



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



**Locality Plan - DA 2020/292**  
**Lot 4 DP 241585 - 180 North Creek Rd, Lennox Head**  
**Lot 6 DP 598177 - 190 North Creek Rd, Lennox Head**

ballina shire council  
geographical information system

Projection: GDA94 / MGA zone 56  
Date: 30/11/2020

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## ASSESSMENT OF THE APPLICATION UNDER SECTION 4.15 (1) OF THE EP&amp; 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 proposed development is generally consistent with the aims and objectives of the 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 Section 4B of the Environmental Planning and Assessment Act 1979.</p> <p><b>4B Subdivision of land</b></p> <p>(1) For the purposes of this Act, <i>subdivision of land</i> means the division of land into two or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition. The division may (but need not) be effected:</p> <p>(a) by conveyance, transfer or partition, or</p> <p>(b) by any agreement, dealing, plan or instrument rendering different parts of the land available for separate occupation, use or disposition.</p> <p>(2) Without limiting subsection (1), subdivision of land includes the procuring of the registration in the office of the Registrar-General of:</p> <p>(a) a plan of subdivision within the meaning of section 195 of the <a href="#">Conveyancing Act 1919</a>, or</p> <p>(b) a strata plan or a strata plan of subdivision within the meaning of the <a href="#">Strata Schemes (Freehold Development) Act 1973</a> or the <a href="#">Strata Schemes (Leasehold Development) Act 1986</a>.</p> <p><b>Note.</b> The definition of <i>plan of subdivision</i> in section 195 of the <a href="#">Conveyancing Act 1919</a> extends to plans of subdivision for lease purposes (within the meaning of section 23H of that Act) and to various kinds of plan under the <a href="#">Community Land Development Act 1989</a>.</p>
Zoning under BLEP 2012, permissibility	The subject land is zoned R3 Medium Density

<p>within zone and regard for zone objectives (Clause 2.3)</p>	<p>Residential under the Ballina Local Environment Plan (BLEP) 2012.</p> <p>The objectives of the R3 Zone are:</p> <ul style="list-style-type: none"> <li>• <i>To provide for the housing needs of the community within a medium density residential environment.</i></li> <li>• <i>To provide a variety of housing types within a medium density residential environment.</i></li> <li>• <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> <li>• <i>To provide development that is compatible with the character and amenity of the surrounding neighbourhood.</i></li> <li>• <i>To encourage housing and infrastructure that supports the ageing population.</i></li> <li>• <i>To provide for development that meets the social and cultural needs of the community.</i></li> <li>• <i>To encourage development that achieves the efficient use of resources such as energy and water.</i></li> </ul> <p>The subdivision of land and vegetation management works are permissible in the R3 Zone with consent.</p> <p>The proposed subdivision has had regard for and is generally consistent with the objectives of the R3 Zone.</p>
<p>Subdivision – Consent Requirements (Clause 2.6)</p>	<p>Clause 2.6 provides that prior consent of Council is required for the subdivision of any land.</p>
<p>Minimum Subdivision Lot Size (Clause 4.1)</p>	<p>Clause 4.1 provides that the size of any lot resulting from the subdivision of any land is not to be less than the minimum size shown on the Lot Size Map. The minimum lot size for the subject land is 600m<sup>2</sup>.</p> <p>The proposed lots range in size from 715m<sup>2</sup> - 1151m<sup>2</sup> and 4139m<sup>2</sup> (lot containing existing dwelling) and as such all proposed lots are in excess of the minimum lot size.</p> <p>The objectives of Clause 4.1 state:</p> <p>(1) <i>The objectives of this clause are as follows—</i></p> <ul style="list-style-type: none"> <li>(a) <i>to ensure that subdivision is compatible with the character of the locality,</i></li> <li>(b) <i>to ensure that in the case of urban areas—</i> <ul style="list-style-type: none"> <li>(i) <i>the subdivision pattern reflects and reinforces the current or planned subdivision pattern of the locality, and</i></li> <li>(ii) <i>lot configurations are suitable to enable development that is consistent with relevant development controls,</i></li> </ul> </li> </ul>

	<p>The proposal is generally consistent with the objectives of Clause 4.1. The residential allotments which adjoin the subject land along Montwood Drive to the south west have an average size of 1066m<sup>2</sup> and the lots to the north west along Fieldcrest Drive have an average size of 972m<sup>2</sup>. The average lot size of this subdivision (excluding the lot containing existing dwelling) is 911.27m<sup>2</sup>. It is considered therefore that lot sizes overall are similar and subdivision patterns are reflective of the locality. The proposed lot sizes and subdivision pattern are reflective of the locality.</p>
Earthworks (Clause 7.2)	<p>Clause 7.2 provides that all earthworks undertaken will not have detrimental impacts on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p> <p>The application is supported by an Engineering Services Report prepared by Newton Denny Chapelle, dated March 2020.</p> <p>Earthworks are required to facilitate the construction of the cul-de-sac at a compliant grade and to ensure lots drain to the rear of the subdivision. Approximately 2762m<sup>3</sup> of fill will be required to be imported to the site. Batters and/or retaining walls are also proposed to improve the presentation of a number of allotments. A maximum cut of 1.9m on the northern side of the cul-de-sac will be required with a retaining wall to be located inside Lot 2 to ensure a compliant road and verge. Retaining walls will also be required, and located within Lot 1 and Lot 9, to a maximum height of 1.3m to maintain overland flow paths and access.</p> <p>Clause 7.2(3) states the following matters are to be considered:</p> <p>(a) <i>the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></p> <p><b>Comment:</b> Earthworks are required to maintain overland flow paths and it is considered that the drainage patterns will not be disrupted and/or detrimentally impact drainage patterns on the subject site as the Engineering Services Report and stormwater management will manage the change in land form. The site slopes towards the north western boundary and the south western boundary. An existing easement to drain water is located within the adjoining Fieldcrest Place properties along the north western boundary, and a drainage reserve exists between Lot 227 and Lot 228 and on the southern side between Lot 220 and Lot 221 in Fieldcrest Place. It is proposed to provide a drainage reserve between the</p>



	<p>head of the proposed cul-de-sac and the drainage reserve that runs between Lot 227 and Lot 228.</p> <p>The application is supported by an Engineering Services Report (prepared by Newton Denny Chapelle dated March 2020). In accordance with Council's Stormwater Management Guidelines for Development, an applicant may either provide onsite detention to control post-developed stormwater flows to pre-developed rates or augment Council's downstream network to convey stormwater without adverse effects to downstream properties.</p> <p>In this case the developer is proposing to augment the downstream network to convey the 1%AEP (100 year storm event) without detention. It is proposed to provide a drainage reserve between the head of the proposed cul-de-sac and the drainage reserve that runs between Lot 227 and Lot 228. Stormwater will be directed via the proposed drainage reserve to the existing drainage reserve in Fieldcrest Place via an augmented pit and pipe network.</p> <p>This has been accepted by Council's Development Engineer and will be conditioned accordingly.</p> <p><i>(b) the effect of the development on the likely future use or redevelopment of the land,</i></p> <p>The development and associated earthworks are to facilitate a residential subdivision of vacant land. The development is consistent with the current R3 Medium Density Residential zoning and the development aligns with the intended use of the land. The proposed earthworks will not have a negative effect on the likely future use of the land or nearby lands.</p> <p><i>(c) the quality of the fill or the soil to be excavated, or both,</i></p> <p>Approximately 2762m<sup>3</sup> of fill is required to be imported to the site. All soil that is required to be imported and/or exported from the site is to be tested in accordance with the relevant legislation, and the consent will be conditioned accordingly.</p> <p><i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p>The development will result in the subdivision of residentially zoned land to create 11 residential lots and one lot containing the existing dwelling house. Earthworks are required to facilitate the construction of the cul-de-sac at a compliant grade and to ensure lots drain to the rear of the subdivision. The extent of the impact on the amenity of adjoining properties is</p>
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	<p>unknown at this stage, given that no dwelling houses or other permissible land uses have been proposed under this application (other than subdivision). Conditions will be imposed on the consent in relation to sediment and erosion control, noise, vibration and hours of construction works.</p> <p><i>(e) the source of any fill material and the destination of any excavated material,</i></p> <p>Approximately 2762m<sup>3</sup> of fill is required to be imported to the site. All soil that is required to be imported and/or exported from the site is to be tested in accordance with the relevant legislation, and the consent will be conditioned accordingly.</p> <p><i>(f) the likelihood of disturbing relics,</i></p> <p>Given the previous history of the land there is limited potential for items of Aboriginal and non-Aboriginal heritage significance to be within the vicinity of the works. An AHIMS search was undertaken by the applicant in February 2020 and no items or sites of Aboriginal heritage were reported. The consent will be conditioned to ensure all work ceases should any items of heritage significance or relics be located during excavation/construction 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 development and ancillary earthworks are not within a close proximity to any waterway. The subject land is not within a drinking water catchment.</p> <p><i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p> <p>Appropriate erosion and sediment are to be implemented prior to and during the construction phase of the development to mitigate any potential impacts. The consent will be conditioned accordingly.</p>
Essential Services (Clause 7.7)	<p>Clause 7.7 provides that all essential services including water, electricity, sewage, stormwater, vehicular access and telecommunications services.</p> <p>The proposed development will be serviced by reticulated water, sewerage, stormwater, electricity and telecommunication services.</p> <p>Council's Development Engineer provided the following comments in relation to services:</p>

	<p><b>WATER SUPPLY SERVICING</b>                  Drinking and reuse water supply servicing can be provided by extension of the reticulated systems on North Creek Road.</p> <p><b>SEWER SERVICING</b>                  The gravity sewer will be extended from a stub at the rear of 180 North Creek Road into the subdivision.</p> <p><b>EXISTING SERVICES</b>                  The development does not encroach on any easement or the zone of influence of any existing water, sewer or drainage mains.</p> <p><b>POWER SUPPLY SERVICES</b>                  Not applicable.</p> <p>In terms of access, vehicular access will be provided via a cul-de-sac from North Creek Road. Council's Development Engineer provided the following comments regarding access to the proposed development:</p> <p><i>External Roads and Traffic</i>                  A traffic report by Newton Denny Chapelle has been included in the Engineering Service Report that is acceptable. The volumes of traffic generated by the development requires a Basic Left Turn (BAL) intersection. The North Creek Road south bound lane is 6.3m wide that allows through traffic to slip past a right hand turn vehicle. Additional line marking is not warranted for the turn movement.</p> <p>Whilst the proposed intersection is located near the intersection of North Creek Road and Palisade Way, there is no minimum intersection offset requirement under the Austroad Guides to Road Design. Conversely, four way intersections with a crash history are sometimes offset as a treatment.</p> <p>There is adequate sight distances and stopping distances at the proposed intersection in accordance with the Austroad Guides.</p>
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**State Environmental Planning Policies (SEPPs)**

Relevant SEPPs	Comments/Is consistency with these provisions achieved?
SEPP (Vegetation in Non-Rural Areas) 2017	The aim of this policy is to protect the biodiversity values of trees and other vegetation in non-rural areas and to preserve the amenity of non-rural areas through the preservation of trees and other vegetation.

	<p>The application originally sought removal of all trees (other than those located on proposed Lot 12). However following an RFI the application was amended and a revised Biodiversity Assessment was submitted (CM 20/64079) an extract which is provided below:</p> <p>It is noted that the proponent has modified the subdivision design in order to retain an additional four primary Koala feed trees along the north-west boundary of the site. Revised tree clearing impacts are shown below in Table 1 with a revised tree clearing plan included in Appendix A.</p> <p><b>Table 1 Revised Tree Clearing Required</b></p> <table border="1"> <thead> <tr> <th>Scientific Name</th> <th>Common Name</th> <th>Status</th> <th>Quantity</th> </tr> </thead> <tbody> <tr> <td><i>Araucaria columnaris</i></td> <td>Cook Island Pine</td> <td>Exotic</td> <td>1</td> </tr> <tr> <td><i>Araucaria cunninghamii</i></td> <td>Hoop Pine</td> <td>Native</td> <td>1</td> </tr> <tr> <td><i>Citharexylum spinosum</i></td> <td>Fiddlewood</td> <td>Exotic</td> <td>15</td> </tr> <tr> <td>*<i>Eucalyptus robusta</i></td> <td>Swamp Mahogany</td> <td>Native</td> <td>1</td> </tr> <tr> <td>*<i>Eucalyptus tindaliae</i></td> <td>Tindale's Stringybark</td> <td>Native</td> <td>1</td> </tr> <tr> <td><i>Ficus benjamina</i></td> <td>Benjamin Fig</td> <td>Exotic</td> <td>1</td> </tr> <tr> <td><i>Ficus macrophylla</i></td> <td>Moreton Bay Fig</td> <td>Native</td> <td>1</td> </tr> <tr> <td><b>Total Tree Loss</b></td> <td></td> <td></td> <td><b>21</b></td> </tr> </tbody> </table> <p>*Koala feed trees</p> <p>Refer to SEPP (Koala Habitat Protection) 2019 and DCP Chapter 2A and Chapter 3 Urban Subdivision sections of this report for further discussion in relation to vegetation removal and mitigation measures.</p>	Scientific Name	Common Name	Status	Quantity	<i>Araucaria columnaris</i>	Cook Island Pine	Exotic	1	<i>Araucaria cunninghamii</i>	Hoop Pine	Native	1	<i>Citharexylum spinosum</i>	Fiddlewood	Exotic	15	* <i>Eucalyptus robusta</i>	Swamp Mahogany	Native	1	* <i>Eucalyptus tindaliae</i>	Tindale's Stringybark	Native	1	<i>Ficus benjamina</i>	Benjamin Fig	Exotic	1	<i>Ficus macrophylla</i>	Moreton Bay Fig	Native	1	<b>Total Tree Loss</b>			<b>21</b>
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SEPP (Koala Habitat Protection) 2019	<p>The aim of this policy is to encourage conservation and management of native vegetation that provides habitat for koalas.</p> <p>At lodgement the proposal sought to remove all koala food trees from the development site.</p> <p>The applicant has amended the application so that four koala food trees are retained along the north-east boundary with two koala food trees being removed.</p> <p>Following a review of the Friends of the Koala sighting database and advice, the removal of these two trees is not considered to be a significant loss of habitat relied upon by koalas that infrequently occur in this area.</p> <p>The applicant has proposed No Build Zones as Tree Protection Zones (TPZ) of those trees to be retained that are located along the boundary of proposed lots 10, 11 and 12 to buffer the interface between the retained vegetation and future dwellings.</p> <p>Engineering services and bulk earth works plans have been amended to reflect the no-go-zone arrangement. These no-build-zones are analogous with the TPZ which is for the protection of the trees during construction only.</p>																																				

	<p>A condition is proposed to adequately reflect the intent of the No Build Zone as proposed by the applicant.</p> <p>Whilst compensatory measures is a consideration under this SEPP the matter of compensatory measures and offsets is described below in the DCP section of this assessment Chapter 3 – Urban Subdivisions.</p>
<p>SEPP – Remediation of Land</p>	<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 a consent authority 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 Officer provided the following comments:</p> <p><i>The properties are not impacted by a dip site or investigation area. They are not on the EPA's list of contaminated sites or contaminated land record, POEO licence register or notices.</i></p> <p><i>The properties are not on Council's Contaminated Land Record or Mapping Layer. This was unexpected given the rezoning Planning Proposal BSCPP 12/001 and contaminated land investigation mentioned in the provided SEE.</i></p> <p><i>A search of CM and BSCPP 12/001 (12/57068 - container 1324-1) for 160-190 North Creek Road, Lennox Head included a Contaminated Land Assessment prepared by EAL Consulting Services, dated 29 August 2012 (CM 12/39640). Council's assessing Environmental Health Officer concluded in the Memo dated 26 September 2012 (CM 12/39677):</i></p> <p><i>The Report has concluded that the soil samples of the investigation area are considered to be below the acceptable residential guidelines for land contamination and is suitable for the intended purpose of residential.</i></p> <p><i>No further land contamination assessment is required at this time, however if new information comes to light in the future and during the development application stage for the proposed subdivision of the subject land Council reserves the right to request further assessment of land contamination.</i></p> <p><i>This conclusion was reflected in the Council Report (12/57098) as outlined in the provided SEE.</i></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)**

Draft EPI/Planning Proposal	Comments/Is consistency with these provisions achieved?
Draft State Environmental Planning Policy – Remediation of Land	See previous comments in relation to SEPP 55.
Draft Amendment to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Not applicable
Draft Amendment to State Environmental Planning Policy (Short-term Rental Accommodation) 2019	Not applicable.
Draft (Housing Diversity) 2020	Not applicable.

