

8.1 DA 2018/51 - 20 North Creek Road, Lennox Head - Residential Subdivision

There have been extensive consultations between the applicant's representatives and Council Officers including requests for further information and submission of revised Plans and Reports.

Site History

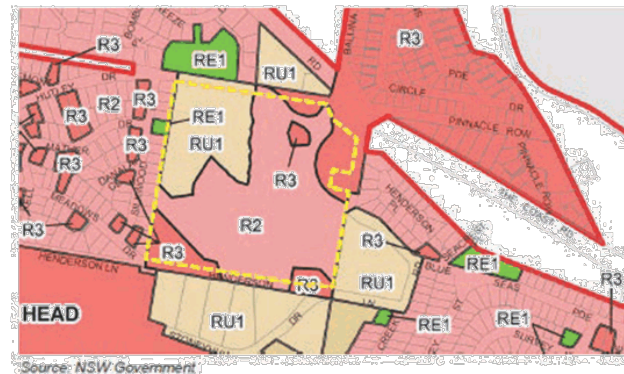
The site has an area of 15.07 hectares and has frontage to Henderson Lane, North Creek Road and Hutley Drive. It is currently vacant and has been used previously for agricultural purposes, including grazing.

Site Rezoning

The site was subject to a planning proposal in 2014. Subsequently the Department of Planning and Environment made a Gateway Determination to rezone the site and delegated authority to Ballina Shire Council to finalise the planning proposal. As such, most of the site was rezoned in December 2016 from RU1 Primary production to a mix of R2 Low Density Residential, R3 Medium Density Residential, with a portion of RU1 land retained solely to incorporate the existing wetland.

The original planning proposal was prepared in association with an indicative subdivision master plan as a guide to the type of development that could occur on the land if rezoned. In consultation with Council, the previous landowner revised the indicative master plan during the rezoning process and the relevant LEP mapping was amended in accordance with the revised layout. This has resulted in the existing irregular shaped zone boundaries as shown in Figure 2 below. The indicative master plan identified as part of the rezoning process for the site is no longer considered a desirable design outcome by Council.

Figure 2 – Extract of current BLEP 2012 Zoning Map – Sheet LZN_005D



Original Lodgement of DA 2018/51 – January 2018

This development has been subject to extended consultation with Ballina Shire Council. Prior to the lodgement of this application, a Pre-DA Lodgement meeting took place on 15 November 2017 with representatives from Council and the applicant. The subject development application (referred to as DA 2018/51) was subsequently lodged with Ballina Shire Council on 2 February 2018.

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The original development application under DA 2018/51 comprised:

Residential Subdivision of land to create 103 residential lots and seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage.

Central to the original subdivision design was the accommodation of a planned road corridor for the realignment of North Creek Road and the extension of Hutley Drive. These road works were identified in the Ballina Shire Council Roads Contribution Plan, in response to a growing population and projected increase in traffic generation across the wider road network.

Within this Plan, it was identified that Hutley Drive is to be upgraded and extended along the northern boundary of the subject site. In addition, North Creek Road was identified for realignment and upgrade to eliminate existing substandard road geometry. These road works were identified to intersect with a new 2-lane roundabout, which was to connect with Byron Bay Road. These road works were to be located within the north eastern corner of the subject site.

Figure 3 – Original proposed subdivision under DA 2018/51



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Subdivision Redesign

On 16 February 2018, Council issued a request for additional information related to DA 2018/51.

The letter advised that Council no longer requires the realignment of North Creek Road and Hutley Drive through the site (Lot 1 DP 517111). As Council acknowledged, this had significant implications on the original subdivision layout and advised:

The placement of your current development application on public exhibition will be withheld pending your further considerations in this regard.

DA 2018/51 was subsequently placed on 'Stop the Clock' in accordance with Clauses 54 and 109 of the Environmental Planning and Assessment Regulation 2000.

A revised subdivision concept was prepared in response to the changing circumstances, and also address a number of matters raised in the request for additional information through ongoing correspondence with Council.

Pre-DA Lodgement Meeting – 24 April 2018

Prior to the lodgement of this revised application, a second Pre-DA Lodgement meeting took place on 24 April 2018 with representatives from Council and the applicant. A revised concept subdivision plan for the proposed development was presented to the Council's Subdivision Panel. In preparation for the Pre-DA meeting, the applicant provided a letter addressing the overall revised vision for the site and identified the requirement for minor rationalisation to existing zoning boundaries.

Additional Information between July 2018 to February 2020

An amended development application package for DA 2018/51 was submitted to Council in July 2018, which addressed the issues identified by Council. During the assessment of the revised DA 2018/51 between July 2018 and February 2020, Council has requested additional information for the proposed development, primarily related to clarifying ecological assessment matters and refining the civil design.

Based upon consultation with Ballina Shire Council and the then Office of Environment and Heritage (OEH) and further ecological assessment in 2018 and 2019, the proposed development has been revised to amend the proposed stormwater management system and the subdivision plan to retain part of the Littoral Rainforest EEC. All matters addressed in response to requests for additional information were incorporated into an amended DA package in accordance with Clause 55 of the EP&A Regulations.

A further request for information (RFI) was issued on 20 April 2020. In relation to:

- Impact assessment on freshwater wetlands
- Bulk earthworks
- Services Plan
- Dedication within Lots 102 and 104

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- Public submissions

The applicant's responses dated 18 May 2020 are addressed in relevant sections of this Report.

The amended proposed development is summarised in the following section and addressed through the remainder of this report.

Details of Proposal

The proposed development for which consent is sought comprises:

- Torrens Title subdivision creating 99 residential lots and five super lots subject to future development.
- Landscaping works including street trees.
- Construction of roads, kerb, gutter and paths.
- Construction and installation of essential services and ancillary infrastructure.
- Excavation cut / fill including retaining walls.
- Stormwater network and drainage infrastructure (including detention basins and piping of creek).
- Clearing of site and vegetation amelioration works as indicated.
- Ancillary temporary signage (two signs adjacent to North Creek Road – see Attachment 2).

The Subdivision Plan (Rev. N) prepared by Urbis is included at Attachment 2. Key numeric aspects of the proposal are provided in the table below and the various components of the proposed development are described in the following sections.

Table – Proposed Development Parameters

Parameter	Proposed	Compliance
Site Area	15.07 hectares	N/A
Land Use	Residential (dwelling houses and roads)	YES
Lot Yield	99 residential lots and five super lots subject to future development applications.	N/A
Lot Sizes (Residential only)	600sqm – 1,200sqm	YES

In accordance with section 4.46 of the *EP&A Act*, the proposal will require General Terms of Approval from the NSW Office of Water.

Subdivision

The proposed subdivision (shown in Figure 4) will create 99 residential lots and five super lots subject to future development to facilitate the following:

- Super lots 100 and 101 will be subject to future development applications for residential development. The proposed road network has been designed to ensure adequate access is provided to these future lots.

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- Super lot 102 contains a relatively small area of disturbed Mid-high woodland (*Banksia integrifolia*) and regrowth. This lot will be subject to a future development application for residential subdivision and the future connection of Road 3.
- Super lot 103 is reserved to provide flexibility on an appropriate access point to the Hutley Drive north extension.
- Super lot 104 contains temporary drainage basins.
- Proposed Lot 58 is a residential lot that will contain a turning head for Road 3 until such time as Road 3 is connected, subject to a future development application.

Proposed residential lots across the R2 zoned land vary between 600sqm to 1,200sqm, and are designed in accordance with the development standards of BLEP and DCP. Compliance with BLEP and DCP is addressed below.

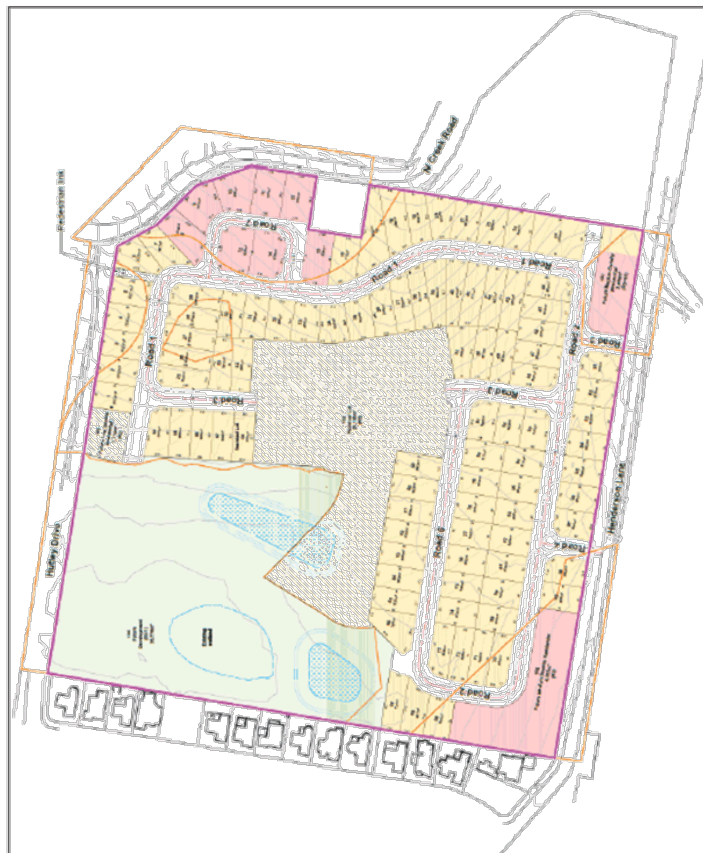


Figure 4 – Proposed Subdivision Plan (February 2020) – see also Attachment 2

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Road Layout and Access

The proposed development includes the construction of:

- Seven new internal public roads to be dedicated to Council.
- Most proposed internal roads are classified as 'local streets' and have a 7-9m wide sealed carriageway in a 15-17m wide road reserve.
- Road 3 is proposed in two sections and designed with an alignment that can be connected as part of a further development application to subdivide Super lot 102. The northern section of Road 3 will include a temporary turning head located within proposed Lot 58, to allow for vehicles to turn around in a forward motion.
- Road 7 is proposed as a 'one-way access street' or laneway with a minimum 6m wide sealed carriageway in a 10-14.9m wide road reserve.

All lots will be accessed via the internal road network, and therefore no direct access to lots is proposed onto Hutley Drive, North Creek Road or Henderson Lane. The internal road network will be accessed via two roads from Henderson Lane to the south of the site. To facilitate further integration to the wider road network, the intersection of Road 1 and 3 has been designed to facilitate a future road connection to Hutley Drive. This connection will be subject to a future development application.

All internal roads will have pedestrian footpaths to encourage walking, and a pedestrian link is proposed in the north eastern corner of the site to provide convenient pedestrian connectivity to Lennox Head Town Centre to the north. A number of roads are proposed to have a drainage swale on one side of the road for stormwater drainage where grade permits.

An unsealed access road is proposed to connect to Road 6 to provide vehicular access to the proposed drainage basins for future maintenance by Council. Removable bollards will be installed at the southern end of the access road to restrict public vehicular access. This access road alignment also conveys a swale connecting to Drainage Basin 1.

The proposed road works are detailed within the Civil Plans.

The Landscape Report provides further information to support the design.

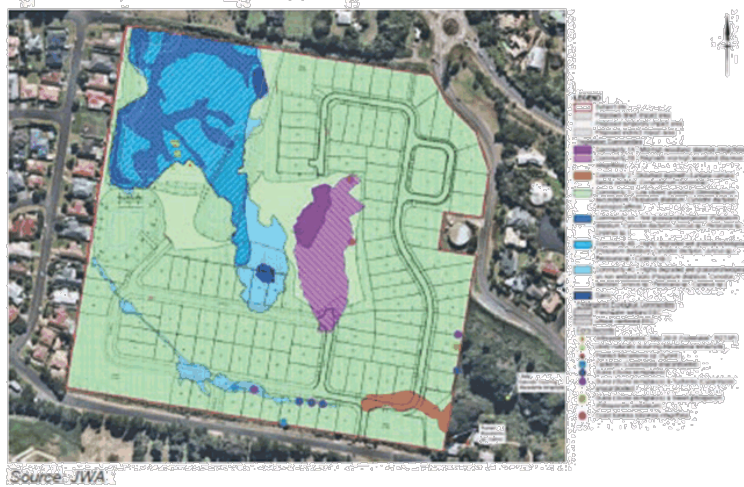
Vegetation Clearing and Proposed Amelioration

To facilitate the residential subdivision of the site, some existing vegetation will need to be cleared as shown in Figure 5. An existing farm dam will be safely decommissioned and filled with suitable fill.

The proposed areas of vegetation clearing are shown in Figure 5. The central portion of the site which predominantly contains Community 1A and 1B (Littoral Rainforest – EEC) is not proposed to be cleared as part of this application and will be the subject of future assessment under separate DA.

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Figure 5 – Indicated Area of Vegetation Clearing



Section 5.3 of the Ecological Assessment report prepared by JWA Ecological Consultants provides recommended amelioration works in response to the loss of flora and fauna on the site.

Around 2.38ha of the site (within the RU1 land) is proposed to be retained as a Rehabilitation (Wetland Management) area as shown in Figure 6. A Wetland Management Plan has been prepared by JWA. The compensatory habitat area will be cleared of weed species and re-vegetated with native freshwater wetland species.

Figure 6 – Wetland Management Plan



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Bulk Earthworks and Retaining Walls

Mott Macdonald and Coffey have investigated land stability for the site and designed bulk cut and fill earthworks to facilitate the subdivision to allow for new roads and grading of residential lots. Due to the steep topography of the site, there will be a requirement for imported fill on site and retaining walls.

These works are detailed in the Civil Plans. Prior to any earthworks commencing on the site, erosion and sediment control measures will be put in place.

Stormwater Management and Drainage

Mott Macdonald were commissioned to prepare a Stormwater Management Report for the proposed residential subdivision. The major/minor approach to stormwater drainage is the recognised drainage concept for urban catchments within the Ballina Shire Council local government area.

The minor drainage system is comprised of the below ground pit and pipe network and is designed to control nuisance flooding and enable effective stormwater management for the site. Council's DCP requires that the minor system be designed for a minimum 5 year ARI for urban residential areas.

The major drainage system incorporates overland flow routes through proposed road, hardstand and landscaped areas and is assessed against the 100 year ARI design storm event. The major system also exists to cater for minor system failures. In accordance with council's requirements, the major drainage system is to be designed in a manner that ensures that personal safety is not compromised. As such, all overland flow routes for the site are to be designed so that the maximum velocity-depth product shall not exceed 0.4m²/s.

DRAINS software has been used to calculate stormwater flows generated within the site for the existing and proposed scenarios. Stormwater piped capacities have been designed to convey the minor storm event with safe overland flows for the 100year ARI storm event. If the major system cannot meet the safety and flooding criteria, then the capacity of the minor system has been increased.

In addition to the pit and pipe network, vegetated swales have been incorporated into the drainage network within the verge space of roads with favourable grades.

Onsite detention basins are proposed within the north western portion of the site land as detailed in the Civil Plans. The detention and water quality strategies for the development have been designed in consultation with JWA, Gilbert and Sutherland, and Council to ensure that adverse impacts on this area are avoided and mitigated, consistent with the Wetland Management Plan contained in the Ecological Assessment.

In accordance with Council's DCP, all detention basins are designed to detain stormwater runoff for short durations during storm events. These are generally not expected to pond for longer than 12 hours in long storm events.

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In consultation with NSW Office of Water, the existing drainage corridor running east to west across the site does not require creation of a riparian corridor, and will be piped to discharge into the proposed detention basins.

Services and Utilities Infrastructure

The subdivision proposes infrastructure arrangements for electricity, lighting, communications, water and sewer. Details of the proposed services and utilities infrastructure are detailed further in the IGS Infrastructure Report and the Services Plans prepared by Northrop.

As part of the design process, IGS has consulted with the relevant service providers and the report demonstrates that the subdivision can be adequately serviced.

Landscape Design

The landscape plans and accompanying report prepared by Urbis provides a description on the proposed landscape works, including street trees in accordance with Council's recommended tree species. Street trees have been located on both sides of each street, with approximately one tree per lot positioned as to not restrict driveway access or interfere with utility services.

In addition, landscaping and vegetation has been designed as part of the stormwater infrastructure to support water sensitive urban design and facilitate easy maintenance and management.

Figure 7 – Landscape Design (February 2020)



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Temporary Signage

To facilitate the future marketing of the subdivision, two temporary billboard advertising signs are proposed located along the frontage of existing North Creek Road. Each billboard is proposed to have an area of approximately 10 sqm (being five metres wide x two metres high).

The proposed billboards are temporary and strictly for the purpose of advertising the residential subdivision of the site. The billboards are proposed to be removed following completion of the project.

Plans of the proposed subdivision and signage are provided at Attachment 2.

The estimated development cost of the project is \$11,387,385.00.

The proposal is for integrated development under the Water Management Act 2000. General Terms of Approval from the DPI Water (29 May 2018) and the Natural Resource Access Regulator (NRAR) (25 May 2020) are attached to the draft Conditions of Consent.

Reportable Political Donations

Details of known reportable political donations are as follows:

- The DA Form indicates that no Disclosure Statement accompanies the Application.

Public Exhibition

The Application was publicly exhibited on two occasions as follows:

1. 18 July 2018 to 18 August 2018 (29 submissions received). Refer to attachments.
2. 18 March 2020 to 15 April 2020 (19 submissions received). Refer to attachments.

The key issues raised in the objections are summarised and addressed as follows:

1. Drainage - The submitter questions whether or not the proposed drainage through the subject land has been designed to appropriate standards and whether it includes sufficient capacity for future dwellings on the submitter's property (to the east of the subject land).

Comment

A condition has been applied to the consent to address this matter. Refer Condition No. 41.

2. There has been no provision for vehicular access and service interconnections for future development of the submitter's land to the east of the subject land.

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Comment

The amended Application Plans provide for a public road (Road 2) which will provide the potential for access to the submitter's property should a future development consent be granted.

3. Proposed excavation adjacent to the submitter's property to the east of the subject land is excessive and unreasonable.

Comment

Maximum cut appears to be limited to 6m. The retaining walls adjacent to the submitter's property are 3m in height and are proposed to be stepped retaining walls. A condition has been applied to the consent to ensure that they are suitably offset such that they will not result in any restrictions on the adjoining property. Refer Condition No. 51.

4. The submitter disagrees with the proposed 1.8m to 3m high acoustic barrier along North Creek Road and Henderson Lane because of adverse impacts on the view corridor for existing residents and motorists/pedestrians on North Creek Road. Further, the submitter contends that the acoustic barriers are not required based on the Acoustic Report accompanying the DA.

Comment

Having regard to the comments in Sections 6.0 and 7.1 of the ENIR (CRG Acoustics, 19 June 2018) acoustic barriers to North Coast Road and Hendersons Lane are not required, subject to appropriate treatment of future dwellings as recommended in Section 6.1 of the ENIR. This can be addressed by a condition of consent. Refer Condition No. 141

A condition should also be imposed requiring a Section 88B Restriction on Lots 6 to 12 and 17 to 19 precluding structures (other than swimming pools and garden sheds) within 6m of the eastern boundary of the lots to preserve view corridors and minimise acoustic impacts. Refer Condition 142.

5. The future use and management of the residual lot is unknown.

Comment

An appropriate condition is proposed to address the future ownership and management of the stormwater facilities on Lots 102 and 104. Refer Condition No. 9.

6. The exact number of dwellings is unknown.

Comment

The total number of dwellings will be determined when Development Applications for the medium density lots and residue lots are approved. Infrastructure capacity will be required to accommodate ultimate yields. Refer Condition No. 11.

7. There is no connection to Hutley Drive.

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Comment

No connection to Hutley Drive is proposed. The revised SEE, at Section 4.3, states that:

“To facilitate further integration to the wider road network, the intersection of Road 1 and 3 has been designed to facilitate a future road connection to Hutley Drive, once Council has finalised the Hutley Drive extension. This connection will be subject to a future development application.”

A Traffic Impact Assessment has been submitted to Council which demonstrates that this link while desirable is not essential to service the development.

Hutley Drive has now been completed. To address safety, capacity and amenity issues, a condition is recommended requiring a potential future road corridor to be secured to Hutley Drive. Refer Condition No. 111.

8. The existing natural waterway should be retained and an assessment of wetland vegetation impacts and groundwater dependent ecosystem impacts should be required.

Comment

Refer comments under Ecological Assessment later in this report.

9. No provision for pedestrian and cycle traffic and its access to the township.

Comment

The amended Application Plans provide a pedestrian link from Road 1 to Hutley Drive in the north eastern corner of the site which will provide improved connectivity to the existing network.

10. No detailed Socio-Economic Assessment accompanies the DA and the community needs public spaces, parks and green corridors.

Comment

Having regard to the scale and nature of the development, the zoning of the land and given that the zoning was relatively recently imposed, it is considered that a Socio-Economic Assessment is not essential to enable Council to make a full and proper assessment of the merits of the Development Application.

The development proposal does not include the dedication of any additional public reserves on the site on the basis that there are adequate facilities in close proximity including north of Hutley Drive and immediately adjoining the site to the west.

11. We can't believe that Henderson Lane is expected to cope with all access in and out of the new subdivision. Henderson Lane is a little, steep lane already struggling under peak time loads. It's not adequate.

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Comment

A condition will be applied to the consent requiring the construction of kerb and gutter and associated stormwater infrastructure for the full property frontage of Henderson Lane connecting to the existing kerb and gutter and stormwater infrastructure to the west of the site. To allow for a total carriageway width of 11m and comply with the collector road standard. Refer Condition No. 15.

12. There seems to be a severe lack of information supporting the current intention or future role of the wetland area in the north west corner. What is going to be constructed there in future, given that it obviously a significant ecological area? Who is going to maintain it? Given point 2. above, is there a plan for vehicle access at some future date - where else can better access be provided? Surely not through the ecological zone?

Comment

This issue has been further addressed in the revised DA and SEE (February 2020) and conditions are proposed to address ownership, management and compliance bonding.

13. The submitter contends that the development should not be approved until at least an indication of the total lot/dwelling yield including future and medium density lots is provided.

Comment

The revised application proposes 99 residential lots and 5 super lots. Subject to detailed design and approval of future DAs for the super lots, it is estimated that the ultimate yield will be in the order of 140 to 150 dwellings.

14. A technical peer review of the Ecological Assessment should be completed by an independent ecological consultant, particularly addressing location and likelihood of occurrence of Hairy Joint Grass and freshwater wetland EEC and an assessment of impacts to both if found.

Comment

It is considered that a peer review is not necessary. See comments under Ecological Assessment later in this report.

15. An updated traffic report and revised subdivision layout should be prepared that caters for both proposed and future development yields and includes a connection to the Hutley Drive extension that does not traverse the residual lot.

Comment

Provision has been made to service a potential future road corridor to Hutley Drive. A revised traffic report is not considered to be required based on the engineering comments in this report.

16. Updated hydrological and ecological assessments should be provided that assesses the impacts of the proposed bulk earthworks and waterway infill

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Comment

A revised Ecological Assessment (JWA, February 2020) has been submitted with the amended DA and a revised Hydrological Regime Assessment (G&S, 24 February 2020). Refer comments under Ecological Assessment later in this report.

17. The submitter objects on the grounds that the DA is incomplete. In particular there is no information on the Hutley Drive extension or round-about, so effects on traffic cannot be known or even estimated.

Comment

See response to Issues 7 and 11.

18. The use of the large lot zoned in the northwest corner is unclear and seems to be left to some future planning.

Comment

The residue lot has environmental constraints and is partly proposed as an area for drainage and water quality together with retention of sensitive vegetation. Further details have been submitted following consultations with Council Officers in relation to the treatment of this area. Refer ecological and engineering assessment comments later in this report.

19. I would ask council not to be coerced or tricked into making important decisions regarding the future of the shire with an incomplete DA. It is a reasonable and straightforward matter to ask the developer to provide relevant information

Comment

Based on the amended plans and reports it is considered that adequate information has been provided to enable Council to make a full and proper assessment of the application.

20. I am concerned that there is a large residual lot proposed as part of the DA with no details as to what is proposed for it.

Comment

See comments regarding Issue 5.

DA 2020/284 for an 18 lot subdivision of part of the residual lot 102 has been submitted to Council. The future use and disposition of the residue lot will be considered in the assessment of that DA.

21. The information of the proposed traffic impacts is inadequate as it does not address future development yields.

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Comment

Based on the engineering comments in this report and as DA 2020/284 has been lodged for the residue Lot 102, it is considered that traffic impacts have been adequately addressed.

22. Continued poor development outcomes for Lennox Head

Comment

The proposal, subject to appropriate conditions, will be consistent with the zone objectives, the Lennox Head Structure Plan and similar contemporary estates in Lennox Head.

23. Confusion over lot sizes and zonings resulted in allotment owners being unclear as to where their property boundaries were and therefore no maintenance of uncertain areas

Comment

The amended DA and accompanying plans and reports delineate proposed lot boundaries. The proposed lots comply with the minimum lot size required in BLEP2012.

24. Extensive area of the threatened species Hairy Joint Grass (*Arthraxon hispidus*) loss has not been rehabilitated and does not appear to be monitored nor evaluated

Comment

See comments under Ecological Assessment later in this report.

25. General infrastructure and population growth concerns.

Comment

The developer will be required to pay contributions to support the upgrade services and infrastructure for the increase in population as a consequence of this development in accordance with the relevant contribution plans. Refer Condition Nos. 122 and 123.

26. Future signage.

Comment

The Application includes proposed temporary real estate signs. Any additional signs will require a separate development consent, if required.

27. This subdivision is impermeable to pedestrians, cycling, etc. It is basically a closed/gated community conceptually. This is not the type of housing development that is conducive to the Lennox lifestyle.

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Comment

The proposal is for a conventional subdivision (not closed/gated) which is generally consistent with the zone objectives and the emerging urban character of the locality. Also refer comments to issue 9.

28. There is no Aboriginal assessment in the DA.

Comment

There are no heritage items identified in the BLEP 2012 on or adjacent to the site. An Aboriginal Cultural Heritage Assessment accompanied the Planning Proposal.

29. Where is the grey/recycled water plan?

Comment

All lots will be connected to the reticulated sewer system.

30. Density of housing

Comment

The proposal is consistent with the zone objectives and minimum lot size requirements in BLEP2012.

31. With regard to the Hairy Joint Grass we believe that simply re-locating the grass is not enough. Who will monitor this and what are the consequences if it is not done correctly. Conditions need to be imposed and policed to ensure compliance should the development be approved.

Comment

See comments under Ecological Assessment later in this report.

32. As this hillside is awash with creeks in the wet season we are very worried about the significant impact on the waterways when these waterways are piped. We are concerned about the impact on the groundwater dependent ecosystems i.e. the hairy joint grass and the (disputed) wetland on the site also. This level of development must have a significant impact on the waterway and the run off. We are a high rain area and a lot of water comes down that hillside.

Comment

As part of the stormwater management plan submitted with this application, the developers will be required to provide bioretention infrastructure and infiltration swales. These devices will be designed to ensure groundwater recharge is appropriate to sustain the health of the wetland and to ensure that peak flows associated with the increase in impervious area are suitably attenuated. See engineering and ecological assessment comments. A number of conditions are imposed to address this issue.

