no storage of building materials, plant or equipment on the road, footway or reserve areas without prior written consent of Council.

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

52. Application for Subdivision Certificate

An application for Subdivision Certificate accompanied by final plans of subdivision, together with the requisite processing fee, shall be submitted to Council for approval. In addition, a written statement confirming how each condition of consent has been complied with is also to accompany the Subdivision Certificate application.

53. Restrictions As To User

Restrictions as to User are to be placed on the title of the proposed allotment in accordance with Section 88E of the Conveyancing Act 1919 prohibiting the long term parking of vehicles and the construction of any buildings or structures within the access handle of the proposed lot behind the building line, other than paving, drainage and fences.

54. Screening of waste disposal area

The waste disposal area for the existing dwelling is to be screened from public view or located behind the building line. Details shall be submitted to and approved by the Principal Certifying Authority (PCA) prior to the release of the Subdivision Certificate.

55. Civil works

All civil works approved with the Subdivision Works Certificate and under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993, are to be completed to the satisfaction of Council prior to issue of the Subdivision Certificate. All works are to be completed in accordance with the Northern Rivers Local Government Development Design and Construction Manuals and/or in accordance with other design requirements from Austroads, Australian Standards or Roads & Maritime Services where specified.

56. Stormwater

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

57. Filling of the site

Prior to the issue of the Subdivision Certificate, certification must be submitted from a suitably qualified practicing geotechnical engineer verifying that the site filling was completed in accordance with Level 1 geotechnical testing under AS 2870 & AS 3798 and has adequate bearing capacity for building construction. In addition, the certification shall also verify that any fill material imported to the site is free of contaminants being natural or otherwise, and was obtained from an approved fill source with quality assurance testing.

58. Water and Sewer

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

59. Services (electricity)

Prior to the issue of a Subdivision Certificate, certification is to be provided to the Principal Certifying Authority that electricity services have been installed and commissioned to each lot to the satisfaction of the relevant authorities.

60. Services (telecommunications)

Prior to the issue of a Subdivision Certificate, certification is to be provided to the Principal Certifying Authority that provisioning has been made for the supply of telecommunication services to each lot within the development to the satisfaction of the relevant authorities.

61. Maintenance bond

The following maintenance bond must be paid to Council which provides the amount of Goods and Services Tax (GST) payable. The bond is subject to review and may vary at the actual time of payment:

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

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

62. Works as executed (drawings)

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

63. Works as executed (asset listing)

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

64. Easements

Easements shall be created prohibiting the erection of buildings or structures over or adjacent to Council's sewer pipeline extending through the development. The easement

shall extend horizontally on each side of the pipeline for a distance equal to the depth of the pipeline from the pipe invert level to finished surface level. The minimum width of such easement shall be 3.0 metres. Easements are to be in accordance with the "Building over Council's Assets" policy and approved prior to issue of the Subdivision Certificate.

ADVISORY MATTERS

1. Protection of the Environment

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

2. Noise Control

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

Advisory Note:

The applicant is advised to take care in ensuring that no damage is done to or unauthorised modifications are carried out on either Council's or any other organisation's underground infrastructure assets. Any Council sewer, stormwater or water main or other organisation owned electricity supply or telecommunication facility is not to be damaged or altered in any way without the necessary approvals being obtained beforehand from the relevant server.

You are advised to contact the following:

- Council - for information on sewer, water supply & stormwater
- Rous Water - Water Supply for Rous Water Authority controlled areas
- "Dial Before You Dig" - for other service infrastructure

The information relating to your property is to be obtained prior to any works commencing.

SCHEDULE 1

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST	Actual Contribution Units Payable (residential)	Actual Contribution Units Payable (commercial)
Ballina Island Local Parks 2016	4301	equivalent residential allotment	\$262.00	0.9426	\$246.96	0.0000	0.0000
Ballina District Parks 2016	4302	equivalent residential allotment	\$1,165.00	0.9426	\$1,098.12	0.0000	0.0000
Ballina Playing Fields 2016	4303	equivalent residential allotment	\$2,625.00	0.9426	\$2,474.31	0.0000	0.0000
Regional Level Recreational Facilities (SHIRE) 2016	4304	equivalent residential allotment	\$1,906.00	0.9426	\$1,796.59	0.0000	0.0000
Ballina District Community Centres & Meeting Halls 2016	4305	equivalent residential allotment	\$1,135.00	0.9426	\$1,069.85	0.0000	0.0000
Regional Level Community Facilities (SHIRE) 2016	4306	equivalent residential allotment	\$1,118.00	0.9426	\$1,053.82	0.0000	0.0000
OS & CF Plan Administration (SHIRE) 2016	4307	equivalent residential allotment	\$113.00	0.9426	\$106.51	0.0000	0.0000
Roads Contribution Plan V4.1 (2018)	5206	equivalent residential allotment	\$12,704.00	0.9426	\$11,974.74	0.0000	0.0000
Roads Administration V4.1 (2018)	5207	equivalent residential allotment	\$190.00	0.9426	\$179.09	0.0000	0.0000
Ballina Island Wastewater Services (DSP Area B)	3001	equivalent tenement	\$5,301.00	1.0000	\$5,301.00	0.0000	0.0000
Ballina Island Water Supply (DSP Area B)	2001	equivalent tenement	\$3,463.00	1.0000	\$3,463.00	0.0000	0.0000
Rous Water 2016	5001	equivalent tenement	\$8,872.00	1.0000	\$8,872.00	0.0000	0.0000
TOTAL					\$37,636.00		