**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"/>

Ballina Shire DCP 2012	Comments/Assessment of proposal against provisions of DCP
Chapter 2 General and Environmental Considerations.	<p><b>Part 2 Chapter Planning Objectives</b></p> <p><i>The overarching objectives of this Chapter are to:</i></p> <ol style="list-style-type: none"> <li><i>Ensure that applicable considerations are taken into account in the siting and design of development;</i></li> <li><i>Ensure that development is undertaken in a manner that is compatible with the physical and environmental characteristics of land;</i></li> <li><i>Ensure that development is undertaken with regard for applicable public health standards; and</i></li> <li><i>Minimise the potential for land use conflict.</i></li> </ol> <p>The objectives have been considered and the following sections of the DCP are addressed:</p>
	<p><b>3.1 Land Use Conflict</b></p> <p>The subject land is surrounded by R2 or R3 zoned land and as such this Clause is not applicable.</p>

	<p><b>3.4 Potentially Contaminated Land</b></p> <p>SEPP 55 – Remediation of Land has been addressed previously in this assessment. Council’s Environmental Health Officer is satisfied that the site is suitable for the proposed use.</p>
	<p><b>3.5 Land Slip/Geotechnical Hazard</b></p> <p>A portion of the subject land has been mapped as subject to slip (Dept of Mineral Resources) and as such this clause is applicable. The clause requires that a Geotechnical Assessment be submitted with the development application.</p> <p>The applicant has submitted a Request for Variation to this Development Control and requests that this requirement be deferred and conditioned prior to Construction Certificate. Council’s Development Engineer is satisfied with this request and the consent, should the application be approved, will be conditioned accordingly.</p>
	<p><b>3.6 Mosquito Management</b></p> <p>The subject land is mapped as “Elevated Land” and an area of “High Risk” on the BDCP Mosquito Management Map. No on-site detention ponds are proposed as part of the application. Any future consent for dwelling houses would be conditioned to ensure the buildings are appropriately screened.</p> <p>Council’s Environmental Health Officer is satisfied that the site is suitable for the proposed use.</p>
	<p><b>3.7 Waste Management</b></p> <p>No significant waste stream will be generated by the proposed subdivision works. Construction waste will be conditioned. Council’s Environmental Health Officer is satisfied that there is sufficient space for future dwelling houses to utilise Council’s waste disposal three bin system.</p>
	<p><b>3.9 Stormwater Management</b></p> <p>The site slopes towards the north western boundary and the south western boundary. An existing easement to drain water is located within the adjoining Fieldcrest Place properties along the north western boundary, and a drainage reserve exists between Lot 227 and Lot 228 and on the southern side between Lot 220 and Lot 221 in Fieldcrest Place.</p> <p>An Engineering Services Plan prepared by Newton Denny Chappelle dated March 2020 was submitted with the application. Stormwater management was also the subject of an RFI and raised as an issue in submissions. An extract of the RFI is provided:</p>



	<p><b>5) Stormwater</b></p> <p>It is understood that direct communications have been undertaken between Council's Engineer and Mr Chris Pickford regarding stormwater. As a result of these discussions, please provide confirmation of the following:</p> <ul style="list-style-type: none"> <li>• The % impervious used to model the site is 60-70% not 300m<sup>2</sup> of an 850m<sup>2</sup> lot as described in the statement of environmental effects. Whilst the stormwater guides may allow for on-lot detention in strata situations, the intent of this allowance is for infill development. In subdivisions of this type, it is a requirement of Council that the developer provides the necessary infrastructure and costs of such works are not deferred to future purchasers.</li> <li>• If the bypass flow from pit 10 to 11 remains unchanged by the development ie is the existing catchment not getting into the pit? The houses on the bottom side of the corner along Fieldcrest are vulnerable to increased flows and it would be preferable that those areas was not altered by the development's stormwater arrangement.</li> </ul> <p>Council's Development Engineer has provided the following comments in relation to stormwater management:</p> <p>A stormwater management plan has been provided which is considered to be generally acceptable (report by NDC Engineering Services report dated March 2020). In accordance with Council's Stormwater Management Guidelines for Development, an applicant may either provide onsite detention to control post-developed stormwater flows to pre-developed rates or augment Council's downstream network to convey stormwater without adverse effects to downstream properties.</p> <p>In this case the developer is proposing to augment the downstream network to convey the 1%AEP (100 year storm event) without detention. NDC have provided additional information on stormwater infrastructure in Fieldcrest Place and in particular, properties on the downslope side of the Fieldcrest cul-de-sac head demonstrating flows are constrained to the road reserve.</p> <p>A maximum depth of 0.134m in the kerb and gutter is modelled in the 1%AEP. A survey prior to the issue of the SWC will be required demonstrating there is adequate height in the kerb and gutter to contain the flow and if not remedial kerb and gutter works will be required.</p> <p>Stormwater quality is treated via the stormwater control pond in the EPIQ estate that has space treatment capacity.</p> <p>The consent will be conditioned to provide detailed design for stormwater management prior to issue of the Subdivision Works Certificate.</p>
	<p><b>3.10 Sediment and Erosion Control</b></p> <p>Earthworks are proposed and given the topography of the subject land sediment and erosion control measures will be required.</p> <p>The consent will be conditioned to ensure erosion and sediment control is implemented prior to and during construction.</p>
	<p><b>3.11 Provision of Services</b></p> <p>Proposed lots will be connected to all required services.</p> <p>See previous comments in the BLEP section of this assessment with regard to services.</p>

<p><b>Chapter 2A – Vegetation Management</b></p>	<p>The overarching objectives of this chapter are to protect the amenity of urban areas through preservation of significant trees and vegetation, enable gardening and landscaping on private land, provide assessment criteria that Council can apply when approval to remove vegetation is required and to conserve trees of ecological, heritage, aesthetic and cultural significance.</p> <p>The proposed development requires the removal of 21 trees and other native vegetation and Council’s Environmental Scientist provided the following comments in relation to Chapter 2A.</p> <p>Following an RFI, an updated Arboricultural Impact Assessment Report, dated 26 August 2020 (CM 20/64076) was provided.</p> <p>Council requested that the applicant consider the trees full mature growth and provide adequate protection zones to ensure that retained vegetation will not pose a risk to future dwellings (in accordance with DCP Chapter 3 Element F). These risks include:</p> <ul style="list-style-type: none"> <li>▪ Blocking solar access</li> <li>▪ Maturing tree and growing canopy becomes a risk to approved dwellings</li> <li>▪ Damage to approved dwellings by falling branches, leaves etc.</li> <li>▪ Perceived risk of large trees by future occupants.</li> </ul> <p>Further discussions between the applicant and Council resolved the issue and the consent will be conditioned to ensure No Build Zones be placed 15 m around the Norfolk Island Pine Trees.</p> <p>Conditions are proposed for Tree Protection Zones for neighbouring households along the southern boundary which is subject to fill and the service easement.</p> <p>The arborist report and subsequent plans indicate that trees # 3, 4, 5, 6, 7, 8 and 10 be retained in the development. The trees are described and summarised in the Updated Arboriculture Assessment as shown in <b>Plate 1</b> below.</p>
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Table 1. Tree Data.

Tree #	Name	Condition	Height m	DBH mm	Crown m	TPZ m	Comments
1	Swamp Mahogany <i>Eucalyptus robusta</i>	Good	21	800	14	9.6	Growing in the footprint of the proposed road
2	Hoop Pine <i>Araucaria cunninghamiana</i>	Good	22	750	12	9.0	Growing on the proposed road verge
3	Norfolk Island Pine <i>Araucaria heterophylla</i>	Good	31	1,190	11	14.3	Growing on the boundary of proposed Lot 11 and Lot 12
4	Norfolk Island Pine <i>Araucaria heterophylla</i>	Good	28	1,080	10	13	Growing on the boundary of proposed Lot 11 and Lot 12
5	Norfolk Island Pine <i>Araucaria heterophylla</i>	Good	30	1,120	10	13.4	Growing on the boundary of proposed Lot 10 and Lot 12
6	Sydney Blue Gum <i>Eucalyptus saligna</i>	Fair	18	650	13	7.8	Growing on the boundary of proposed Lot 10 and the adjoining property
7	Tallowood <i>Eucalyptus microcorys</i>	Fair	16	420	8	5.0	Growing on the boundary of proposed Lot 10 and the adjoining property
8	Swamp Mahogany <i>Eucalyptus robusta</i>	Fair	17	700	12	8.4	Growing on the boundary of proposed Lot 10 and the adjoining property
9	Cook Island Pine <i>Araucaria columnaris</i>	Good	19	490	5	5.9	Growing on the boundary of proposed Lot 10 and the adjoining property
10	Sydney Blue Gum <i>Eucalyptus saligna</i>	Good	19	670	16	8.0	Growing on the boundary of proposed Lot 10 and the adjoining property
11	Stringbark <i>Eucalyptus tindaliae</i>	Good	17	420	7	5.0	Growing on the boundary of proposed Lot 10 and the adjoining property

Table 2. Significance of Tree in the Landscape.

Tree #	Name	Condition	Vigour	Protected	Environmental value	Amenity value	Significance
1	Swamp Mahogany <i>Eucalyptus robusta</i>	Good	Good	Yes	High	Medium	High
2	Hoop Pine <i>Araucaria cunninghamiana</i>	Good	Good	Yes	High	Medium	High
3	Norfolk Island Pine <i>Araucaria heterophylla</i>	Good	Good	Yes	Medium	High	High
4	Norfolk Island Pine <i>Araucaria heterophylla</i>	Good	Good	Yes	Medium	High	High
5	Norfolk Island Pine <i>Araucaria heterophylla</i>	Good	Good	Yes	Medium	High	High
6	Sydney Blue Gum <i>Eucalyptus saligna</i>	Fair	Good	Yes	Medium	Medium	Moderate
7	Tallowood <i>Eucalyptus microcorys</i>	Fair	Good	Yes	High	Medium	Moderate
8	Swamp Mahogany <i>Eucalyptus robusta</i>	Fair	Good	Yes	High	Medium	Moderate
9	Cook Island Pine <i>Araucaria columnaris</i>	Good	Good	Yes	Medium	High	Moderate
10	Sydney Blue Gum <i>Eucalyptus saligna</i>	Good	Good	Yes	Medium	Medium	Moderate
11	Stringbark <i>Eucalyptus tindaliae</i>	Good	Good	Yes	Medium	Medium	Moderate

Plate 1. Trees # 3, 4, 5, 6, 7, 8 and 10 to be retained. Trees 1, 2, 9 & 11 to be removed - **Note** Other vegetation proposed for removal includes the row of Fiddlewoods, the Moreton Bay Fig, the Benjamin Fig and all other native vegetation which exists under the canopy and has not been considered in the updated arborist report.

The applicable *Australian Standard 2870-2011 Residential slabs and footings* advises distances of trees from residential slabs and footings depending on the reactivity of soils. These distances are determined using the mature height of the trees. For example:

	<ul style="list-style-type: none"> <li>▪ extremely reactive soils: setbacks equivalent to 1 ½ x mature height from a house</li> <li>▪ highly reactive soils: 1 x mature height from a house</li> <li>▪ moderately reactive soils: ¾ x mature height from a house</li> </ul> <p>It is likely that the soils in this area are moderately reactive and that the trees has considerable growth when observing other nearby Norfolk Island Pines</p> <p>Appendix B of <i>Australian Standard 2870-2011 Residential slabs and footings</i> indicates that to reduce - but not eliminate the possibility of damage – these distances should be observed.</p> <p>Many Norfolk Island Pines occur locally and offer visual amenity. Recent development consents (DA 2017/244) have adopted 15m setbacks to retain the trees by accounting for future growth as per <i>Australian Standard 2870-2011 Residential slabs and footings</i>.</p> <p>The response to Council’s RFI in respect to retained trees is summarised below:</p> <ul style="list-style-type: none"> <li>• The subdivision plan has been adjusted to provide for a relocation of the boundary between Lots 11 and 12. The new boundary provides most of Tree Protection Zones (TPZ) of the Norfolk Pines to be located on Lot 12 (with a 10% encroachment into the TPZ located on proposed Lot 11</li> <li>• A No Build Zone measured 15 m from the trunk of the Norfolk Island Pines will be incorporated where this No Build Zone intersects with any lot.</li> <li>• The arborist report suggests that any fencing within the TPZ should be constructed on pier footings, and should the application be approved, the consent will be conditioned to require fencing to occur prior as part of the subdivision works, prior to issue of any subdivision certificate.</li> </ul>
<p><b>Chapter 3 – Urban Subdivision</b></p>	<p>Chapter 3 provides controls for Minor Subdivision comprising 10 lots or less and Major Subdivision comprising more than 10 lots.</p> <p>3.2.3(iii) however states:</p> <p><i>A proponent may request Council to waive the requirement to prepare a master plan under (i) for less complex subdivision proposals. Where Council has agreed to a waiver, the provisions of Section 3.1 still apply.</i></p> <p>The applicant has requested a waiver for the following reasons:</p> <ul style="list-style-type: none"> <li>• <i>Given the topography and the existing subdivision pattern in the locality, there are limited options with respect to road access locations;</i></li> <li>• <i>The application proposes the subdivision of two existing allotments with a total area of only 16093.7m<sup>2</sup> located within an established urban context. As outlined in Section 2.2 the provision of an integrated subdivision layout with other properties in the locality is problematic; and</i></li> <li>• <i>The Pre-lodgement process with Council did not identify the requirement to complete the processes associated with ‘major’ subdivision.</i></li> </ul>

	<p>It is considered reasonable in these circumstances to waive the requirement for a master plan. The subdivision will be assessed against the controls in Section 3.1 of this Chapter of the DCP.</p> <p>Notwithstanding the above, should the application be approved, the consent will be conditioned to require the planting of suitable native street trees as per Section 3.2 Major Subdivision Requirements – Element C.</p>
	<p><b>Part 2 Chapter Planning Objectives</b></p> <p>The overarching objectives have been considered in relation to the proposal. The proposal is for a 12 lot Torrens Title subdivision of two existing lots which are zoned R3 Medium Density Residential under the BLEP 2012.</p>
	<p><b>3.1.2 Minor Subdivision Control Elements</b></p>
	<p><b>A. Element – Modification of Landform</b></p> <p>i. The application is not supported by a geotechnical report. The applicant has submitted a variation to this control requesting that the requirement for a geotechnical assessment be conditioned to be required prior to Construction Certificate. The applicant provided the following comments:</p> <p><b>Geotechnical assessment required</b>  <b>DCP Variation Sought:</b> Morand [1994] indicates that the site is located on the Bangalow Soil Landscape. This subject site is of flatter relief than the typical Morand description, with site gradient of between 2-10% across the site. Furthermore, site inspections have failed to identify any areas of mass movement on the property. Given the gently sloping nature of the site and the nature of the modifications to the natural landform to accommodate the subdivision, this application proposes that geotechnical assessment required by Council's DCP be deferred to Construction Certificate stage. This approach is considered reasonable, particularly given the infill nature of the subdivision. A request to vary the DCP is provided at Attachment 5.</p> <p>Council's Development Engineer is satisfied with this request and the consent, should it be approved, will be conditioned accordingly.</p> <p>ii. The site generally slopes away from the existing dwelling towards the western corner at between 2-10%. None of the proposed lots will have a slope greater than 15%.</p> <p>iii. None of the proposed lots will have a slope of greater than 20%. The proposed lots are capable of supporting a building envelope of 10m x 15m. A plan was submitted showing indicative building envelopes for all lots (CM 20/64078).</p> <p>iv. The proposed subdivision will require site modification to create building pads. Proposed lots 7, 8 and 9 require a single cut/fill of between 1.0m – 1.4m. A cut of 1.9m will be required on the northern side of the cul-de-sac to ensure a compliant road and verge. It is proposed to provide a retaining wall which will be located inside Lot 12. Retaining walls will be located on Lots 1 and 9 up to a maximum of 1.3m to maintain overland flow paths and to provide compliant access. All retaining walls will be located on private land.</p> <p>v. The site is relatively flat. All vehicular access to proposed allotments can achieve the desired maximum gradient of 1:6.</p>