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33. The level of earthworks is very significant. This would be reduced if the development site was reduced and would therefore reduce the impact of the change to the topography and the waterway.

Comment

Maximum cut and fill appears to be limited to 6m. A satisfactory stormwater management plan has been submitted with the application demonstrating compliance with Council engineering standards and development control plans.

34. We are also concerned about the extent of Civil works associated with the development occurring in close proximity to existing dwellings and pools etc for existing residences on Silkwood Road. (noise, dust, vibration from compaction, storm water flow etc)

Comment

A condition of consent is recommended requiring a Dilapidation Report prior to work commencing and following completion of civil works and the preparation of a construction management plan. Refer Condition Nos. 66, 67, 71 and 145.

35. Land is flood prone and will require extensive filling.

Comment

The subject land zoned for urban purposes is not flood prone.

Matters for Consideration

The proposed development has been assessed under the heads of consideration in Section 4.15 of the Environmental Planning and Assessment Act 1979 (referred to assessment report – Attachment 5). The proposal has been assessed as being generally compliant with the BLEP 2012, Council's DCP 2012 and relevant State Environmental Planning Policies. The assessment has identified the following key issues which are elaborated upon for Council's information and consideration.

Applicable Planning Instruments

Federal and State Acts

Commonwealth Environmental Protection and Biodiversity Conservation Act, 1999

Section 5.4 of the SEE addresses this Act in the following terms:

The Environmental Protection & Biodiversity Conservation (EPBC) Act (1999) states a person must not, without an approval under the Act, take an action that has or will have, or is likely to have, a significant impact on matter of National Environmental Significance (NES). These are assessed by JWA and summarised as follows:

- *Declared World Heritage Areas On or Near the Site: There are no declared World Heritage areas on, or within 10km, of the subject site.*
- *Declared Ramsar Wetlands On or Near the Site: There are no declared Ramsar wetlands on, or within 5km of the subject site.*
- *Commonwealth Listed Threatened Flora and Fauna Species: No Commonwealth Threatened fauna species have previously been recorded within the subject site.*

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Two (2) Commonwealth Threatened fauna species were considered possible occurrences based on the availability of suitable habitat.

*One (1) Commonwealth Threatened flora species were recorded on the site, Hairy joint grass (*Arthraxon hispidus*). An additional EPBC listed species, Rough-shelled bus (*Macadamia tetraphylla*) has been recorded on a property adjacent to the site. Both of these species are listed as Vulnerable under the EPBC Act.*

With the mitigation measures described above, including in particular the preparation of a Stormwater Management Plan, it is considered that the proposed development will not result in any significant impacts on any of the EPBC listed Threatened species recorded from or considered possible occurrences on the site.

As such, no significant impacts to threatened flora or fauna or their habitat is expected as a result of the proposed development.

- *Listed Ecological Communities: No ecological community currently listed in the EPBC Act (1999) is considered to occur in the site.*
- *Listed Migratory Species On or Near the Site: No migratory species were observed on the site. It is considered that although a number of listed migratory species are known or likely to occur occasionally in the site, no area of important habitat occurs in the site for listed migratory species. No significant impacts to listed migratory species are expected as a result of the proposed development.*

On the basis of the above assessment (and in greater detail in Appendix H), it is considered that Commonwealth referral is not required for the proposed development.

Comment

See comments under Ecological Assessment later in this report.

NSW Biodiversity Conservation Act 2016

Section 5.2 of the SEE addresses this Act in the following terms:

The Biodiversity Conservation Act 2016 (BC Act) commenced on the 25th August 2017 to provide environmental protection and ecologically sustainable development. It should be noted that the NSW Government established transitional arrangements related to biodiversity assessment for the various categories of development assessment that were underway at the time or had already been made. These transitional arrangements are set out in the Biodiversity Conservation (Savings and Transitional) Regulation (BCST Regs) 2017 and effectively postponed the provisions of the BC Act until 25th February 2018.

In this regard, the subject application DA 2018/51 was lodged on 2 February 2018, and therefore in accordance with the BCST Regs, the previous legislation – the TSC Act 1995 – will apply.

Comment

See comments under Ecological Assessment later in this report.

NSW Threatened Species Conservation Act (1995)

Section 5.3 of the SEE addresses this Act in the following terms:

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5.3.1. Threatened flora

One (1) Threatened flora species (*Arthraxon hispidus* – Hairy joint grass (HJG)) has been recorded on the subject site. Recent targeted surveys for HJG were completed in May 2018 and May 2019. The results of the May 2019 survey found six occurrences of HJG. All of the recorded locations consisted of multiple HJG stems occurring within an overall area of approximately 600sqm in total, with each clump covering 1-3 sqm. All of these HJG stems occur within the proposed Wetland Management Area (i.e. outside of the proposed development footprint).

The threatened species Rough-shelled bush nut (*Macadamia tetraphylla*) has been recorded from previous studies by JWA as occurring on a site adjacent to the subject site.

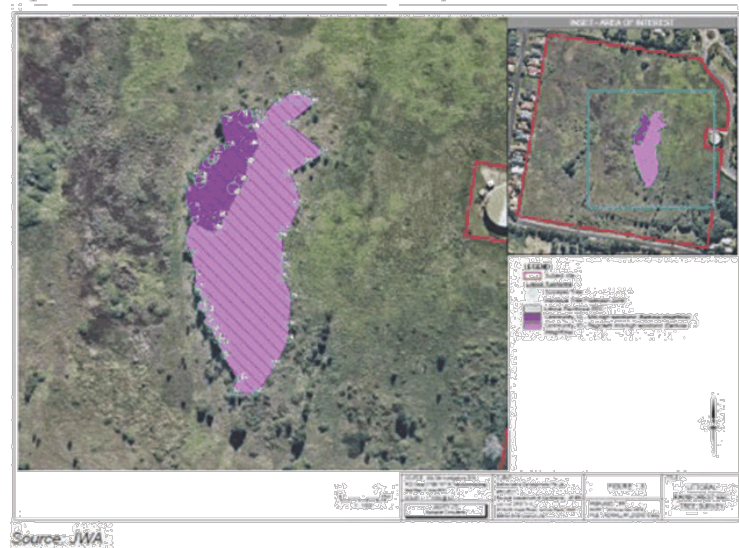
On the basis of the assessments undertaken by JWA, it is considered that the proposed development is unlikely to result in any significant impacts on Threatened flora species recorded on or adjacent to the subject site. Therefore, a Species Impact Statement (SIS) is not required for threatened flora occurring in the site.

5.3.2. Littoral Rainforest - Endangered Ecological Communities (EECs)

A Littoral Rainforest tree survey was completed on 25th October 2019 by JWA to map the extent of the Littoral Rainforest community on the site. A second site inspection was completed on the 15th November 2019 to identify individual trees, and delineate the margins between regrowth/highly disturbed and better quality areas of the community (as shown in Figure 8).

With consideration of this updated survey data, a revised extent of Littoral Rainforest was established and assessed in accordance with Section 5A of the Threatened Species Conservation Act (1995) (TSC Act) and in accordance with the Threatened Species Test of Significance Guidelines (OEH 2018).

Figure 8 – Littoral Rainforest EEC Tree Survey



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The revised extent of the Littoral rainforest EEC on the subject site shown in Figure 8 includes:

- Community 1 – Mid-high woodland (*Banksia integrifolia*)
 - Community 1a: Considered better quality areas and relatively disturbed, covering a total area of approximately 0.14ha.
 - Community 1b: Considered regrowth/highly disturbed area covering a total area of approximately 0.58ha.

The vegetation community is considered to best fit with PCT 1536 – Tuckeroo – Lilly Pilly – Coast *Banksia* littoral rainforest. This community has been disturbed by grazing and weed infestations. The mid-high woodland community on the subject site contains some species that are representative of the EEC – Littoral rainforest in the NSW North Coast, Sydney Basin and South-East Corner bioregions, as listed within schedules of the NSW TSC Act (1995). Advice from the former OEH after a site inspection on the 6th June 2019 has confirmed that, in their opinion, vegetation communities 1a and 1b appears to be representative of the Littoral rainforest Endangered Ecological Community (EEC).

The small size and degraded nature of this vegetation excludes it from meeting relevant criteria for representing the Commonwealth listed TEC Littoral rainforest and coastal vine thickets of Eastern Australia. The conservation value of this community is reduced by its small size, disturbance by cattle, and high level of degradation by weed species and other edge effects.

Based on the above, a total of 0.72 ha of Littoral rainforest EEC exists on the subject site and 0.08 ha will be impacted by the proposed development. This equates to 11% of the Littoral rainforest community occurring on the subject site and approximately <3% of the potential Littoral rainforest EEC identified within approximately 1.2km of the EEC patch on the subject site.

JWA concludes the highly degraded condition of this vegetation patch and its presence in the landscape suggests that the degraded patch of Littoral rainforest EEC is considered to make minimal contribution to the extent of this vegetation type in the locality and the 3% loss of vegetation extent is an overestimate when considering these limiting factors. For this reason, the removal of part of the regrowth area of Littoral rainforest EEC is considered highly unlikely to place the local occurrence of this EEC at risk of extinction.

Given the above, it is determined that the proposed development will not adversely effect the extent of the ecological community nor adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction. On the basis of the assessments undertaken by JWA it is considered that a Species Impact Statement (SIS) is not required for degraded EEC vegetation occurring in the study area.

5.3.3. Freshwater Wetland - Endangered Ecological Communities (EECs)

As detailed in the Ecological Assessment prepared by JWA in Appendix H, with consideration of the results of the soil analysis (completed by Gilbert and Sutherland (Appendix I)) and data collected during vegetation surveys in May 2018 and May 2019, the community of Freshwater Wetland was divided into the following sub-categories:

- Community 4a: This community consists of the better-quality portions of Community 4. This community occurs in the lower-lying portions of Community 4 and contains the highest portion of native wetland species and the lowest incursion of weed species.
- Community 4b: Highly disturbed version of Community 4a with only scattered occurrences of native wetland species, but extensive incursion of pasture grass species.

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- *Community 4c: Highly disturbed version of Community 4a with extensive incursion of pasture grass species and occurring outside of the mapped wetland soil extents.*

Community 4a and Community 4b are considered to be representative of the Freshwater Wetland Endangered Ecological Community (EEC). These highly degraded areas have been included within the extent of the Freshwater Wetland EEC for the purposes of this assessment as a precautionary measure as requested by OEH.

Written advice received from OEH (dated 19th June 2019) has determined that the local occurrence of the Freshwater Wetland EEC is likely confined to the subject site. While some genetic exchange may occur through bird dispersal, drainage and land filling associated with adjoining downstream residential development is likely to restrict genetic exchange for aquatic species.

JWA has identified a total of 2.11 ha of Freshwater Wetland EEC exists on the subject site – relatively intact wetland vegetation considered more consistent with the Freshwater Wetland EEC descriptions cover an area of approximately 0.72 ha (Community 4a), whilst highly degraded vegetation (Community 4b) covers the remaining 1.39 ha. Of this wetland vegetation, it is estimated that approximately 0.53 ha (25%) will be impacted by the proposed development. However, approximately 0.13ha of the expected impacts are temporary in nature and will be rehabilitated following construction in accordance with the proposed Wetland Management Plan, leaving a total long-term impact of 0.4 ha (19%). Of the 0.4 ha of long term impact, the majority (0.36 ha) will occur within the fringing highly degraded wetland vegetation. 94% of the better-quality Freshwater Wetland EEC vegetation will be free of both direct and temporary impacts.

It is noted that Ballina Shire Council has requested the construction of an additional drainage swale and associated access track in the north-western portion of the Freshwater Wetland EEC area to assist with drainage on adjoining land. These works will result in a further 0.08ha of temporary impacts and 0.10 ha of long term impacts. As the long term impacts are not associated with the proposed development, these impacts have been excluded from this assessment of significance and will need to be addressed by Ballina Shire Council.

The long-term removal of 0.4ha of this Freshwater Wetland EEC community as a result of the proposed development, or 6% of the better quality Freshwater Wetland EEC vegetation, is not considered likely to place this EEC on the subject site at risk of extinction. A Hydrological Regime Assessment (Appendix I) has been completed and demonstrates that, with the incorporation of mitigation measures, the proposed development will not adversely alter the hydrological regime of the retained wetland/Groundwater Dependent Ecosystem (GDE) and the wetland can be maintained.

Given the above, it is determined that the proposed development will not adversely effect the extent of the ecological community nor adversely modify the composition of the ecological community such that is local occurrence (i.e occurrence on the subject site) is likely to be placed at risk of extinction. Nor will the development result in an adverse effect on any critical habitats listed under the Threatened Species Conservation Act (1995).

On the basis of the above assessment, it is considered unlikely that there will be any significant impacts on the Freshwater Wetland EEC as a result of the proposed development. The assessment of Key Threatening Processes (KTP) also concluded that with the implementation of the recommended management actions, the proposed development will not increase the impact of any relevant KTPs. It is therefore concluded that a Species Impact Statement (SIS) is not required.

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5.3.4. Fauna

No threatened fauna species have been recorded within the study area. Based on an assessment of available habitat, five (5) threatened fauna species are considered to possibly occur within the study area over time:

- Black-necked stork (*Ephippiorhynchus asiaticus*)
- Grey-headed flying fox (*Pteropus poliocephalus*)
- Australian painted snipe (*Rostratula australis*)
- Common blossom bat (*Syconycteris australis*)
- Eastern grass owl (*Tyto longimembris*)

On the basis of the assessments undertaken by JWA it is considered that a Species Impact Statement (SIS) is not required for threatened fauna species considered a possible occurrence in the study area.

Comment

See comments under Ecological Assessment later in this report.

NSW Roads Act 1993

Approval under this Section 138 of this Act will be required for any construction works within the existing road reserves. The Application proposes the construction of two access streets onto Henderson Lane. No direct vehicular access is proposed to Hutley Drive.

In accordance with normal practice, a condition of consent is recommended requiring the applicant to obtain a Section 138 Approval prior to the issue of a Subdivision Works Certificate.

Draft Environmental Planning Instruments

Ballina Shire Council has prepared Planning Proposal No. 18/004 (September 2019, Version 4 Exhibition).

Council's Strategic Planners advised on 29 June 2016 as follows:

"There are ongoing and interconnected issues between the DA and the planning proposal, particularly in relation to ecological and drainage issues. It is critical to resolve these issues through the DA process prior to finalising the planning proposal.

Advice to date in response to government agency consultation includes an objection from the NSW Biodiversity and Conservation Division (formerly OEH) dated 13 November 2019, and comments from DPI Agriculture dated 4 November 2019.

The proponent, Richard Barry, has since advised that an amended ecological assessment report was submitted in February 2020 in respect to DA 2018/51. I have had brief discussions with Ian Gaskell about the amended report but am unable to confirm if this satisfies Council's issues with the DA, which if it does not, would also presumably not satisfy the BCD's objection to the planning proposal. This matter will require clarification for both the DA and the planning proposal.

The Department of Planning, Infrastructure and Environment have granted a nine month extension of time to complete the LEP amendment, which now must be completed by 12 February 2021."

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See comments under Ecological Assessment later in the report.

The proposed development does not rely on the Planning Proposal for permissibility.

State Environmental Planning Policies

SEPP (Infrastructure) 2007

Clause 102 of the Policy is in the following terms:

"102 Impact of road noise or vibration on non-road development

- (1) This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published on the website of RMS) and that the consent authority considers is likely to be adversely affected by road noise or vibration—
- (a) residential accommodation,
 - (b) a place of public worship,
 - (c) a hospital,
 - (d) an educational establishment or centre-based child care facility.
- (2) Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Secretary for the purposes of this clause and published in the Gazette.
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—
- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.
- (4) In this clause, **freeway**, **tollway** and **transitway** have the same meanings as they have in the [Roads Act 1993](#)."

In relation to Clause 102, the Applicant has provided the following information:

Road traffic noise criterion for new residential developments is specified in the State Environment Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). Therefore, the current NSW Road Noise Policy (RNP) does not provide noise goals for new residential developments.

Infrastructure SEPP requirements are mandatory only for proposed noise sensitive developments near highly trafficked roads (i.e. roads with annual average daily traffic volume (AADT) of more than 40,000 vehicles. Whilst this development does not front a road corridor with AADT of more than 40,000 vehicles, the design advice offered by the Infrastructure SEPP has been considered useful by CRG Acoustics (Appendix L) when designing noise sensitive developments near other road uses such as North Creek Road, Henderson Lane and The Coast Road.

The internal noise goals specified in the Infrastructure SEPP (and also Section 3.22.3 of Ballina Shire Council Development Control Plan 2012) are as follows:

- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:

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- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Given that the SEPP does not provide a specific external noise criterion (for assessment of building facades, outdoor recreation areas and the application of acoustic barriers), CRG adopted the external criterion from the RNP of 60 dB(A) Leq 15hr and 55 dB(A) Leq 9hr for "existing residences affected by noise from redevelopment of existing freeway / arterial / sub-arterial roads". This adopted external criterion has been used to assess acoustic barrier treatments, and the extent of residential lots that will require additional acoustic dwelling assessments for determining upgraded building shell treatments.

The report prepared by CRG assesses two road noise modelling scenarios as follows:

- Scenario 1 – No acoustic barrier treatments and reliance of upgraded acoustic building shell treatments at noise affected lots
- Scenario 2 – Construction of acoustic barriers (refer to Appendix L) to exclude the requirement of building shell treatments at ground floor level building facades). First floor level dwellings (if constructed) would require building shell treatments at noise affected lots.

Proposed lots which are predicted to have road noise impacts above the adopted external noise criterion of 60 dB(A) Leq 15hr and / or 55 dB(A) Leq 9hr are as follows:

- **Ground (No Acoustic Barrier Scenario):** Lots 1 to 19, 25, and Superlots 10, 106 to 108.
- **First Floor (if constructed):** Lots 1 to 20, 25 to 37, 40, 42, 44, 46, and Superlots 104, 106 to 108.

To achieve the internal noise criterion at future dwellings on the noise affected habitable lots, CRG recommend that additional noise assessments be conducted once building plans are finalised.

In accordance with the requirements of the Infrastructure SEPP, Ballina Shire Council Development Control Plan and the RNP, this proposal considers the implementation of acoustic building shell treatments (i.e. upgraded glazing, external façade/roof treatment) to dwellings affected by road noise as a reasonable noise mitigation measure. This measure is considered a desirable alternative to acoustic walls, which are out of keeping with the surrounding area, would fail to respond to the topography of the site, and create poor amenity.

Comment

A number of submissions raise objections to any proposed acoustic fence adjacent to North Creek Road because of adverse visual impacts and loss of views. In the circumstances, acoustic treatment of future dwellings as proposed by the applicant is considered to be the better option. Refer condition 141.

Clause 104 of the Policy is in the following terms:

104 Traffic-generating development

- (1) This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves—
 - (a) new premises of the relevant size or capacity, or
 - (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.
- (2) In this clause, **relevant size or capacity** means—

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- (a) *in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
 - (b) *in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*
- (2A) *A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies that this Policy provides may be carried out without consent unless the authority or person has—*
- (a) *given written notice of the intention to carry out the development to RMS in relation to the development, and*
 - (b) *taken into consideration any response to the notice that is received from RMS within 21 days after the notice is given.*
- (3) *Before determining a development application for development to which this clause applies, the consent authority must—*
- (a) *give written notice of the application to RMS within 7 days after the application is made, and*
 - (b) *take into consideration—*
 - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including—*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*
- (4) *The consent authority must give RMS a copy of the determination of the application within 7 days after the determination is made.*

Comment

North Creek Road is not a classified road and in any case, the intersection of proposed Road 5 and Henderson Lane is more than 90m from North Creek Road. Therefore, referral of the Application to Transport for NSW (TfNSW) is not required.

State Environmental Planning Policy No. 14 – Coastal Wetlands

Section 5.7 of the SEE addresses this SEPP in the following terms:

State Environmental Planning Policy No.14 Coastal Wetlands was repealed upon commencement of State Environmental Planning Policy (Coastal Management) 2018 on 3 April 2018. Notwithstanding, SEPP 14 remains the relevant environmental planning instrument in accordance with the transitional saving provisions of the Coastal Management SEPP.

State protected wetlands are identified within 10km of the site. However, there are no coastal wetlands mapped within the boundary of the site. As such, this proposal does not include further assessment of SEPP No.14.

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Comment

Council Officers concur with the applicant's assessment of SEPP14.

State Environmental Planning Policy No. 26 – Littoral Rainforest

Section 5.8 of the SEE addresses this SEPP in the following terms:

State Environmental Planning Policy No.26 Littoral Rainforest was repealed upon commencement of State Environmental Planning Policy (Coastal Management) 2018 on 3 April 2018. Notwithstanding, SEPP 26 remains the relevant environmental planning instrument in accordance with the transitional saving provisions of the Coastal Management SEPP.

Littoral Rainforests are identified within the locality of the site and detailed site surveys have identified communities representative of Littoral Rainforest (refer to Section 5.3). However, the SEPP does not map Littoral Rainforest as being within the boundary of the site. As such, this proposal does not include further assessment of SEPP No.26. Littoral Rainforest.

Comment

The subject land is approximately 200m from the littoral rainforest located to the east of the subject land and therefore the Policy is not applicable to this development proposal.

State Environmental Planning Policy (Coastal Management) 2018

Section 5.9 of the SEE addresses this SEPP in the following terms:

State Environmental Planning Policy (Coastal Management) 2018 (Coastal Management SEPP) aims to promote an integrated and co-ordinated approach to land use planning in the coastal zone. The Coastal Management SEPP consolidated the now repealed SEPP 14, SEPP 26 and SEPP 71 assessed in this SEE.

Notwithstanding, the Savings and Transitional Provisions under clause 21 of the Coastal Management SEPP identifies it does not apply to this development application as stated:

- (1) The former planning provisions continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this Policy applies.*

DA 2018/51 was lodged prior to the commencement of the Coastal Management SEPP, and therefore it is applicable to continue assessment of this application against the provisions of the repealed SEPP 14, SEPP 26 and SEPP 71, and repealed clause 5.5 of BLEP 2012.

Comment

State Environmental Planning Policies 14, 26 and 71 were repealed on 3 April 2018 and replaced by State Environmental Planning Policy (Coastal Management) 2018 which came into force on the same date. DA2018/51 was lodged on 2 February 2018 and therefore the Policy does not apply to this Development Application.

8.1 DA 2018/51 - 20 North Creek Road, Lennox Head - Residential Subdivision**State Environmental Planning Policy No. 44 – Koala Habitat Protection**

Section 5.10 of the SEE addresses this SEPP in the following terms:

The site is located in the Ballina LGA, which is listed under Schedule 1 of the SEPP. As such, this SEPP is applicable.

JWA has undertaken a site assessment in accordance with the SEPP, to determine the likelihood of the site providing a habitat for Koalas. The assessment by JWA is summarised in the following table:

Table 5 – Koala Habitat Protection Assessment

Site Assessment Criteria	Comments
1. Does the policy apply? <i>Is the landholding to which the DA applies greater than 1 hectare in area?</i>	Yes
2. Is the land potential Koala habitat? <i>Does the site contain areas of native vegetation where the trees of types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component?</i>	No. The site does not contain any Koala food trees.
3. Is there core Koala habitat on the subject land?	The site does not support core Koala habitat.
4. Is there a requirement for the preparation of a Plan of Management for identified core Koala habitat?	

As such, the site does not pose any potential impact on Koala habitats.

Comment

The applicant's comments are concurred with.

State Environmental Planning Policy (Koala Habitat Protection) 2019

This Policy came into force on 1 March 2020. The Development Application was lodged on 2 February 2018 and therefore this Policy does not apply.

SEPP 55 – Remediation of Land

Section 5.11 of the SEE addresses this SEPP in the following terms:

The objectives of State Environmental Planning Policy – No.55 – Remediation of Land (SEPP 55) include the promotion of remediation of contaminated land for the purpose of reducing the risk to human health or another aspect of the environment. The consent authority must be satisfied the land is suitable for the purpose of the proposed development.

As part of the rezoning process for the site, a Phase 1 Site Contamination Assessment was undertaken by Coffey Geotechnics in 2013. Soil samples were collected to analyse for contaminants. All analysed samples returned results below the Soil Investigation Levels (SIL) identified in Column 1 of the Table 'Soil Investigation Levels for Urban Redevelopment Sites in NSW' (NSW DEC, 2006). Therefore, the report concluded no further assessment of land contamination was required prior to rezoning or at subdivision stage. This report is attached in Appendix G.

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To ensure the findings of this report remain applicable, Coffey undertook a site walkover in October 2017 and reviewed the 2013 report. Coffey confirmed the findings of the 2013 report remain applicable and recommendations for activities to remediate landslide should include:

- Removal of landslide material to a sound foundation.
- Installation of subsoil drainage.
- Replacement of the volume using structural (controlled) that has been placed, tested and documented as per the guidelines in AS3798.

Coffey do not identify any changes to the site regarding contamination, and recommend that any unexpected finds protocol be implemented, including a simple statement in the Construction Management Plan or equivalent document.

Based on the above, the proposal is considered to be in keeping with the requirements of SEPP 55 and the site is suitable for residential development.

Comment

Council's Environmental Health Unit has advised as follows:

"The assessment of soil contamination undertaken was appropriate for a preliminary screening investigation, The Phase 1 Assessment appears to have been undertaken in a diligent and thorough manner. The assessment concludes that a further Phase 2 Site Contamination Assessment is not required for this site at this stage.

The limitations of a Phase 1 Assessment is that the presence of buried contaminants cannot be excluded from potentially existing on the site. Therefore, the findings of the Phase 1 Site Contamination assessment are accepted however a condition will be included to ensure that in the event of contaminated matter or soils being discovered during the development of this parcel, they must be reported to Council and appropriate removal or remediation must be undertaken. The site is not identified as Acid Sulfate soils on Council mapping system."

State Environmental Planning Policy No.64 – Advertising and Signage

Section 5.12 of the SEE addresses this SEPP in the following terms:

State Environmental Planning Policy No.64 – Advertising and Signage (SEPP 64) aims to ensure signage is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of a high-quality design and finish.

This development application includes proposed temporary signage which is ancillary to the development and solely for the purpose of real estate signage directly associated with the development of the site. Clause 8 and Clause 13 of SEPP 64 specify that consent cannot be granted to signage unless the consent authority is satisfied that the proposed has been designed to satisfy the provisions of Schedule 1. Accordingly, an assessment of the proposed signage against the relevant provisions of Schedule 1 within SEPP 64 has been undertaken below in the following Table.