	<p>It is considered that the proposed subdivision has been designed to fit the topography of the land and there will be limited need for re-contouring of land post subdivision. It is therefore considered compliant with this control element.</p>
	<p><b>B. Element – Road Layout</b></p> <p><b>i. New Roads</b>  New roads are to be designed to provide a clear and legible hierarchy, provide a grid pattern road network where practical, minimise the use of cul-de-sacs, provide for use of public transport, pedestrian and cycle movement, provide for perimeter roads adjacent to high conservation land and provide legal and practical access to lots.</p> <p>Access to the proposed subdivision is via a new cul-de-sac off North Creek Road adjacent to the common property boundary between Lot 4 and Lot 6. While this is a departure from this development control, previous discussion has been provided regarding road access in the Rezoning section of this assessment. The application is supported by an Engineering Services Report prepared by Newton Denny Chapelle dated March 2020 which includes a traffic assessment of southbound traffic on North Creek Road and consideration of right hand turning movements into the proposed subdivision. The existing external road network is considered to be of a suitable standard to support the 12 lot residential subdivision.</p> <p>A cul-de-sac as designed is considered acceptable in these circumstances and supported by Council’s Development Engineer.</p> <p><b>ii. Land slope</b>  Where land slope is 6% or greater grade, road alignment is to be perpendicular to the slope.</p> <p>The land slope is not greater than 6%, therefore not applicable.</p> <p><b>iii. Road design</b>  All new roads are to be designed in accordance with the Northern Rivers Design Manual (NRDM).</p> <p>Roads of the proposed subdivision have been designed in accordance with the NRDM with respect to road widths, alignments and formation.</p> <p>Council’s Development Engineer is satisfied with the road design as proposed.</p>
	<p><b>Element – Solar Access</b></p> <p>i. The street and lot layout shall be designed to optimise solar access for future dwellings. To achieve this, streets should generally run north/south and east/west pattern, lots should be regular (rectangular) in shape, lots to be orientated to provide a long axis that maximises solar access. Highest densities should be on north facing land, close to commercial centres and gently sloping. Lowest densities should be on south facing land, remote to commercial centres and more steeply sloping allotments.</p> <p>The proposed 12 lot subdivision is accessed via a cul-de-sac which runs north-west off North Creek Road. Indicative building envelopes were nominated on irregularly shaped lots. The design and orientation of future dwelling houses is not known at this stage. Solar access to Lots 10 and 11 was to be impacted by the retention of trees, however further minor amendments to the configuration of Lots 9, 10 and 11 demonstrating more substantial area for building envelopes which are able to gain</p>

	sufficient solar access.
	<p><b>Element – Engineering Design and Construction Requirements</b></p> <p>i. Development must meet the requirements of Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual.</p> <p>The proposed subdivision has been designed in accordance with the Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual. The relevant matters under these manuals will be considered when the Construction Certificate is assessed. The consent, should the application be approved, will be conditioned accordingly.</p>
	<p><b>Element – Services and Infrastructure</b></p> <p><b>Control – Service Infrastructure Internal to the Development Site</b></p> <p>i. Subdivision to be fully serviced. The proposed subdivision will be connected to water, sewer, roads, drainage, underground electricity and communication services. Stage 1 will require sewer connection for the existing dwelling house to be extended.</p> <p>ii. Lots with frontage only to a lane, infrastructure servicing must be available to land frontage. Not applicable. No lane in proposed subdivision.</p> <p>iii. Where waste collection or postal delivery are not provided to lane. Not applicable. No lane in proposed subdivision.</p> <p>iv. All service infrastructure is to be designed and constructed in accordance with the Northern Rivers Local Government Development and Design Manual.</p> <p>The proposed subdivision has been designed in accordance with the Northern Rivers Local Government Design and Development Manual and the Northern Rivers Local Government Construction Manual. The relevant matters under these manuals will be considered when the Construction Certificate is assessed. The consent, should the application be approved, will be conditioned accordingly.</p> <p>v. Service infrastructure internal to the development site shall be provided by the developer at no cost to Council.</p> <p>All internal service infrastructure shall be provided by the developer. The consent, should the application be approved, will be conditioned accordingly.</p> <p>Refer to previous sections in this assessment regarding the provision of services including Clause 7.7 of BLEP 2012 and 3.11 and 3.19 of Chapter 2 of DCP 2012.</p> <p><b>Control – Dual Reticulation Water Supply</b></p> <p>vi. Dual-reticulation water supply for non-potable water is to be provided.</p> <p>vii. A Restriction as to User shall be incorporated on the Certificate of Title for all allotments which require all dwellings and buildings with plumbing to make provision for non-potable water service plumbing and facilities.</p>



	<p>The proposed subdivision has been designed to provide dual water reticulation. The consent, should the application be approved, will be conditioned to ensure that Restrictions as to User are incorporated on the Certificate of Title of all allotments requiring all dwellings make provision for non-potable water service plumbing and facilities.</p> <p><b>Control – Service Infrastructure External to the Development Site</b></p> <p>viii. Sewerage mains and pump stations are to be constructed to convey sewage from the site to Council's network.</p> <p>The gravity sewer will be extended from a stub at the rear of 180 North Creek Road into the subdivision.</p> <p>ix. Development is to connect to Council's drinking water distribution network. Recycled water supply mains infrastructure will be provided to the site.</p> <p>The proposed subdivision provides for connecting infrastructure to Council's reticulated drinking water distribution network and to the dual water reticulated network. The consent, should the application be approved, will be conditioned accordingly.</p>																																												
	<p><b>Element – Retention of Significant Vegetation</b></p> <p>The objective of this element is to retain trees of high ecological value or which contribute to the amenity of the locality, to ensure significant trees are protected during construction, to ensure retained vegetation does not pose a risk to future dwelling houses and that subdivisions are designed with regard for site vegetation.</p> <p>While none of the trees on the subject land are listed in Council's Significant Tree Register, Council however indicated its preference to retain three large Norfolk Pines, located on proposed Lot 12, during the rezoning process. The subdivision has been designed to accommodate their retention.</p> <p>The application is supported by a Biodiversity Assessment Report prepared by Geolink dated 25 February 2020 and an Arboricultural Impact Assessment prepared by Northern Tree Care dated 24 February 2020.</p> <p>The application originally proposed to clear a total of 24 trees as per Table 3.1 below:</p> <p><b>Table 3.1 Tree Clearing Required</b></p> <table border="1"> <thead> <tr> <th>Scientific Name</th> <th>Common Name</th> <th>Status</th> <th>Quantity</th> </tr> </thead> <tbody> <tr> <td><i>Araucaria columnaris</i></td> <td>Cook Island Pine</td> <td>Exotic</td> <td>1</td> </tr> <tr> <td><i>Araucaria cunninghamii</i></td> <td>Hoop Pine</td> <td>Native</td> <td>1</td> </tr> <tr> <td><i>Citharexylum spinosum</i></td> <td>Fiddlewood</td> <td>Exotic</td> <td>15</td> </tr> <tr> <td><i>Eucalyptus microcorys</i></td> <td>Tallowwood</td> <td>Native</td> <td>1</td> </tr> <tr> <td><i>Eucalyptus robusta</i></td> <td>Swamp Mahogany</td> <td>Native</td> <td>1</td> </tr> <tr> <td><i>Eucalyptus saligna</i></td> <td>Sydney Blue Gum</td> <td>Native</td> <td>2</td> </tr> <tr> <td><i>Eucalyptus tindaliae</i></td> <td>Tindale's Stringybark</td> <td>Native</td> <td>1</td> </tr> <tr> <td><i>Ficus benjamina</i></td> <td>Benjamin Fig</td> <td>Exotic</td> <td>1</td> </tr> <tr> <td><i>Ficus macrophylla</i></td> <td>Moreton Bay Fig</td> <td>Native</td> <td>1</td> </tr> <tr> <td colspan="3" style="text-align: right;"><b>Total Tree Loss</b></td> <td><b>24</b></td> </tr> </tbody> </table>	Scientific Name	Common Name	Status	Quantity	<i>Araucaria columnaris</i>	Cook Island Pine	Exotic	1	<i>Araucaria cunninghamii</i>	Hoop Pine	Native	1	<i>Citharexylum spinosum</i>	Fiddlewood	Exotic	15	<i>Eucalyptus microcorys</i>	Tallowwood	Native	1	<i>Eucalyptus robusta</i>	Swamp Mahogany	Native	1	<i>Eucalyptus saligna</i>	Sydney Blue Gum	Native	2	<i>Eucalyptus tindaliae</i>	Tindale's Stringybark	Native	1	<i>Ficus benjamina</i>	Benjamin Fig	Exotic	1	<i>Ficus macrophylla</i>	Moreton Bay Fig	Native	1	<b>Total Tree Loss</b>			<b>24</b>
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Following an RFI the Aborigicultural Impact Assessment was updated. See revision dated 26 August 2020 (CM 20/64076) and the Biodiversity Assessment Report was updated dated 28 August 2020 (CM 20/64079). Amended plans were also submitted (CM 20/64078) and a revised tree clearing schedule is provided below. The revised plans retain a further three koala food trees i.e. two Sydney Blue Gums (*Eucalyptus saligna*) and one Tallowwood (*Eucalyptus micrcorys*)

**Table 1 Revised Tree Clearing Required**

<i>Scientific Name</i>	<i>Common Name</i>	<i>Status</i>	<i>Quantity</i>
<i>Araucaria columnaris</i>	Cook Island Pine	Exotic	1
<i>Araucaria cunninghamii</i>	Hoop Pine	Native	1
<i>Citharexylum spinosum</i>	Fiddlewood	Exotic	15
* <i>Eucalyptus robusta</i>	Swamp Mahogany	Native	1
* <i>Eucalyptus tindaliae</i>	Tindale's Stringybark	Native	1
<i>Ficus benjamina</i>	Benjamin Fig	Exotic	1
<i>Ficus macrophylla</i>	Moreton Bay Fig	Native	1
<b>Total Tree Loss</b>			<b>21</b>

\*Koala feed trees

The revised Vegetation Plan is provided below:

	<p><b>LEGEND</b></p> <ul style="list-style-type: none"> <li>The site</li> <li>Proposed layout</li> <li>Cadastre (surveyed)</li> <li>Area of Fiddlewood trees</li> <li>Benjamin Fig</li> <li>Cook Island Pine</li> <li>Forest Red Gum</li> <li>Gubia</li> <li>Hood Pine</li> <li>Moreton Bay Fig</li> <li>Norfolk Island Pine</li> <li>Stag</li> <li>Swamp Mahogany</li> <li>Sydney Blue Gum</li> <li>Tallowood</li> <li>Tindale's Stringybark</li> <li>Tuckeroo</li> </ul> <p>Vegetation Plan - Illustration 3.1</p> <p>Biodiversity Assessment: 180 &amp; 190 North Creek Road, Lennox Head 3443-1011</p> <p>Multimedia shown in the Submission Summary Drawn by AS - Checked by RB - Reviewed by JG Source of Data: GDA 1994 MGA Zone 56 Date: 28/09/2020 10:53:23 Revision: 3</p>
	<p>Further discussions were held with the applicant and proponent on 3 December 2020. Following these discussions amended plans were submitted with slight reconfiguration of Lots 9, 10 and 11 which will improve solar access to future dwellings on proposed Lots 10 and 11 and reduce impact on the trees which are being retained.</p>
	<p>Council's Environmental Scientist provided the following comments:</p> <p><b>Control</b></p> <p>i. Environmentally and culturally significant vegetation is to be retained where practicable.</p>

	<p>The subdivision seeks to remove vegetation for infill development opportunity.</p> <p>The applicant has amended the proposal in order to retain a number of trees along the northern boundary. The subdivision layout was amended to move the boundary away from the Norfolk Island Pines. To help avoid conflicts with future dwellings, setbacks are proposed from the retained trees.</p> <p>Plate 1 above (see Chapter 2A section of this assessment) shows that the updated arborist report recognises a number of these trees as of High significance (noting that the Moreton Bay Fig and others were not assessed).</p> <p>No alternative layouts were supplied to demonstrate the practicality of retaining the Moreton Bay Fig and other significant through layout design. The RFI response stated:</p> <p><i>"In order to keep this tree (and applying the DCP 20m buffer), at least two (possibly three) lots would be lost from the subdivision plans. This would result in a substantial financial loss to both the current owner (in that the purchase option would need to be renegotiated) and our client.</i></p> <p><i>Both of these parties are strongly of the view that it is unreasonable of Council to require the retention of the planted tree in this circumstance. As such, no amendment is proposed to this aspect of the subdivision design."</i></p> <p>The response for removal of other vegetation like the Moreton Bay Fig, Hoop Pine, large eucalyptus and the row of Fiddlewood relates to practicable lot yield rather than a design that retains site vegetation specifically.</p> <p>The applicant has amended the application to retain a number of trees along the northern boundary however vegetation clearing proposed has been calculated as 0.149 ha and includes native rainforest understory. Should the application be approved, the consent will be condition giving the applicant the option to nominate a native habitat offset through local rehabilitation/ reconstruction works or alternatively, Option 2 of this condition represents an opportunity to carry out these works in nearby reserves.</p> <p>As the applicant proposed to retain the Norfolk Island Pines, practical setbacks have been adopted and reflected through conditions.</p> <p><b>Control</b></p> <p>ii. Lots where trees are to be retained are to nominate a "no build zone" around the trees proposed for retention. Building envelopes of 10m x 15m are to be nominated on these lots. A Safe Useful Life Expectancy (SULE) assessment nominating the drip line and root spread may also be required.</p> <p>The Tree Retention Value assessment given in the Updated Arborist Report intended to fulfill the function of the Safe Useful Life Expectancy (SULE) system. Plate 1 (above in Chapter 2A section of this assessment) shows that trees that were assessed, were given a significance value of either high or moderate significance.</p> <p>The proposal indicates that the Tree Protection Zones for retained trees along the northern boundary and the Norfolk Island Pines are to be maintained as "No Build Zones".</p>
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	<p>Some trees are located either along the existing boundary and the proposed “No Build Zones” were formulated based off the current size of the trees as opposed to the mature size. As such, there is no long term guarantee of their retention as dwellings are approved adjacent to No Build Zones and the trees continue to mature.</p> <p>An additional condition is proposed to protect trees growing on neighbouring lots, in particular lots in the south-west portion of the development site.</p> <p><b><u>Ecological and biodiversity considerations</u></b></p> <ul style="list-style-type: none"> <li>• Ecological assessments indicate that the majority of large, existing trees are planted. The Moreton Bay Fig was planted by the owner in the 1980s.</li> <li>• Nevertheless, Moreton Bay Figs and other trees identified on the site are locally occurring native species which have inherent ecological value including:             <ul style="list-style-type: none"> <li>- Stepping stone - foraging and dispersal habitat for protected fauna and threatened entities</li> <li>- Native understory representative of early regrowth littoral rainforest</li> <li>- Readily observable important habitat features like nests and hollows</li> </ul> </li> </ul> <p>It is important to recognise that Section 5A of the Local Land Services Act 2013 defines the meaning of “native vegetation” and “clearing of native vegetation” in NSW. There is no scope in this definition to disregard planted native vegetation as a non-native species.</p> <p>As such, the Moreton Bay Fig can only be considered as a large, established native tree that is 31-40 years old and its removal from the landscape must be adequately considered as it relates to urban subdivisions and for development applications. This tree as well as other native species are proposed for removal and are further considered below.</p>																			
	<p><b>Element – Minimum Lot Size and Shape</b></p> <p>The objective of this element intends to provide lots of a shape and size suitable for their future use and which encourage a range of housing and lot sizes.</p> <p>i. Subdivision of land is to meet the minimum lot sizes and specifications as per Table 3.1</p> <table border="1" data-bbox="539 1391 1382 1740"> <thead> <tr> <th>Proposed Lot</th> <th>Proposed Lot Size</th> <th>Min Lot Width</th> <th>Requirements</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>825m<sup>2</sup></td> <td>27.2m</td> <td rowspan="2">All lots have an area &gt;550m<sup>2</sup>. All lots are able to contain a building envelope of 10m x 15m.</td> </tr> <tr> <td>2</td> <td>978m<sup>2</sup></td> <td>5m</td> </tr> <tr> <td>3</td> <td>851m<sup>2</sup></td> <td>16.5m</td> <td>Regular shaped lots have a minimum effective width of &gt;13m.</td> </tr> <tr> <td>4</td> <td>842m<sup>2</sup></td> <td>16.894m</td> <td>Irregular shaped lots have a minimum of 5m frontage to the cul-de-sac.</td> </tr> </tbody> </table>	Proposed Lot	Proposed Lot Size	Min Lot Width	Requirements	1	825m <sup>2</sup>	27.2m	All lots have an area >550m <sup>2</sup> . All lots are able to contain a building envelope of 10m x 15m.	2	978m <sup>2</sup>	5m	3	851m <sup>2</sup>	16.5m	Regular shaped lots have a minimum effective width of >13m.	4	842m <sup>2</sup>	16.894m	Irregular shaped lots have a minimum of 5m frontage to the cul-de-sac.
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4	842m <sup>2</sup>	16.894m	Irregular shaped lots have a minimum of 5m frontage to the cul-de-sac.																	