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Table – SEPP 64 Compliance Table

Control	Proposal	Compliance
1 - Character of the Area		
<ul style="list-style-type: none"> • Is the proposal compatible with the character of the area or locality in which it is proposed to be located? • Is the proposal consistent with a particular theme for outdoor advertising in the area or locality? 	<ul style="list-style-type: none"> • The proposed signs are temporary in nature and comparable with the current and future residential character of the locality; the signs promote the future residential land release at the site (subject to DA approval). • The design and scale of each proposed sign is comparable with existing land release advertising signs throughout the LGA. 	YES
2 - Special Areas		
<ul style="list-style-type: none"> • Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas? 	<ul style="list-style-type: none"> • The proposed signage is not illuminated and has been specifically designed with inoffensive colours, images and text to ensure it does not detract from the amenity or visual quality of environmentally sensitive areas, natural conservation areas, open space areas, waterways, rural landscapes or residential areas. • The proposed signage will temporarily activate the North Creek Road site frontage and be informative to the community. 	YES
3 - Views and Vistas		
<ul style="list-style-type: none"> • Does the proposal obscure or compromise important views? • Does the proposal dominate the skyline and reduce the quality of vistas? • Does the proposal respect the viewing rights of other advertisers? 	<ul style="list-style-type: none"> • The proposal does not obscure or comprise important views, including water views. Surrounding neighbours will experience negligible view loss by the proposed signs. • The proposed signs are primarily located at eye level and will in no way dominate the skyline. • Nearby residential dwellings are elevated above the site and will have minimal impact on views across the site. • Each proposed sign is inoffensive, unobtrusive and sympathetic against surrounding advertisements within Lennox Head. 	
4 - Streetscape, Setting or Landscape		
<ul style="list-style-type: none"> • Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape? • Does the proposal contribute to the visual interest of the 	<ul style="list-style-type: none"> • The scale, form and proportion of the proposed signage respects the sites location and visual appearance. • The proposal will contribute to the visual amenity of the site by temporarily activating the North Creek Road site frontage. 	

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Control	Proposal	Compliance
<p>streetscape, setting or landscape?</p> <ul style="list-style-type: none"> Does the proposal reduce clutter by rationalising and simplifying existing advertising? Does the proposal screen unsightliness? Does the proposal protrude above buildings, structures or tree canopies in the area or locality? Does the proposal require ongoing vegetation management? 	<ul style="list-style-type: none"> The site does not contain existing advertising. No. The proposed signage is visually interesting in its design. No. The proposed signage has been appropriately placed at the site and designed to ensure it does not generally protrude above surrounding buildings, structures, powerlines and tree canopies. No. No vegetation is proposed as part of the temporary signage. 	
5 - Site and Building		
<ul style="list-style-type: none"> Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located? Does the proposal respect important features of the site or building, or both? 	<ul style="list-style-type: none"> The proposed signage has been appropriately designed to ensure it is not of an unsightly bulk, scale or form. The signage is negligible when compared against the total size of the site. The proposed signage will visually enhance the site during construction. 	
<ul style="list-style-type: none"> Does the proposal show innovation and imagination in its relationship to the site or building, or both? 	<ul style="list-style-type: none"> The proposal shows innovation and imagination, as the design of the signage conveys a clear message to the viewer whilst being visually interesting. 	
6 - Associated Devices and Logos with Advertisements and Advertising Structures		
<ul style="list-style-type: none"> Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed? 	<ul style="list-style-type: none"> None of the signs contain any safety devices, platforms or lighting devices. Logos displaying the future development at the site and affiliated companies are proposed to be located on each sign. These logos are minor in scale and ancillary to the wider content displayed. The logos will increasingly inform passers-by of the future development to be contained to the site. 	
7 - Illumination		
<p>No illumination is proposed.</p>	<p>Accordingly, the following assessment criteria does not apply.</p>	N/A
8 - Safety		

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Control	Proposal	Compliance
<ul style="list-style-type: none"> • <i>Would the proposal reduce the safety for any public road?</i> • <i>Would the proposal reduce the safety for pedestrians or bicyclists?</i> • <i>Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?</i> 	<ul style="list-style-type: none"> • <i>The proposed signage is unilluminated, non-digital, unobtrusive and setback from the road. Accordingly, the temporary signage will not risk passing drivers, pedestrians or cyclists.</i> • <i>The proposed signage is to be located at the site and will not obscure sightlines from public areas. Accordingly, the proposal will not reduce public safety.</i> 	

Considering the above table, the proposed temporary signage is consistent with the aims of SEPP 64.

Comment

The Application Plans (see Attachment 2) propose two temporary real estate signs within the property as follows:

Sign A

Located adjacent to the junction of Hutley Drive, North Creek Road, the Coast Road and Byron Bay Road. The sign has a display area of 10m², an overall height of 4m and it is 2m from the underside of the sign to ground level.

Sign B

Located to the north of the reservoir with the same dimensions as Sign A.

Given the size and location of the proposed signs, they will inevitably have an impact on the landscape and scenic quality of the locality.

However, as they are temporary, non-illuminated and non-digital and ancillary to the proposed development, they are considered to be acceptable subject to a condition requiring the sign to be removed not later than 2 years after the date on which they are erected.

Clause 10 of the Policy prohibits display of an advertisement on land in a residential zone. The subject land is zoned R2 Low Density Residential and R3 Medium Density Residential.

However, the applicant submits that the signs are ancillary to the dominant purpose, being a residential estate (dwellings). It is considered that the temporary signs could be appropriately characterized as development for the purposes of a residential estate (dwellings), which is permissible, with development consent, in the R1 and R3 zones. In this case, signs would be permissible, with development consent, notwithstanding Clause 10 of SEPP64.

In summary, it is considered that the signs are a necessary element of the development and therefore, subject to an appropriate condition limiting their installation to 2 years from the date of installation, the signs are satisfactory on merit. Refer Condition No. 144.

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State Environmental Planning Policy No. 71 – Coastal Protection

Section 5.13 of the SEE addresses this SEPP in the following terms:

State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71) was repealed upon commencement of State Environmental Planning Policy (Coastal Management) 2018 on 3 April 2018. Notwithstanding, SEPP 71 remains the relevant environmental planning instrument in accordance with the transitional saving provisions of the Coastal Management State Environmental Planning Policy, as the DA was lodged on 2 March 2018.

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) aims to protect, manage and preserve the natural, cultural and recreational attributes of the New South Wales coast, and the associated amenity of the coastal foreshore.

The site is identified as located within the area mapped ‘Coastal Zone’ under SEPP 71, as shown below in Figure 9.

Figure 9 – Subject Site Located Within SEPP71 – Coastal Zone



Clause 7(b) of SEPP 71 identifies matters for consideration set out in Clause 8 are
 (b) To be taken into account by a consent authority when it determines a development application to carry out development on land to which this Policy applies.

As such, the following table considers the matters for consideration set out in Clause 8 of SEPP 71.

Table 7 – Matters for consideration

Assessment Criteria	Comment
(a) The aims of this policy set out in Clause 2	<p>The proposed development is consistent with the aims of SEPP 71, in that the type and scale of development is appropriate for the location and is consistent with the surrounding area (predominantly low density residential).</p> <p>The site has not been identified as containing any cultural or heritage significance. Impacts on the natural setting have been considered, and measures have been made to manage the existing wetlands and associated biodiversity within the site.</p>

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Assessment Criteria	Comment
	<p>There are no impacts on public access to the coastal foreshores and the site is not identified as having any visual significance or within any significant view corridors.</p> <p>As such, the proposal is consistent with the aims of SEPP 71.</p>
<p>(b) Existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved</p>	<p>Coastal foreshore means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform. The site is not located with frontage to either of these land formations.</p> <p>Therefore, this provision is not applicable.</p> <p>However, the subdivision will provide pedestrian and cycle routes, providing greater active access through the wider area and to the nearby coastal foreshore.</p>
<p>(c) Opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability</p>	<p>As noted above, not applicable.</p>
<p>(d) The suitability of development given its type, location and design and its relationship with the surrounding area</p>	<p>The proposed development is consistent with the surrounding residential area, and the zoning of the site for residential purposes. The subdivision has been designed to respond to the topography of the site and reserves the existing wetland for drainage purposes.</p>
<p>(e) Any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore</p>	<p>The proposed development is located away from the coastal foreshore. The site is not identified as having any visual significance or view corridors. As such, there are no significant losses of views from a public place to the coastal foreshore.</p>
<p>(f) The scenic qualities of the New South Wales coast, and means to protect and improve these qualities</p>	<p>The proposed development will not have any detrimental impact on the scenic qualities of the New South Wales coast.</p>
<p>(g) Measures to conserve animals and plants, and their habitats</p>	<p>An Ecological Assessment has been undertaken by JWA. A Compensatory Habitat Plan has also been prepared to protect and embellish habitat for Hairy Joint Grass within the RU1 zoned land.</p> <p>An assessment against NSW Biodiversity Act (2016) and EPBC Act confirm the proposed development has no significant impact on threatened flora or fauna on site.</p>
<p>(h) Measures to conserve fish and marine vegetation, and their habitats</p>	<p>The proposed development will have no impact on fish, marine vegetation, or their habitats.</p>

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Assessment Criteria	Comment
<i>(i) Existing wildlife corridors and the impact of development on these corridors</i>	<i>The site is not mapped as being located within any existing wildlife corridors.</i>
<i>(j) The likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards</i>	<i>The site is not located within the coastal foreshore, and therefore will have no impact, or be impacted by coastal processes or coastal hazards.</i>
<i>(k) Measures to reduce the potential for conflict between land-based and water-based coastal activities</i>	<i>The proposal is within an area of predominantly residential land use. The proposal is not expected to have any conflict with any coastal activities.</i>
<i>(l) Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals</i>	<i>The site is not identified as containing any Aboriginal artefacts, or having any indigenous heritage significance.</i>
<i>(m) Likely impacts of development on the water quality of coastal waterbodies</i>	<i>An appropriate stormwater management system adopting WSUD has been designed as part of the development, to ensure water quality discharging from the site. As such, there are no anticipated impacts on water quality of coastal waterbodies.</i>
<i>(n) The conservation and preservation of items of heritage, archaeological or historic significance</i>	<i>There are no heritage items or archaeological artefacts known on site.</i>
<i>(o) Only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities</i>	<i>The land has been rezoned by Council for the purposes of residential development. The site is within walking catchment of Lennox Head Local Centre, encouraging a compact town.</i>
<i>(p) Only in cases in which a development application in relation to proposed development is determined: i. The cumulative impacts of the proposed development on the environment ii. Measures to ensure that water and energy usage by the proposed development is efficient</i>	<i>The cumulative impacts of residential development on the site were first considered by Ballina Shire Council and Department of Planning and Environment during the rezoning of the site for residential purposes. It is considered that the environmental impacts of the proposed residential development minor, and acceptable. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) was introduced by the NSW Government to ensure homes are designed to use less potable water and emit fewer greenhouse gas emissions. BASIX sets minimum energy and water reduction targets for houses to achieve this goal. There are no physical dwellings proposed for construction as part of this application. BASIX assessment will be undertaken for each dwelling as part of future development.</i>

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Clause 18 of SEPP71 states:

18 Master plan required before certain consents may be granted

- (1) A consent authority must not grant consent for:
- (a) subdivision of land within a residential zone, or a rural residential zone, if part or all of the land is in a sensitive coastal location, or
 - (b) subdivision of land within a residential zone that is not identified as a sensitive coastal location into:
 - (i) more than 25 lots, or
 - (ii) 25 lots or less, if the land proposed to be subdivided and any adjoining or neighbouring land in the same ownership could be subdivided into more than 25 lots, or
 - (c) subdivision of land within a rural residential zone that is not identified as a sensitive coastal location into more than 5 lots,
- unless:
- (d) the Minister has adopted a master plan for the land, including any adjoining or neighbouring land in the same ownership, as referred to in paragraph (b) (ii), or
 - (e) the Minister, after consulting the Natural Resources Commission, has, under subclause (2), waived the need for a master plan for the whole or a specified part of the land referred to in paragraph (d).
- (2) The Minister may waive the need for a master plan to be adopted because of the nature of the development concerned, the adequacy of other planning controls that apply to the proposed development or for other such reasons as the Minister considers sufficient.

Clause 18 provides tests to identify if a master plan is required to be endorsed by the Minister prior to a consent authority granting consent to a development application.

We refer to the test under Clause 18(1)(a) being whether the proposed development is located within a sensitive coastal location. We consider the proposal is not located within a sensitive coastal location (in accordance with the definition under SEPP 71).

Clause 18(1)(b) provides a threshold requiring any subdivision creating more than 25 residential lots, must have a master plan adopted by the Minister. The proposed development comprises subdivision to create approximately 99 residential lots. As such, in accordance with Clause 18(1)(b)(ii) and (d), a master plan is required to be adopted by the Minister.

Comment

Appendix O of the revised SEE contains a SEPP71 Master Plan Waiver issued by the DPIE on 12 February 2018.

In summary, subject to the imposition of appropriate conditions, the proposed development is not inconsistent with SEPP71.

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 nominates a range of developments for which the Minister is the consent authority or determination is to be made by Regional Panels depending on the class of development (type of use and value) and certain developments on specified sites.

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Clause 8 of the State Environmental Planning Policy identifies State Significant Development as development described in Schedules 1 or 2. The development is not caught by any of the provisions in Schedules 1 or 2.

Clause 20 of the State Environmental Planning Policy identifies Regional Development as development described in Schedule 7 of the Policy.

The proposed development is not caught by any elements described in Schedules 1, 2 or 7 of the Policy. In this case Ballina Shire Council is the Consent Authority and Determining Authority for this Development Application.

State Environmental Planning Policy (Primary Production and Rural Development) 2019

This Policy commenced on 28 February 2019. Clause 9 of the Policy provides that the policy does not apply to development applications lodged prior to 28 February 2019. DA 2018/51 was lodged in January 2018 and therefore the policy does not apply.

Ballina LEP 2012

Section 5.14 of the SEE addresses the relevant provisions of BLEP2012. The provisions are reproduced below together with comments.

Zoning (Clause 2.3)

Clause 2.3 - Zoning and Permissibility

Clause 2.3 of the Plan requires the consent authority to have regard to the objectives of the zone in assessment the Application. The site is subject to three land use zones, being R2 – Low Density Residential, R3 – Medium Density Residential, and RU1 – Primary Production. The following section addresses permissibility for each zone.

R2 – Low Density Residential

The majority of the proposed development comprises residential subdivision within the area of the site zoned R2 – Low density residential. This proposed land use is appropriately categorised as development for the purposes of dwelling houses and is permissible with consent within the R2 zone and consistent with the objectives of the R2 zone, which are as follows:

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

Comment

The proposed lots comply with the minimum lot size (600m²) and the project is not inconsistent with the R2 zone objectives.

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In addition, a pocket park is proposed within the subdivision to provide additional amenity for local residents and will be dedicated to Council. The proposed use categorised as recreation area is an innominate use and considered permissible with consent.

The proposal will facilitate the construction of new houses with an appropriate density and character consistent with the surrounding residential area. The subdivision has high accessibility to the nearby Lennox Head Local Centre and is also in close proximity to open space.

R3 – Medium Density Residential

This application includes the creation of Lots 100 (4933m²), 101 (2406m²) and 120 which will be subject to future Development Applications. The subdivision of these super lots for medium density dwellings is a permissible use and consistent with the objectives of the zone, which are as follows:

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

The subdivision of these lots and construction of medium density dwellings will be subject to assessment under future development applications.

Lots 8 – 15 are mainly located within R3 zoned land, however Lots 8, 13 and 15 are partially within the R2 zoned land because of the irregular zone boundary.

Comment

The proposed lots comply with the minimum lot size (600m²) and are generally consistent with the zone objectives having regard to the irregular slope of the existing R2/R3 zone boundary.

***RU1 – Primary Production Land
Stormwater Drainage Works***

The objectives of the RU1 zone are as follows:

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- To minimise the fragmentation and alienation of resource lands.*
- To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- To maintain the rural, cultural and landscape character of the locality.*
- To enable development that is compatible with the rural and environmental nature of the land.*

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- *To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.*

This application proposes stormwater drainage works (including stormwater basins) within the portion of the site zoned RU1 – Primary Production Land. In accordance with Clause 7.10 of BLEP, development for the purpose of “stormwater management systems” may be granted development consent on any land.

The proposed stormwater drainage infrastructure including detention basins and freshwater wetland provides appropriate detention and treatment of stormwater associated with the subdivision, prior to discharging from the site. The drainage infrastructure design has been designed in consultation with JWA and in response to findings and recommendations by the HJG Compensatory Habitat Plan. As such, the basins avoid the area of protected HJG.

The basin locations have also been fully considered by Mott Macdonald in terms of their location within RU1 land, and if there were alternative locations. Through the design process, it has been concluded the basins in their proposed location are the highest and best use for the following reasons:

- *The basins have been placed as an end of line treatment and therefore capture and treat the most catchment, reducing the overall site bypass.*
- *From a water quantity perspective, the site naturally flows to 2 outlets. The basins have been placed such that they are at the lowest surface level.*
- *The basins have been proposed in the flatter section of the site which aids constructability. There are some areas on the site [within the R2 zoned land] which would require much more cut and fill.*

It is noted that the site containing the wetlands were not recommended to be zoned for Environmental Protection during the rezoning of the site, or within the Lennox Head Structure Plan 2004. Further, there are no objectives of the RU1 zone identifying or restricting stormwater management systems, or strict environmental protection. As such, it is considered that there was no previous decision made to strictly prevent drainage works occurring within the proposed location.

Notwithstanding, the detailed design in consideration of the HJG Compensatory Habitat Plan does mean the proposed drainage infrastructure is consistent with the RU1 zone objective of development compatible with the rural and environmental nature of the land.

5.14.1.4. Ancillary Signage

The proposed signage within the R2 zoned land is a temporary use for the sole purpose of advertising the proposed subdivision, to facilitate the completion of the development.

Advertising structures are a prohibited use within R2 zoned land under BLEP 2012. However, the prohibition of advertising structures to facilitate residential development is considered an unintended consequence of the prohibition. The prohibition is to restrict the permanent erection of signage within residential land for advertising businesses unrelated to the site.

The proposed dominant use, characterised as residential development for the dominant purpose of dwelling houses is permitted with consent. Considering the integral nature of the signage as a function of residential development (being the dominant use), the proposed signage is therefore subordinate or subservient to the dominant purpose. To put it simply, if a component serves the dominant purpose, it is ancillary to that dominant purpose. As such, the proposed development application seeks consent for advertising signage, being two (2) billboard signs as ancillary to the development.

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Planning Circular (PS 13-001) as released by the Department of Planning and Environment (DPE). This Planning Circular outlines several questions that should be considered in determining whether a use has features that are both ancillary and independent.

1. *Is the component going to serve the dominant purpose of the development or is it independent?*

Response: *The billboard advertising signage is ancillary. It will serve the dominant purpose by:*

- identifying and marketing the proposed subdivision, providing details on the progress of the development, and contact details.*
- Facilitating the sale of lots and the completion of residential subdivision of the site.*

2. *What is the amount of land to be used for a certain component, relative to the amount of land proposed to be used for other purposes? If the amount of land is relatively small, it is more likely to be ancillary.*

Response: *The proposed signage will occupy a very small area within the site adjacent to North Creek Road and therefore is consistent with this statement.*

3. *Evidence of a purpose that is inconsistent with the dominant purpose is likely to undermine a claim that a component is ancillary.*

Response: *The proposed signage is only for the purpose of advertising the proposed subdivision and would not exist without it. As such, the purpose is considered ancillary to the dominant use.*

4. *If the component is temporary, it is more likely to be ancillary; if it is regular (that is, will constitute an ongoing use for a long period of time), it is likely to be an independent use.*

Response: *The proposed signage is temporary and solely for the purpose of advertising the proposed subdivision. The signage will be removed once the signage is no longer required to advertise the sale of lots.*

5. *If the component goes beyond what is reasonably required in the circumstances for the development to implement the dominant purpose, it is likely to be an independent use (regardless of whether it has ancillary qualities).*

Response: *The proposed signage is a reasonable use for attracting and facilitating the sale of proposed residential lots within the site and is consistent with the sale of lots within other subdivision development in the LGA.*

6. *Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship.*

Response: *The proposed signage will occupy a very small area within two parts of the site adjacent to North Creek Road. Therefore, the proposed is consistent with this statement.*

7. *Related components of a development are likely to have an ancillary relationship, although this is not necessarily determinative of such a relationship.*

Response: *The ancillary use is located within the site and will only advertise the sale of the subdivision. The integral relationship between the subdivision of the site, and the advertising to facilitate the sale of created lots means it is appropriate to characterise the advertising as ancillary to the dominant purpose of dwelling houses, to be facilitated by this residential subdivision.*

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Considering the above, the proposed signage is permissible with consent.

Comment

See comments in relation to SEPP64.

Clause 4.1 - Minimum subdivision lot size

The Minimum Lot Size Map in BLEP 2012 indicates two (2) minimum lot size areas within the site. The minimum lot size for all residential zoned land is identified as "M" – 600sqm. The area zoned RU1 is identified as "AB2" – 400000 (40ha).

Comment

All proposed residential lots are 600sqm or greater and therefore comply with the minimum lot size standard in accordance with BLEP 2012. Further, all super lots subject to future development (excluding Lot 104) also comply with the minimum lot size.

Clause 4.2C – Exceptions to minimum subdivision lot sizes for split zones

The subject site legally referred to as Lot 1 DP 517111 consists of more than one zone, being primarily R2 and RU1 land. The RU1 zoned land has a minimum lot size of 40ha required under clause 4.1. The area of the original Lot 1 DP 517111 is less than 40ha and it is not possible for proposed Lot 104 to comply with this minimum lot size requirement.

Clause 4.2C of BLEP 2012 is identified as the mechanism by which the RU1 land can be subdivided with an area less than 40ha. This clause permits the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1 due to not meeting the minimum lot size.

Compliance with the provisions of Clause 4.2C is assessed in the following table:

Clause 4.2C assessment

Control	Comment	Compliance
(1) The objectives of this clause are as follows:		
(a) to permit the creation of lots that support urban development in planned urban growth areas,	The subject site is identified as a planned urban area in the Lennox Head Structure Plan	YES
(b) to provide for the subdivision of lots that are within more than one zone but cannot be subdivided under clause 4.1,	The subject site contains more than one zone. The RU1 zoned land has a minimum lot size of 40ha under Clause 4.1. This minimum lot size cannot be achieved when subdividing the rural land from the residential zoned land.	YES
(c) to ensure that the subdivision occurs in a manner that promotes suitable land uses and development.	Residential zoned land within the site will be subdivided for the purpose of constructing dwelling homes, which are a suitable use of the land. RU1 zoned land will be used predominantly for the retention of existing wetlands and the creation of drainage systems. These uses are permissible with consent within RU1 land.	YES

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Control	Comment	Compliance
<p>(2) This clause applies to each lot (an original lot) that contains:</p> <p>(a) land in a residential, business or industrial zone, and</p> <p>(b) land in Zone RU1 Primary Production or Zone RU2 Rural Landscape, or both.</p>	<p>The subject site contains more than one zone, comprising RU1 – Primary Production, R2 – Low density and R3 – Medium Density</p>	<p>YES</p>
<p>(3) Despite clause 4.1, development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:</p> <p>(a) one of the resulting lots will contain all of the land in Zone RU1 Primary Production or Zone RU2 Rural Landscape that was in the original lot, and</p> <p>(b) each of the other resulting lots will contain land that has an area that is not less than the minimum size shown on the Lot Size Map in relation to that land.</p>	<p>Proposed Lot 104 contains all RU1 land and a small amount of excess R2 land.</p> <p>All other resulting lots created within the residential land meet the minimum lot size in accordance with clause 4.1 of BLEP 2012. I.e all R2 and R3 lots are greater than 600sqm.</p>	<p>YES</p> <p>YES</p>
<p>(4) Development consent may only be granted if the consent authority is satisfied that the lot to be created under subclause (3) (a):</p> <p>(a) will be created as a result of a subdivision of land for urban purposes involving land in a residential, commercial or industrial zone, and</p> <p>(b) the lot is suitable for environmental protection, environmental management or agriculture.</p>	<p>The proposed subdivision is for the orderly residential development in accordance with the zoning of the site and the strategic planning for Lennox Head.</p> <p>Super Lot 104 is suitable for the management of existing wetlands and new drainage systems for stormwater management.</p>	<p>YES</p> <p>YES</p>
<p>(5) If the area of land that would comprise the resulting lot created under subclause (3) (a) is of a size that is sufficient to allow the creation of more than one lot each of a size that is not less than the minimum size shown on the Lot Size Map in relation to that land, then not more than that number of lots may be created under subclause (3) (a).</p>	<p>The original size of Lot 1 DP 517111 is smaller than the 40ha minimum lot size for the RU1 zoned land.</p>	<p>N/A</p>

Comment

The creation of proposed Lot 104 having an area of 3.6776 hectares is not inconsistent with Clause 4.2C.

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Ballina DCP 2012

Section 5.15 of the SEE addresses BDCP2012 in the following terms.

The *Ballina Shire Council Development Control Plan 2012* (BDCP) provides detailed planning controls for specific developments types and locations. Most relevant controls relate to character, streetscape and public domain works. An assessment against the relevant controls in the BDCP indicates that the development is generally consistent with the relevant requirements.

DEVELOPMENT CONTROL	COMMENTS/IS CONSISTENCY WITH THESE PROVISIONS ACHIEVED?
Chapter 2 – General and Environmental Considerations:	
3.3 – Natural Areas and Habitat	
Development that affects land that is shown on the 'Natural Areas and Habitat Map' and the 'Wildlife Corridors Map' are to be accompanied by an ecological assessment report prepared by an appropriately qualified and experienced professional.	Part of the north-eastern corner of the site is identified on the 'Natural Areas and Habitat Map' as being within the 50m natural areas and habitat buffer. Accordingly, an ecological assessment report has been prepared as part of this DA and is attached. Compliance achieved.
3.4 – Potentially Contaminated Land	
Development must be consistent with SEPP 55.	The proposal has been assessed against SEPP 55 within Section 5.11 of the SEE. A Phase 1 Site Contamination Assessment was undertaken during the rezoning process for the site. This has been provided as an appendix to this report along with a cover letter confirming the report remains accurate to the current site conditions. The report confirms the site is suitable for residential development. Compliance achieved.
3.5 – Land Slip/Geotechnical Hazard	
<ul style="list-style-type: none"> • Where there is potential for a development to result in or be impacted by landslide risks, a geotechnical report should be prepared to assess the proposals impact on potential landslide risk. • Ensure that development is designed to minimise risks associated with geotechnical hazards. 	The site falls steeply from east to west. Accordingly, both a Geotechnical Report and Landslip Assessment have been prepared as part of this DA and are attached at Appendix G of the SEE. These reports conclude that the proposal has been designed to minimise potential landslide and geotechnical risks, and that the site is suitable for residential subdivision. Compliance achieved.