	5	842m <sup>2</sup>	13.655m	Lot 12 to contain existing dwelling house
	6	826m <sup>2</sup>	7.4m	
	7	1143m <sup>2</sup>	5m	
	8	1151m <sup>2</sup>	7.824m	
	9	715m <sup>2</sup>	5m	
	10	10478m <sup>2</sup>	5m	
	11	788m <sup>2</sup>	25.2m	
	12	4139m <sup>2</sup>	44m (approx.)	
<p>It is considered that the proposed development is compliant with this control.</p> <p>ii. Subdivision of land involving the creation of lots 300m<sup>2</sup> - 450m<sup>2</sup> lots.</p> <p>Not applicable, all proposed lots are above 450m<sup>2</sup>.</p>				
<p><b>Control – Battle-axe lots</b>                  Lots 2, 7 and 10 are effectively battle-axe lots.</p> <p>i. Minimum width of access corridor to be 4m with a minimum carriageway width of 3m .</p> <p>Compliant. The minimum width of the access corridor is 5m on each battle-axe lot.</p> <p>ii. No more than two Torrens Title battle-axe lots to be served by an access corridor.</p> <p>Compliant. Only one lot is served by each access corridor.</p> <p>iii. The maximum length of the access corridor is 50m.</p> <p>Not applicable. No access corridor is &gt;50m.</p> <p>iv. Battle-axe lots must be design so that a vehicle can enter and exit the site in a forward direction.</p> <p>Compliant. Building envelopes of 10m x 15m have been indicated for each battle-axe lot.</p> <p>It is considered that the proposed development is compliant with this control.</p>				

**4.15 (1) (a) (iii) – 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
	Not 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):	Not applicable.



<p>If the DA is only for a change of use or the use of an existing building as a place of public entertainment, <b>is the fire protection and structural capacity of the building appropriate to the building's proposed use?</b></p>	<p>Not applicable.</p>
<p>If the DA involves the rebuilding/ alteration/enlargement/extension of an existing building, <b>is the existing building required to be brought into total or partial conformity with the Building Code of Australia (BCA)?</b></p>	<p>Not applicable.</p>
<p>If the DA is for the erection of a temporary structure, <b>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?</b></p>	<p>Not applicable.</p>

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

	<p><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></p>
<p><b>Urban and Building Design</b></p>	
<p>i) Context and Settings</p>	<p>The subject land is located within the village of Lennox Head and is described as Lot 4 DP 241585, Lot 6 DP 598177, No. 180 and No. 190 North Creek Road Lennox Head. The subject land was rezoned in 2012 by Planning Proposal BSCPP12/001 to R3 Medium Density Residential zoned land for the purpose of infill development. The proposed subdivision therefore fits within the strategic planning framework and is generally consistent with the character of development in this part of Lennox Head. The proposed application will facilitate the release of vacant land within the village.</p> <p>Vegetation on the subject land, particularly the Norfolk Island Pines, are considered a feature of the landscape, and these trees were identified for retention at the rezoning stage. Also existing on Lot 6 is a Moreton Bay Fig tree which is proposed for removal. Lot 4 also contains a Benjamin Fig (non-native) proposed for removal. Plans were amended during the assessment of this application which reduced the trees to be removed and provide greater protection, in the form of No Build Zones around trees to be retained. In total, the amended proposal identifies 21 trees for removal.</p>



	<p>The subject land has a minimum lot size of 600m<sup>2</sup> and all the proposed lots are above that size, ranging from 715m<sup>2</sup> to 1151m<sup>2</sup>, with the lot containing the existing dwelling house and Norfolk Island Pine trees being 4139m<sup>2</sup>.</p> <p>The locality is characterised by single and double storey dwelling houses. Adjoining lots to the south along Montwood Drive have an average size of 1066m<sup>2</sup> and lots to the north west along Fieldcrest Place have an average size of 972m<sup>2</sup>. The proposed lots have an average size of 911.27m<sup>2</sup> (excluding the lot containing the existing dwelling). The development as proposed is therefore considered to be consistent with the character of the surrounding locality.</p>
ii) Site Design and Internal Design	<p>The proposed design includes road access to all lots (apart from Lot 12) via a cul-de-sac off North Creek Road. Access to the existing dwelling house on Lot 12 will remain. The subject lots comply with the relevant standards in regard to urban Torrens Title Subdivision. All lots are over the minimum required lot size of 600m<sup>2</sup>. Access corridors for battle-axe lots are compliant with the minimum width of 4m and compliant with the access corridor maximum allowable length of 50m.</p> <p>Given the amended plans have provided No Build Zones and larger setbacks to retained vegetation, it is considered that the size, shape and design of the proposed lots have considered the site attributes and environmental constraints in the design.</p>
iii) Ecologically Sustainable Building Design	<p>The proposed development is for subdivision only, so therefore not applicable.</p>
iv) Access, Transport and Traffic	<p>The proposed development has one exit/entry point onto North Creek Road from the cul-de-sac, along with the existing exit/entry of the existing dwelling house. The external road network is considered suitable for the proposed subdivision and the North Creek Road south bound lane is 6.3m wide which allows through traffic to slip past a right hand turning vehicle. While the intersection is located near to the Palisade Way intersection there is no minimum intersection offset and sight distances are considered to be in accordance with the relevant Austroad Guides. Council's Development Engineer has raised no objection to the proposed design.</p> <p>A footpath is proposed on the southern side of the cul-de-sac and along the North Creek frontage of Lots 1 and 2 to connect with the bus stop.</p>

v) Public Domain	<p>Pedestrian linkages are proposed by the provision of a footpath along the southern side of the proposed cul-de-sac and along the North Creek road frontage of Lots 1 and 2 to connect with the bus stop at the southern boundary of the subject land. It is proposed to provide a pedestrian refuge in North Creek Road adjacent to the bus stop to provide further linkage to the footpath which extends on the eastern side of North Creek Road.</p> <p>No public open spaces are provided within the development.</p>
vi) Utilities	<p>Council's Development Engineer is satisfied that the proposed development can be suitably serviced by water supply, sewer, dual water and should the application be approved, the consent will be conditioned accordingly.</p>
vii) Heritage	<p>No issues have been raised in relation to Aboriginal or items of historical significance.</p>
viii) Construction	<p>The surrounding and adjoining residences may be impacted from noise, dust, vibration during construction of the proposed subdivision. Conditions will be imposed on the consent, should an approval be issued, to ensure potential impacts are mitigated.</p>
<b>Environmental Impacts</b>	
ix) Other Land Resources	<p>The subject land is zoned as R3 Medium Density Residential and is considered suitable for infill development. No further issues.</p>
x) Water	<p>Refer to previous comments in this assessment regarding management of stormwater.</p> <p>Low water pressure in the locality has been raised as an issue in submissions. Council's Water Engineer identified that potable water is in the reduced pressure zone and issues have been experienced in the locality. The consent, should it the application be approved, will be conditioned to ensure design is suitable prior to issue of a Construction Certificate.</p>
xi) Soils	<p>Refer to previous comments in relation to earthworks in this assessment. The consent, should the application be approved, will be conditioned to ensure sediment erosion control measures are installed prior to commencement of construction of the proposed subdivision.</p>
xii) Air and Microclimate	<p>Air quality may be impacted during construction due to dust. The consent, should the application be approved, will be conditioned to ensure mitigation measures are in place.</p>

xiii) Flora and Fauna	<p>The proposed development requires the removal of 21 trees which provide habitat. The consent will be conditioned to provide offsets for the native vegetation that is to be removed. No Build Zones in proposed Lots 10, 11 and 12 are provided to protect retained vegetation.</p> <p>See previous comments in the SEPP and DCP sections of this report.</p>
xiv) Waste	<p><u>Construction Waste</u> The consent, should the application be approved, will be conditioned to ensure a Construction Environmental Management Plan (CEMP) is submitted which addresses construction waste including fill disposal.</p> <p><u>Operational Waste</u> Council's Environmental Health Officer is satisfied that there is adequate street frontage for future dwelling houses to utilise Council's two bin collection system.</p>
xv) Energy	<p>The design and orientation of future dwelling houses does not form part of this application, however indicative building envelopes have been provided for irregularly shaped lots. Solar access to future dwelling houses on proposed Lots 10 and 11 was likely to be impacted by the retained vegetation, however minor reconfiguration of the effected lots will minimise impact on solar access from retained vegetation.</p>
<b>Hazards</b>	
xvi) Noise and Vibration	<p>Noise and vibration will likely be experienced during construction. The consent, should the application be approved, will be conditioned to minimise potential impacts.</p> <p>Council's Environmental Health Officer considered the likely impacts of traffic noise. The estimated average daily traffic volume (ADTV) of North Creek Road was estimated to be 2359 in 2014, 4863 in 2036 and 9885 in 2036 if the bridge between Ballina and North Creek Road Lennox is constructed. A noise impact assessment was not considered necessary given the ADTV. See further discussion in the Council report.</p>
xvii) Natural Hazards	<p>A Geotechnical Assessment report was not submitted with the development application and a request to vary this control was submitted. It is considered acceptable and the consent, should the application be approved, will require <b>a report</b> prior to the issue of a Construction Certificate.</p>

xviii) Technological Hazards	The land is not contaminated and no remediation is required. The land is not bushfire prone. No further issues raised.
xix) Safety, Security and Crime Prevention (CPTED)	The proposed design is considered suitable as future dwelling houses will likely have suitable passive surveillance of the street network including the cul-de-sac and North Creek Road.
<b>Social and Economic Impacts</b>	
xx) Social Impacts in the Locality	<p>The proposed development facilitates the release of vacant building allotments within an area of the village which has been zoned R3 Medium Density since 2012 and it is considered that the subdivision will result in positive social benefits to the wider community.</p> <p>Eight submissions were received from residents who raised amenity issues and devaluation of adjoining properties. See further discussion in the Council report regarding issues raised.</p> <p>Despite issues raised in the submissions, the proposed development is expected to have a positive social impact in the locality.</p>
xxi) Economic Impact in the Locality	It is considered that the proposed development provides for vacant land suitable for future dwelling houses to be built within an area zoned R3 Medium Density Residential. Positive economic benefits will result from construction of the subdivision and construction of future dwelling houses.
<b>Cumulative Impacts</b>	
xxii) Cumulative Impacts	<p>It is considered that, as a result of the vegetation removal, there is the potential for negative cumulative impacts to occur as further habitat is reduced. It is acknowledged that future land owners may wish to remove retained vegetation and protective measures in the form of No Build Zones and Tree Protection Zones will be implemented to provide further protection.</p> <p>Notwithstanding this, the land has been zoned for residential development and the proposed subdivision is considered a suitable use of the subject land.</p>

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

	<b>Comments</b>
i) Does the proposal fit in the locality?	The proposal is generally consistent with the objectives of the BLEP 2012.

	<p>It is considered that the proposed subdivision does fit in the locality, given that the subject land is zoned R3 and lots are of a size similar to surrounding residential lots. All utilities and services are available to the site and are considered adequate to service the proposed development. The surrounding road network is suitable to service the proposed development.</p>
<p>ii) Are the site attributes conducive to development?</p>	<p>Site attributes critical to the site and impacted by the development is the existing vegetation. Three large Norfolk Island Pines recognised in the rezoning process as important are to be retained. However, the proposed development requires removal of 21 trees, including a Moreton Bay Fig, a Hoop Pine, a Swamp Mahogany and a Tindale's Stringybark as well as 17 exotic tree species and smaller native plants that form the understorey of existing vegetation.</p> <p>None of the trees on the subject land are listed in Council's Significant Tree Register.</p> <p>The application is supported by a Biodiversity Assessment report (Geolink dated 25 February 2020) which concludes that no threatened flora species were recorded at the site, no threatened ecological communities occur at the site and no significant habitat for threatened fauna occurs at the site. An updated report was received following an RFI and this report dated 28 August 2020 (CM 20/64079), considered SEPP 44 – Koala Habitat Protection, a threshold test for entry in the Biodiversity Offsets Scheme and a Test of Significance for the Koala. The report concludes that only two Koala feed trees are proposed for removal and it is unlikely that the local population would be place as significant risk of extinction as a result of the proposal.</p> <p>An Arboricultural Impact Assessment Report (Northern Tree Care dated 24 February 2020) also supported the application. An updated report was received following an RFI and this report dated 26 August 2020 (CM 20/64076), considered the tree identified as those most likely to impact on the building envelopes of the proposed lots, in particular those trees growing on the western boundary of proposed Lot 12 (Norfolk Island Pines) and on the northern boundary of proposed Lot 10.</p> <p>During the assessment of this application the applicant amended the plans to reduce the number of trees to be removed (from 24 to 21) and provided No Build Zones to provide further protection for the retained vegetation. Further minor configuration of Lots 9, 10 and 11 have provided greater protection of retained vegetation.</p>

	<p>Council's Environmental Scientist has assessed the application and provided conditions to offset that vegetation removed. See previous discussion in the DCP section of this report.</p> <p>Having considered the proposal, and the conditions imposed, the attributes of the site are considered to be conducive of the development, particularly as the amended plans have addressed the issues raised in the RFI, and further discussions, with regard to vegetation.</p>
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**4.15 (1) (d) Any submission made in accordance with this Act or the Regulations?**

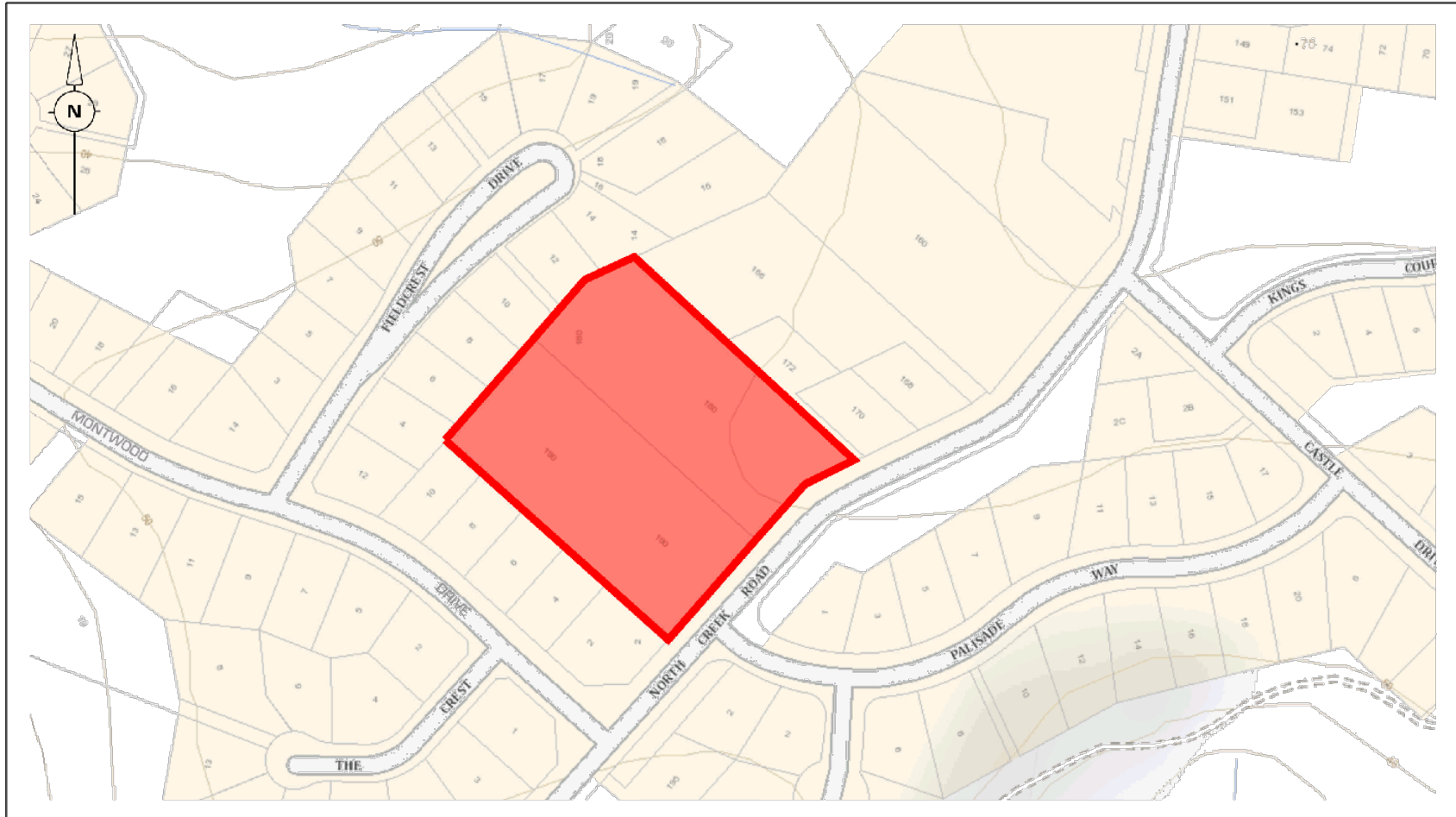
Is advertising required because the development is designated or "advertised" development?	No
If YES, how many submissions were received?	N/A
Is advertising required in accordance with established Council policy and practice?	Yes
If YES, how many submissions were received?	Eight

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

Public Authority Submissions:	<b>N/A</b>
Public Submissions:	<p>Thirty seven notifications sent to adjoining owners and occupiers on 4 June 2020. Eight submissions were received objecting to the proposed development. The issues identified in submissions are outlined below.</p> <p>Refer to Council for further discussion regarding issues raised in submissions.</p>

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

Federal, State & Local Government interests and Community interests	It is considered that the proposed subdivision is in the interests of Federal, State and Local Government. While eight submissions were received from the community, it is acknowledged that the subject lands have been rezoned R3 Medium Density Residential since 2012 and it is considered suitable for infill development. It is therefore considered to be in the community interests.
Section 64 Contributions and Section 7.11 Contributions	Contributions of \$181,204.20 are payable under Section 64 and 7.11.



**LEGEND:**

 **SITE BOUNDARY**

**SOURCE PLAN:** [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au) - accessed 24.02.20

*k:\jobs\2020\200021 - justice fox property group\planning\planning plans\stdc plans\std files\20021 - justice fox property group rev c.dwg - plan 1 - location*

  
**Newton Denny Chapelle**  
 Surveyors Planners Engineers  
 Email: [office@newtondennychapelle.com.au](mailto:office@newtondennychapelle.com.au)  
 LISMORE 31 Carrington St. Lismore 2480 PH: 0622 1011  
 ABN: 88 220 045 469

**PLAN 1 - LOCATION**  
**CLIENT:** JUSTICE FOX PROPERTY GROUP  
**LOCATION:**  
 LOT 4 DP241585 & LOT 6 DP598177  
 180 & 190 NORTH CREEK ROAD  
 LENNOX HEAD NSW

**DATE:** 24.02.20  
**SCALE:** NTS

**REF:** 200021  
**DRAWN:** bk





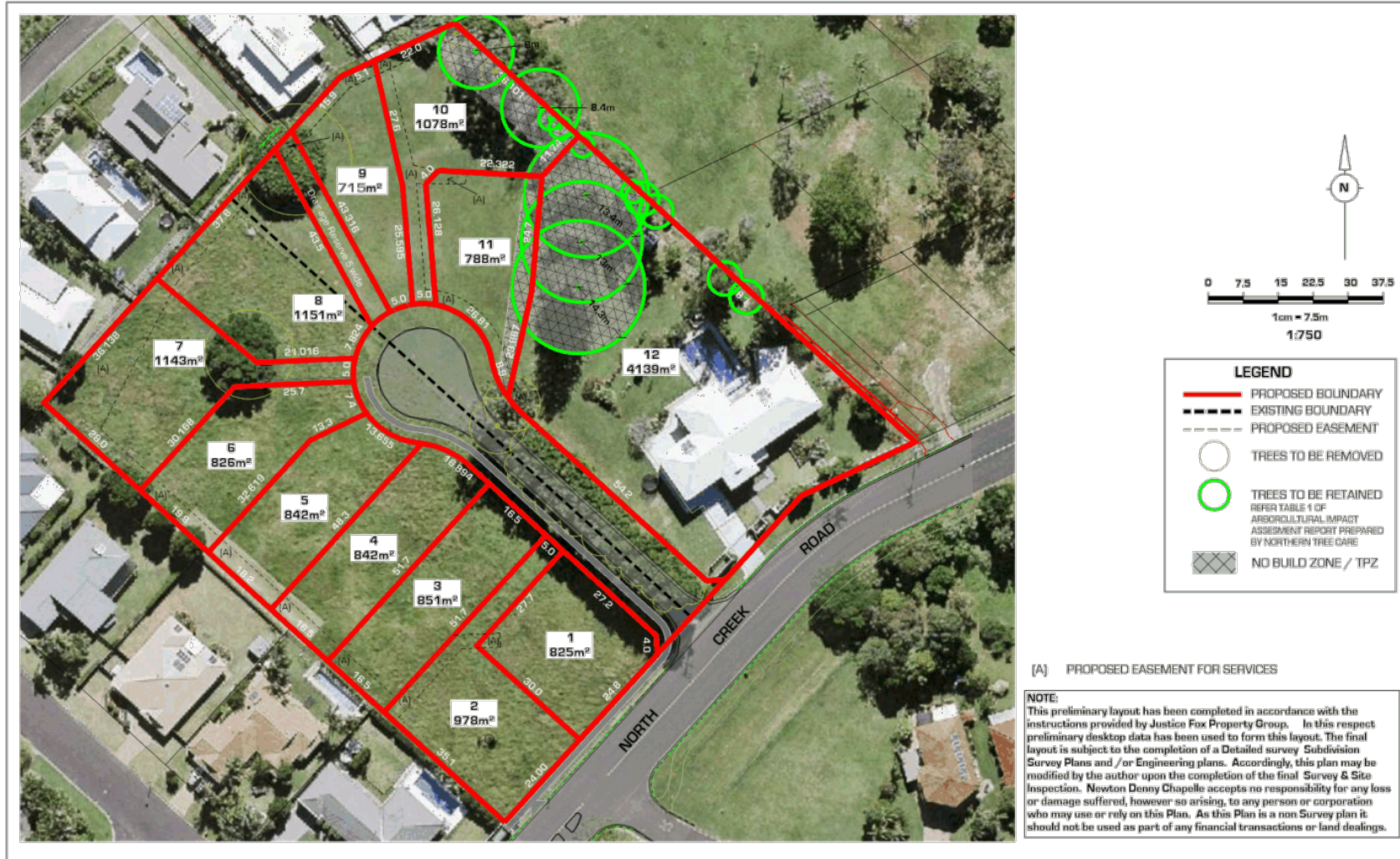
REV	DATE	AMENDMENT

SOURCE PLAN: [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au) - accessed 30.10.19

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**Newton Denny Chapelle**  
Surveyors Planners Engineers  
Email: [office@newdennychapelle.com.au](mailto:office@newdennychapelle.com.au)  
LESMORE 31 Carrington St, Lesmore #439 Ph: 0622 1011  
AUSS 95 522 045 439

**PLAN 2 - DETAIL SURVEY**  
CLIENT: JUSTICE FOX PROPERTY GROUP  
LOCATION: LOT 4 DP241585 & LOT 6 DP598177  
180 & 190 NORTH CREEK ROAD  
LENNOX HEAD NSW  
DATE: 04.02.20  
SCALE: 1:1000 @ A3  
REF: EDD0021  
DRAWN: bk



REV	DATE	AMENDMENT
A	02/01/20	ISSUE
B	02/23/20	TREES TO BE RETAINED AND REMOVED
C	04/01/20	TREES TO BE RETAINED & REMOVED
D	06/03/20	EXTENDING BUILDINGS & BUILDINGS
E	15/08/20	SETBACKS
F	02/10/20	SIZE OF CURVED TREE AMENDED TO MATCH ARBOREY REPORT
G	07/10/20	BOUNDARY WITH 01/10/11
H	07/10/20	EASEMENT

SOURCE PLAN: [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au) - accessed 30.10.19

DA 2020/292 - Justice Fox Property Group, Planning Application for a Development Consent Order for DA 2020/292 - Justice Fox Property Group on Lot 4 - proposed subdivision

**Newton Denny Chapelle**  
 Surveyors Planners Engineers  
 Email: [office@newtandennychapelle.com.au](mailto:office@newtandennychapelle.com.au)  
 LISMORE:31 Carrington St, Lismore 2480 PH: 0622 1011  
 ABN: 86 220 049 469

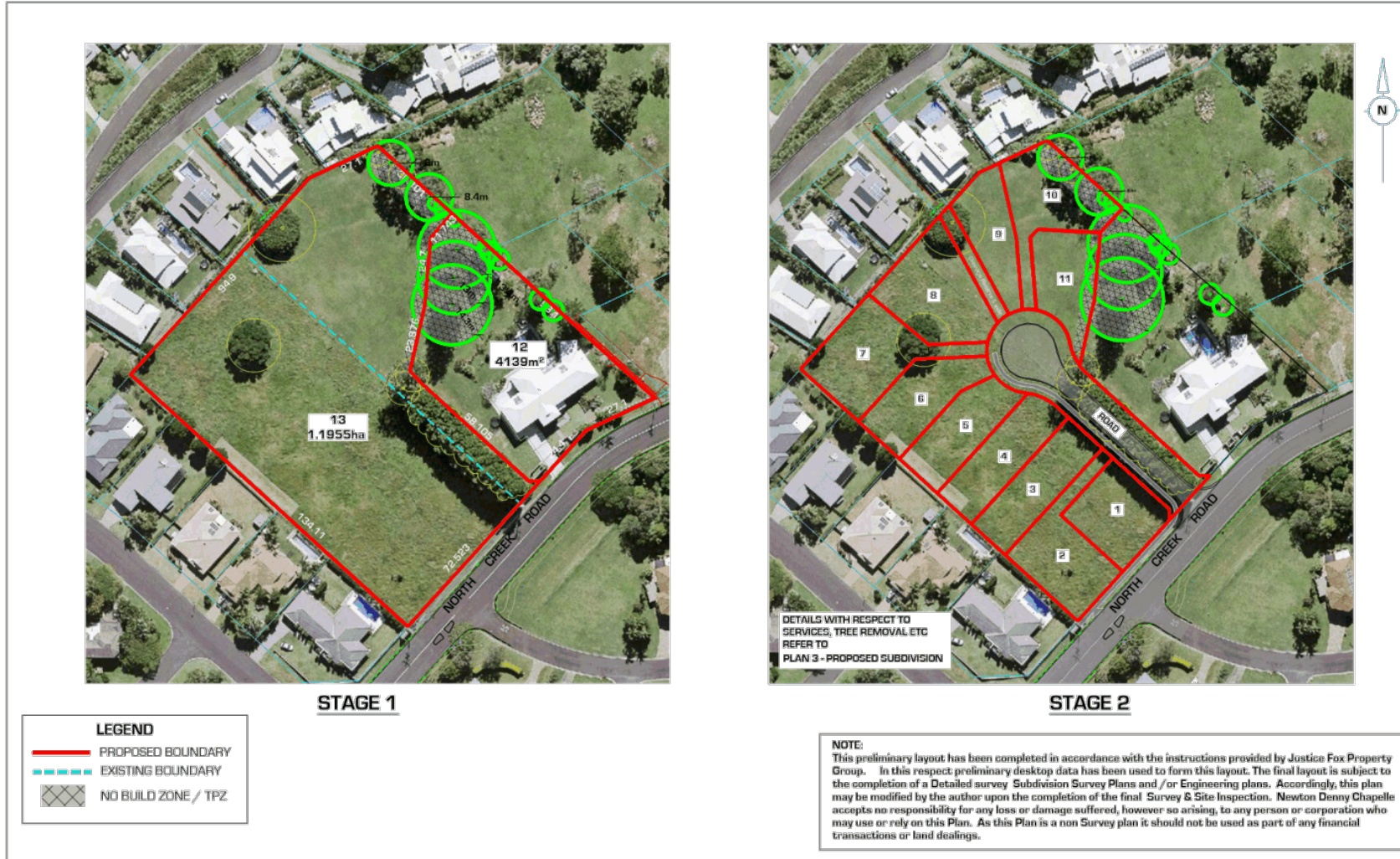
**PLAN 3 - PROPOSED SUBDIVISION**

CLIENT: JUSTICE FOX PROPERTY GROUP REV H  
 LOCATION: LOT 4 DP241585 & LOT 6 DP598177  
 180 & 190 NORTH CREEK ROAD  
 LENNOX HEAD NSW

DATE: 07/18/20  
 SCALE: 1:750 @ A3  
 REF: 800081  
 DRAWN: bk

01/20/2020 10:58:11 AM





REV	DATE	AMENDMENT
A	03.01.20	
B	04.02.20	TREES TO BE REFINED AND REMOVED
C	04.02.20	TREES TO BE REFINED & BOY
D	05.06.20	REMOVED TO MATCH ROOM & BUS STOP
E	10.09.20	LOT 12
F	08.10.20	SIZE OF PLANTED TREES ADVISED TO MATCH ARBORIST REPORT
G	07.02.21	BOUNDARY LOCUS 10.11
H	07.02.21	REVISION

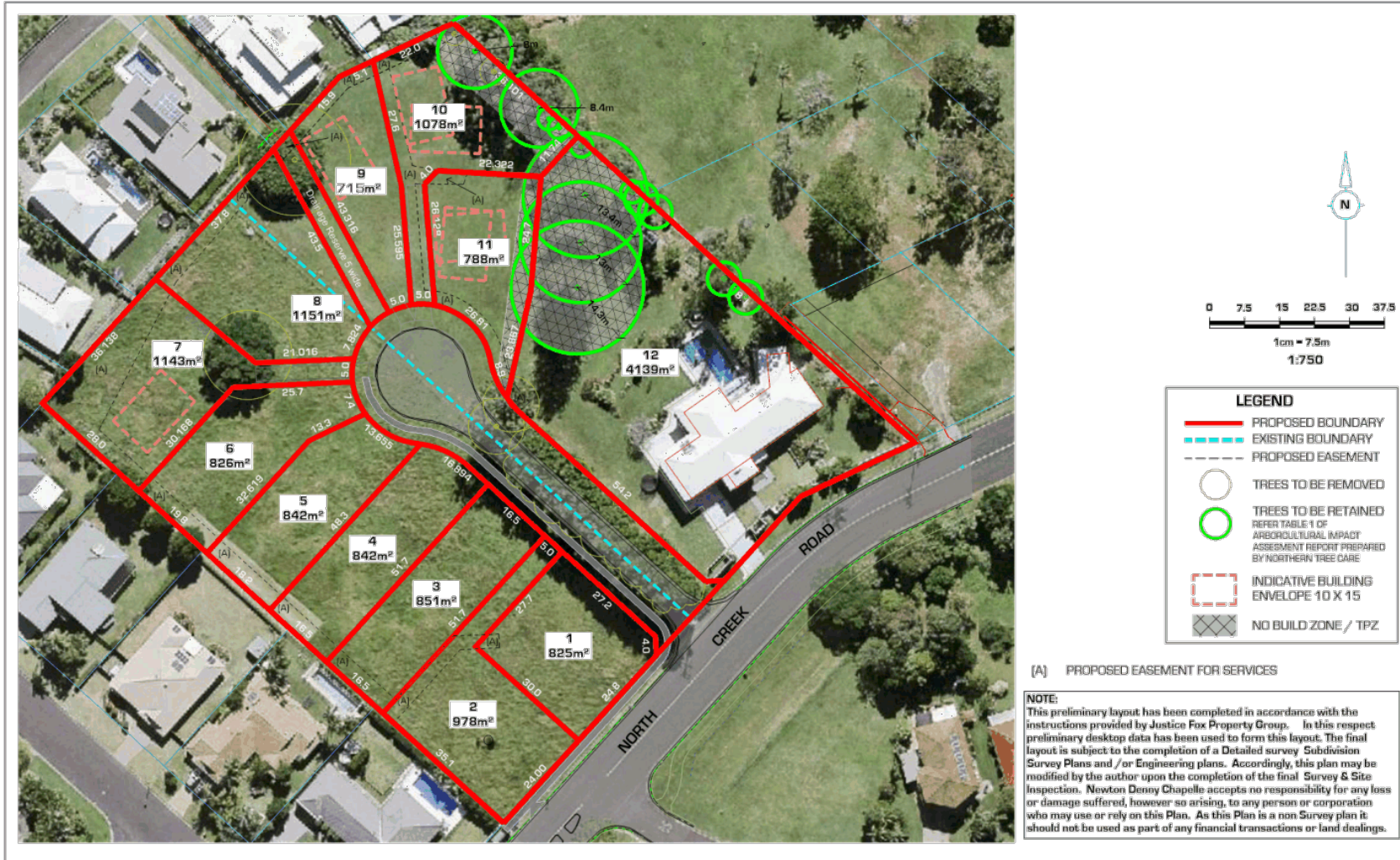
SOURCE PLAN: [www.mps.six.nsw.gov.au](http://www.mps.six.nsw.gov.au) - accessed 30.10.19

DA 2020/292 - Justice Fox Property Group - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd - Justice Fox Property Group Pty Ltd

**Newton Denny Chapelle**  
 Surveyors Planners Engineers  
 Email: [office@newtdennychapelle.com.au](mailto:office@newtdennychapelle.com.au)  
 LMSMR031 Carrington St, Lennox Head NSW 2462 1011  
 ABN: 86 220 045 460

**PLAN 3A - STAGING**  
 CLIENT: JUSTICE FOX PROPERTY GROUP REV H  
 LOCATION: LOT 4 DP241585 & LOT 6 DP598177  
 180 & 190 NORTH CREEK ROAD  
 LENNOX HEAD NSW  
 DATE: 07.12.20 REF: 200021  
 SCALE: 1:1250 @ A3 DRAWN: bk





REV	DATE	AMENDMENT
A	03.01.2021	
B	03.02.2021	TREES TO BE RETAINED AMENDED
C	04.04.2021	TREES TO BE RETAINED & DELETED
D	04.06.2021	INDICATIVE BUILDING ENVELOPE & BUILD ENVELOPE
E	16.08.2021	STAKING
F	03.11.2021	SIZE OF CLEARING ZONE AMENDED TO MATCH AMENDMENT REPORT
G	07.12.2021	INDICATIVE LOT 4 & 12
H	07.02.2022	EASEMENT

SOURCE PLAN: [www.maps.six.nsw.gov.au](http://www.maps.six.nsw.gov.au) - accessed 30.10.19

DA 2020/292 - Justice Fox Property Group, Lennox Head, NSW 2448 - plan 4 - Indicative Building Envelope

**Newton Denny Chapelle**  
 Surveyors Planners Engineers  
 Email: [office@newdennychapelle.com.au](mailto:office@newdennychapelle.com.au)  
 LICMSRE01 Carrington St, Lennox 2448 PH: 6622 1011  
 ABN: 86 220 045 469

**PLAN 4 - INDICATIVE BUILDING ENVELOPE**  
 CLIENT: JUSTICE FOX PROPERTY GROUP REV H  
 LOCATION: LOT 4 DP241585 & LOT 6 DP598177  
 180 & 190 NORTH CREEK ROAD  
 LENNOX HEAD NSW  
 DATE: 07.12.20 SCALE: 1:750 B A3  
 REF: 600201 DRAWN: BK

Ray & Judy Fogarty  
6 Montwood Drive  
Lennox Head, NSW 2478  
02 6687 7681  
19th June 2020

Lucy Bennett  
Planning & Environmental Health Division  
Ballina Shire Council

Reference: DA 2020/292

Dear Ms Bennett

Proposed development of land DA 2020/292 180-190 North Creek Road, Lennox Head.