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DEVELOPMENT CONTROL	COMMENTS/IS CONSISTENCY WITH THESE PROVISIONS ACHIEVED?
<p>3.6 – Mosquito Management</p>	
<p>Development on land identified as 'Elevated Lands' on the BDCP 'Mosquito Management Map' may require the provision of an entomological assessment that indicates whether there is likely to be a significant mosquito influence.</p>	<p>The site is identified on the 'Mosquito Management Map' as 'Elevated Land (above 10m contour)'. The site also includes low lying wetlands and proposed construction of detention basins within 100m of residential subdivision. However, the proposed detention basins are designed to prevent ponding water for more than 12 hours.</p> <p>A Mosquito Impact Assessment (Appendix J of the SEE) confirms the development will not be impacted by significant mosquito influence.</p> <p>Compliance achieved.</p>
<p>3.7 – Waste Management</p>	
<ul style="list-style-type: none"> • A Site Waste Minimisation and Management Plan (SWMMP) must be prepared and address waste management practices. • Waste should be disposed of in accordance with the relevant legislation and Council's collection and disposal services; and • Waste should be reused or recycled wherever possible. 	<ul style="list-style-type: none"> • A SWMMP has been prepared in accordance with BDCP and is provided in Appendix E of the SEE. • The SWMMP is in accordance with Council's standard waste management practises and the relevant standards. Measures will be put in place to ensure waste is reused or recycled wherever possible. <p>Compliance achieved.</p>
<p>3.9 – Stormwater Management</p>	
<ul style="list-style-type: none"> • The proposal must be designed to manage stormwater discharge in a matter that minimises flood damage and risk to people and property. • Stormwater must be appropriately managed so natural waterways and riparian zones are preserved. • Provide sustainable, low maintenance stormwater infrastructure. 	<ul style="list-style-type: none"> • A comprehensive stormwater management system is proposed to be constructed as part of the development to service future dwellings. This is detailed within the Stormwater Management Report attached at Appendix E of the SEE. • Existing flows to the wetland located at the north-west portion of the site will be maintained in a manner that minimises flood damage and risk to people and property. <p>Compliance achieved.</p>

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DEVELOPMENT CONTROL	COMMENTS/IS CONSISTENCY WITH THESE PROVISIONS ACHIEVED?
<p>3.10 – Sediment and Erosion Control</p>	
<p>All soil erosion and sediment control measures must be designed, installed and maintained in accordance with <i>Managing Urban Stormwater – Soils and Construction</i> (the Blue Book).</p>	<p>A Sediment and Erosion Control Plan has been prepared as part of this DA and is attached at Appendix D of the SEE. The Plan confirms that proposed sediment and erosion control measures are in accordance with the Blue Book. Compliance achieved.</p>
<p>3.11 – Provision of Services</p>	
<p>Ensure adequate water, electricity, sewerage, drainage, road and telecommunication facilities are provided to service the proposed development.</p>	<p>A Services Report has been prepared as part of this DA and is attached at Appendix M of the SEE. The Report confirms that the proposal will provide adequate services to satisfactorily service the site and future residential development. The Northrop Servicing Plans detail the proposed infrastructure subject to this application. Compliance achieved.</p>
<p>3.18 – Protection of Foreshore and Public Open Space Areas</p>	
<ul style="list-style-type: none"> • Public access to public open space and foreshore areas is to be maximised. • Proposed development should be designed to complement the landscape character and public use and enjoyment of adjoining foreshore areas, parks, bushland reserves and other public open spaces. 	<ul style="list-style-type: none"> • The site adjoins two existing public open spaces at 22 Silkwood Road, Lennox Head (west of the site) and Ocean Breeze Drive, Lennox Head (north of the site). The proposal has been designed to be considerate of these public open spaces. • The proposal will increase overall access to the adjoining northern public open space by providing north-south road/footpath connections through the site. These will increase overall site accessibility and allow people travelling along Henderson Lane to more easily access this public open space. <p>Compliance achieved.</p>

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DEVELOPMENT CONTROL	COMMENTS/IS CONSISTENCY WITH THESE PROVISIONS ACHIEVED?
<p>3.19 – Car Parking and Access</p>	
<p>The proposal must provide sufficient on-site car parking to adequately service the needs of the occupants, users, visitors, employees and service and delivery vehicles of a development.</p>	<p>The proposal seeks development consent for subdivision works and does not propose to construct any dwellings. Accordingly, the provision of parking spaces is not required as part of this DA. Notwithstanding, the standard width of local roads will provide on-street parking, and the DCP requirements for setbacks will provide off-street parking in front of garages. Proposed Road 7 has also been tested to ensure adequate street parking for visitors to future dwellings on R3 lots.</p>
<p>3.22 – Road Noise Mitigation</p>	
<p>Road noise shall be assessed in accordance with the criteria in the NSW Road Noise Policy (RNP). Development applications must assess options for feasible and reasonable road traffic noise mitigation measures where known or projected road traffic noise mitigation measures exceed the criteria specified in the RNP.</p>	<ul style="list-style-type: none"> An Acoustic Assessment has been prepared by CRG Acoustics (Appendix L of the SEE) with two scenarios (being with an acoustic wall along the frontage of Henderson Lane and the future North Creek Road realignment, and without).
	<ul style="list-style-type: none"> Modelling of the future traffic conditions in accordance with the noise criteria and the likely road noise generated has indicated a 0.3 to 0.8 dB increase from existing levels, which is unlikely to be detectable by the average person and is considered an acceptable outcome. Nonetheless, an assessment was undertaken on mitigation options to achieve internal amenity for future habitable rooms. CRG has demonstrated the best outcome is for dwellings which are predicted to have road noise impacts are designed with acoustic building shell treatments (i.e. upgraded glazing, external walls/roof treatment) is the most reasonable and effective solution. Therefore, acoustic walls are considered unnecessary within the development and are not proposed. <p>Compliance achieved (See comments regarding public submissions, Issue 2).</p>

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DEVELOPMENT CONTROL	COMMENTS/IS CONSISTENCY WITH THESE PROVISIONS ACHIEVED?
Chapter 2a – Vegetation Management:	
3.1 – Development Consent Requirements applying to Urban Zones	
<p>Development consent is required for vegetation management works on land located within an urban zone when the vegetation management works will affect:</p> <ul style="list-style-type: none"> • Any tree (either native or non-native) with a height of 6 metres or greater; • Any tree of the species <i>Pandanus tectorius</i> (Screw Pine) with a height of 3 metres or greater and located in the localities of East Ballina, Lennox Head or Skennars Head; • Any vegetation located on land identified as Significant Urban Bushland on the Significant Urban Bushland Map; and • Any tree with a height of 3 metres or greater located on land containing an item of Environmental Heritage as specified in Schedule 5 of the BLEP. 	<ul style="list-style-type: none"> • To facilitate the proposal, vegetation is proposed to be removed from the site in accordance with Appendix H of the SEE. The removal of these trees is considered acceptable as: <ul style="list-style-type: none"> - The site is not marked on the BDCP 'Significant Urban Bushland Map'; - The landscape plan included at Appendix C of the SEE proposes to plant an extensive range of new tree and plant species at the site that are appropriate within a residential environment; and - An area of the site is proposed to be retained as a compensatory habitat area. • Potential impacts resulting from the removal of said vegetation at the site has been assessed in detail within the Ecological Assessment. <p>Compliance achieved.</p>
Chapter 3 – Urban Subdivision:	
3.2 – Major Subdivision Requirements	
<ul style="list-style-type: none"> • A vision/concept masterplan must be prepared and presented to Council's Subdivision Panel, prior to being formally proposed as part of a DA. • Proposed subdivision works should be generally designed to comply with the following relevant subdivision design standards: <p><u>Access:</u></p> <ul style="list-style-type: none"> - Maximum 400 metres walk from dwellings to neighbourhood recreation park or equivalent. - Clear, direct walk or cycle access from subdivision to neighbourhood centre. - 90% of all dwellings are within 400 metres of an existing or planned public transport stop. 	<ul style="list-style-type: none"> • The proposal has been designed to generally comply with Council's specified subdivision design standards. This has been addressed throughout the SEE and within each of the attached technical consultant reports. Key design considerations of the proposed subdivision plan comprise the following: <ul style="list-style-type: none"> - Provide a range of road/footpath connections throughout the site that allow for easy access to the Lennox Head local centre. - Existing R3 zoned land is located along existing and proposed roads.

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DEVELOPMENT CONTROL	COMMENTS/IS CONSISTENCY WITH THESE PROVISIONS ACHIEVED?
<p><u>Dwelling Density:</u></p> <ul style="list-style-type: none"> - Suburban neighbourhood – average net residential density of at least 15 dwellings per hectare (unless prevented by topography or other constraints). - Higher density residential development is located in and around neighbourhood centres, along connector streets and within 400 metres of transit nodes. <p><u>Street Network:</u></p> <ul style="list-style-type: none"> - Grid pattern or modified grid responsive to site characteristics. - Where slope allows, orientation within 15 degrees of north-south or east-west. - Connector and main streets of centres are orientated to landmarks. - To minimise cut and fill, streets follow ridges, gullies, and/or are perpendicular to slope. <p><u>Streets:</u></p> <p>The street network should include:</p> <ul style="list-style-type: none"> - Neighbourhood streets within neighbourhoods; - Neighbourhood connector streets (approx. 800 metre grid) linking neighbourhoods; - Major connector streets linking groups of neighbourhoods; - Neighbourhood main streets in centres; and - Rear lanes. <p><u>Block Sizes:</u></p> <ul style="list-style-type: none"> - Length should be 100-200 metres. - Mid-block providing a pedestrian link when blocks are over 130 metres. - Depth should be 40-80 metres. <p><u>Urban Neighbourhood Lot Layout:</u></p> <ul style="list-style-type: none"> - Lots intended for mixed use or multiple residential uses take up entire street block or are located on highly accessible block ends, corner lots and lots with dual road frontage. - One lot type is not to dominate a street block. 	<ul style="list-style-type: none"> - Proposed subdivision layout and street pattern appropriately responds to the sites topography to minimise cut and fill. The proposed layout also allows for significant open space and habitat areas to be provided. - Includes a range of local neighbourhood streets that connect each proposed lot to the surrounding road network. - Provides a range of lots that are of varying sizes, shapes and forms in accordance with the requirements of the BDCP. Accordingly, the proposed subdivision plan does not contain one singular dominant lot type. <p>Compliance achieved.</p>

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DEVELOPMENT CONTROL	COMMENTS/IS CONSISTENCY WITH THESE PROVISIONS ACHIEVED?
Chapter 8 – Other Uses:	
3.4.3 – Development Controls (Signage)	
<ul style="list-style-type: none"> • Signage must be designed in accordance with the provisions of SEPP 64. • Signage located within residential zones must; <ul style="list-style-type: none"> - Not adversely impact on the amenity of residential neighbourhoods (considering noise, visual amenity and lighting impacts); - Be located wholly within the boundary of the property to which it applies; and - Be located unobtrusively so as to appear an integrated part of the building or landscape. • Signage must be securely fastened to the structure or building to which it is attached. 	<ul style="list-style-type: none"> • The proposed signage is temporary in nature and to be used for the purpose of marketing the proposed subdivision works. The signs have been assessed in detail against the provisions of SEPP 64 at Section 5.12 of the SEE. • The proposed signage is to be located along the site’s North Creek Road frontage, opposite a row of dwellings. To minimise amenity impacts on these dwellings, the proposed signs have been designed to: <ul style="list-style-type: none"> - Be located at eye level to ensure they do not dominate the skyline or surrounding landscape;
	<ul style="list-style-type: none"> - Not be of an unsightly bulk, scale or form; and - Not contain lights or offensive colours, materials or text. • The proposed signs will be designed and constructed to suitably withstand strong winds. <p>Compliance achieved.</p>

Comment

In summary the proposed development is generally consistent with BDCP2012.

Comments from Government Agencies

NSW Office of Water / Natural Resources Access Regulator

The application was lodged as Integrated Development as it also requires approval from the NSW Office of Water (NRAR) under Sections 89, 90 and 91 of the Water Management Act 2000. On 29 March 2018 DPI Water issued GTAs under the Water Management Act in relation to the original Development Application. On 25 May 2020 NRAR advised that in relation to the amended Development Application the previously issued GTAs are adequate and remain current. A copy of the letters are attached to the draft Conditions of Consent.

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Engineering Assessment

Based off the trip generation rates provided by the RMS it is anticipated that the revised development will produce an additional 905 vehicles per day and 95 vehicles per peak hour. All vehicular traffic from the development will gain access to the wider road network via Henderson Lane. Traffic could also use Silkwood Road/Hutley Drive.

With the Hutley Drive extension it is anticipated that traffic on Silkwood road has dropped to below previous levels (before the extension was constructed), even with the additional traffic loading from the subject development.

The traffic impact assessment made a number of recommendations regarding the development, including:-

1. The intersections of the new internal roads with Henderson Lane (roads 4 and 5) be sign controlled (Give way) intersections.

This is considered an unnecessary measure given that few existing residential streets intersecting North Creek Road or Hutley Drive current have give-way signs. If post development it is determined that these sign are required they can be provided then.

2. Henderson Lane be widened to provide a minimum 9m wide sealed carriageway from the road 4 intersection to North Creek Road. It is further recommended that only a portion of the cost of widening be attributed to this development, as it contributed only 24% of the potential maximum traffic volume.

A condition will be applied to the consent requiring the construction of kerb and gutter and associated stormwater infrastructure for the full property frontage of Henderson Lane connecting to the existing kerb and gutter and stormwater infrastructure to the west of the site. To allow for a total carriageway width of 11m and comply with the collector road standard. Refer Condition No. 15.

3. A design check shall be undertaken in Henderson Lane in the vicinity of the two proposed intersections to enable suitable access to the development for compliant service vehicle and bus access and egress.

In a response to a Council RFI (25/09/2018) – swept paths were provided for the Henderson Lane intersections. Whilst there swept paths were crude in nature in indicated a minor conflict it is considered that they were sufficient for demonstrating suitable access is achievable. Detailed swept paths to be reviewed at the Construction Certificate stage. This can be addressed by way of a condition.

4. Road 7 – parking shall be controlled (limited to one side only) to permit free movement of vehicles and the road be clearly sign posted as one way.

After discussion with the applicant it was agreed that given that lots 13 and 14 will have their primary frontage off Road 1 and not Road 7 Council would consider a reduced verge width down to 1m for the inner verge of Road 7 directly fronting these lots provided that:-

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- A minimum 3m verge is provided on the outer verge of Road 7 (fronting lots 7-12)
- A minimum road width of 6.5m is maintained

A condition will be applied to the consent reinforcing that road 7 will need to be designed and constructed as a 2 way road.

5. It is recommended that landscaping and signage which can potentially block visibility be kept clear of the sign lines at all intersections.

A condition will be applied to the consent to address this matter.

6. It is recommended that a lane line with turn arrows be provided to reflect the modelled scenario for Henderson Lane at the intersection with North Creek Road (refer to Figure 1 of the Ardill Payne and Partners response to Stage 1 RFI dated 28 August 2018).

A condition will be applied to the consent to address this matter

Flooding and Stormwater Management

Flooding

The site is not flood affected.

Stormwater Management

A Stormwater Management Report has been provided which is considered to be generally acceptable (report by Mott Macdonald Dated 20 January). This plan provides for two attenuation basins to ensure post development peak flows are sufficiently attenuated to pre-development flow rates in accordance with the DCP.

The plan includes a number of water quality treatment measures to ensure stormwater runoff pollutant loads are reduced in accordance with Council's DCP. These include two bioretention basins and a number of filtration swales internal to the development.

The applicant has advised they envisage the proposed stormwater bioretention basins as being temporary with further development on the residue lot necessitating the need to relocate these elsewhere on the site. On this basis the applicant has expressed reluctance to dedicate the areas of the basins as drainage reserve to Council.

From an operational perspective all trunk stormwater drainage infrastructure and associated overland flow paths need to be included within Council owned reserve to ensure the continued maintenance of these devices. Refer Condition No.9.

Water Supply Servicing

Both a potable and recycled reticulation system will need to be provided within the development. A servicing strategy has been provided which is generally acceptable.

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The reservoir inlet pipe encroaches on lots 17 and 18 and will need to be relocated. This may necessitate the provision of an easement over the northern boundary of lot 17.

The scour outlet for the reservoir will need to be connected to the stormwater network for the subdivision and an allowance should be given for a flow rate of 200l/s for the reservoir.

Water Supply servicing can generally be provided by connection to the existing system. Condition will be provided within the consent ensuring that development provides the required infrastructure under the Development Servicing Plans.

A Dual Reticulation Water Supply Service Assessment has been prepared by H2ONE dated Feb 2020 demonstrating that sufficient pressures and flows will be achieved for the proposed development.

Sewer Servicing

Sewer servicing can be provided by connection to the existing system. The applicant has provided a servicing strategy which is generally acceptable. The applicant has provided a plan which demonstrates that sewer main servicing can be provided in Hutley Drive Road Reserve with minimal impact on the adjacent wetland (refer to 20/46552)

Existing Services

The development does not encroach on any easement or the zone of influence of any existing water, sewer or drainage mains. An existing water main clashes with lots 17 and 18 and will need to be relocated as part of this development, a condition will be added to the consent.

Telecommunications

A condition has been applied to the consent requiring the provision of broadband service.

Power Supply Services

The development does not encroach on the minimum safe distance requirements in regard to SEEP Infrastructure 2007 - Reg 45.

Ecological Assessment

Ecological Constraints

An Ecological Assessment (EA) prepared by James Warren and Associates (JWA) supported the development application. The report was found to be deficient as it did not identify the occurrence of two significant ecological entities on the development site (refer to Plate1), being an area of littoral rainforest growing in the central portion of the development site and an extensive area of freshwater wetland habitat located along the western boundary of the development site.

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Plate 2: Extract from rezoning documentation confirming stormwater basins should be located outside of known threatened species habitat. The yellow lines represent known ecological constraints.

In addition, during pre and post lodgement meetings held on 15 November 2017 and 24 April 2018 the applicant was informed that Freshwater Wetland EEC occurred on the development site and any application should be designed to avoid impacting on the EEC.

When the development application was submitted to Council the EA did not acknowledge the existence of the Freshwater Wetland EEC on Lot 1. The reasoning for the difference in the applicant’s ecological assessment on the conservation value of the wetland between the rezoning and the lodgement of the current development application related to soil type and topography.

While the EA concluded the wetland habitat could not be classified as a Freshwater Wetland EEC, Council’s Environmental Scientist did not support this conclusion. Upon third party review and onsite soil testing the area was found to comprise Freshwater Wetland EEC.

Based on that information the applicant modified the located of one of the stormwater basins. While Council recommended that the applicant completely avoid the mapped Freshwater Wetland EEC, part of the repositioned basin is still located within the mapped EEC (Refer Plate 3).

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To address the hydrological functioning of wetland pre and post development, the applicant prepared Hydrological Regime Assessment (HRA) and a Wetland Hydrological Monitoring and Management Plan (HMMP). The HRA used a range of methods including, standardized stormwater computer program (MUSIC), onsite permeability testing and data loggers to determine the existing hydrology of the wetland system.

Both reports conclude:

"the results of site soil infiltration testing, together with modelling of conceptual hydrologic management measures (i.e. flow splitters, swales and bio-basins/detention basins) for the proposed development. The results of the assessment demonstrate that, provided the proposed measures are properly located, installed and maintained, the development of the site will not adversely impact the hydrologic regime for the onsite wetland.

The siting of these devices (or where their recharge component enters the landform) is to be targeted toward the near-surface soils in the upgradient catchment to the south and east of the wetland. Further analysis demonstrated that the average annual groundwater baseflow currently reporting to the wetland would be maintained".

Consequently, post construction the long-term hydrological functioning and health of the retained wetland relies on the installed infrastructure to be working correctly and in perpetuity. Infrastructure to be installed to maintain the existing surface/groundwater flows of the retained Freshwater Wetland EEC includes:

- roadside infiltration swales which are to be installed between the edge of the formed road and residential allotments
- bio filtration basins with seepage areas within the two stormwater basins. Groundwater recharge is achieved by stormwater infiltrating through a sand medium and then through an area consisting of rocks and boulders
- the installation of flow splitters located within the bio filtration where the installation of logs (a piece of timber, concrete, aluminium) are used increase/decrease surface/groundwater flows by adding or removing the logs.
- a stop log weir system which is to be installed downstream of the wetland. Logs (a piece of timber, concrete, aluminium) can either be installed and/or removed to control surface water levels within the retained wetland

The HMMP confirms the developer will implement a 5 year "on maintenance" monitoring period to adjust the above mitigation structures to ensure the ongoing health of the wetland. The 5 year "on maintenance", monitoring period is to commence at the completion of the bulk earthworks.

The monitoring program will involve input from a range of suitable qualified and experienced expertise including in the fields of hydrogeology, soil science, ecology, environmental science and engineering. However, while it is considered appropriate to undertake a post development monitoring program to establish whether the proposed mitigation are successful a range of uncertainties and/or other actions remain outside of the control of the developer which may impact on the success of the proposed mitigation measures. These include:

- the existing hydrological functioning of the wetland has largely been identified by computer derived program rather than detailed baseline hydrological assessment

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- the siltation of the bio filtration basins from individual allotments as dwellings are erected after the issuing of the subdivision certificate.
- as the roadside infiltration swales are located between the formed road and residential allotments they will be susceptible to damage during the construction and human occupation of the residential allotments
- changes to the floristic structure of wetlands occur over many years as a result of changes to hydrology will only become apparent a number of years after the catchment is fully developed.

It is important to understand the floristic structure of wetland systems are intrinsically linked to hydrological regimes that have existed for an extended period of time and even small changes to established hydrological flow regimes can have a significant adverse impact on the wetland.

These kinds of impacts are expected if the proposed stormwater system does not perform as it is designed to do.

Impact Assessment (Section 5A Assessment)

Statutory Requirements

Under the provisions of Section 5A(1)(b) of the Environmental Planning and Assessment Act 1979 (EP&A Act), any assessment guidelines must be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats. For the purposes of section 5A(1)(b), "assessment guidelines" is taken to mean those guidelines issued and in force under Section 94A of the Threatened Species Conservation Act 1995 (TSC Act). Thus, for the purposes of assessing the impact of the proposed development, the relevant applicable guidelines are the "Threatened Species Assessment Guidelines: the assessment of significance guidelines" (DECC 2007) as gazetted by the Minister 25 January 2008.

Under the Guidelines "local occurrence" is defined as:

"the ecological community that occurs within the study area. However the local occurrence may include adjacent areas if the ecological community on the study area forms part of a larger contiguous area of that ecological community and the movement of individuals and exchange of genetic material across the boundary of the study area can be clearly demonstrated".

In regards to the definition of the Study Site and Study Area the Guidelines state;

Subject site means the area directly affected by the proposal.

Study area means the subject site and any additional areas which are likely to be affected by the proposal, either directly or indirectly. The study area should extend as far as necessary to take all potential impacts into account.

Based on the above definitions the "local occurrence" of the Freshwater Wetland EEC is limited to the Subject site (Lot 1). The EA assessment concluded the development will impact on 0.53ha or 25% of the "local occurrence" of the Freshwater Wetland with the impacts comprising of:

- the permanent removal of 0.04ha better quality Freshwater Wetland EEC
- the permanent removal of 0.36ha of low quality Freshwater Wetland EEC
- the temporary removal of 0.13ha low quality Freshwater Wetland EEC

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In reducing the level of long-term impact to the wetland the EA identified that 0.13ha of the Freshwater Wetland would be subject to temporary construction impacts, with these areas restored after construction works have been completed. Hence, the long-term the development would impact on 19% or 0.4ha of the wetlands "*local occurrence*".

The applicant's approach to assessing impact on the wetland is considered to be inconsistent with both the Scientific Determination for Freshwater Wetlands and the published Guidelines.

While applicant's ecological consultant based their Freshwater Wetland impact assessment on the presence of low and high quality Freshwater Wetland habitat the Scientific Determination does not differentiate between low and high quality habitats.

Legislative wise, Council's impact assessment has not been based on a differentiation of "*low and high quality Freshwater Wetland habitat*" as detailed in the EA.

In regard to the temporary construction impacts given the undulating and soft ground conditions associated with the Freshwater Wetland it is expected any construction works/ access will require the formation of construction access tracks. Post construction the reinstatement of these areas to their former condition cannot be guaranteed. In these circumstances, the Threatened Species Assessment Guidelines state:

"Proposed measures that mitigate, improve or compensate for the action, development or activity should not be considered in determining the degree of the effect on threatened species, populations or ecological communities, unless the measure has been used successfully for that species in a similar situation.

In many cases where complex mitigating, ameliorative or compensatory measures are required, such as translocation, bush restoration or purchase of land, further assessment through the species impact statement process is likely to be required"

Consequently, Council is required to assess the applicant's termed "*temporary impact*" of the wetland habitats as a permanent impact to the wetland.

One matter that was not addressed in either the stormwater and/or ecological reports is that the proposed stormwater discharge swales through the Freshwater Wetland EEC may adversely impact the retained wetland by draining groundwater and surface waters into the swales. The reports also do not clearly consider the practicality and/or clearly discuss the impact of installing the stormwater pipes through the wetland.

While the applicant's ecological consultant identified the development would impact on 0.53ha, aside from those written statements, the EA did not include any area measurements where Council could confirm or otherwise the accuracy of identified impact footprint. Although this information was requested it was not supplied by the applicant.

As a result, Council digitalised the ecological mapping contained in the EA to Council's GIS system. The results of that process are depicted in Plates 4 and 5 and Table 1.

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Plate 4: Digitalised location of the Freshwater Wetland on the development site sourced from the EA.



Plate 5: Depicting the areas of Freshwater Wetland EEC to be impacted by the development. Orange crosshatching depicts permanent loss. Fawn colour with hatching depicts applicant's temporary impacts. The light blue polygon is the approximate location of the existing seepage area.

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	Wetland area (m ²)	Area impacted (%)	Notes:
Direct impact	4429	20.5	20.5% of the wetland will be permanently impacted from the development
Temporary impact	1569	7.3	An additional 7.3% of the wetland will be temporarily impacted by the development
(total impact)	5998	27.8	27.8% of the wetland will be affected by the development
Total area	21553		

Table 1: Council's area calculations of the impact the development will have on the Freshwater Wetland.

Based on Council's mapping the development will impact on 0.59ha or 27.8% of the "local occurrence" of the Freshwater Wetland EEC. Consequently, on the evidence available to Council, the applicant's ecological consultant has underestimated the level of impact the development will have on the Freshwater Wetland EEC.

In determining whether a development will have a significant impact on the "local occurrence" of an EEC the Assessment Guidelines state:

Making an assessment of significance

The threatened species assessment of significance should not be considered a 'pass or fail' test. Instead, consideration of the factors will inform the decision-making process of the likelihood of significant effect. Where necessary, the process will trigger further assessment in the form of a species impact statement.

All factors should be considered as well as any other information deemed relevant to the assessment. The assessment of significance should not be used as a substitute for a species impact statement. Application of the precautionary principle requires that a lack of scientific certainty about the potential impacts of an action does not itself justify a decision that the action is not likely to have a significant impact. If information is not available to conclusively determine that there will not be a significant impact on a threatened species, population or ecological community, or its habitat, then it should be assumed that a significant impact is likely and a species impact statement should be prepared.

Proposed measures that mitigate, improve or compensate for the action, development or activity should not be considered in determining the degree of the effect on threatened species, populations or ecological communities, unless the measure has been used successfully for that species in a similar situation.

In many cases where complex mitigating, ameliorative or compensatory measures are required, such as translocation, bush restoration or purchase of land, further assessment through the species impact statement process is likely to be required.

In determining the nature and magnitude of an impact, it is important to consider matters such as:

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- *pre-construction, construction and occupation/maintenance phases*
- *all on-site and off-site impacts, including location, installation, operation and maintenance of auxiliary infrastructure and fire management zones*
- *all direct and indirect impacts*
- *the frequency and duration of each known or likely impact/action*
- *the total impact which can be attributed to that action over the entire geographic area affected, and over time*
- *the sensitivity of the receiving environment*
- *the degree of confidence with which the impacts of the action are known and understood.*

Recovery and threat abatement plans, priorities action statements, threatened species profiles and other fact sheets prepared by DECC and DPI may provide further guidance on whether an action or activity is likely to be significant.

A 27.8% impact to the "local occurrence" of the Freshwater Wetland is an exceptionally high level of impact to the point it warrants the preparation of a Species Impact Statement (SIS). In addition, to the above direct impact, the long-term health of the wetland system is somewhat uncertain given:

- the fact the health of the retained wetland is reliant on the maintenance in perpetuity of installed stormwater infrastructure
- the development will also fill the known seepage area which provides a source of water to the downstream wetland
- the uncertainty what impacts the installation of stormwater pipes and the downstream swale system will have on the wetland

In an attempt to reduce the overall impact on the development on the Freshwater Wetland EEC a range of mitigation measures, need to be implemented to reduce the impacts of the development to an acceptable level. These include:

- the removal of all temporary construction impacts from the Freshwater Wetland
- the steepening of the stormwater batters will reduce the footprint of the stormwater basin 2
- the relocation of the access tracks stormwater pipes and swale so they are located on the edge of the Freshwater Wetland
- the identification of measures implemented during construction and operation to prevent groundwater and surface waters of the wetland system draining into subsurface gravel material installed as part of the stormwater system and/or the constructed swale system

If these mitigation measures are adopted it is predicted the direct impacts to the wetland will be reduced below a 20% threshold. It is considered, these mitigation measures are not only feasible but are required to negate the need for the applicant to prepare a SIS.

In addition, given the uncertainty surrounding the long-term preservation of the retained Freshwater Wetland and given the developer has chosen not to avoid impacting on this known ecological constraint, it is further recommended the following safeguards should be applied to the consent:

- an increased offset ratio of 10:1 to secure an offsite restoration area for all areas of Freshwater Wetland impacted by the development.
- a bond applied over the remaindered of the wetland system to ensure if the wetland's health declines as urban development proceeds the bond will be used to restore other EEC's under the care and control of Council

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- given the impact of the development on the wetland will not be apparent until well after the catchment is fully developed the annual hydrological and vegetation monitoring programs need to be extended for a period until five years after the registration of the plan of subdivision for the 90th residential lot
- the preparation a Wetland Monitoring and Adaptive Management Plan (WMAMP) to assess the existing health and monitor ongoing health of the retained wetland during and post development

It is considered the development application can only be supported if all of the above mitigation/safeguards are implemented otherwise the development is likely to have a significant impact on the "*local occurrence*" of the Freshwater Wetland such the development application will be required to be refused as it is not supported by an SIS. It must be noted, even if the above strategies the long-term survival of the wetland is still somewhat uncertain.

Rainforest EEC

As previously advised the EA failed to identify the occurrence of an area of regenerating littoral rainforest EEC growing on Lot 1. The rainforest is located within the central portion of the development site and occupies an area of 0.72 hectares.

The patch of rainforest is isolated from surrounding areas of rainforest and as the applicant could not demonstrate genetic exchange was occurring, it was concluded the development as proposed would have a significant impact on the "*local occurrence*" of the littoral rainforest EEC. Consequently, the development application was required to be supported by an SIS.

As the development did not include a SIS, the application was amended to exclude the majority of the littoral rainforest growing on Lot 1 and incorporate it into proposed Residual Lot 102. As a result, the current development application will impact on 0.008ha or 3% of the rainforests "*local occurrence*". This impact is considered acceptable.

However, all areas of littoral rainforest will need to be offset in the ratio of 5:1 (that is 5m² of offset is required for 1m² of impact). Consequently, a littoral rainforest offset totally 400m² (0.04ha) is required. This is additional to the other offset requirements required by this assessment.

The long-term protection of the retained rainforest is not guaranteed, as applicant has lodged a separate development application to remove the remainder of littoral rainforest pursuant to the Biodiversity Conservation Act (2016).

In addition, an area of significant vegetation occurs on an adjoining property (Lot 1 DP 878933) which is not subject to the current development application. To ensure the vegetation is protected a Condition of Consent has been applied requiring a 20m buffer zone to be established from the vegetation's dripline. Only limited earthworks and no buildings are permitted within the 20m buffer zone.

8.1 DA 2018/51 - 20 North Creek Road, Lennox Head - Residential Subdivision

Hairy Joint Grass

HJG has been detected at the site since 2008. Since, its detection the applicant's ecological consultant has undertaken numerous surveys for the species. The EA concludes the 2.76ha of known/ or potential HJG habitat occurs on the development site with the development removing 0.98ha or 36% of the species "*local population*" as defined by the Scientific Guidelines. The filling of the creek and the construction of one of the stormwater basins will remove small areas of known HJG habitat. The area of retained HJG habitat is to be restored as part of a wetland restoration plan, which is discussed later in this assessment.

While some of the above surveys were undertaken at inappropriate times for the species peak detection period, HJG has consistently been recorded growing as small isolated clumps on the development site primarily growing within the Freshwater Wetland EEC.

Council surveys undertaken in 2020 generally confirmed location of HJG detected by the applicant's ecological consultant. Given the amount of survey effort, undertake at the site the applicant's conclusion the development will remove 36% of the local HJG population is a considered conservative given it is primarily "*potential*" habitat, which will be removed. That being said, all areas of potential HJG located outside Freshwater Wetland ECC will need to be offset in the ratio of 5:1 (that is 5m² of offset is required for 1m² of impact).

Outside of the Freshwater Wetland EEC the development will result in a loss of an additional 5300m² (0.53ha) of HJG habitat. Consequently, an HJG offset totally 26,500m² (2.65ha) is required. This is additional to the other offset requirements required by this assessment

Wetland Management Plan (WMP)

As part of the development application package the applicant lodged a Wetland Management Plan to rehabilitate the area of retained Freshwater Wetland EEC. While the restoration of this area is welcomed to be acceptable, the plan needs to be modified. While a range of the changes is of a technical nature, the more significant changes needed to be applied to the plan include:

- if restoration area is to be retained in private ownership it needs to be attached to a residential allotment within the subdivision to ensure it will be managed and protected in perpetuity.
- currently the WMP only has a working life of 5 years. Consequently to align with the requirements the HMMP and the WMAMP the restoration program needs extended until a period of five years after the registration of the plan of subdivision for the 90th residential lot.
- confirmation that if the performance criteria is not achieved within the restoration period, the Developer will extend the restoration project until the performance criteria are achieved or forfeit the Freshwater Wetland Bond. In this regard, all forested areas are to achieve a 90% native vegetation canopy coverage within a minimum five year period. All wetland areas are to achieve a 90% native coverage. All vegetation stratas are to be free of all environmental and noxious weeds.

It is recommended that these changes are included into the submitted Wetland Management Plan.

8.1 DA 2018/51 - 20 North Creek Road, Lennox Head - Residential Subdivision

Conclusion

The subject application seeks consent for a residential subdivision and subdivision works at Lot 1 DP 517111, 20 North Creek Road, Lennox Head.

The proposed development has been assessed and consideration has been given to all the relevant matters listed in Section 4.15 of the Environmental Planning and Assessment Act 1979, including the provisions of the Ballina Local Environmental Plan 2012, the Ballina Shire Development Control Plan 2012, relevant SEPPs and submissions made in response to the exhibition of the application.

Having regard for the outcomes of the assessment, it is recommended that the application be determined by way of approval, subject to the conditions attached and the General Terms of Approval issued by the NOW/NRAR.

Council has the following options with regard to determining the subject application:

Option 1 – Grant consent to the application

It is recommended that Council grants consent to the application subject to the conditions attached.

Option 2 – Refuse the application

Council could determine that application by way of refusal. This option is not recommended given that the assessment has concluded that the application meets the applicable planning requirements and conditions can be imposed to ensure potential impacts are considered acceptable in this instance.

Option 3 – Defer determination of application

Council could deter determination of the application to obtain additional information or hold a Councillor briefing of the matter. This option is not recommended on the basis that sufficient information has been submitted for Council to undertake an accurate assessment of the application and Councillors have previously been brief on the application.

RECOMMENDATIONS

That Development Application 2018/51 for a residential subdivision and subdivision works at Lot 1 DP 517111, 20 North Creek Road, Lennox Head be **APPROVED** subject to the attached conditions, and the General Terms of Approval issued by the NOW/NRAR.

Attachment(s)

1. Locality Plan
2. Proposed Subdivision Plans and Signage Plans
3. s4.15 Planning Assessment DAC
4. DPI Water & NRAR General Terms of Approval
5. DA 2018/51 - Round 1 Submissions
6. DA 2018/51 - Submission Round 1 Confidential Submission
7. DA 2018/51 - Submissions Round 2
8. DA 2018/51 - Submissions Round 2 Confidential
9. DA 2018/51 - Draft Conditions of Consent

MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 27/08/20 AT 9.00 AM

7. **Mayoral Minutes**

7.1 **Mayoral Minute - Helium Restriction**

270820/2 **RESOLVED**

(Cr David Wright)

1. That Council write to relevant State and Federal Ministers to request a review of regulations on the sale and use of helium and other lighter than air gasses, other than for scientific and non-environmentally detrimental commercial purposes, especially relating to balloons.
2. That Council take action through Community Connect to educate the community on the harm of helium balloon releases.
3. That Council receive a report on a proposal to include a ban on the use of gas filled balloons on land under its control.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

AGAINST VOTE - Cr Phillip Meehan and Cr Ben Smith

8. **Planning and Environmental Health Division Reports**

8.1 **DA 2018/51 - 20 North Creek Road, Lennox Head - Residential Subdivision**

270820/3 **RESOLVED**

(Cr Ben Smith/Cr Jeff Johnson)

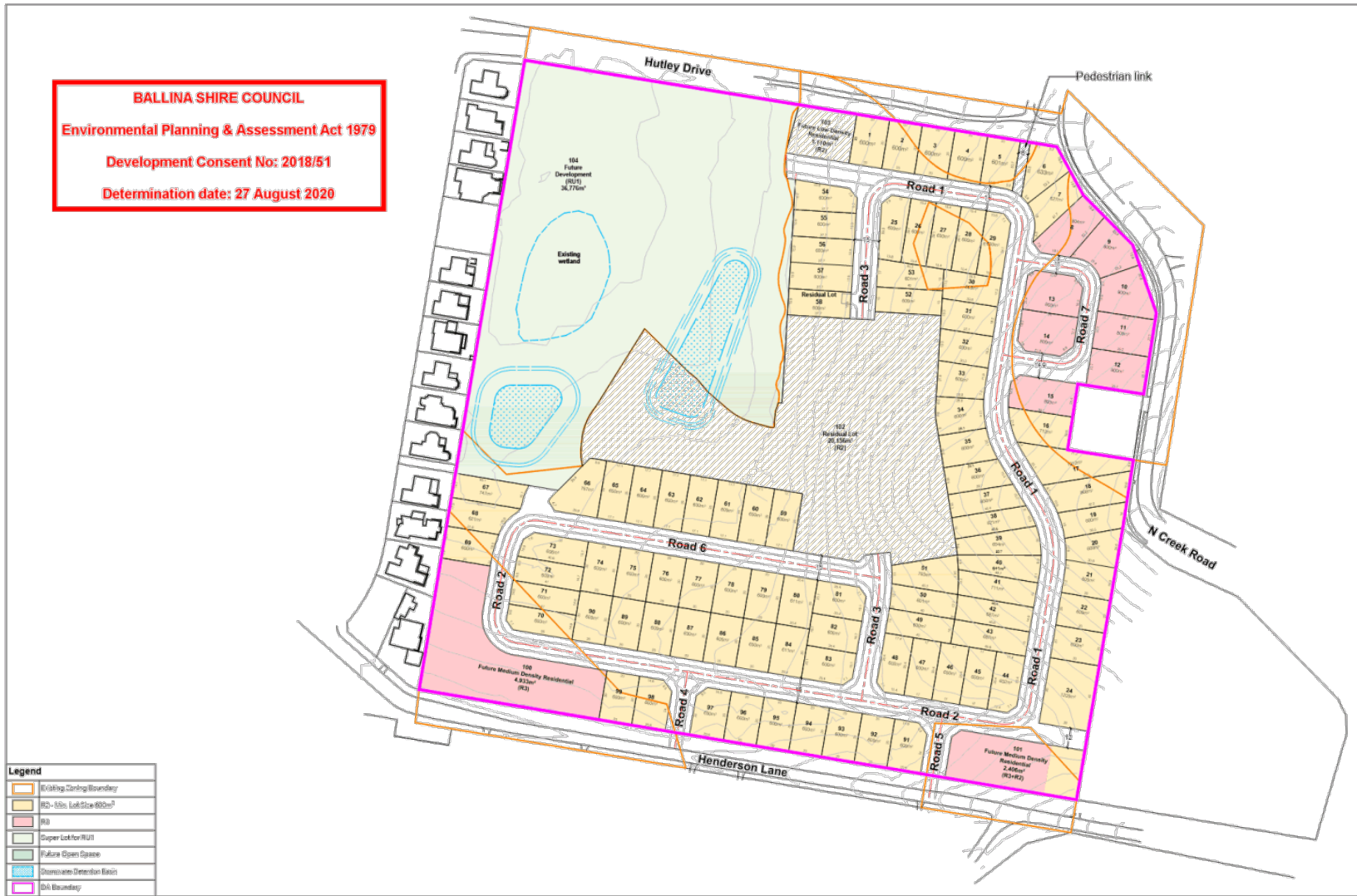
That Development Application 2018/51 for a residential subdivision and subdivision works at Lot 1 DP 517111, 20 North Creek Road, Lennox Head be **APPROVED** subject to the attached conditions, and the General Terms of Approval issued by the NOW/NRAR, excluding the two large proposed promotional signage.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Sharon Cadwallader and Cr Ben Smith

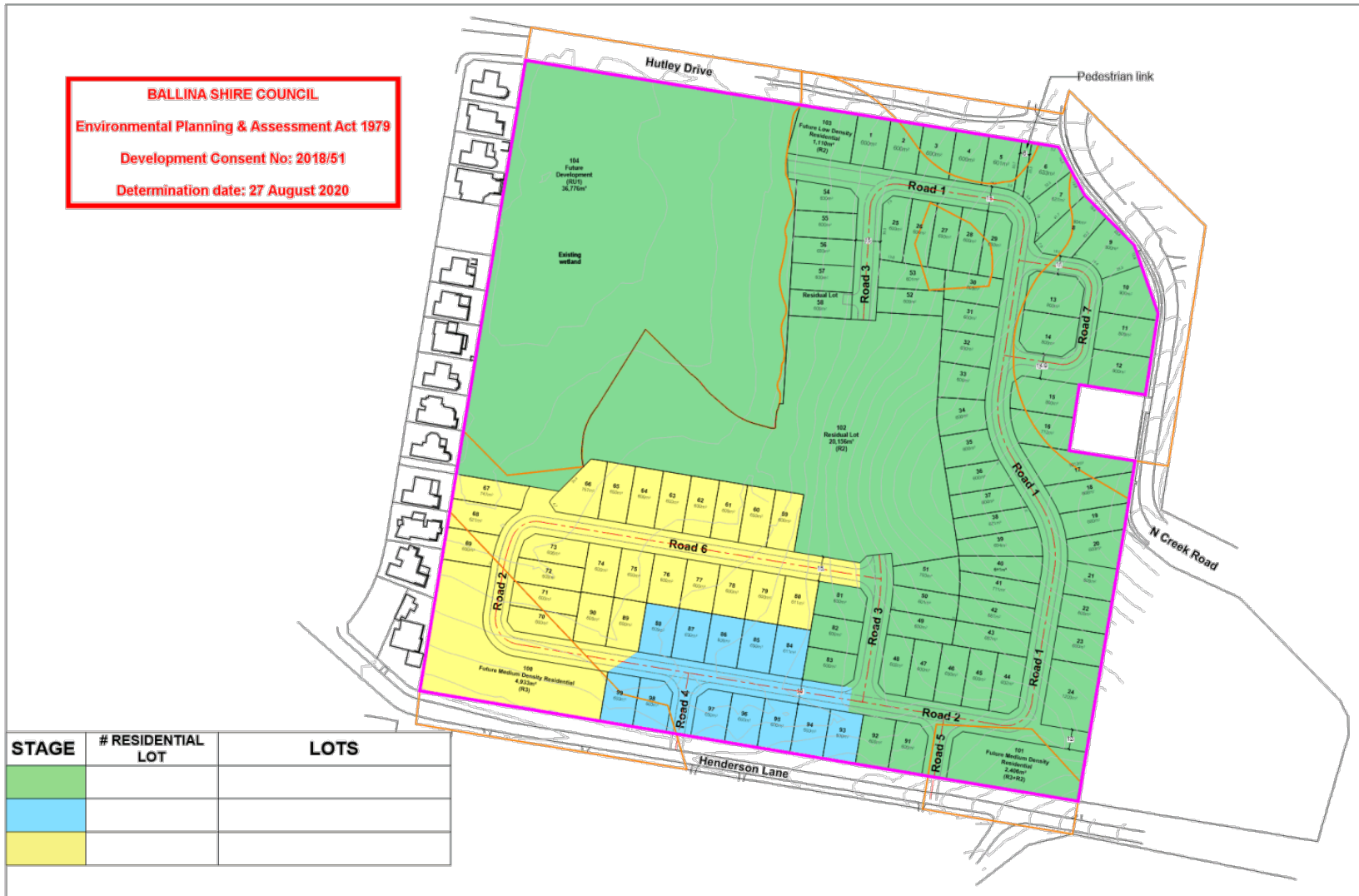
AGAINST VOTE - Cr Keith Williams

Cr David Wright declared an interest in Item 8.2 and left the meeting at 10:12 am. Cr Eoin Johnston, Deputy Mayor, assumed the Chair.

8.1 Planning Proposal - Reservoir Hill, 20 North Creek Road Lennox Head



8.1 Planning Proposal - Reservoir Hill, 20 North Creek Road Lennox Head



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RESERVOIR HILL



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PROJECT No:
 DRAWING No:
 REV:
 DATE:

enquiries refer
Andrew Smith
 In reply please quote
 DA: 2018/51



Ballina Island Developments Pty Ltd
 C/- Richard Barry (Urbis Pty Ltd)
 Angel Place - Level 8, 123 Pitt Street
 SYDNEY NSW 2000

**Notice to Applicant of Determination of a
 Development Application**

Issued under Section 4.18(1)(a) of the Environmental Planning and Assessment Act 1979

Development Application No: DA 2018/51

Applicant: Ballina Island Developments Pty Ltd

Subject Land: Lot: 1 DP: 517111,
 No. 20 North Creek Road LENNOX HEAD

Development Proposal: Subdivision of land to create 99 residential lots, five super lots subject to future development, construction of roads, installation of essential services and infrastructure, excavation works including cut and fill and retaining walls, stormwater drainage infrastructure including detention basins and piping of creek, vegetation clearing and landscaping works.

Development Type: Nominated Integrated Development

Determination: The development application has been determined by Ballina Shire Council on 27 August 2020 by way of **the grant of consent subject to the conditions specified in this notice:**

This consent operates from: 27 August 2020

GENERAL

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

Plans prepared by	Drawing No.	Drawing Title	Dated
Urbis	02 Rev N	DA Subdivision Plan	11/11/19

40 cherry street, po box 450, ballina nsw 2478
 t 1300 864 444 e council@ballina.nsw.gov.au w ballina.nsw.gov.au abn 539 29 887 369

Urbis	02 Rev N	DA Subdivision Plan – Staging Plan	11/11/19
Urbis		Revised SEE and Appendices (CM 20/16041)	February 2020
Urbis		RFI Response (CM 20/66132)	18/5/20

except as modified by any condition in this consent.

2. Proposed Signage

Consent is not granted to the proposed real estate signage adjacent to North Creek Road. Separate consent is to be obtained unless the provision of SEPP Exempt and Complying Development Codes apply.

3. Sequencing of Stages

The development is to be staged in accordance with the nominated sequencing provided on the approved plans, unless otherwise agreed to by Council. A Subdivision Certificate for a particular stage is not to be issued unless a Subdivision Certificate has been issued for the prior stages of the development.

4. Discovery of Aboriginal Relics

Upon discovery of any Aboriginal relics within the meaning of the National Parks and Wildlife Act, 1974 within the subject site, the project manager shall immediately notify the Biodiversity Conservation Division (BCD) of the Department of Planning, Industry and Environment and the Jali Local Aboriginal Land Council and shall cease all subdivision works within the vicinity thereof until such time as the consent from the BCD is obtained for the destruction, removal or protection thereof and the developer has complied with the direction of the BCD in that respect.

5. Aboriginal Human Remains

If human remains are located at any stage during construction works within the development site, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest Police Station, the JALI LALC, and the BCD Regional Office (Coffs Harbour) are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the BCD should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.

In all dealings with Aboriginal human remains, the developer should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.

6. Notification to the Biodiversity Conservation Division (BCD) of the Department of Planning, Industry and Environment

If Aboriginal cultural material is uncovered as a result of development activities within the Subject Lands, they are to be registered as Sites in the Aboriginal Heritage Information Management System (AHIMS) managed by the BCD. Any management outcomes for the site will be included in the information provided to the AHIMS.

7. NSW NRAR GTAs

The developer shall comply with the General Terms of Approval issued by DPI Water dated 29 March 2018 and NSW NRAR dated 25 May 2020, a copy of which is included in Schedule 3 of this consent.

8. Electricity

All power reticulation within the development shall be provided underground.

9. Locks

Any asset that will be dedicated to Council which contains a lock must be fitted with locks consistent with Council's master lock system. Council's Engineer must be contacted on telephone 1300 864 444 for further information.

10. Dedication of Drainage Reserve Areas Lots 102 and 104

Areas generally identified as A, B, C & D within Plan 18093E2 dated 1/07/2020 prepared by RCS Group Australia shall be dedicated to Council as drainage reserve or transferred to Council (and at no cost to Council) within a five year period commencing from the issue date of first subdivision certificate or prior to the issuing a subdivision certificate for the 80th lot developed as part of this consent (whichever is first). The area to be transferred or dedicated to Council shall be adjusted as necessary so that it suitably contains all public stormwater infrastructure including provision for access.

This requirement does not preclude the landowner submitting a development application/modification applicable to this land prior to the land being required to be dedicated or transferred. Should the submitted development application/modification include alteration/relocation of the stormwater management infrastructure approved as part of the subject application (2018/51), then a revised plan of land to be dedicated or transferred is to be submitted to Council and approved as part of that development consent should it be granted.

The applicant shall be required to maintain the drainage infrastructure that is located within this lot until the land is dedicated or transferred to Council.

Note: Should a development application/modification be submitted to but not approved by Council prior to the end of the 5 year period before dedication is required, then Council at its discretion may extend this period to enable sufficient resolution of the submitted application.

PRIOR TO ISSUE OF A SUBDIVISION WORKS CERTIFICATE

The following conditions in this section of the consent must be complied with prior to the issue of any Subdivision Works Certificate relating to the approved development, unless Council advises that the subject condition is not applicable based on the scope of works proposed.

11. Section 138 Approval

An approval under Section 138 of the Roads Act, 1993 shall be obtained for all proposed works on public roads.

12. Future Development Lots

The subdivision works certificate application/s shall demonstrate that sufficient capacity will be provided in all infrastructure to meet the demand from the future medium density residential lots zoned R2 and R3.

13. Schedule of Compliance

Prior to the issue of a Subdivision Works Certificate/s a Schedule of Compliance detailing how each "PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE" condition of consent has been complied with shall be submitted to Council for approval at each stage of the development.

14. Long Service Levy

In accordance with Section 6.14 of the EP & A Act a Subdivision Works Certificate will not be issued with respect to the plans and specifications for subdivision construction works until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.

15. Civil Works

Prior to the issue of the Subdivision Works Certificate, engineering design drawings and a completed certification Report as set out in Annexure DQS-A of the manuals shall be submitted to and approved by Council for civil/subdivision works required by this consent. The drawings shall also include associated works required under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993.

Designs and details are to be in accordance with the current Northern Rivers Local Government Development Design and Construction Manuals (NRLGDDCM). Where civil/subdivision works are not covered by the NRLGDDCM or where specifically specified, designs shall be in accordance with appropriate design requirements from Austroads, Australian Standards, Roads & Maritime Services or other recognised authority acceptable to Council. For any civil/subdivision works not covered by the requirements of the NRLGDDCM, the Subdivision Works Certificate drawings for these works must be accompanied by a design report referencing design standards relied on, and a construction specification which must include construction inspection milestones, testing requirements/acceptance criteria and acceptable construction dimensional tolerances.

The submitted engineering design drawings must be accompanied by a Safety in Design Report in accordance with Clause 295 of the Work Health and Safety Regulation 2011 that also addresses Clauses 61 and 64 of the regulation and the Safe Work Australia "Safe Design of Structures Code of Practice - July 2012".

16. Half Road Reconstruction

At the developer's expense, the Henderson Lane Street frontage for the development extending through to the existing kerb and gutter to the east shall have the road pavement widened on the northern half of the nominal centreline. The road widening shall be to suit an ultimate total width of 11m, with the development required to widen the existing road pavement to a nominal 5.5m width north of the nominal centreline. This shall include a 300mm width reconstructed overlap into the existing pavement. The pavement shall consist of a minimum 300mm of compacted roadbase quality material plus a minimum 25mm asphalt wearing surface with a concrete dish gutter along the property boundary. Inspection of the road widening is required by Council's Engineer (Ph 1300 864 444) at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory subgrade material, the developer shall be required to remove the unsuitable material for a further depth of 700mm and replace with approved sand fill. Details are to be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

17. Drainage, Henderson Lane

At the developer's expense the half road construction of Henderson Lane shall incorporate a suitably designed piped stormwater system.

18. Line Marking, Henderson Lane

At the developer's expense line marking shall be provided within Henderson Lane at the intersection of North Creek Road as per Figure 1 of Ardill Payne and Partners response to Stage 1 RFI dated 28 August 2018.

19. Footpath (external)

The provision of a concrete footpath a minimum of 1.35 metres wide along the Henderson Lane Street frontage connecting through to the existing bus stop located on North Creek Road.

The provision of a concrete footpath a minimum of 1.35 metres wide between proposed lots 5 and 6 connecting into the existing footpath on North Creek Road.

The footpath is to be designed and constructed in accordance with Standard Drawing R07 of the Northern Rivers Local Government Development Design and Construction Manuals. Details are to be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

20. Vegetation Clearing

A review of the available sight distance for the Henderson Lane/North Creek road intersection shall be undertaken. Where the review identifies any vegetation within the existing road reserve which obscures sight distance then the removal of this vegetation shall be included within the design plans.

21. Protective Barrier

At the developer's expense suitable pedestrian and vehicular barrier protection must be provided along North Creek Road where the existing footpath and/or carriageway is adjacent to the proposed retaining walls along the eastern boundary of the development site.

22. Footpath

A 1.35 metre wide concrete footpath shall be constructed within the road verge of the internal roads within the development. The footpaths are to be designed and constructed in accordance with Standard Drawing R-07 of Northern Rivers Local Government Development Design and Construction Manuals. Engineering design drawings must be submitted to and approved by The Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

23. Road Naming

Prior to the issue of a Subdivision Works Certificate, the applicant must submit for Council's approval a list of proposed road names for all new roads and/or bridges created as a result of the development. The applicant must give consideration to the requirements of Council's policy for the 'Naming of Roads & Bridges' and be in accordance with the Geographical Names Board of New South Wales document, "NSW Road Naming Policy".