We are concerned about some points of this development.  
Our objections and comments to the development are as follows:

- Medium density is not in keeping with the surrounding houses. Eg one house per building block.
- The unnecessary removal of 24 established trees, when council is promoting the planting of trees due to climate change.  
It would only be necessary to remove one tree by putting the road and cul-de-sac through the middle of block 190 North Creek Road, with 6-8 one dwelling blocks.
- Loss of privacy caused by the multiple dwellings overlooking our property.
- The shading of our property caused by two storey dwellings close to our boundary.
- The devaluation of our property due to multiple dwellings on one normal size building block.
- Traffic hazard created at the entry/exit to North Creek road and a decrease in overall safety.
- Drainage water could also be a problem entering onto our property.

Yours faithfully,

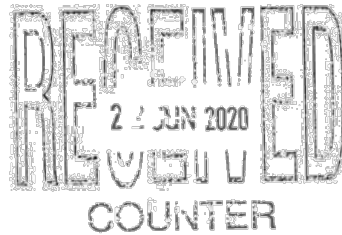
Ray & Judy Fogarty

*R Fogarty*  
*J Fogarty* 19/6/20

EMAIL

JUDYRAYFOG@iinet.net.au

Mark and Sharon Crimmins  
8 Fieldcrest Place Lennox Head  
NSW 2478



DATE 18/06/20

TO BALLINA COUNCIL ATTENTION

RE DA2020/292 Lots 180 & 190 North Creek Road Lennox Head NSW 2478

SUBJECT: We are Not in favour of the 12 lots Subdivision Proposal.

Please find listed below areas of concern we have noted throughout the Development Application along with other concerning issues that we feel will result in an overall negative effect for all surrounding homes and their occupants.

#### DEVELOPMENT APPLICATION

1. The Development Application does not answer **Item 4** **Erection of a New Building** since the application is for Subdivision.  
However there are to be new buildings related to the application, as there is the insertion of "Indicative Building Envelope" on lots 1,7,9,10,11. There are no such Building envelopes visible on Lots 2,3,4,5,6,8. The size and layout of the Lots therefore implies Lots 3,4,5 and possibly 6 are earmarked for a townhouse development.

Why is it that all Lots do not have an "Indicative Building Envelope" building outline on them as per the other lots?

I would like to know the maximum site coverage for a built structure on each individual Lot. I request that Applicant demonstrate the maximum built allowance and maximum build possible complying with built form requirements.

1. **Item 10** Approval under Section 68 of the Local Government Act 1993  
Applicant marks the **NO** box.

The gravity fed sewer and water drain are existing infrastructure. However, since we receive sewerage smells from time to time and the sewer waste is a gravity fed pipe running through the easement on the Northern side of our Neighbouring property, I am concerned about the additional impact extra sewerage will cause coming from the proposed development site.

Has there been an impact statement prepared to show this?

The Stormwater work is a similar issue and serious concern considering the large concrete dish drain which has been constructed at the rear of Property numbers 6,8,10,12,14,16 and 18 Fieldcrest Place. This large and substantial dish drain has been constructed to try and assist with the huge volume of surface water coming from lots 170, 180 and 190 North Creek road.

To then go and add another 11 houses or possibly multiple Townhouses to the rear would be catastrophic considering the previous disaster and damage to our rear retaining wall due to the poor design of the original concrete dish drain located at the rear of our property.

Please take the time to review the details of this case which will be on file in council's archives detailing council's insurance settlement, plus photos proving the destruction and Volume of water that can come from the acreage behind ultimately ending up on the road out the front of our Property which blocks off the entire traffic flow in Fieldcrest Place.

What guarantees will be given that we will not be adversely impacted by stormwater from the Proposed Subdivision considering the catchment created by a minimum of 11 new Roofs.?

#### Development Application Form Lodgement Checklist

ITEM 4: Is Not Answered?

Plans for built form do not accompany this Development Application, but the checklist should reflect a yes, No or N/A response. Is it not necessary that this be checked off? As I find this omission of a response (presumably N/A) an unusual oversight, particularly since Item 5 was answered N/A and Item 6 was not.

ITEM 5: Answered N/A in relation to Building height?

ITEM 6: Not Answered – Schedule of Calculations for following items.

While not required for a Subdivision Development Application, given the lot sizes, odd lot shapes eg [narrow sites, long driveways etc] we would like to request information pertaining to maximum built form allowance and requesting a demonstration on how that may be achieved within Council guidelines.



The reason for this request and concern is the high potential for relaxations to be sought by future Lot owners when they seek to build.

Not to mention both Item 7 & 8 are answered {YES} seeks a variation for development standards.

Does the Proposal involve a variation for development standards? Why?

#### Statement of Environmental Effects.

#### 2.2 Planning History

##### Road Access:

Council advised in the original change of Zoning some years ago that the "Single Cul De Sac" would not be supported as it would be too long, and a loop road was the preferred outcome. At that time the owner of lot 170 made the decision a far more gentle and low impact style subdivision was more suitable with fewer blocks i.e. "4". As he wanted the finished site to more complimentary to the surrounding properties as well building his own family home on one of the 4 blocks. He currently resides there today. This style of subdivision uses shared private driveways, instead of a full-blown road. The completed subdivision on lot 170 has proven to be the most favourable outcome for all concerned, with no negative impacts on surrounding neighbours.

If this style of small-scale Subdivision completed on Lot 170 has resulted in issues for lots 180 and 190 re their access road design, then I ask Council to not back down on their original decision of not allowing the small Cul de Sac design.

I also have copies on file of the previous Subdivision Proposals showing the different loop road variations etc that were originally proposed by Peter Fahey being the original owner of lot 180 North Creek road.

#### 2.3.4 Existing Infrastructure Services

As previously mentioned, we seek advice and assurance from Council re plans from engineers – Most of this information is also covered in Items 3.1.4 Urban Infrastructure.

#### 3.1.2 Proposed Allotments

The area consumed by driveway to battle-axe allotments (Lots 2, 7 and 10) will reduce the available building envelopes size to some degree.

Therefore, what is the maximum building envelope allowable on all sites and could that be demonstrated how that can be achieved without seeking relaxations?

Lot 9 has a very narrow frontage – I believe this does not comply with Building requirements and is this the reason for seeking the Variation to Development Control?

(We want to further investigation as to the reason for the Variation to Development Control?).

**Conclusions:**

In our opinion, the configuration of the 11 lots is not compatible with surrounding properties and is an over development of the site.

**Visually-** It would be visually unsightly having 11 different Houses squashed into a Cul De Sac even worse if there were Multiple Townhouses. It has the potential to be a complete eyesore. Considering Fieldcrest Place is regarded as one of the most desirable locations to live in Lennox head with one of the highest average mean prices for homes sold. The negative effect could be disastrous.

**Traffic-** It will be extremely dangerous having to access a Cul de Sac from North and South North creek road into this location because of the following reasons.

- 1- If all 11 blocks only have 1 dwelling and each of these dwellings averages 2 vehicle's, that's 22 vehicle's per day at an absolute minimum having to navigate turning out onto North creek road and then returning back home into the Cul de Sac.
- 2- That's 44 times at a bare minimum you would have cars trying to turn Left or right into the Cul de Sac without causing an accident.
- 3- The Proposed Cu De Sac will be located only a short 40- 50 Metres past Mont wood Drive and almost opposite Palisade Way. Let's now add the Bus stop and shelter located on the western side of North creek road half way between Mont wood drive and the proposed Cul De Sac entry. North creek road's speed limit is 60km per hour, that means if I am doing the current speed, I travel at approx. 16metres per second. "How can I safely navigate all the different turning vehicle options from both directions as well as keep an eye out for children crossing the road to and from the bus shelter. I only have 2 seconds to safely avoid having an accident not to mention hitting a child. This needs to be fully investigated.
- 4- It has the potential of being a traffic accident disaster zone.

**Headlights -** Our Children's bedrooms are positioned upstairs on the eastern end of our 2-storey home, all vehicles headlights coming into the proposed Cul de Sac will shine straight into their bedroom windows. Nobody would get any sleep.

**Water Pressure-** Our current Water pressure is terribly low as its gravity feed from the reservoir up the road. Therefore, we can only assume the pressure could only be impacted negatively with 11 plus buildings using the same supply.

**Future Applications -** Significant impacts on neighbours would be likely once BA's are lodged and owners seek to maximise the building envelope.

The conclusion assumes Point 3. As the DA for subdivision does not adequately address future built forms and structures so as not to have impacts on neighbours and be consistent with prevailing suburban character. ie free standing homes with wide frontages as per Lot 170 North creek road.

**Traffic Report-** Will there be on street parking on the proposed access road or will the surplus cars spill out onto the neighbouring streets?

**Tree removal-** According to the plans the Fig tree behind our Property on the proposed site is set for removal. This will be a huge shame considering its age and the bird life it attracts not to mention the aesthetics.

**Airbnb-** To my understanding unless something has changed the entire property located at 180 North Creek is and has been available for rental through Airbnb's website for some time. Therefore, to have the whole house available to rent one can only conclude that the owner does not reside at this address permanently. Yet, all the other surrounding home owners that are negatively affected by this proposal all reside at their properties permanently. Not one effected property is available on Airbnb's website. Therefore, it's very disappointing to be negatively affected by a proposal from an adjoining property owner who apparently doesn't live in Lennox head permanently.

To conclude we are "Definitely Not" in favour of the current proposal.

The only people who will benefit from this proposal are the owners of lots 180 and 190 North creek road, along with the future Builders profiteering from possible unsightly townhouse development. "Everybody else loses". All the surrounding home prices will be affected negatively. This proposal goes against everything Ballina Council stands for. All the surrounding homes owners have been living at their current address and part of the local Lennox head community for many years. What effect this development could have on all our lives moving forward could be devastating. The mental anguish already upon some of the neighbours is very concerning. Therefore, it would be extremely disappointing if this development was to go ahead.

We appreciate in your considerations to the above.

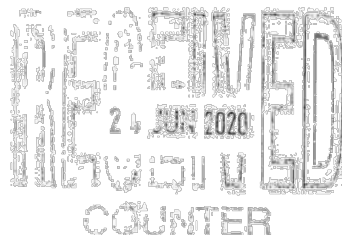
Kind Regards

Mark and Sharon Crimmins

Kathryne and Brett McLaren  
4 Montwood Drive  
Lennox Head, NSW, 2478

brekat@bigpond.net.au

DATE 23/6/2020  
TO BALLINA COUNCIL ATTENTION Ms. Lucy Bennett  
RE DA2020/292



Not in favour of the proposed development in its current form.

Dear Ms Bennett

We are the owner and occupants of 4 Montwood Drive. The rear of our property adjoins the property referred to in DA2020/292

We note the letter is dated 4 June advising of the above DA and a close date for submission of June 25.

The communication from Council was not received until 10 June. This is insufficient time to fully investigate the impacts of the Proposal and respond with a properly made submission.

Accordingly, we request an extension of time on the current closing date of June 25, and the right to provide additional information to this communication. Can you please confirm this request in writing to us.

In the meantime, the following are our observations and concerns in relation to the Development Application, and the Statement of Environmental Effect.

**1. Development Application - Item 4**

Erection of A New Building.

The Development Application does not answer this section as the application is a Proposed Subdivision.

While there are no new buildings related to the application, there is the insertion of "Indicative Building Envelope" on lots 1,7,9,10,11.

There are no such envelopes on Lots 2,3,4,5,6,8. The size and layout of the Lots imply Lots 3,4,5 and possibly 6 are earmarked for a townhouse development.

We would ask why the all Lots do not have an "Indicative Building Envelope" building outline on them as per the Lots 1,7,9,10,11.

Partial and selective representation of "Indicative Building Envelope" on some, and not all Lots is misleading.

We request the Applicant be required, as a condition of the Proposed Development Application, to demonstrate the maximum built allowance and maximum build possible complying with built form requirements.

**2. Development Application - Item 10 Approval under Section 68 of the Local Government Act 1993**

Applicant marks the NO box.

The gravity fed sewer and water drain are existing infrastructure.

Storm water from multiple roofs and hard stand areas, as opposed to open field will be an issue for our property if not properly contained on the developed blocks. In heavy rain we already see significant runoff storm water into our property from 190 North Creek Road.

What guarantees will be given that I will not be adversely impacted by stormwater and sewerage issues as a consequence of the Proposed Subdivision. We do not see any allowance or accommodation for stormwater runoff to the south of the developed blocks.

**3. Development Application Checklist**

ITEM 4: NOT ANSWERED

Plans for built form do not accompany this Development Application, but the checklist should reflect a yes, No or N/A response. It may be that it is not necessary that this be checked off, but I find this omission of a response (presumably N/A) an unusual oversight, particularly since Item 5 was answered N/A and Item 6 was not.

ITEM 5: ANSWERED N/A in relation to Building height

ITEM 6: NOT ANSWERED – Schedule of Calculations for following items.

While not required for a Subdivision Development Application, given the lot sizes, odd lot shapes (e.g. narrow sites, long driveways etc) there are concerns as to the maximum built form allowance and requesting a demonstration on how that may be achieved within Council guidelines.

It is deeply concerning that there is no detail on the density or types of dwellings that could be built on these developed blocks. All the surrounding properties are single dwellings on large allotments.

Sharing a boundary with two of the proposed allotments that are both very narrow blocks leaves it only available to double story dwellings which will significantly impact our privacy.

Also, of critical importance to us, the positioning of the potential dwellings may have major shading impacts on our property.

ITEM7: ANSWER IS YES TO LAST QUESTION – Does your Proposal involve a variation for development standard(s)

Please advise the specifics of the Variations for Development Standards.

#### **4. Statement of Environmental Effects.**

##### **2.2 Planning History**

###### **Road Access:**

There seems to be some history around the rezoning and the question of appropriate road access to the site.

If we understand the history, the proposed Access Road is not an ideal solution and not what Council originally preferred. Clearly the Access Road currently proposed is designed to maximise the site and is in the Developers interest to do so, as the original preferred road system would mean less Lots.

##### **3.1.2 Proposed Allotments**

The area consumed by driveway to battle axe allotments (Lots 2, 7 and 10) will reduce the available building envelopes size to some degree.

It is important to ascertain the maximum building envelope allowable on all sites and ask it to be demonstrated how that can be achieved without seeking relaxations.

Lot 9 has a very narrow frontage – w believe this does not comply with Building requirements and is possibly one reason for seeking the Variation to Development Control.

Can Council provide a full explanation as to the reason/s for the Variation to Development Control?

Summary of our concerns:

The purpose of the report is to present the Proposal in a positive manner.

The proposed density of the site is only possible because of the rezoning of the site and the original road access desired by council has been amended to suit the needs of the developer to maximise the Lots available.

In our opinion, the configuration of the lots is not compatible with surrounding properties, has questionable road access and is an overdevelopment of the site. It is not in line with the surrounding developments and will have a detrimental effect on surrounding values, amenity and privacy.

Significant impacts on neighbours are likely once BA's are lodged and owners seek to maximise the building envelope. Particularly in our case in 4 Montwood Drive with two boundaries and narrow lots backing onto our property.

The DA for subdivision does not adequately address future built forms and structures so as not to have impacts on neighbours and be consistent with prevailing suburban character i.e. free-standing homes with wide frontages.

The intersection for the access road adds yet another intersection on North Creek road in an already congested area. In addition, there is a blind spot during sunrise and early morning on North Creek Road adjacent to the proposed access road that would be dangerous for North bound traffic. There have been accidents on this stretch. One involving a moving car and a parked truck. Is there on street parking on the proposed access road, or will on street parking overflow onto adjoining streets? Is the proposed access road wide enough to accommodate a garbage truck for garbage removal services

Water Pressure - Current water pressure in the area is very low and is the experience in our home. What guarantees are there that an additional 11 homes will not adversely impact on the water pressure.