24. Vehicular Access

Where the gradient slope of any allotment is 1 in 6 or steeper, the applicant shall be required to demonstrate that reasonable driveway access opportunities can be provided in accordance with Northern River Local Government Standard Drawing R06 and AS 2890.1. The applicant may be required to undertake construction of driveway accesses to the satisfaction of Council's Engineer, particularly when the demonstrated access is shown at the maximum gradient permitted.

25. Bus Stops

Bus stops shall be provided at approximately 400m intervals or as otherwise approved by Council as well as bus shelters. A design in accordance with the requirements of AS 1428.4.1:2009, and identifying the proposed locations of the bus shelters within the development, is to be provided prior to the issue of the Subdivision Works Certificate.

26. Pathway Corridors

Pathway corridors shall be a minimum of 5m in width. Bollards or similar devices shall be required within these corridors to prevent unauthorised vehicular traffic utilising these corridors to the satisfaction of the Principal Certifying Authority. Details are to be included in the stormwater designs and submitted to and approved by The Principal Certifying Authority prior to issue of the Subdivision Works Certificate for each stage of the development.

27. Road 7

Shall be constructed as a two-way road with a minimum 3m verge to be provided for the outer verge of road 7 with a minimum road width of 6.5m. Proposed lots 13 and 14 are to have the primary frontage off road 1 and not road 7.

28. Stormwater Management Plan

The provision of stormwater controls on site shall be in accordance with the Water Sensitive Design requirements of Council's Development Control Plan Chapter 2 – Section 3.9 - Stormwater Management and generally in accordance with the Site Stormwater Management Plan by Mott Macdonald dated 20 January 2020, titled *Reservoir Hill, 20 North Creek Road Lennox Head: Stormwater Management Report*. Overland flow paths must be incorporated into the design directing overflows to the street or public drainage systems. Overland flow paths must not be impeded by structures or landscaping. A detailed design must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

29. Stormwater Attenuation

Prior to the issue of a Subdivision Works Certificate, details shall be submitted to and approved by Council which demonstrate that the proposed stormwater attenuation infrastructure will not result in a reduction of any inherent attenuation which may occur on-site by virtue of the existing characteristics of the land. Any loss in attenuation identified must be accounted for in the final design of the proposed basins.

30. Stormwater Treatment Assets

Stormwater treatment assets shall be designed and constructed to the approval of the Principal Certifying Authority and made due provision for all weather access and vehicle turning facilities. A detailed design must be submitted to and approved by the Principal Certifying Authority prior to issue of the Subdivision Works Certificate.

31. Overland Flow Paths

Shall be provided within the subdivision such that these flow paths are contained within a minimum 5m wide pathway corridor, reserve or other open space to the approval of the Principal Certifying Authority. For swales, the pathway corridor shall be widened as necessary to ensure that suitable all weather access to the swale is available for its full length for future maintenance access. Details are to be included in the stormwater designs and submitted to and approved by The Principal Certifying Authority prior to issue of the Subdivision Works Certificate.

32. Reservoir Scour Outlet

The stormwater network shall be connected to the reservoir scour outlet and shall be designed to accommodate a flow rate of 200l/s at this location.

33. Stormwater Safety Grates

Stormwater safety grates to protect against drowning shall be provided over the two inlet headwalls located on the west boundary of the site as well as the outlet headwall located on the northern boundary of the site.

34. Stormwater Basin Fencing

A basin fencing risk analysis shall be completed in accordance with the Lake Macquarie, Batters and Fencing Guidelines for SQIDS and Detention Basins (available from Council). Results of the basin fencing risk analysis shall be incorporated into the basin design and submitted to Council for approval prior to the issue of the Subdivision Works Certificate.

35. Driveway Culverts

All driveway culverts are to include concrete aprons to the extent of the headwalls and wingwalls. Details are to be submitted and approved by the Principal Certifying Authority prior to the issue of a Subdivision Works Certificate.

36. Stormwater

At the expense of the applicant, an inter-allotment drainage system shall be provided within the proposed development in accordance with the minimum requirements of the Northern Rivers Local Government Development Design and Construction Manuals. Engineering design drawings must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

37. Kerb Stormwater Outlet

Galvanised steel RHS Kerb and gutter drainage adaptors are to be installed on the low side of each lot in accordance with Standard Drawing R08 of the Northern Rivers Local Government Development Design and Construction Manuals. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

38. Potable Water Main Link

The potable watermain link between WPD61 and WPD50 as per Council's Development Servicing Plan – Drinking Water Supply shall be constructed. Details are to be included within the application for a subdivision works certificate and be approved by Council.

The existing DN200 reservoir inlet pipe which encroaches on the subdivision site will need to be relocated, refer to the Infrastructure Gap Analysis Report + Servicing Strategy Concept Designs prepared by IGS dated September 2018. Details are to be submitted to and approved by Council prior to the issue of Subdivision Works Certificate.

39. Water Connection (dual reticulation)

The applicant shall be responsible for the design and construction of a dual water supply system for both drinking water and recycled water complying with Ballina Shire Council's Dual Water supply Plumbing Policy.

The design shall comply with the minimum requirements of the Northern Rivers Local Government Development Design and Construction Manuals (as current at the time of construction commencing). Design plans are to be approved by Council prior to the issue of the Subdivision Works Certificate.

40. Sewer (high water table areas)

Notwithstanding the WSAA code, sewer gravity mains are not to exceed a final design depth of 3.0 m unless otherwise approved by Council's Engineer.

41. Sewer (reticulation)

Council's sewer reticulation network shall be extended to service the proposed development (excluding the cost of any works identified within the Ballina Shire 'Sewerage Infrastructure Development Servicing Plan'). The design shall comply with the minimum requirements of the Northern Rivers Local Government *Development Design and Construction Manuals* (as current at the time of construction commencing). Engineering design drawings must be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

42. Provision for Future Orderly Development

Provision must be made for the future orderly development of adjacent upstream/upslope properties with respect to stormwater and sewerage drainage where part or the whole of these upstream/upslope properties would drain through the development.

The stormwater and sewer services adjacent to proposed Lot 101 shall be provided at a depth and location which facilitates the potential future extension of these services into Lot 1 DP878933 in such a manner as to avoid the future extension of one service prejudicing the other. The sewer main should be at a level which allows its future extension to drain sewage from either side of the natural drainage line. The upstream manhole at this location is to be provided within road reserve to ensure Lot 1 DP878933 can be provided with a legal connection point without the need of acquiring further easements.

Stormwater and sewerage conveyance infrastructure within the development site catering for upslope connections (now or in future) is to be sized for fully developed catchment flows. Details are to be submitted to Council for approval prior to the approval of the Subdivision Works Certificate.

43. Landscape Plan

A landscape plan, prepared by a person competent in the field is to be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate. The plan shall show the mature height, location, quantity and species of all plantings and should also give details of soil conditions and the planting and maintenance program. The landscape plan and selection of appropriate plants shall be made generally in accordance with the Council's Development Control Plan Chapter 3 – Urban Subdivision and the *Ballina Shire Urban Garden Guide*.

44. Non Mowable Batters

Ground slopes and batters within public land must be no steeper than 1V:4H unless otherwise approved by Council. Where approved, all batters and slopes proposed in any Council reserves that are greater than 1V:4H shall be densely planted with a groundcover approved by Council. Council will not accept the handover of the reserve until a 90% coverage is achieved that is weed free. The plant species, densities, and

maintenance program shall be included in the landscape plan and approved by Council prior to the issue of the Subdivision Works Certificate.

45. Street Lighting

The applicant shall be responsible for the design and installation of public street lighting. All street lighting within the development must be designed in accordance with AS / NZS 1158 and based on the installation of Country Energy Style 1 lanterns fitted with light emitting diode street lights for category P areas. Engineering design plans and specifications must be submitted to and approved by the Principal Certifying Authority. All works must be completed and commissioned prior to the release of the Subdivision Certificate.

46. Electricity Supply

The applicant shall be responsible for all costs associated with the connection of underground reticulated electricity to each lot within the development. Electrical pad mounts are to be wholly contained within private lots and not located within road reserve. Design plans are to be submitted to and approved by the Principal Certifying Authority prior to issue of the Subdivision Works Certificate.

47. Broadband Service

At the expense of the applicant and in accordance with the Federal Government's National Broadband Network (NBN) initiatives, the applicant is required to install a fibre ready, pit and pipe network (including trenching, design and third party certification) to NBN Co's specifications to allow for the installation of 'fibre to the home' (FTTH) broadband services. Certified design drawings must be submitted to and approved by the Principal Certifying Authority prior to the issue of the Subdivision Works Certificate.

48. Civil Inspection Fee, Subdivision Works Certificate Fee & Construction Bond

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

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

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

49. Asset Listing

Prior to the submission of the Subdivision Works Certificate application an electronic listing of all road, stormwater, water and sewer assets generated by the development shall be submitted to Council via the Asset Spreadsheet (available on Council's website). The asset spreadsheet is used to generate a Subdivision Works Certificate

Fees and Charges quote which is payable on submission of the Subdivision Works Certificate application.

50. Geotechnical Investigation

Prior to the issue of a Subdivision Works Certificate, a detailed Geotechnical investigation shall be undertaken by an appropriately qualified practising professional Geotechnical Engineer having regard for the Geotechnical Investigation prepared by Coffey, dated 12 February 2020. The geotechnical investigation shall address the geotechnical constraints identified within Section 6 of the Geotechnical Investigation prepared by Coffey. Specific problematic areas or areas with constraints should be identified and suitable treatments and methodologies to manage these should be detailed.

The investigation shall identify any areas of compressible clay materials, loose sands, landslip, subsidence or reactive soil profiles which may impact on construction or building activities. If unsuitable materials are identified, the investigation shall provide recommendations such as a preloading or other forms of treatment necessary to achieve surface movement (ys) rates consistent with a site classification "M" as defined by AS 2870 (current version). All consolidation resulting from preloading shall be monitored by settlement plates or detailed survey to determine consolidation/settlement characteristics.

Where the Geotechnical Investigation identifies that settlement will occur at the site, the applicant shall provide a Construction Report detailing the anticipated extent of settlement, the period over which this settlement shall occur and the measures to prevent the settlement impacting on any future buildings, public assets or services proposed to be constructed within the development. Details must be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate.

51. Redundant Infrastructure

All existing sewer and stormwater infrastructure made redundant as a result of the development shall be decommissioned and completely removed from the site. Engineering design drawings must be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

52. Retaining Wall Design and Certification

All retaining wall designs are to address the following:

- Retaining walls are to be designed in accordance with AS 4678-2002.
- Designs are to consider all the applicable limit states defined in Section 3 of AS 4678-2002. Design loads are to be in accordance with Section 4 of the Standard. Earthquake loads are to be provided for in accordance with Appendix I of the standard.
- Definition - "combined height" is defined in this condition as the sum of the heights of retaining walls that are individually horizontally staggered by less than 3.0m between top of lower wall and bottom of higher wall
- Structure Classification AS 4678 - 2002, Table 1.1. Retaining walls with a combined height of >1.5m and < 2.5m are, as a minimum, to be designed as Class B; Retaining walls with combined height of >1.0m and < 1.5m that support services are, as a minimum, to be designed as Class B; Retaining walls with

combined height equal to or >2.5m are, as a minimum, to be designed as Class C.

- Site investigation is to be in accordance with Section 2 of AS 4678-2002.
- The retaining wall design is to have regard to the informative Appendix G Drainage of Earth-Retaining Structures of AS 4678-2002.
- The design and associated drawings are to specify maximum loads (at specified distance from walls) that may be placed on land supported by the retaining walls and/or whether there need to be restrictions on loads that would preclude placement of swimming pools or other structures in the vicinity.
- The design and associated drawings are to specify the limits of future excavation forward (i.e. on the low side) of retaining wall footings that could compromise the structural integrity of the retaining walls.
- Fully detailed (position, levels, dimensions, alignment, drainage) and notated drawings are to be provided for each individual retaining wall and retaining wall group. Drawing details are also to comply with Section 6.3 of AS 4678. A specification is to be provided with the Subdivision Works Certificate application for materials to be used and construction details (including foundation preparation, backfilling, drainage etc.) of the retaining walls.
- A retaining wall design report must accompany the Subdivision Works Certificate Application. The design report is to address AS 4678-2002 and the matters referred to in this condition.
- Certification is required with the Subdivision Works Certificate application, from a registered certified practicing engineer, competent in the field of retaining wall design and familiar with the geotechnical aspects of the project; that the retaining walls depicted in the Subdivision Works Certificate drawings and the associated Design Report, comply with the requirements of AS 4678-2002 and the design requirements of this condition.

53. Retaining Walls and Reserves

Where retaining walls are to be constructed adjacent to public reserves and road reserves the walls must be located completely within the private properties and not within public land. Engineering design drawings must be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

54. Retaining Walls and Adjacent Property

The retaining walls along the eastern boundary shall be constructed such that adjoining property and road reserve receives no loss of amenity, this precludes the addition of any load restrictions on the high side of the retaining walls on neighbouring property or road reserve. In order to ensure that uphill property receives no loss of amenity, retaining walls will need to be offset from the boundary such that the zone of influence of these retaining walls is entirely within the development lot. Alternatively, consent may be provided from adjoining property owners such that the zone of influence can extend into their property. Details are to be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate.

55. Stepped Retaining Walls

Retaining walls with steps shall include suitable low maintenance vegetation to mitigate the need to regular maintenance by future land owners. Details are to be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate

56. Retaining Walls and Services

Where retaining walls are located adjacent to water, sewer and drainage pipelines the walls must be designed such that they will be structurally self-supporting when excavation is required to the invert level of the adjoining pipeline or otherwise offset sufficient distance that the retaining wall is beyond the zone of influence of the pipeline. Engineering design drawings and structural certification must be submitted to and approved by Council prior to the issue of the Subdivision Works Certificate.

57. Protection of Freshwater Wetland EEC

To reduce the impact to the Freshwater Wetland EEC located on Residual Lot 104 and to ensure excavation works associated with the installation and operation of the stormwater network and swale system do not affect the existing surface and groundwater hydrology the following mitigation measures are to be implemented:

- a) All works associated with the construction of the drainage basins, swale system and stormwater infrastructure are restricted to areas depicted in the "Earthworks Cut and Fill Plan Stage 1A Enabling Works" (Revision 8) prepared by Mott McDonald and dated 13.08.2020. Consequently, no further construction works will be permitted within the Freshwater Wetland EEC.
- b) Works within the area depicted as 'SW1' are to be avoided or minimised where possible. Should any works be necessary in 'SW1', construction design details and rationale for these works in this area are to be provided to Council. Any works to be carried out within this area are to be undertaken in accordance with a construction management plan to minimise impact on the wetland. At the completion of the construction phase, the 'SW1' area is to be rehabilitated in accordance with the actions in the approved Wetland Management Plan.
- c) To reduce the footprint of Drainage Basin 2 all batters associated with the bio retention basin that will reduce the footprint in the wetland are to be steepened to 1:4. The modified drainage basin is to be moved landward away from the Freshwater Wetland. The resulting gain in space may be used for construction works and then rehabilitated in accordance with the actions of the approved Wetland Management Plan.
- d) The existing seepage area depicted in Figure 8 of the Revised Ecological Assessment (Volume 1) prepared by JWA Pty LTD and dated 19 February 2020 is to be retained as a subsurface drainage structure. Within this area, the existing natural topography and flow paths are to be retained through the placement of suitably sized boulders and/or rocks encased by geotextile or the like.
- e) Measures implemented during construction and operation to prevent groundwater and surface waters of the wetland system draining into subsurface gravel material and/or the constructed swale system. The baseline hydrological monitoring is to be used to inform this design.
- f) Ensure all construction plans will depict the location of the management areas and exclusion fencing will be erected around all areas subject to the plan

Prior to issue of an approval under Section 68 of the Local Government Act 1993 for the proposed drainage work, revised construction plans and reports depicting compliance with the above mitigation strategies are to be submitted to the satisfaction of Council.

58. Wetland Monitoring and Adaptive Management Plan (WMAMP)

Prior to the issue of an approval under Section 68 of the Local Government Act 1993 for the proposed drainage work the proponent shall prepare a Wetland Monitoring and Adaptive Management Plan (WMAMP) to the satisfaction of Council. The objective of the plan shall be to monitor the health of the Freshwater Wetland EEC and associated hydrology over time to assess whether or not the development is resulting in material adverse changes to the health and composition of the wetland.

The WMAMP must include a range of remedial actions to address the ecological decline of the wetland resulting from the development in the event such decline occurs. The WMAMP is to be prepared by a Council approved specialist wetland ecologist with at least 5 years experience in wetland ecology and monitoring.

Monitoring of the ecology shall be undertaken in accordance with the Biodiversity Assessment Method (OEH 2017) to determine a Vegetation Integrity Score (VIS). A VIS baseline calculation shall be undertaken prior to any works commencing at the site and subsequent VIS assessments undertaken annually for a period until five years after the registration of the plan of subdivision for the 90th residential lot.

The WHMAMP is required to have direct linkage to the results of thy hydrological monitoring program as revealed in the report titled "Wetland Hydrological Monitoring and Management Plan (WHMMP)" prepared by Gilbert and Sutherland and dated April 2020 and as amended by conditions of this consent.

Outside of any major climatic event, an adaptive management regime is to be implemented if any or all of the following scenarios occur:

- the development results in a 10% or greater change in either or both surface and/or groundwater levels when compared to the predevelopment baseline levels
- for the first two years of the monitoring program the VIS scores associated with the monitoring program record a decline of 10% or greater when compared to the baseline VIS scores
- the VIS scores decline by 10% or greater when compared to the previous 12month monitoring period.

59. Wetland Hydrological Monitoring and Management Plan (WHMMP)

Prior to the issue of an approval under Section 68 of the Local Government Act 1993 for the proposed drainage work, the submitted WHMMP prepared by Gilbert and Sutherland and dated April 2020 is to be modified to address:

- Confirmation that the monitoring results will be reviewed by a specialist wetland ecologist who is implementing the actions of the WMAMP.
- For each stage of the project provide a specified timeframe in which the results of the monitoring program will be reported to Council and the manner in which the program will be reported. However, during periods of high risk activities such as bulk earthworks Council will require monitoring reports to be submitted every three months.
- Confirmation and the qualifications of the key personnel responsible for undertaking all aspects of the WHMMP.
- Confirmation that "on maintenance phase monitoring" will be undertaken annually for a period until five years after the registration of the plan of subdivision for the 90th residential lot.

- Outside of any major climatic event confirmation that if the monitoring confirms there is a 10% or greater change to surface and/or groundwater levels when compared to the baseline water levels for all rainfall events the corrective actions detailed in the WMAMP and the WHMMP will be activated. In addition, if the WMAMP confirms a 10% or greater decline in VIS scores when compared to the baseline and/or 10% or greater when compared to the previous 12month monitoring period the corrective actions detailed in the WMAMP and the WHMMP will be activated.
- Include the performance indicators detailed within Section 5 of the Wetland Management Plan prepared by JWA dated 19 February 2020.
- Measurable criteria for establishing stabilised results post construction/on maintenance phase. In this regard Council will require at least a year of stabilised results (where the total catchment in relation to the development site is at least 90% developed with dwellings constructed) which reflects the pre-construction baseline levels without intervention or adjustment to the management devices. The allowed deviation from baseline results should be identified (i.e. what deviation is no longer considered acceptable/stabilised). The criteria is to determine whether or not stabilised conditions have been achieved, including specific timeframes and measures to address deviations outside of trigger levels.

60. Revised Wetland Management Plan

Prior to the issue of an approval under Section 68 of the Local Government Act, 1993 for the proposed drainage work, the submitted "Wetland Management Plan" prepared by JWA Pty Ltd dated 19 February 2020, is to be amended to the satisfaction of Council to address the following matters:

- a) Section 1 is to be modified to confirm the Section 88b Instrument will state that the ownership and maintenance of the restoration area either is dedicated to Council or is attached to a residential allotment within the subdivision and that it will be managed and protected in perpetuity.
- b) A timetable for the implementation of all revegetation, rehabilitation and weed control works linked to the staging of the development.
- c) The WMP including all maps are to remove all references to the construction of the Council drainage network located in the northwest corner of Residual Lot 104.
- d) Figure 5 Category 2 of the legend is to replace "natural regeneration" with "assisted regeneration".
- e) Figure 5 Category 6 is to be removed.
- f) Figure 5 is to be updated to show the location of the exclusion fencing.
- g) Section 3.3 is to modify what actions will be implemented if the range of identified risks eventuate.
- h) Section 4.3 is to be modified to comply with Sections 4.5.5.
- i) Section 4.3 is to be modified to confirm the "*maintenance period*" commences immediately after the 12 month "*establishment period*". The "*maintenance period*" will be undertaken by the developer for a period until five years after the registration of the plan of subdivision for the 90th residential lot.
- j) Section 4.3 is to be modified to state weed control works will be undertaken as required.
- k) Section 4.4.3 is to be modified to state that all erosion and sediment measures will be established outside of the management areas.

- l) Section 4.4.4. is to be modified to state all construction plans will depict the location of the management areas and exclusion fencing will be erected around all areas subject to the plan.
- m) Section 4.6.2 is to be revised to state that Phase 1 will be completed within two months of the earthworks being completed.
- n) Phase 6 of Section 4.6.2 is to be modified to be consistent with the maintenance period for the project being until a period of five years after the registration of the plan of subdivision for the 90th residential lot.
- o) Section 4.6.3 is to be modified to include a cane toad monitoring and control program.
- p) Section 4.6.3 and Table 3 are to be modified to confirm all rainforest trees will be planted at 1.8m spacings.
- q) Section 4.6.4 is to be modified to comply with the planting models detailed in Table 3 of the document titled "Subtropical Rainforest Restoration – A practical manual and data source for Landcare groups, land managers and rainforest regenerators (Third Addition).
- r) Section 4.7 is to be consistent with the maintenance period for the project being until after the registration of the plan of subdivision for the 90th residential lot.
- s) Section 5 dot point 6 is to be revised to delete the references to the "2 year maintenance period or the site becomes self-sustaining, vehicle tracks. Dot point 6(d) is to be deleted.
- t) Section 5 is to be revised to confirm that if the performance criteria is not achieved within the restoration period, the Developer will extend the restoration project until the performance criteria are achieved or forfeit the Freshwater Wetland Bond. In this regard, all forested areas are to achieve a 90% native vegetation canopy coverage within a minimum five year period. All wetland areas are to achieve a 90% native coverage. All vegetation stratas are to be free of all environmental and noxious weeds.
- u) Identify contingency plans should the proposed revegetation works not respond to proposed treatment works.
- v) All references to "should" throughout the WMP are to be replaced with "will".
- w) Section 6.3 is to be revised to include the provision of monitoring reports to be provided to Council's Planning and Environmental Health Division (PEHD).
- x) Confirmation that all restoration work shall be undertaken by or overseen by a qualified bush regenerator. The bush regenerator must hold the Bushland Regeneration Certificate II or equivalent and have a minimum of two years' experience regenerating floodplain communities.
- y) Outline of all future management actions the owner of the wetland will be required to undertake in perpetuity to maintain the ecological condition of the restored restoration area.

61. Freshwater Wetland Bond

To ensure the ecological values of the retained wetland on Residual Lot 104 are protected in perpetuity, the applicant is to lodge prior to the issue of an approval under Section 68 of the Local Government Act 1993 for the proposed drainage work, a surety bond with Council. The amount of the bond is to be calculated by using the Biodiversity Offsets Payment Calculator and is to calculate the area of retained wetland as a score of 100% against its benchmark condition for PCT (782). The costings of the bond are to be based on a 100% loss of the retained Freshwater Wetland. A bond shall

be provided in the form of a payment to Council in the amount of 150% of the agreed calculated Biodiversity Offsets Payment Calculator results.

The bond will be returned to the developer at the successful completion of both the WMAMP and the WMMP. Success of both projects will be assessed in accordance with the 10% or greater change for both monitoring programs and the achieving of stabilised results. Otherwise, Council will use the full amount of the bond to restore other vegetation communities under Council's care and control.

62. Threatened Species and EEC Offset Site - Nomination of EEC Offset Site

All areas of Freshwater Wetland EEC to be directly and/or indirectly impacted by the development are to be offset on a like for like basis in the ratio of 10:1 (that is 10m² of offset is required for 1m² of impact). This equates to a Freshwater Wetland EEC offset area of 4.84ha (10 x 4837m²). If the mitigation measures described in Condition 57 (Protection of Freshwater Wetland EEC condition) result in overall reduction in the area (m²) of impact to the Freshwater Wetland EEC a reduced 10:1 offset ratio will be applied.

In addition, all areas of Littoral Rainforest EEC and Hairy Joint Grass habitat (outside of the Freshwater Wetland EEC) to be directly and/or indirectly impacted by the development are to be offset on a like for like basis in the ratio of 5:1 (that is 5m² of offset is required for 1m² of impact). This equates to a Littoral Rainforest EEC offset area of 0.4ha (5 x 800m²) and a Hairy Joint Grass offset area of 2.65ha (5 x 5300m²). Consequently, the total threatened species and EEC offset area equates to 7.89ha.

The proposed offset site is to be located within five kilometres of the development site. Sites subject to existing restoration programs and/or funded projects cannot be used to comply with this Condition of Consent. This offsetting requirement is in addition to the restoration works contained within document titled "Wetland Management Plan" prepared by JWA Pty Ltd dated 19 February 2020 and as modified by conditions in this consent. Accordingly, the retained Freshwater Wetland EEC located on Residual Lot 102 cannot be used as an offset site to comply this condition. Any proposed offset site is to be protected in perpetuity.

Details on the location and extent of any proposed freshwater wetland EEC offset site are to be submitted to Council's Planning and Environmental Health Division for approval prior to the issue of the first Subdivision Works Certificate.

63. Freshwater Wetland Offset Options

The Developer is to comply with one of the following Freshwater Wetland Offset options:

- 1) The Developer shall prepare a Freshwater Wetland Offset Plan (FWOP) for the approved Freshwater Wetland EEC offset site. The FWOP is to be prepared to the satisfaction of Council's Planning and Environmental Health Division prior to the issue of the first Subdivision Works Certificate. The FWOP is to confirm and/or provide details on:
 - a. written authorisation from the landowner of the approved freshwater wetland EEC offset site confirming that they have reviewed the WCRP, permit for the required restoration works to be conducted on the identified offset site and accept that the vegetation is to be protected in perpetuity.

- b. a detailed costing and staging plan for all aspects of the program including: fencing, planting works, maintenance works, monitoring, weed control etc.
- c. details on the location and type of exclusion fencing required to prevent domestic stock from accessing land affected by the FWOP
- d. a list of all weed species and methods to be used to control them
- e. details of the measures to be implemented to monitor the success of the rehabilitation plan including the provision of monitoring reports to be provided to Council's PEHD.
- f. commitment that all planting stock will be sourced from plants growing in the immediate locality.
- g. confirmation that the developer will implement the actions of the FWOP for a minimum period of five years.
- h. a range of performance goals that are measurable and include commitment that unless the goals are achieved the rehabilitation program will be extended until they are achieved. In this regard Council will require wetland areas are to achieve an 80% native coverage. All vegetation stratas are to be free of all environmental and noxious weeds.
- i. a timetable for the implementation of all revegetation, rehabilitation and weed control works linked to the staging of the development.
- j. identify contingency plans if proposed revegetation works do not respond to proposed treatment works.
- k. management actions to eradicate other invasive species from the rehabilitation areas.
- l. measures to be implemented to ensure that all areas of native vegetation is managed and protected in perpetuity.
- m. Confirmation all restoration work shall be undertaken by or overseen by a qualified bush regenerator. The bush regenerator must hold the Bushland Regeneration Certificate II or equivalent and have a minimum of 2 years experience regenerating floodplain communities.
- n. land that is already subjected to existing works, grants and or previous rehabilitation programs cannot be used for offsetting.

Or alternatively,

- 2) The Developer is to provide funding, prior to the issue of the first subdivision certificate, for the restoration of 4.43 hectares of degraded coastal EEC native vegetation communities under Council's management. Funding shall be provided to Council to prepare a Freshwater Wetland Offset Plan (FWOP) that addresses dot points 1a-n of this condition. To comply with this requirement the applicant is to provide adequate funding to achieve:
 - a. A coastal EEC vegetation offset totalling 4.43ha.
 - b. Preparation of a Rehabilitation Plan for the offset area. This includes a detailed site assessment, a program of rehabilitation works and staging, provision for annual monitoring reports to be presented to Council's Planning and Environmental Health Division and the identification of precise restoration goals.
 - c. Provision of funding for a minimum of five years.
 - d. Provision of three individual quotes from qualified bush regenerators for the cost of undertaking the required work.
 - e. Written approval from Council's Open Spaces Section showing acceptance of the costings provided and that upon the handover of the funds Council's Open Space Section will implement the restoration program.

64. Vegetation and Fauna Management

All vegetation and/or trees to be retained and/or areas to be subjected to restoration works which immediately adjoin any construction areas are to be protected with temporary "No Go" fencing as required by an approved plan. All "No Go" fencing is to be established a minimum of 1 metre outside of the identified restoration area and/or root protection zone areas and/or drip line zone, whichever is greater. Signage depicting the purpose of the fencing is to be installed on the fence. All construction plans for the project are to identify the location and the purpose of the "No Go" fencing. The developer is to advise Council when the "No Go" fencing has been established.

65. Tree Protection on Adjoining Lot 1 DP878933

All works required on Proposed Lot 24 and Super Lot 101 (previously referenced as Lot 120) are to comply with the plan titled "*Stage 1A Fig Tree Canopy in South East Corner Superlot and Lot 24 frontage option*" prepared by Mott Macdonald and dated 23.10.19. All construction plans are required to depict the location of the 20m Buffer Zone.

66. Construction Waste

The construction waste component of the Site Waste Minimisation and Management Plan (SWMMP) shall be provided to and approved by Principal Certifying Authority (PCA) prior to the issue of the Construction or Civil Subdivision Works Certificate in accordance with the requirements of Council's DCP 2012 Chapter 2 section 3.7.3.

67. Construction Environmental Management Plan

A Construction Environmental Management Plan (CEMP) must be submitted to and be approved by the Principal Certifying Authority prior to the issue of a Subdivision Works Certificate. A copy of the CEMP must also be submitted to Council prior to the issue of a Subdivision Works. The CEMP must address, but not be limited to the following matters:

- Hours of work
- Contact details of project manager/liaison officer
- Complaints management register
- Location of existing services
- Traffic Management (Vehicles, pedestrians and cyclists)
- Flora & fauna management which details the ongoing maintenance of the adjoining properties and the residual allotments and areas during construction
- Strategies to protect the existing hydrology of the retained wetland during construction works
- construction staging plan specifically showing the area of earthworks and soil disturbance with accompanying internal erosion control measures for each stage of construction
- Restoration of damage to public assets
- Noise and vibration
- Dust - Air quality management plan (include escalation protocols and triggers)
- Materials storage and waste management including classification and disposal/reuse location of any fill material to leave the development site
- Soil & water management (including erosion and sediment control) for all stages

- An unexpected finds protocol to appropriately manage unexpected potential contamination issues encountered during works.

68. Air Quality/Dust Management Plan

An Air Quality/Dust Management Plan must form part of the CEMP. This Plan must show the locations of all potentially affected properties and residences on a map and provide details of air quality control measures to be undertaken during construction, including:

- Potential sources and impacts of dust.
- Air and dust management objectives consistent with relevant legislation, guidelines and standards.
- A monitoring program to assess compliance with the identified objectives.
- Mitigation measures to be implemented including wetting of exposed surfaces from a water truck and measures during weather conditions where high dust episodes are likely (such as strong winds in dry weather).
- Exposed surfaces and access pads at the site shall be regularly wetted to suppress dust generation. As a minimum at least one water truck must be available at the site at all times however additional dust suppression equipment must be provided as necessary to prevent dust generation at the site.
- A progressive stabilisation/rehabilitation strategy for disturbed surfaces with the aim of minimising exposed surfaces.
- Contingency plans to be implemented in the event of non-compliances and/or complaints about dust.
- Procedures for regularly reviewing the effectiveness of the Air Quality/Dust Management Plan.
- The generation of dust during construction works must be minimised to prevent construction activities from causing air quality impacts that are hazardous or a nuisance to sensitive receivers.

69. Erosion and Sediment Control

An Erosion and Sediment Control Plan must form part of the CEMP. Soil erosion and sediment control measures shall be designed, installed and maintained in accordance with Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004.

Soil erosion and sediment control measures are to include but not be limited to the following:

- An all-weather construction access, including a truck wheel wash, must be provided on the site. All construction vehicles are to enter and exit the site via this access so as to minimise erosion on site and prevent the movement of soil material onto surrounding roadways. When necessary, roadways shall be swept and all drains and gutters cleaned of sediment material.
- Disturbed exposed areas must be stabilised via seeding, hydro-mulched or other adequate stabilisation method immediately after completion of each work stage to protect the exposed area from water and wind erosion.
- Exposed surfaces including access pads and stockpiles must be regularly wetted to suppress dust generation. As a minimum at least one water truck must be available at the site at all times. Water sprays, sprinklers, dust suppression material such as hydromulch and covering of stockpiles must also be used when needed to prevent the emission of dust from the site.

- The transport of soil or similar material to and from the site must be covered to prevent the generation of dust and material leaving the vehicles.
- Daily inspections of all erosion, dust and sediment controls must be carried out to ensure they are adequately maintained. Inspections of all such controls must also be carried out prior to the onset of heavy rain.
- Any soil, mud or other material deposited on public roads associated with construction activities must be removed and disposed of appropriately to prevent stormwater pollution.
- Soil protection measures specifically for the bulk earthworks construction phase to ensure the protection of the Freshwater Wetland Area.

70. Controlled Activity Approval

A controlled activity approval must be obtained from NSW DPI Natural Resources Access Regulator, in accordance with the requirements of Schedule 3 of this consent. A copy of the controlled activity approval is required to be provided to the Principal Certifying Authority and Council prior to the issue of the first Subdivision Works Certificate for the development or the commencement of any works, whichever occurs first.

PRIOR TO CONSTRUCTION WORK COMMENCING

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

71. Baseline Hydrological Monitoring

Prior to works commencing at the site, the applicant is to submit to the satisfaction of Council a detailed report of the results of the baseline hydrological monitoring program as described in Section 4 of the Wetland Hydrological Monitoring and Management Plan (WHMMP) prepared by Gilbert and Sutherland and dated April 2020.

72. Pre-Construction Dilapidation Report

The Proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all retained existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to commencement of any work. A copy of the report is to be forwarded to the department and council.

Dilapidation reports detailing the current general condition including the structural condition of the adjoining buildings/sites, infrastructure and driveways are to be prepared and certified by a suitably qualified and experienced structural engineer. The reports are to be submitted to Council prior to commencement of ANY works on the site.

73. Community Notification

A community notification leaflet shall be drafted by the applicant and approved by Council. The Council approved community notification leaflet shall be issued to nearby residents who may be impacted by the works at least 14 days prior to works commencing. The community notification leaflet should include:

- a) A brief summary of approved works
- b) Project duration and approved construction hours
- c) Contact details of project manager for complaints and enquiries
- d) Any other relevant information such as traffic management etc.

74. Notice of commencement of Civil Works

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

75. Traffic Control

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

76. Soil Erosion and Sediment Control Measures

Erosion and sediment control measures shall be installed and maintained in accordance with Managing Urban Stormwater - Soils and Construction, LANDCOM, March 2004 and the approved Erosion and Sediment Control Plan.

77. Project Manager

Prior to the commencement of any works, a Project Manager is to be appointed, whose name and contact details are to be provided to the Council. The Project Manager is to be responsible for ensuring the development is carried out in accordance with the required Construction Environmental Management Plan (CEMP) and all requirements of approval outlined within this consent. The Project Manager shall act as a single point of contact for Council, Government Authorities and the general public in relation to compliance with conditions of consent and any issues that arise in relation to the project generally. Prior to the work commencing, the Project Manager is to inform the Council in writing of the date of commencement of works on site.

78. Safety Fencing

The building site is to be provided with adequate safety fencing preventing public access onto the site. Such protection measures are required to protect the public from construction works including dangerous excavations. Signage, restricting unauthorised site entry, containing the builder's name, licence number and contact telephone numbers is to be provided in a visually prominent location on the site.

79. Implementation of the Wetland Hydrological Monitoring and Management Plan (WHMMP), Wetland Management Plan (WMP) and Wetland Monitoring and Adaptive Management Plan (WMAMP).

Prior to the commencement of construction works, the Developer is to commence implementation of the approved Wetland Hydrological Monitoring and Management Plan, Wetland Management Plan and Wetland Monitoring and Adaptive Management Plan.

DURING CONSTRUCTION

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

80. Construction Environmental Management Plan

The approved Construction Environmental Management Plan is required to be implemented at all times during construction works and is to be kept in the Site Office.

81. Imported Soil

To protect the Freshwater Wetland EEC, all construction soil to be used within 20m of the wetland is to be sourced from the development site and/or otherwise certified as being weed free. Ongoing weed eradication works shall be undertaken during and post construction.

82. Construction Vehicles

Vehicles servicing the development (including deliveries and waste collection) shall not park and or wait in the surrounding residential areas prior to 7.00am or after 6.00pm Monday to Fridays and prior to 8.00am or after 1.00pm Saturdays.

83. Noise Control (Construction)

All work, including demolition, excavation and building work must comply with Australian Standard AS 2436:1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* and *NSW Interim Construction Noise Guidelines* (DECC 2009).

84. Complaints Management

The Complaints Management Plan and Register must include:

- A telephone number on which complaints and enquiries about construction and operation activities may be registered.
- A postal address to which written complaints and enquiries may be sent.
- An email address to which electronic complaints and enquiries may be sent.
- Information on all complaints received, including the means by which they were addressed and whether resolution was reached

The information contained within the Plan must be made available to the PCA and Council upon request.

85. Export/Import of Waste

The export/import of waste (including fill or soil) to and from the site must be in accordance with:

- the provisions of the *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operations (Waste) Regulation 2014* and the Environment Protection Authority 'Waste Classification Guidelines', which may require laboratory testing in accordance with NSW EPA and Council requirements; or
- current Resource Recovery Orders and Exemptions.

Any sampling, analysis and reports required by the above provisions must be carried out by a suitably qualified and experienced person.

86. Waste Material

Any waste-derived material, the subject of a resource recovery order and exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption and order conditions and must be provided to the Principal Certifying Authority or the Council upon request.

87. Water Management

All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

88. Construction Activity

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

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

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

The recommended acoustic treatments for onsite construction activity- submitted by CRG acoustics shall be implemented in full during the construction activities for the subdivision. Specifically, onsite construction vehicles must have be fitted with and utilise 'croaker' reversing alarms.

89. Notification – Site Contamination

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

90. Construction Access

A single all weather access way is to be provided on site that extends from the kerb to the building construction site. All construction vehicles are to enter and exit the site via this access way so as to minimise erosion on site and prevent the movement of soil material onto surrounding roadways. The provision of a temporary truck wash-down and shake down grid facility must be implemented to service vehicles exiting the site during the construction stage.

91. Soil and Water Management

The development is to be carried out so as to ensure that all works are conducted strictly in accordance with the Soil and Water Management Plan prepared by Mott MacDonald dated 30 March 2020.

92. Acid Sulphate Soils Management

Acid Sulphate Soils (ASS) may be encountered during excavating and earthworks. The earthworks must be monitored for the presence of acid sulphate soils. Should ASS materials be disturbed, they should be stored separately to non-ASS material, banded, and treated with lime to neutralise any acid production from the oxidation process.

93. Importing of Fill

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

In addition, to protect the Freshwater Wetland EEC, all construction soil to be used within 20m of the wetland is to be sourced from the development site and/or otherwise certified as being weed free. Ongoing weed eradication works shall be undertaken during and post construction.

94. Dewatering

If dewatering is required a management plan for all dewatering activities on site shall be submitted to and be approved by the Principal Certifying Authority (PCA) prior to the release of extracted water. The plan is to give consideration to the acid sulfate soils issues on site and the impact this may have on groundwater and dewatering activities proposed. Prior to the release of any water extracted during dewatering operations the test results and interpretation of results are to be submitted to and approved by Council. Note: Dewatering activities may require a license issued by the NSW Office of Water.

95. Burning of Vegetation

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

96. Civil Works

All civil construction works shall be completed in accordance with the minimum requirements of the Northern Rivers Local Government Development Construction Manuals (as current at the time of construction works commencing) and/or in accordance with other design requirements from Austroads, Australian Standards or Roads & Maritime Services where specified. Inspections and approval of the road,

drainage, water & sewer works shall be required by Council's Engineer (or an approved certifying authority) in accordance with the Manual.

97. Traffic Control

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

98. Inspection (road and drainage)

Inspection and approval of the road and drainage works approved within the road reserve is required by Council's Engineer (Phone 1300 864 444) at the time of excavation and prior to sealing of the works. Should the inspection reveal unsatisfactory subgrade material, the developer shall be required to remove the unsuitable material for a further depth of 700 mm and replace with approved sand fill.

99. Inspection (footpath and gutter crossing)

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

100. Inspection (water and sewer)

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

101. Damage to Council Infrastructure

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

102. Shake Down Grid

The construction access to the site shall have a shake down grid or equivalent to minimise the transportation of material onto the road network via vehicular movements from the site.

103. Stockpile protection

Suitable covering and protection must be provided to all stockpiles to ensure that no material is removed by wind from the site, causing a nuisance to neighbouring properties.

104. Revegetation

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

105. Excavation on Public Land

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

106. Equipment Storage

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

107. Earthworks and Filling

All earthworks and filling shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1.

The earthworks and filling shall also be undertaken in accordance with the Geotechnical Investigation approved with the Construction Certificate and monitored by a Registered Geotechnical Testing Consultant.

Notwithstanding earthworks and filling, the frequency of field density tests for trenches shall be undertaken in accordance with Table 8.1 of AS 3798 (current version).

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

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

108. Application for Subdivision Certificate

An application for Subdivision Certificate accompanied by final plans of subdivision, together with the requisite processing fee, shall be submitted to Council for approval. In addition, a document confirming how each condition of consent has been complied with is also to accompany the Subdivision Certificate application. This document is to include progress reports confirming that compliance with the implementation timetable in each of the approved environmental plans (WHMMP, WMP, WMAMP) has been successfully achieved.

109. Implementation of Freshwater Wetland Offset Plan (FWOP)

Prior to the issue of the first Subdivision Certificate, the Developer is to implement the approved Freshwater Wetland Offset Plan (FWOP), if this option is taken up as per condition 63.

110. Evidence of Completion of Subdivision Works

A subdivision certificate will not be issued until evidence satisfactory to Council is submitted, that the subdivision works, as approved by Subdivision Works Certificate(s), have been completed or that other arrangements satisfactory to the consent authority, in accordance with Part 6 Division 6.4 Section 6.15 (2) (b) or (c) of Environmental Planning and Assessment Act 1979, have been made.

In this regard "evidence satisfactory to Council" is to consist of certification by Council that:

- a) Works as executed plans have been submitted and assessed to demonstrate that the subdivision works designated in the Construction Certificate have been provided and that they comply, within the tolerances permitted in the Northern Rivers Local Government Development Design and Construction Manuals or relevant standards, with the dimensions on the Construction Certificate plans, and
- b) All tests and inspections specified in Ballina Shire Council, Subdivision Works Inspection Form (available on Council's website) have been conducted and that the results comply with the requirements of the Construction Certificate and associated specifications in the Northern Rivers Local Government Development Design and Construction Manuals.

111. Recycled Water Main DSP

The developer is to construct a recycled water pipeline from the recycled water connection point (south) to the northern extreme of the property as per the Development Servicing Plan for Wastewater and Recycled Water Supply Infrastructure (2015).

The developer is to be reimbursed an agreed amount by way of a reduction to the wastewater contributions as required under the the Development Servicing Plan for Wastewater and Recycled Water Supply Infrastructure (2015).

The basis of the agreed amount shall be the cost to provide the materials(pipelines, valves, thrust blocks) for the DSP infrastructure, which would otherwise not be required for the development (i.e. a section of the internal recycled water main to be sized as 200mm as opposed to 100mm).

The agreed amount shall be no more than the price available to Council based on existing supplier contracts and no more than the actual price paid by the developer for the materials. Should the agreed amount be more than the total value of wastewater contributions payable, the developer will need to negotiate an alternative method of reimbursement with Council prior to the issue of a subdivision certificate.

112. Future Connection to Hutley Drive

Prior to the issue of a subdivision certificate the applicant shall provide a Section 88B restriction over Proposed Lot 104 to preserve a future connection to Hutley Drive for the purpose of road reserve. The location of this connection should facilitate safe and efficient access to Hutley Drive and be of a minimum 14m wide.

113. Drainage Reserves - Easement

An easement shall be created over the areas generally identified as A, B, C & D within Plan 18093E2 dated 1/07/2020 prepared by RCS Group Australia. The easement shall burden the subject lot and benefit Ballina Shire Council for the purpose of access, maintenance and drainage. The areas to be burdened by an easement in favour of Council shall be adjusted as necessary so that they suitably contain all public stormwater infrastructure including provision for access.

114. Civil Works

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

115. Road Reserve Width

The width of the road reserve between Proposed Lots 24 and Lot 101 which extends to the boundary of Lot 1 DP878933 shall be increased to allow for a minimum width of 14m. Details are to be submitted to and approved by Council prior to the issue of a subdivision certificate.

116. Road Signage

The applicant shall be responsible for the installation of all road signage including street name signs. All road name signs must comply with the requirements of Australian Standards 1742, 1753 & 1744. All road name signs must be approved by Council's Development Engineer on telephone 6686 4444 prior to their manufacture and installation.

117. Access Restriction

Prior to the release of the Subdivision Certificate, those allotments that have frontages to

- Road 2 shall have a restriction on use preventing direct access to Henderson Lane recorded on the Land Title.
- Road 1 shall have a restriction on use preventing direct access to Hutley Drive Road or North Creek Road recorded on the Land Title.
- Road 7 shall have a restriction on use preventing direct access to North Creek Road recorded on the Land Title.

This excludes those allotments that have no alternate access. Details are to be submitted to and approved by Council prior to the issue of the Subdivision Certificate.

118. Stormwater

Prior to the issue of a Subdivision Certificate, certification must be provided to the Principal Certifying Authority that all stormwater works have been provided in accordance with the approved Construction Plan and the approved Stormwater Management Plan. Overland flow paths must not to be impeded through structures or

landscaping and must direct stormwater flows to the public drainage system and not onto adjoining properties. This certification is to be provided by a registered certified practicing Engineer competent in the field of stormwater design and familiar with all aspects of the project.

119. Stormwater Management Plan

Prior to the issue of a Subdivision Certificate, Council is to be provided with a comprehensive Maintenance and Management Plan for all stormwater works and controls to be inherited by Council. This Management Plan is to be prepared by a suitably qualified registered practicing Engineer experienced in stormwater management addressing all maintenance requirements of the assets, life expectancy, special training required and approximate annual costings.

120. Water and Sewer

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

121. Dual Water Supply

Prior to the issue of the Subdivision Certificate, all allotments created by this consent shall include the following positive covenants on the Section 88E(3) instrument:

- (i) No plumbing may be installed on the Lot burdened unless it has provision for recycled (non-potable) water service plumbing and facilities in accordance with Ballina Shire Council's Dual Water Supply Plumbing Policy or any superseding policy; and
- (ii) The registered proprietor may not complete any contract for sale of the Lot burdened until a Dual Water Supply Cross-Connection Audit Certificate of Compliance (as referred to in Ballina Shire Council's Dual Water Supply Plumbing Policy) in respect of the Lot burdened has been issued by Ballina Shire Council.

122. Dry Weather Flow

Certification shall be provided by a suitably qualified engineering consultant confirming that the developments sewer infrastructure was designed and constructed to prevent dry weather sewage overflows under all operating conditions.

123. Developer Contributions

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

Contribution Plan/Development Servicing Plan	Adopted
Cumalum Urban Release Area Precinct A Contributions Plan 2015	26 February 2015
Ballina Shire Roads Contribution Plan Version 4.1	26 July 2018
Ballina Shire Open Spaces and Community Facilities Contributions Plan 2016	1 January 2017
Ballina Shire Carparking Contributions Plan 2014	14 May 2014
Ballina Shire Heavy Haulage Contribution Plan	24 October 2019

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

The Contribution amounts applicable at the time this consent is issued are as per Schedule 1 and Schedule 2 (**attached**).

124. Developer Charges

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

Certificates of Compliance pursuant to Section 306 of the Water Management Act 2000 shall be deemed to have been issued where the required charges have been paid and all construction works required by the water supply authority for the development have been completed.

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

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

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

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

The charges applicable at the time this consent is issued are included in Schedule 1 and Schedule 2 (**attached**).

125. Landscape Bond

A landscaping bond equal to the value of the landscaping works plus 30% contingency factor, shall be lodged with Council prior to the issue of a Subdivision Certificate. Upon written advice that the approved site landscaping plan has been implemented and established Council will conduct a practical completion inspection.

A maintenance period of 12 months will apply from the date of registration of the subdivision plan. The bond maybe used by Council to maintain, repair or rectify works that are failing. After the 12 months period has finished the applicant shall notify Council that the final inspection is due to take place. If the final inspection verifies that the objectives described in the landscape plan have been achieved Council will refund the landscaping bond.

126. Services (electricity and communication)

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

127. Public Lighting

Prior to the issue of a Subdivision Certificate, certification is to be provided to the Principal Certifying Authority that installation of public street lighting within the development has been completed and commissioned to the satisfaction of the relevant authorities.

128. Maintenance Bond

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

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

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

129. Works as Executed (drawings)

Prior to the issue of the Subdivision Certificate. The applicant shall submit to Council an electronic copy of the WAE information in AutoCAD and PDF format. All AutoCAD data is to be on MGA zone 56 coordinates and AHD for levels with separate layouts

within the drawing for roads, water, sewer and stormwater drainage. Separate PDF drawings shall be provided for roads, water, sewer and stormwater drainage. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.

130. Works as Executed (asset listing)

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

131. Easements

Easements shall be created prohibiting the erection of buildings or structures over or adjacent to Council assets (i.e. water, sewer and stormwater pipelines). The prohibition on the erection of buildings or structures shall extend horizontally on each side of the pipeline for a distance equal to the depth of the pipeline from the pipe invert level to finished surface level. The minimum width of such easement shall be 3.0 metres. Easements are to be in accordance with the "Building over Council's Assets" policy and approved prior to issue of the Subdivision Certificate.

132. Retaining Walls

Prior to the issue of a Subdivision Certificate, certification must be provided to the Principal Certifying Authority that all retaining wall works have been provided in accordance with the approved Construction Plan and associated Design Report from a registered certified practicing engineer, competent in the field of retaining wall design and familiar with the geotechnical aspects of the project.

133. Easements

Easements are to be provided, benefiting the land or allotment being supported, over the footprints of the retaining walls (or retaining wall group, where there are multiple retaining walls) supporting adjoining allotments. Restrictions to user are to be created above and below retaining walls, restricting excavation forward of walls (on the low side) and restriction placement of superimposed loads rear of the walls (on the high side). The location, dimensions and terms of the restriction to user are to be in accordance with the requirements of the retaining wall design report.

134. Survey Markers

Where permanent survey marks have been placed or existing survey marks have been connected to the Australian Height Datum under the requirements of the Spatial Information Regulation 2012, those values are to be provided to Council and shown on the Works-as-Executed drawings.

135. Public Transport

Prior to the issue of the Subdivision Certificate, the following information must be submitted to and approved by the Principal Certifying Authority:

- Written advice from the Ministry of Transport acknowledging that the ministry has been provided sufficient information in regards to the subdivision to allow for the future planning of public transport services within the estate.

- A design identifying the proposed location of bus shelters and bus stops within the development. Bus stops shall be provided at the applicants cost, at approximately 400 m intervals or as otherwise approved by the Principal Certifying Authority with suitable bus shelters to be provided. Installation of the approved bus stops and shelter must be completed prior to the release of the Subdivision Certificate.

136. Earthworks and filling

Prior to the issue of the Subdivision Certificate, an appropriately qualified practising professional Geotechnical Engineer shall provide Engineering Certification that clearly states the following;

- All earthworks and filling have been inspected to a Level 1 standard in accordance with AS 3798 (current version) and in accordance with the recommendations of the detailed Geotechnical Investigation approved with the Subdivision Works Certificate.
- All surface movement (ys) has achieved rates that are consistent with a site classification M as defined by AS 2870 (current version). If expected surface movement (ys) for the proposed allotments are likely to exceed a site classification of M, all affected allotments shall be burdened by a Restriction on Use pursuant to Section 88B of the Conveyancing Act advising future owners of the site classification.
- Trenches have been compacted in accordance with Council's Construction Specifications.
- Fill material imported to the site is free of contaminants being natural or otherwise, and was obtained from an approved fill source with quality assurance testing.

137. Geotechnical

A notation is to be registered on the title of all allotments, which have a slope greater than 15 degrees, by way of a section 88B instrument, noting the slope of the land and specifying a requirement for a separate Geotechnical Report to be submitted with any future development application or complying development certificate application for a dwelling house or any other form of residential accommodation on that lot (i.e. dual occupancy development, multi-unit housing etc.).

The section 88B instrument is required to be submitted with the Subdivision Certificate Application for the relevant stages of the development and is to be approved by Council prior to the issue of the Subdivision Certificate.

138. Bus shelter certification

Prior to the issue of a subdivision certificate, certification is required from a suitably qualified person, that all requirements of AS 1428.4.1:2009, have been met in relation to bus shelter construction and treatments.

139. Positive Covenant (FWOP)

A positive covenant is to be registered on the title of the lot(s) nominated as the Freshwater Wetland EEC Offset Site as per condition 62, if this option is taken up, in accordance with section 88E of the Conveyancing Act 1919. This covenant is required

to ensure the owner of the lot(s) protect the vegetation in the area to which The Freshwater Wetland Offset Plan applies.

The section 88E instrument is required to be registered on the subject land prior to the release of the first Subdivision Certificate.

140. Positive Covenant (WMP)

If the portion of land subject to the requirements of the approved WMP is to remain in private ownership a positive covenant is to be registered on the title of the Residue Lot, in accordance with section 88E of the *Conveyancing Act 1919*. The section 88E instrument is to ensure the owner of the lot protects and maintains the vegetation in the area to which the approved WMP applies. The section 88E instrument is required to be registered on the Residue Lot prior to the release of the applicable Subdivision Certificate.