#### CONCLUSION

1. The DA should not be approved if the concerns outlined above have not been adequately responded to.



2. Despite the Medium Density Rezoning, the configuration of the lots is not compatible with surrounding properties and is an overdevelopment of the site.
3. The Access Road is an inadequate response with poor access and parking implications due to an inadequate and dangerous vehicular ingress/egress. With number of dwellings and vehicles in the development it could add up to an increase of hundreds of accesses a day.
4. Significant impacts on neighbours are likely once BA's are lodged and owners seek to maximise the building envelope – This is our main concern as noted above privacy, shading and stormwater have the potential to significantly impact our properties value and amenity.
5. It would not be unacceptable to request that the DA be represented showing built forms are achievable within the constraints of Council regulation and which would form part of the DA conditions.
6. Failing No 5 above, representation of the DA with less Lots and safer road access.

Sincerely,

Kathryne and Brett McLaren  
4 Montwood Drive  
Lennox Head, NSW, 2478

Att: Lucy Bennett

NOTES FOR CONSIDERATION IN SUBMISSION

DATE            ASAP  
TO               BALLINA COUNCIL ATTENTION  
RE               DA2020/292



Dear Sir/Madam

I am the owner and sole occupant of 10 Fieldcrest Place. The rear of my property adjoins the property referred to in DA2020/292

I note the letter is dated 4 June advising of the above DA and a close date for submission of June 25.

The communication from Council was not received until 10 June. This is insufficient time to fully investigate the impacts of the Proposal and respond with a properly made submission.

Accordingly I request an extension of time on the current closing date of June 25, and the right to provide additional information to this communication. Can you please confirm this request in writing to me.

In the meantime, the following are my observations and concerns in relation to the Development Application, and the Statement of Environmental Effect.

**1. Development Application - Item 4**

Erection of A New Building.

The Development Application does not answer this section as the application is a Proposed Subdivision.

While there are no new buildings related to the application , there is the insertion of "Indicative Building Envelope" on lots 1,7,9,10,11.

There are no such envelopes on Lots 2,3,4,5,6,8. The size and layout of the Lots imply Lots 3,,4,5 and possibly 6 are earmarked for a townhouse development.

I would ask why the all Lots do not have an "Indicative Building Envelope" building outline on them as per the Lots 1,7,9,10,11.

Partial and selective representation of "Indicative Building Envelope" on some, and not all Lots is misleading.

I request the Applicant be required, as a condition of the Proposed Development Application, to demonstrate the maximum built allowance and maximum build possible complying with built form requirements.

**2. Development Application - Item 10 Approval under Section 68 of the Local Government Act 1993**

Applicant marks the NO box.

The gravity fed sewer and water drain are existing infrastructure.

Sewerage odour occurs from time to time. There is an existing gravity fed sewer pipe running through the existing easement adjacent to my property.

Has there been an Impact Reports on the additional sewerage load from the Proposed Development site into the existing pipe, or will an upgrade be required?

The Stormwater work is a similar issue given the large drain at the rear of my property.

What guarantees will be given that I will not be adversely impacted by stormwater and sewerage issues as a consequence of the Proposed Subdivision.

**3. Development Application Checklist**

ITEM 4: NOT ANSWERED

Plans for built form do not accompany this Development Application, but the checklist should reflect a yes, No or N/A response. It may be that it is not necessary that this be checked off, but I find this omission of a response (presumably N/A) an unusual oversight, particularly since Item 5 was answered N/A and Item 6 was not.

ITEM 5: ANSWERED N/A in relation to Building height

ITEM 6: NOT ANSWERED – Schedule of Calculations for following items.

While not required for a Subdivision Development Application, given the lot sizes, odd lot shapes shapes (eg narrow sites, long driveways etc) there are concerns as to the maximum built form allowance and requesting a demonstration on how that may be achieved within Council guidelines.

My concern is the potential for relaxations to be sought by future Lot owners when they seek to build,

This is a concern because Item 7 (see notes below) seeks a variation for development standards, and I do not know what the specifics of that variation and what it relates to.

ITEM7: ANSWER IS YES TO LAST QUESTION – Does your Proposal involve a variation for development standard(s)

Please advise the specifics of the Variations for Development Standards.

#### **4. Statement of Environmental Effects.**

##### **2.2 Planning History**

###### **Road Access:**

There seems to be some history around the rezoning and the question of appropriate road access to the site.

If I understand the history, the proposed Access Road is not an ideal solution and not what Council originally preferred. Clearly the Access Road currently proposed is designed to maximise the site and is in the Developers interest to do so, as the original preferred road system would mean less Lots.

Is this correct?

##### **3.1.2 Proposed Allotments**

The area consumed by driveway to battleaxe allotments (Lots 2, 7 and 10) will reduce the available building envelopes size to some degree.

It is important to ascertain the maximum building envelope allowable on all sites and ask it to be demonstrated how that can be achieved without seeking relaxations.

Lot 9 has a very narrow frontage – I believe this does not comply with Building requirements and is possibly one reason for seeking the Variation to Development Control.

Can Council provide a full explanation as to the reason/s for the Variation to Development Control?

## Section 5 - Conclusion

The purpose of the report is to present the Proposal in a positive manner.

While Points one and two are mandatory, Point 3 is a subjective assumption and an opinion.

The proposed density of the site is only possible because of the rezoning of the site and the original road access desired by council has been amended to suit the needs of the developer to maximise the Lots available.

In my opinion, the configuration of the lots is not compatible with surrounding properties, has questionable road access and is an overdevelopment of the site.

Significant impacts on neighbours are likely once BA's are lodged and owners seek to maximise the building envelope.

The DA for subdivision does not adequately address future built forms and structures so as not to have impacts on neighbours and be consistent with prevailing suburban character . ie free standing homes with wide frontages.

## Other Issues

### 1 Proposed Access Road:

1.1 Has a Traffic Report been submitted with the Development Application?

1.2.1 Is there on street parking on the proposed access road, or will onstreet parking overflow onto adjoining streets?

1.2.2 Is the proposed access road wide enough to accommodate a garbage truck for garbage removal services

### 2. Easement

2.1 Does the Proposed easement connect with the existing easement adjacent to 10 Fieldcrest Place.

2.2 I currently maintain the easement (Ie mowing and weed control) at my own expense, although I would consider this a Council obligation.

2.2 A connection to the existing easement from the Proposed Development Site presents privacy and security issues to me. Will this easement be available for public thoroughfare??

### 3. Water Pressure

3.1 Current water pressure in the area is very low – What guarantees are there that an additional 11 homes will not adversely impact on the water pressure.

CONCLUSION

1. The DA should not be approved if the concerns outlined above have not been adequately responded to.
2. Despite the Medium Density Rezoning, the configuration of the lots is not compatible with surrounding properties and is an overdevelopment of the site.
3. The Access Road is an inadequate response with poor access and parking implications due to an inadequate and dangerous vehicular ingress/egress.
4. Significant impacts on neighbours are likely once BA's are lodged and owners seek to maximise the building envelope
5. It would not be unacceptable to request that the DA be represented showing built forms are achievable within the constraints of Council regulation and which would form part of the DA conditions.
6. Failing No 5 above, representation of the DA with less Lots and safer road access.

Yours faithfully

*Lorraine Shand.*

Lorraine Shand

66874898

0437 972 763.

Once Tracy has read my Submission could  
She please phone numbers to discuss.

DATE 3<sup>rd</sup> July 2020  
TO BALLINA COUNCIL  
ATTENTION LUCY BENNETT  
RE DA2020/292  
SUBJECT: Extension of Time to Submit Comment

Dear Lucy,

Thank you for allowing additional time for submission in relation to DA2020/292.

As previously advised, the allotted time for reply was insufficient given the late arrival of notification from Council .

Attached is the revised submission for Mrs Lorraine Shand of 10 Fieldcrest Place.

Mrs Shand has concerns with the Development Application in general, as well as its impact on her amenity as a resident in Fieldcrest Place.

We would appreciate advice as to when there will be a meeting to discuss the Proposed DA where residents may attend and have a voice.

Yours sincerely

Amanda McPhee  
ON BEHALF OF  
MRS LORRAINE SHAND





DATE 3<sup>rd</sup> July 2020  
TO BALLINA COUNCIL  
ATTENTION LUCY BENNETT  
RE DA2020/292

Dear Sir/Madam

I am the owner and sole occupant of 10 Fieldcrest Place, since January 2011.  
The rear of my property adjoins the property referred to in DA2020/292.

Following are comments and concerns in relation to the Proposed DA.

**1. DEVELOPMENT APPLICATION - Item 4**

Erection of A New Building - The Development Application does not answer this section as the application is a Proposed Subdivision.

While there are no new buildings related to the application , there is the insertion of "Indicative Building Envelope" on lots 1,7,9,10,11.

There are no such envelopes on Lots 2,3,4,5,6,8. The size and layout of the Lots imply Lots 3,4,5 and possibly 6 are earmarked for a townhouse development.

I would ask why the all Lots do not have an "Indicative Building Envelope" building outline on them as per the Lots 1,7,9,10,11.

The partial and selective representation of "Indicative Building Envelope" on some rather than all Lots is misleading.

I request the Applicant be required, as a condition of the Proposed Development Application, to demonstrate the maximum built allowance and maximum build possible complying with built form requirements.

**2. DEVELOPMENT APPLICATION - Item 10 Approval under Section 68 of the Local Government Act 1993**

Applicant marks the NO box.

I am not familiar with the legislation **Local Government Act 1993 – Section 68.**

However I note there is an existing gravity fed sewer and water drain which are existing infrastructure and run through the easement adjacent to my property.

There is also a large Council owned open concrete drain the width of my property inside my rear boundary.

The Proposed DA Application refers to works in relation to Water Supply, Sewerage and Stormwater Drainage Work.

What guarantees will be given that I will not be adversely impacted by stormwater and sewerage issues as a consequence of the Proposed Subdivision.

**3. DEVELOPMENT APPLICATION CHECKLIST**

ITEM 4: NOT ANSWERED

While plans for built structures do not form part this Development Application, but the checklist should reflect a yes, No or N/A response. It may be that it is not necessary that this be checked off, but I find this omission of a response (presumably N/A) an unusual, particularly since Item 5 was answered N/A and Item 6 was not.

ITEM 5: ANSWERED N/A in relation to Building height

ITEM 6: NOT ANSWERED – Schedule of Calculations for following items.

While not required for a Subdivision Development Application, given the lot sizes, odd lot shapes shapes (eg narrow sites, long driveways etc) there are concerns as to the maximum built form allowance and requesting a demonstration on how that may be achieved within Council guidelines.

My concern is the potential for relaxations to be sought by future Lot owners.

**4. STATEMENT OF ENVIRONMENTAL EFFECTS.**

**Site Analysis**

**2.1 (or 2.2) Planning History**

**2. Road Access:**

There seems to be some history around the rezoning and the question of appropriate road access to the site.

If I understand the history, the proposed Access Road is not an ideal solution and not the solution loop road the Council originally preferred.

With subsequent rezoning applications, the proposed Access Road/cul-de-sac is acceptable in favour of the Developer to Access Road exploit the site to the maximum.

While the Proposed DA seeks title for 11 new lots, there remains the "theoretical" dual occupancy possibility, (see below 3.1.2) and the potential for with a higher density than being implied.

**Proposed Development**

**3.1.2 Proposed Allotments**

A number of parcels do not have adequate street frontage – this does not comply DCP standard requirements.

The Proposal requires battleaxe allotments to Lots 2, 7 and 10.

*(refer Page 25 G Element – Minimum Lot Size and Shape – i)*

It is important as a condition of to ascertain the maximum building envelope allowable on all sites and ask it to be demonstrated how that can be achieved without seeking relaxations

- 1 "Theoretical" dual occupancy implies the possibility of more density on each Lot .
- 2 I am not clear how dual occupancy would alleviate the minimum frontage requirements under the DCP.
- 3 "Theoretical" is not an absolute and therefore there is no guarantee that a dual occupancy would be built – hence not compliant with DCP requirement.

**Proposed Development - 3.1.2 Proposed Allotments (CONTINUED)**

- 4 Road traffic, water and sewerage documentation suggest the DA is for 11 additional Lots of single use structures – Are the proposed sewerage, water drainage and road access traffic conclusions based on single occupancy dwellings, or have they been calculated on the possible maximum that could be required if the “theoretical” increase in occupancy per Lot were to occur.

**3.1.4 Urban Infrastructure**

**A. Roads and Footpaths**

***“The intersection as proposed does not have the capacity for the allotments to be developed for townhouses or other medium density housing. Suitable restrictions to this effect can be provided on the titles of the allotments if required by Council”.***

I am not clear how this paragraph relates to Roads and Footpaths, however can Council guarantee that a Condition of the Proposed DA as per above excerpt will apply to all proposed Lots?

Of further concern is whether the Proposed Access Road , given the number of driveway entrances, allows for onstreet parking, or will onstreet parking overflow onto North Creek Road?

**B. Stormwater.**

Although a Council responsibility I have maintained the existing easement (ie mowing, weed control) at my own expense for a number of years since taking residency at 10 Fieldcrest Place. This easement area is shown as **PATHWAY on Plan 2 Detail Survey** and clearly visible on Page 6 **“Plate 1 – Aerial photo of subject land and surrounds .**

Connecting to the existing easement from the Proposed Development Site presents issues.

- Will there be a pedestrian access from the proposed access road through to Fieldcrest Place via the “drainage reserve” connecting to the current easement.?

The PATHWAY as per Plan 2 Detail This land does not form part of the Proposed Development site.

- ***“provide overland flow Swale from Fieldcrest Place between Lots 220; and  
“reinstate overland flow swale from Fieldcrest Place between Lots 220 and 221 DP1076122”***

**C. Stormwater (continued)**

"Reinstating" an overland flow swale:

- Infringes on my current amenity.
- Raises security issues
- Raise privacy issues
- Safety Issues – eg what prevents children from accessing this area.
- Creates sanitary concerns of an open swale so close to my home – the possibility of vermin such as rats or snakes, and mosquito infestation.

**D. Water**

Current water pressure in the area is very low – What guarantees are there that a minimum additional 11 homes (more in the case of dual occupancy or maximised density) will not adversely impact on the water pressure.

**5. ENGINEERING SERVICE REPORT**

**Executive Summary**

- Traffic - Referring to 5.1 Chart It appears the figures are based on single occupancy per Lot and excludes the "theoretical" possibility of increased density of dual occupancy
- Stormwater - "Downstream network to be modified"

REFER ABOVE TO CONCERNS AS TO THE TYPE OF MODIFICATION REQUIRED.

**SUMMARY**

The purpose of the Statement of Environmental Effects is to present the Proposal in a positive manner.

While Points One and two are mandatory, Point 3 is a subjective assumption and an opinion.

The proposed density of the site is only possible because of the rezoning of the site and the original road access desired by council has been amended to suit the needs of the developer to maximise the Lots available to suit the R3 zoning.

In my opinion, the configuration of the lots is not compatible with surrounding properties, has questionable road access, inadequate frontage requirements in some instances, and is an overdevelopment of the site.

Significant impacts on neighbours are likely once BA's are lodged and owners seek to maximise the building envelope.

The DA for subdivision does not adequately address future built forms and structures so as not to have impacts on neighbours and be consistent with prevailing suburban character ie free standing homes with wide frontages.

It is a concern that the possibility a number of the 11 Lots could in fact be dual occupancy resulting in higher density which would exacerbate road and traffic issues.

The potential for a much denser raises questions as to the adequacy of water, sewerage and stormwater infrastructure

**CONCLUSION**

1. The DA should not be approved if the concerns outlined above have not been adequately responded to.
2. Despite the Medium Density Rezoning, the configuration of the lots is not compatible with surrounding properties and is an overdevelopment of the site.
3. Inadequate street frontages and the possibility of dual occupancy increasing the density and additional traffic raise questions of amenity and road safety.
4. The Access Road is an inadequate response with poor access and parking implications. Safe vehicular ingress/egress onto North Creek Road is questionable.

It is concerning that Proposed Lots 1 and 2 fronting onto North Creek Road "theoretically" allow for dual occupancy. The potential for additional "dual occupancy sites" rather than free-standing single occupancy residences' would increase vehicular load.

5. It would not be unreasonable for Council to request a Traffic Report be provided to assess the impact of a "theoretical" maximum development and that report be made available for public comment.
6. If the Proposed DA is approved in its current form significant impacts on neighbours are highly probable once BA's are lodged and owners seek to maximise the building envelope.

It would not be unacceptable to request that the DA be represented showing built forms are achievable within the constraints of Council regulation and which would form part of the DA conditions.

7. It would not be unacceptable for Council to request that street frontages be complied with as per the DCP as there is no guarantee that dual occupancy will occur on those sites with inadequate frontage, despite the "theoretical' possibility.
8. Ideally, the representation of the DA with less Lots, compliance with DCP street frontage requirements and safer road access is not unreasonable.

Yours faithfully

  
Lorraine Shand



NOTES FOR CONSIDERATION IN SUBMISSION

DATE        ASAP  
TO           BALLINA COUNCIL ATTENTION  
RE           DA2020/292

Dear Sir/Madam

I am the owner and sole occupant of 10 Fieldcrest Place. The rear of my property adjoins the property referred to in DA2020/292

I note the letter is dated 4 June advising of the above DA and a close date for submission of June 25.

The communication from Council was not received until 10 June. This is insufficient time to fully investigate the impacts of the Proposal and respond with a properly made submission.

Accordingly I request an extension of time on the current closing date of June 25, and the right to provide additional information to this communication. Can you please confirm this request in writing to me.

In the meantime, the following are my observations and concerns in relation to the Development Application, and the Statement of Environmental Effect.

1. Development Application - Item 4

Erection of A New Building.

The Development Application does not answer this section as the application is a Proposed Subdivision.

While there are no new buildings related to the application , there is the insertion of "Indicative Building Envelope" on lots 1,7,9,10,11.

There are no such envelopes on Lots 2,3,4,5,6,8. The size and layout of the Lots imply Lots 3,,4,5 and possibly 6 are earmarked for a townhouse development.

I would ask why the all Lots do not have an "Indicative Building Envelope" building outline on them as per the Lots 1,7,9,10,11.

- - -

Partial and selective representation of "Indicative Building Envelope" on some, and not all Lots is misleading.

I request the Applicant be required, as a condition of the Proposed Development Application, to demonstrate the maximum built allowance and maximum build possible complying with built form requirements.

**2. Development Application - Item 10 Approval under Section 68 of the Local Government Act 1993**

Applicant marks the NO box.

The gravity fed sewer and water drain are existing infrastructure.

Sewerage odour occurs from time to time. There is an existing gravity fed sewer pipe running through the existing easement adjacent to my property.

Has there been an Impact Reports on the additional sewerage load from the Proposed Development site into the existing pipe, or will an upgrade be required,

The Stormwater work is a similar issue given the large drain at the rear of my property. property.

What guarantees will be given that I will not be adversely impacted by stormwater and sewerage issues as a consequence of the Proposed Subdivision.

**3. Development Application Checklist**

ITEM 4: NOT ANSWERED

Plans for built form do not accompany this Development Application, but the checklist should reflect a yes, No or N/A response. It may be that it is not necessary that this be checked off, but I find this omission of a response (presumably N/A) an unusual oversight, particularly since Item 5 was answered N/A and Item 6 was not.

ITEM 5: ANSWERED N/A in relation to Building height

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While not required for a Subdivision Development Application, given the lot sizes, odd lot shapes shapes (eg narrow sites, long driveways etc) there are concerns as to the maximum built form allowance and requesting a demonstration on how that may be achieved within Council guidelines.

My concern is the potential for relaxations to be sought by future Lot owners when they seek to build,

This is a concern because Item 7 (see notes below) seeks a variation for development standards, and I do not know what the specifics of that variation and what it relates to.

ITEM7: ANSWER IS YES TO LAST QUESTION – Does your Proposal involve a variation for development standard(s)

Please advise the specifics of the Variations for Development Standards.

**4. Statement of Environmental Effects.**

**2.2 Planning History**

**Road Access:**

There seems to be some history around the rezoning and the question of appropriate road access to the site.

If I understand the history, the proposed Access Road is not an ideal solution and not what Council originally preferred. Clearly the Access Road currently proposed is designed to maximise the site and is in the Developers interest to do so, as the original preferred road system would mean less Lots.

Is this correct?

**3.1.2 Proposed Allotments**

The area consumed by driveway to battleaxe allotments (Lots 2, 7 and 10) will reduce the available building envelopes size to some degree.

It is important to ascertain the maximum building envelope allowable on all sites and ask it to be demonstrated how that can be achieved without seeking relaxations.

Lot 9 has a very narrow frontage – I believe this does not comply with Building requirements and is possibly one reason for seeking the Variation to Development Control.

Can Council provide a full explanation as to the reason/s for the Variation to Development Control?

### Section 5 - Conclusion

The purpose of the report is to present the Proposal in a positive manner.

While Points one and two are mandatory, Point 3 is a subjective assumption and an opinion.

The proposed density of the site is only possible because of the rezoning of the site and the original road access desired by council has been amended to suit the needs of the developer to maximise the Lots available.

In my opinion, the configuration of the lots is not compatible with surrounding properties, has questionable road access and is an overdevelopment of the site.

Significant impacts on neighbours are likely once BA's are lodged and owners seek to maximise the building envelope.

The DA for subdivision does not adequately address future built forms and structures so as not to have impacts on neighbours and be consistent with prevailing suburban character . ie free standing homes with wide frontages.

### Other Issues

#### 1 Proposed Access Road;

1.1 Has a Traffic Report been submitted with the Development Application?

1.2.1 Is there on street parking on the proposed access road, or will onstreet parking overflow onto adjoining streets?

1.2.2 Is the proposed access road wide enough to accommodate a garbage truck for garbage removal services

#### 2. Easement

2.1 Does the Proposed easement connect with the existing easement adjacent to 10 Fieldcrest Place.

2.2 I currently maintain the easement (ie mowing and weed control) at my own expense, although I would consider this a Council obligation;

2.2 A connection to the existing easement from the Proposed Development Site presents privacy and security issues to me. Will this easement be available for public thoroughfare??

#### 3. Water Pressure

3.1 Current water pressure in the area is very low – What guarantees are there that an additional 11 homes will not adversely impact on the water pressure.

CONCLUSION

1. The DA should not be approved if the concerns outlined above have not been adequately responded to.
2. Despite the Medium Density Rezoning, the configuration of the lots is not compatible with surrounding properties and is an overdevelopment of the site.
3. The Access Road is an inadequate response with poor access and parking implications due to an inadequate and dangerous vehicular ingress/egress .
4. Significant impacts on neighbours are likely once BA's are lodged and owners seek to maximise the building envelope
5. It would not be unacceptable to request that the DA be represented showing built forms are achievable within the constraints of Council regulation and which would form part of the DA conditions.
6. Failing No 5 above, representation of the DA with less Lots and safer road access.

Yours faithfully

Lorraine Shand

**Reference DA 2020 / 292**

L J & SD Munro  
1 Palisade Way  
Lennox Head NSW 2478  
12 June 2020

Ballina Council  
Post Office Box 450  
Ballina NSW 2478

For Attention Ms Lucy Bennett,  
Planning & Environmental Health Division

Objection:  
Reference DA 2020 / 292  
Lot 4 DP 2541585 Lot 6 DP 598177  
180 & 190 North Creek Road Lennox Head NSW 2478  
Your letter of the 4 June 2020.

We wish to lodge an objection to the proposed Development Application on the following grounds:

The application is an out of character high density and high intensity development which has road safety, local neighbourhood, and our residence impacts as follows -

**Road safety**

Significant road alterations and cautionary signage will be required to provide a safe turning lane for south bound traffic on North Creek Road wanting to access the driveway of the proposed development. Currently there is a continuous line on this section of roadway to safeguard traffic movement on this curving downhill section of road. There is a turn right lane for south bound traffic on North Creek Road wanting to access Montwood Drive less than 50 metres from the proposed development access road. South bound traffic on North Creek Road requiring access to the proposed development will cause an unnecessary likely traffic hazard for other South bound vehicles on this downhill section as they slow and stop prior to turning into the proposed development. North bound traffic especially the high volume of vehicles turning from Montwood Drive will have to deal with vehicles turning across this downhill road section into the proposed development. Unsafe safety conditions for school age children crossing North Creek Road will increase. The proposed development access is close to school bus pick-ups and will result in loss of clear traffic sight lines along North Creek Road plus increased congestion at peak times.

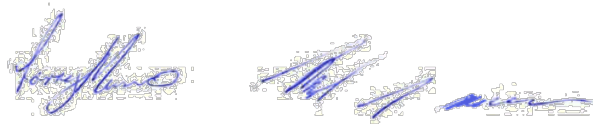
**Local Neighbourhood Impacts**

- Increase in neighbourhood vehicle traffic based on proposal for an additional 11 Torrens Title Lots with 1 - 2 Vehicles per lot,
- Increase in neighbourhood pedestrian traffic with linked easement,
- Increased traffic congestion for access to North Creek Road,
- Increased vehicle and residential noise,
- Lack of adequate parking for visitors, infrastructure servicing, and commercial vehicles.

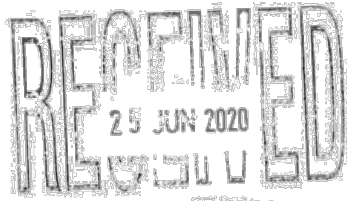
**Our Residence Impacts**

- Loss of night time amenity from car headlights as vehicles exit proposed development,
- Loss of privacy from proposed development overlooking approved swimming pool,
- Increase in noise from proposed development,
- Increased traffic congestion in Palisade Way from parking overflow from proposed development.

L J & SD Munro



23 JUNE 2020



COUNTER

Lucy Bennett

Albert & Larisa Katan  
2 Montwood Drive  
Lennox Hd, NSW 2478

0406396002

24 June 2020.

Planning and Environment  
Health Division  
Ballina Shire Council

Ref: DA 2020/292

Dear Ms. Bennett

Proposed development of land  
DA 2020/292, 180-190 North Creek Rd,  
Lennox Head.

We're concerned about some  
points of this development.

Our objection and comments to  
the development are as follows:

1. The development grounds are higher  
than the level of the our house. So  
building taller than one level makes  
total loss of privacy for us.

2. It may cause shading of our property.

3. Water pressure even now is quite  
low. But multiple dwellings ~~at~~ may affect  
it even more

yours faithfully -

Albert Katan  
Larisa Katan

Sherrie Yeomans Email

:[sherriesslate@gmail.com](mailto:sherriesslate@gmail.com) Mob : 0418

388 252

Passionate Planet Protectors FB :

<https://www.facebook.com/passionateplanetprotectors>

46 Greenfield rd

Lennox Head 2478

Attention :  
Lucy Bennett

Hello Lucy,

Myself along with many passionate planet protectors are wanting to object to the DA2020/292 for the development along 180-190 North Creek rd Lennox Head 2478.

We strongly object to the removal of the old growth Moreton Bay Figs and Norfolk Island pines.

Recently Lennox Head lost part of our heritage with the loss of the iconic 200 year old Morton bay fig just down the road in Castle drive, we are adamant we won't loose any more.

The removal of any of these old growth trees would dramatically change the street scape that are such a stunning part of Lennox Head for decades.

Building of homes anywhere near the root systems of these stunning trees is guaranteed to create issues for council.

Please learn from past experience, retain what is such a beautiful part of Lennox Head, keep the stunning trees and DON'T allow developers to build any where near the trees or the roots system.

Clearly they purchased the land with full knowledge of these trees positions.

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We ask that you please be sure they are not removed.

The development application would change this area with such a large increase in the density of the housing.

We strongly oppose the DA 2020/292.

I look forward to hearing a favourable out come from Ballina Shire Council.

It is time they stood by the Climate Emergency they called last year and STOP the removal of so many old growth trees.

Sincerely Sherrie Yeomans.

Passionate Planet protectors.



23 June 2020

37 Crane Street  
Ballina 2478  
0435 131 264

The General Manager  
Ballina Shire Council  
40 Cherry Street  
Ballina NSW 2478

**Objections to DA 2020/292**  
for a proposed subdivision development  
at 180/190 North Creek Rd Lennox Head

We respectfully submit the following objections to this proposed development:

**1. Inconsistency with Previous Determinations**

We refer firstly to DA 2014/218. Consent was granted by Council to the subdivision of our property at 170 North Creek Road Lennox Head, located next door to the subject land of DA 2020/292, subject to certain conditions.

Council's strong preference was for an integrated development covering four properties at 160, 170, 180 and 190, together amounting to 3.2 hectares. Therefore a condition of the consent was that a 12 metres wide No Build Zone access handle to the rear of 170 be set aside to facilitate future integrated development.

A subsequent development application, DA 2018/452, for subdivision of our 'residual' rear block into two allotments, was approved with the condition that a further 14 metres wide NBZ be set aside for a future loop road.

Together these NBZ have taken up some 2,000 sqm of our property.

Council's preference for an integrated development is completely understandable. Equally, Council would acknowledge that it limited our development opportunities and returns while creating additional costs.

If approved in its current form, DA 2020/292 would block Council's preferred integrated development and crystallize our losses.

We made unsuccessful attempts to initiate discussions with the new owners of the subject land of DA 2020/292, Justice Fox Property Group, with a view to integrated development. Furthermore we are of the view that it was beholden upon the applicants of DA 2020/292, Newton Denny Chapelle, to approach us to at least discuss the possibility of integrated development. No such approach was received, which is particularly disappointing to us in view of the fact that NDC were also the authors of our original DA 2014/218.

DA 2020/292 offers the opinion on page 8 of the Statement of Environmental Effects that "approved Lot 5 (via DA 2018/452) has very limited subdivision opportunity, but substantial costs associated with constructing a public road. As such, the future viability of such a development is questionable". This may be so, however there may be alternatives to a public road that could be explored, without risk to the Norfolk Pines.

## 2. Removal of Trees

DA 2020/292 includes removal of 24 trees. We most strongly oppose the removal of six of these trees in the northern corner of the land in view of the loss of wildlife habitat and visual amenity it would cause. This small area is a unique pocket in which there is abundant bird life, and we submit that it should be set aside as a small reserve.

These six trees straddle the boundary between the subject land and our Lot 5, yet there has been no approach to us by NDC to discuss them. We believe that as well as undesirable environmental effects, removal of these trees would materially impact the value of our properties, being Lots 3, 4 and 5 on DP 1220992.

Indeed, it would pile further injuries on top of the lost opportunities and costs we incurred in meeting Council's conditions in the hope of an integrated development.



### Summary

We respectfully request Council to -

- Reject DA 2020/292 as presently configured;
- Require reconfiguration of the proposed subdivision plan to provide access to our Lot 5, enabling it to be subdivided;
- Require a small reserve to be set aside, to retain the trees mentioned above, protect the wildlife habitat and visual amenity of the area, and provide a buffer between the proposed development and our properties.

We submit that the latter would only enhance this premium subdivision.

We hereby attest that no political donations or gifts have been made by the undersigned or by any associate on behalf of the undersigned within the past two years to any Councillor or employee of Ballina Shire Council.

Yours sincerely,



K.P. Walsh  
D.K. Walsh  
L. Walsh

**Attachment – Response to Public Submissions**

<b>Issue</b>	<b>Response</b>
Integration / loop road to properties to the north.	Refer to Section 2.2 of the Statement of Environmental Effects.
Objection to removal of trees.	Refer to comments in letter above. As indicated, the proposal has been amended to provide for the retention of four of the koala feed trees within proposed Lot 10.
Objection to removal of 'old' Morton Bay Fig	As indicated above, this tree was planted by the current owner of the land in the 1980s. It is not an 'old growth' or naturally occurring tree. Rather, it is a landscape planting.
Objection to Medium Density Zoning	The current zoning was established by Ballina Shire Council in 2012. The current application is in accordance with the adopted zoning framework.
Objection to uncertainty regarding future development form.	The current application is for subdivision of the land only. Future development applications for dwellings or other residential buildings will need to demonstrate compliance with the Ballina Development Control Plan provisions. Issues associated with privacy and overlooking of adjoining properties will be considered as part of that process.
Objection to future development densities	As indicated, the proposed road intersection to North Creek Road has been designed to accommodate a theoretical density of a dual occupancy on each lot. However, the future development outcome will be subject to demonstrating compliance with DCP controls for residential development. As correctly identified in some submissions, a number of the proposed allotments do not meet the DCP design criteria for dual occupancies. It is therefore expected that these lots will be development for single detached dwelling houses.  We note also, the LEP provides for a 600m <sup>2</sup> minimum lot size in this locality. The proposed development proposes substantial larger lot sizes (and associated lower development yield) than permissible on the site under the LEP.
Stormwater & other Infrastructure Servicing	The development application provides for infrastructure servicing in accordance with the Northern Rivers Design Guide. As documented in the application, detailed consideration has been had to managing stormwater discharge from the site.
Road Safety and Parking	The proposed intersection treatment is in accordance with Council's requirements and the Northern Rivers Design Guide. Future development will need to provide onsite parking in accordance with Council's Development Control Plan.
Building Envelopes	Council Policy requires that applications demonstrate that 'irregular' shaped lots are provided with sufficient area to accommodate a future dwelling. The theoretical building envelope has been provided to illustrate compliance in this regard. It's important to note, the future dwellings may be erected outside of these nominated envelopes, subject to compliance with the applicable DCP planning requirements for residential accommodation.
Headlights shining into neighbouring properties	The proposed road access point is the only available road access into the site.