141. Positive Covenant (No Building Areas)

A positive covenant is to be registered on the title of Proposed Lot 24 and Super Lot 101, in accordance with section 88E of the *Conveyancing Act 1919*, to confirm no building structures, earthworks etc. is permitted within 20m Buffer Zone depicted in the plan titled "*Stage 1A Fig Tree Canopy in South East Corner Superlot and Lot 24 frontage option*" prepared by Mott Macdonald and dated 23.10.19.

The section 88E instrument is required to be registered on the subject land prior to the release of the applicable Subdivision Certificate.

142. Public Positive Covenant – Noise Affected Lots

In accordance with the *Conveyancing Act 1919* a Public Positive Covenant shall be placed on the following noise affected lots. Dwellings erected on the lots identified on the submitted plan of subdivision, Drawing No. 02 dated 11/11/19, shall be constructed so as to achieve internal noise levels (LAeq) of 35 dB (A) for bedrooms during night periods (10pm to 7 am) and 40 dB (A) for other habitable rooms.

Ground Floor Construction – Noise Affected Lots

• 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 17, 18, 91, 92, 93, 94, 95, 96, 97, 98, 99

First Floor if Constructed – Noise Affected Lots

• 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 27, 28, 29, 30, 31, 91, 92, 93, 94, 95, 96, 97, 98, 99

An advisory note shall be added to the section 88E instrument referring to the CRG Acoustics Environmental Noise Impact Report dated 19 June, 2018 and due regard for the requirement and consideration of AS3671:1989 'Acoustics – Road Traffic noise intrusion – building siting and construction'.

143. Restriction on Use – Proposed Lots 6 to 12 and Lots 17, 18 & 19

A Restriction on Use pursuant to Section 88B of the *Conveyancing Act* shall be imposed on Lots 6 to 12 and lots 17, 18 and 19 precluding structures (other than swimming pools and garden sheds) within 6m of the eastern boundary of the lots to preserve view corridors and minimise acoustic impacts.

144. Restriction of Use - Future Road Corridor Lot 104

A Restriction on Use pursuant to Section 88B of the Conveyancing Act shall be imposed on Lot 104 to secure the lot as a future road corridor.

145. Dilapidation Report

Upon completion of all works on the site and prior to the issue of a Subdivision Certificate, a further dilapidation report is to be prepared and certified by a suitably qualified and experienced structural engineer detailing the current, general and structural condition of adjoining buildings / sites, infrastructure and roads. The dilapidation report shall take into consideration the findings of the original dilapidation report and advise if any damages have occurred that could be attributed to the work, the subject of this development consent. If damages have occurred, the PCA is to be provided with evidence that the damages have been repaired to the satisfaction of the certifying structural engineer OR that alternative mutually agreeable arrangements (i.e. between the Developer and the affected property owner) have been finalised, prior to the issue of a Subdivision Certificate.

A copy of the dilapidation report is to be provided to the Principal Certifying Authority / and to Council.

STATEMENT OF REASONS FOR DECISION AND IMPOSITION OF CONDITIONS

1. The subject development is permissible with consent in the **RU1, R2 & R3 zones** of the Ballina Local Environmental Plan 2012.
2. The subject development has been assessed against the relevant considerations under the Environmental Planning and Assessment Act 1979, including the provisions of all relevant Environmental Planning Instruments, the objectives of the Ballina Local Environmental Plan 1987/2012 and the objectives of the **RU1, R2 & R3 zones**. It has been determined that the site is suitable for the subject development and that the development is unlikely to have a significant adverse impact on the natural and built environments and is unlikely to have a significant adverse economic or social impact on the locality.
3. The application **was** required to be placed on public exhibition in accordance with Environmental Planning and Assessment Act 1979 or Environmental Planning and Assessment Regulations 2000, an Environmental Planning Instrument or Local Exhibition Policy.
4. The issues raised in the submissions have been addressed in the assessment of the development and in the formulation of the conditions of consent included in this notice.
5. The application has been determined by **the elected Council**.
6. The approval of the development is in the public interest.
7. The reasons for the conditions listed in this determination notice are:
 - To ensure compliance with the requirements of the Environmental Planning & Assessment Act, 1979;
 - To ensure compliance with the objectives of the Ballina Local Environmental Plan 1987/2012);
 - To ensure an appropriate level of amenities and services is available;
 - To protect the existing and likely future amenity of the locality;
 - To maintain, as far as practicable, the public interest;
 - To ensure compliance with the Building Code of Australia and relevant Australian Standards;
 - To ensure satisfactory compliance with relevant Council plans, codes and policies.

ADVISORY MATTERS

Disability Discrimination Act 1992

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

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

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

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

Protection of the Environment

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

Noise Control

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

WorkCover Requirements

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

Wastewater Management Advice

All work carried out in connection with this approval must comply with any applicable standard established by the Local Government (Approvals) Regulation 1999, the Local Government (Water Services) Regulation 1999.

Advisory Note:

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

You are advised to contact the following:

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

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

SCHEDULE 1
SCHEDULE 1– Developer Contribution (Per Residential Lot Rate)

Note: The following contributions are payable for each new residential lot (other than open space, reserve and super lots) created as part of the development approved under DA 2018/51, with the exception of the final lot to be created as part of this development, to which a credit will be applied by Council in recognition of dwelling entitlement for the existing rural lot at the development site.

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
Lennox Head Local Parks 2016	4301	equivalent residential allotment	\$262.00	0.9426	\$246.96
Lennox Head District Parks 2016	4302	equivalent residential allotment	\$1,165.00	0.9426	\$1,098.12
Lennox Head Playing Fields 2016	4303	equivalent residential allotment	\$2,625.00	0.9426	\$2,474.31
Regional Level Recreational Facilities (SHIRE) 2016	4304	equivalent residential allotment	\$1,906.00	0.9426	\$1,796.59
Lennox Head District Community Centres & Meeting Halls 2016	4305	equivalent residential allotment	\$1,135.00	0.9426	\$1,069.85
Regional Level Community Facilities (SHIRE) 2016	4306	equivalent residential allotment	\$1,118.00	0.9426	\$1,053.82
OS & CF Plan Administration (SHIRE) 2016	4307	equivalent residential allotment	\$113.00	0.9426	\$106.51
Roads Contribution Plan V4.1 (2018)	5206	equivalent residential allotment	\$12,704.00	0.9426	\$11,974.74
Roads Administration V4.1 (2018)	5207	equivalent residential allotment	\$190.00	0.9426	\$179.09
Lennox Head Wastewater Services (DSP Area B)	3004	equivalent tenement	\$5,301.00	1.0000	\$5,301.00
Lennox Head Water Supply (DSP Area B)	2004	equivalent tenement	\$3,463.00	1.0000	\$3,463.00
Rous Water 2016	5001	equivalent tenement	\$8,878.00	1.0000	\$8,878.00
TOTAL					\$37,642.00

SCHEDULE 2– Developer Contribution (Per Super Lot Rate)

Note: The following contributions are payable for each new lot larger than 2000m² (other than open space and reserve lots) created as part of the development approved under DA 2018/51, with the exception of the final lot to be created as part of this development, to which a credit will be applied by Council in recognition of dwelling entitlement for the existing rural lot at the development site.

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
Lennox Head Local Parks 2016	4301	equivalent residential allotment	\$262.00	0.9426	\$246.96
Lennox Head District Parks 2016	4302	equivalent residential allotment	\$1,165.00	0.9426	\$1,098.12
Lennox Head Playing Fields 2016	4303	equivalent residential allotment	\$2,625.00	0.9426	\$2,474.31
Regional Level Recreational Facilities (SHIRE) 2016	4304	equivalent residential allotment	\$1,906.00	0.9426	\$1,796.59
Lennox Head District Community Centres & Meeting Halls 2016	4305	equivalent residential allotment	\$1,135.00	0.9426	\$1,069.85
Regional Level Community Facilities (SHIRE) 2016	4306	equivalent residential allotment	\$1,118.00	0.9426	\$1,053.82
OS & CF Plan Administration (SHIRE) 2016	4307	equivalent residential allotment	\$113.00	0.9426	\$106.51
Roads Contribution Plan V4.1 (2018)	5206	equivalent residential allotment	\$12,704.00	0.9426	\$11,974.74
Roads Administration V4.1 (2018)	5207	equivalent residential allotment	\$190.00	0.9426	\$179.09
Lennox Head Wastewater Services (DSP Area B)	3004	equivalent tenement	\$5,301.00	1.0000	\$5,301.00

8.1 Planning Proposal - Reservoir Hill, 20 North Creek Road Lennox Head

DA 2018/51

Page 41 of 45

Lennox Head Water Supply (DSP Area B)	2004	equivalent tenement	\$3,463.00	1.2000	\$4,155.60
Rous Water 2016	5001	equivalent tenement	\$8,878.00	1.2000	\$10,653.60
TOTAL					\$40,110.20

SCHEDULE 3



**Department of
Primary Industries
Water**

General Terms of Approval
for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1105380
Issue date of GTA: 29 March 2018
Type of Approval: Controlled Activity
Description: Subdivision to create 103 lots, seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage
Location of work/activity: 20 North Creek Road, Lennox Head
DA Number: 2018/51
LGA: Ballina Shire Council
Water Sharing Plan Area: Richmond River Area Unregulated, Regulated and Alluvial Water Sources

The GTA issued by DPI Water do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to DPI Water for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

Condition Number	Details
Design of works and structures	
GT0009-00004	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Crown Lands and Water Division, and obtained, for a controlled activity approval under the Water Management Act 2000.
GT0013-00001	A. Any proposed controlled activity carried out under a controlled activity approval must be directly supervised by a suitably qualified person. B. A copy of this approval must be: i. kept at the site where the controlled activity is taking place, and ii. provided to all personnel working on the controlled activity.
Erosion and sediment controls	
GT0014-00003	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Crown Lands and Water Division as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021-00002	The proposed erosion and sediment control works must be inspected and maintained throughout the construction period of the controlled activity and must not be removed until the site is fully stabilised.
GT0022-00003	During the time the proposed controlled activity is taking place or being constructed, restrictions must be imposed by Crown Lands and Water Division, such as: A. machinery must not enter the water course at anytime. B. there must be a minimum flow in the water course.
Plans, standards and guidelines	
GT0002-00235	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 2018/51 provided by Council to Crown Lands and Water Division. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Crown Lands and Water Division, Grafton Office, must be notified in writing to determine if any variations to the GTA will be required.

Level 11, 10 Valentine Avenue, Parramatta, NSW 2124 | LOCKED BAG 5123, Parramatta, NSW 2124
 water.enquiries@dpi.nsw.gov.au | www.water.nsw.gov.au



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1105380
Issue date of GTA:	29 March 2018
Type of Approval:	Controlled Activity
Description:	Subdivision to create 103 lots, seven super lots, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing, open space and temporary signage
Location of work/activity:	20 North Creek Road, Lennox Head
DA Number:	2018/51
LGA:	Ballina Shire Council
Water Sharing Plan Area:	Richmond River Area Unregulated, Regulated and Alluvial Water Sources
GT0003-00015	The application for a controlled activity approval must include the following document(s): Erosion and Sediment Control Plan
Reporting requirements	
GT0018-00002	The consent holder must inform Crown Lands and Water Division in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.
GT0020-00002	The consent holder must inform Crown Lands and Water Division in writing when the proposed construction of the controlled activity has been completed.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by DPI Water for integrated development associated with 2018/51 as provided by Council:

- Statement of Environmental Effects (including Appendix A-M) prepared by Urbis, dated January 2019 (Doc Ref: SA6074)



Natural Resources Access Regulator
Locked Bag 1121
Parramatta NSW 2124
T 1800 633 362
www.industry.nsw.gov.au/nrar

Our ref: S961123442
Your ref: DA2018/51

25 May 2020

The General Manager
Ballina Shire Council
40 cherry street
po box 450
Ballina NSW 2478

Dear Sir/Madam:

Re: Section 4.55 Modification Referral – General Terms of Approval
Dev Ref: 2018/51

Description: Subdivision of land to create 99 residential lots, five super lots subject to future development, constructions of roads, installation of essential services and infrastructure, excavation works including cut and fill and retaining walls, stormwater drainage infrastructure including detention basins and piping of creek, vegetation clearing, landscaping works and temporary signage (refer SEE dated Feb 2020)

Location: Lot 1 DP 517111, 20 North Creek Road LENNOX HEAD

The Natural Resources Access Regulator (NRAR) has reviewed documents for the above application to modify a DA Consent and considers that, for the purposes of the Water Management Act 2000 (WM Act), previously issued General Terms of Approval are adequate, remain current, and no further assessment by this agency is necessary.

Further information on controlled activity approvals under the WM Act can be obtained from NRAR's website: www.water.nsw.gov.au, go to Water Licensing > Approvals > Controlled activities. Please direct any questions to Natural Resources Access Regulator by email to nrar.servicedesk@industry.nsw.gov.au.

Yours Sincerely:

Mohammed Ismail
Water Regulation Officer
Natural Resources Access Regulator

The consent shall lapse on **27 August 2025** unless the development has commenced in accordance with the provisions of section 4.53 of the Act.

Other Approvals: **The following approval bodies have given general terms of approval in relation to the development:**

NSW Natural Resources Access Regulator
DPI Water

NB. The General Terms of Approval of these approval bodies have been incorporated within the Determination Notice.



Signed: _____ on 20 September 2020

Matthew Wood
Planning and Environmental Health Division

On behalf of Ballina Shire Council

Right of Appeal: If you are dissatisfied with this decision, Sections 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to appeal to the NSW Land and Environment Court within six months after the date on which you receive this notice.

Except in the case of designated development, there is no provision within the Environmental Planning and Assessment Act 1979 for a third party (objector) to appeal against the consent issued by the Council.

Review of Determination: Section 8.3 of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to request the consent authority to review the determination of your application. This request must be made and the review conducted and completed within the time prescribed by Section 8.3(2). A request must be accompanied by the fee prescribed by Section 257 of the Environmental Planning & Assessment Regulation 2000. Review provisions do not apply to:

- (a) a determination in respect of designated development, or
- (b) a determination made by the Council under Division 4.6 in respect of an application by or on behalf of the Crown.

Leah Toole

From: Bill Silvester <sbsilvester@gmail.com>
Sent: Friday, 11 October 2019 6:59 PM
To: Ballina Shire Council
Subject: The proposed development at Lennox Head at North Creek Road.

5 Seacrest Place, Lennox Head, 2478

Dear Sirs,

I have received the letter dated 23rd September re Exhibition of Planning Proposal 18/004 20 North Creek Rd, Lennox Head. There are several concerns that we list – not necessarily in order.

- 1) Lennox Head is in danger of losing its 'village' image. This proposed development takes up more valuable green space, and certainly the main street is already at car parking capacity. More housing means more pressure on the street's capacity.
- 2) Re green space! We ask that adequate green space to be allocated – particularly at the North creek Roadside. I suspect that will be difficult as potential owners will want possible ocean views. However, green space in the development is vital to the keep us green!
- 3) Access to Ballina via the coast road will be worsened even more so than it is at present. We believe that the Ballina Council should move ahead as fast as possible to re-connect North Creek road to Ballina - via the pathway of the original road. Build a bridge over the north arm to connect to the airport. Access is an urgent need for Lennox Head residents.
- 4) Block sizes! Developer greed! We see this all the time. Blocks are cut up into too small portions to cramp houses and their potential size. There should be a minimum size of at least 750 square metres not 450 as is going ahead at Aureus right now. We do not live in a city!! We are country people and need space!!
- 5) Where will the sewerage and run off via roofs flow? It must not be allowed to find its way to the sea as has been planned for Sharpes Beach! If fresh water flow is let go to the sea at Lennox, there is a risk it will cause severe harm to the area.
- 6) Is there a height limit to buildings and will all buildings be required to be constructed to Bal29 specifications?

I will await your reply. Thank you.

Bill Silvester

Modere - live clean!

<https://acleanstart.shiftingretail.com.au> - to live a better life.

Bill and Sharon Silvester
PO Box 815, Alstonville, NSW 2477
Mobile 0416 257 378 and 0412 759 747



Virus-free www.avast.com

enquiries refer
Leah Toole
in reply please quote
LEP Amendment – BSCPP 18/004 (19/79344)



16 October 2019

Mr B & Mrs S Silvester
PO Box 815
ALSTONVILLE NSW 2477

(via email: sbsilvester@gmail.com)

Dear Bill and Sharon

**Re: Acknowledgement of Submission – Planning Proposal BSCPP 18/004
20 North Creek Road, Lennox Head**

Thank you for your submission dated 11 October 2019 concerning the abovementioned planning proposal. The matters raised in your submission will be incorporated in the report to Council following the public exhibition period.

I will keep you informed as this matter progresses and provide you with further advice when this planning proposal is scheduled to be considered by the Council after the public exhibition period.

If you have any enquiries in regard to this matter please contact me on 6686 1454.

Yours faithfully

Leah Toole
Strategic Planner
Planning and Environmental Health Division

40 cherry street, po box 450, ballina nsw 2478
t 1300 864 444 e council@ballina.nsw.gov.au w ballina.nsw.gov.au abn 539 29 887 369

Leah Toole

From: Rick Coles <tradesubrick@gmail.com>
Sent: Thursday, 17 October 2019 10:03 PM
To: Leah Toole
Subject: Reservoir Hill Subdivision DA 2018/512

Dear Leah.

After reviewing the information on display at Council yesterday i am compelled to voice my concerns and disappointment in the revised subdivision layout traffic access points for the Reservoir Hill Subdivision.

I have discovered that the access for the 120 lot subdivision is now only off Henderson Lane. Once the Hutley Drive roundabout and extension has been completed all 240 plus residents of the new estate will all travel up and down Silkwood road to access their home.

If the access of Hutley Drive was redesigned it would allow all the residents to access the Reservoir Hill Estate directly off Hutley drive. This would significantly reduce the traffic on Silkwood Road making the Kiddies park a much safer place for the kids to access and play safely.

Once the new shopping centre at Epic has been completed all the residents of the Reservoir Hill estate will have to travel down Silkwood Rd to get to the shopping centre.

During the Building of Epic all the Concrete trucks, Building supplies and Tradies have all had to access the site by travelling down Silkwood rd because Council didn't complete the Hutley Drive extension to the Coast road.

Now that the Reservoir Hill Estate is soon to be developed, all the residents of Silkwood rd and artery roads will once again have their quiet street compromised again from the same trucks and tradies heading in the opposite direction up Silkwood road off Hutley drive to access their new building site in the Reservoir Hill Estate off Henderson lane.

However this un necessary traffic on Silkwood Rd could all be avoided if Council insisted that the developer make access to the Reservoir Hill Estate Via Hutley Drive as well as Henderson Lane. This would significantly reduce the traffic down Silkwood Road and make the street a safe place once again for the many kids who live in the area to access the kiddies swing park in Silkwood Rd as well as provide some much long awaited quiet living for all the residents of Silkwood Rd.

After discovering that the Hutley Drive access was changed to a High Density development site instead of an estate access road i decided to tell all my neighbours about this situation.

Unfortunately i mis typed the DA number on the information letter i gave to my neighbours to ask them to email you with their concerns.

So if any of them send you an email and make reference to the DA being 2108/512 please understand that it was supposed to state (DA 2018/512)

I hope this little mistake hasn't jeopardised the intention for the VOTING residents of silkwood and surrounding streets to voice their concerns about this significant affect to the traffic on Silkwood rd that is about to be thrust upon us.

Kind Regards
Rick Coles

26 Silkwood Rd

Leah Toole

From: Andrew & Allison King <andrew.ally@bigpond.com>
Sent: Thursday, 17 October 2019 7:06 PM
To: Leah Toole
Subject: Extreme Objection to Revised Subdivision for Reservoir Hill Lennox Head. DA2108/512

I am writing in extreme protest to the alteration made to the Reservoir Hill Subdivision, in particular to the removal of its access from Huntley drive to Henderson Lane. This has the potential of increasing vehicular traffic along Silkwood Rd by at least multiples of 240 vehicles once the subdivision is populated. This does not include external traffic from trade and construction vehicles.

Silkwood Rd was never designed to cater for that type a traffic nor should we as residents put up with this. This has been highlighted with increased traffic during the construction of the EPIC estate. I have highlighted this fact on a number of occasions.

I would like to point out that Hutley drive will be the main access Rd to the Meadows, Epic and Pines and in particular to the Woolworths shopping centre so it should also link The Reservoir Hill subdivision. A proper road design for Hutley Drive would allow this.

The only solution is to put the access road back on Hutley Drive into Reservoir Hill as previously planned.

I would also like to comment on the way we were notified of these changes which were in a very deceptive and unclear way. I would question the integrity of these current plans going forward.

Andrew & Allison King
24 Silkwood Road Lennox Head
0266876580

Sent from my iPad

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Leah Toole

From: Kate Mayo <mayoemmarc@bigpond.com>
Sent: Thursday, 17 October 2019 7:46 PM
To: Leah Toole
Subject: DA 2108/512

We are absolutely opposed to the proposed revised access from Hutley Drive to Henderson Lane (DA 2018/512). We have observed over 13 years the accidents and near misses at the intersection at Henderson Lane and Silkwood because we are constant witnesses to them , not to mention the spin outs that occur every time we have rain. This road will not sustain further traffic without serious consequences, and the danger the extra traffic will cause to the children's play area in Silkwood cannot be understated. Silkwood Road is not an appropriate feeder road and it defies description that planners who don't live in the area cannot see this.

We strongly believe there needs to be access to Hutley Drive from the proposed new estate to facilitate the optimum traffic flow and taking safety issues into consideration.

Why allow a new development of such magnitude if there can't be a feasible and sensible long term and workable traffic plan that works for all residents? What works on paper is not always the best way forward and we implore you to listen and take our very legitimate concerns on board.

We are normally very compliant and agreeable with most development proposals but this just is not something we can see be passed without our strong objection. It just is not right or thoroughly considered in our view.

Regards
Terry and Kay Mayo
1 Meadows Drive
Lennox Head

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Leah Toole

From: Phillip Fowler <phillip_fowler@hotmail.com>
Sent: Thursday, 17 October 2019 8:18 PM
To: Leah Toole
Subject: Revised Subdivision Layout Plan for Reservoir Hill Subdivision (DA 2108/512)

Hello Leah

I am writing to Council to express my strongest possible objection to the Revised Subdivision Layout Plan for Reservoir Hill Subdivision (DA 2108/512).

I note that the access to this new subdivision is proposed to change from Huntley Drive to Henderson Lane.

This change will obviously result in significant additional noise and risk of injury or death to pedestrians caused by the hundreds of additional vehicles including construction trucks, delivery vehicles and residents cars that will need to travel past my residence every day and night to access the estate. This change seems to be motivated by the developer's desire to boost sales revenue by replacing a sensibly placed roundabout and access road with a saleable lot. Is there no limit to developer greed and contempt for community members?

Please pass on my request to Council to refuse this senseless revision and retain the Huntley Drive access and create it early so that it can be used by all the estate construction vehicles.

I live on the corner of Meadows Drive and Silkwood Drive and I am already stressed by the number of heavily laden construction vehicles that come speeding down Henderson Lane and roar around the corner past my house, past the children's playground, on the way to building sites down the road. One day one of these drivers will lose control and do some serious damage to property or kill someone. If you could send the traffic police to monitor this it would be appreciated. I am also worried about all the new vehicle journeys and resulting noise and risk to pedestrians that will added to Silkwood Drive when the new Woolworths is operational.

Apart from the traffic, Silkwood Estate is a great place to live but I fear it will soon permanently lose the peace and quiet I was looking for when I moved here. If that happens I will leave the area permanently.

Could I please receive notification of when this issue is to be considered by Council?

Thank you,

Phillip Fowler
1/6 Meadows Drive
Lennox Head
E: phillip_fowler@hotmail.com
M: 0421074488

This email has been scanned by the Symantec Email Security.cloud service.

Leah Toole

From: bec5225 . <bambamkids@gmail.com>
Sent: Thursday, 17 October 2019 8:29 PM
To: Leah Toole
Subject: RE: DA 2108/512

Dear Leah,

We live at 9 Silkwood Road and are writing in regards to the revised subdivision layout plan for Reservoir Hill Subdivision (DA 2108/512) Access to this new subdivision has been changed from Hutley Drive to Henderson lane. Hundreds of extra cars will now travel up Silkwood road to access the Reservoir Hill Estate, our children walk to school along Silkwood and already it has been extremely dangerous for them with all the work trucks and traffic into Epic Estate. We have had to deal with trucks flying down Silkwood road for over a year and a half and one of our children was almost hit while getting into our car. We are shocked that the only access to this Estate is on Henderson Lane which is already a narrow and unsafe road which many children walk down from the bus stop at the top of the hill. We are requesting that access to Reservoir Hill Estate be from Hutley Drive which would be much safer for the residents of Silkwood Road. There is also a children's park along Silkwood and the increase in traffic makes this park extremely unsafe for children.

Kind regards

Rebecca Crisp

Leah Toole

From: bec5225 . <bambamkids@gmail.com>
Sent: Thursday, 17 October 2019 8:55 PM
To: Leah Toole
Subject: RE: Reservoir Hill Subdivision

To whom it may concern,

I am a resident of Silkwood Road, where I reside with my family of 5, I am writing in regards to the revised subdivision plan for Reservoir Hill. We have been advised that access to this new subdivision has been changed from Hutley Drive to Henderson Lane. We are extremely concerned for the safety of our children who use the park on Silkwood Road, as the traffic will increase by hundreds of more cars, who will use our road to travel up to turn into Henderson lane and into Reservoir Hill estate. We already have many trucks, tradies, and residents who use Silkwood Road to access Epic Estate, the trucks speed down our road making it extremely dangerous, to the point that our children can not play on our front lawn in case of being hit. Now with this new development, we are going to be dealing with the same. Other safety issues we are concerned about is the only access being from Henderson lane which is a narrow road in which many school children walk down, it would be a much safer option for the residents of Silkwood and its surrounds to have access from Hutley Drive which was the original proposed plan.

Yours kindly

Michael

Leah Toole

From: JEFF TOWERS <basiltowers@yahoo.com.au>
Sent: Thursday, 17 October 2019 9:13 PM
To: Leah Toole
Subject: - Revised Subdivision for Reservoir Hill

Hello Leah,

I am writing to you to voice my and my family's concerns regard the revised plans for the Reservoir Hill Subdivision (DA 2108/512).

As a resident of Danalah Close (off Silkwood Drive) Lennox Head, I am concerned regards the changed traffic conditions that have been mooted regards the access into and out of the new planned subdivision. Original plans allowed access both into and out of the subdivision via Henderson Lane and Hutley Drive directly onto the coast road via a new rounabout. The new plans as per the letter delivered last week shows that the Hutley Drive entry/exit option has been removed.

My concerns are that to access the new shopping development in the Epiq development will necessitate the use of Silkwood Drive for a large volume of traffic. The dangers and noise inconvenience from this increased volume has been experienced by residents in Silkwood, Danalah Close and Kell Mathers as has been experienced due the trucks and car volume as a result of the Epiq development. The corner of Silkwood and Henderson Lane has been and will continue to be dangerous due to the number of cars, trucks etc that cut the corner when turning left into Silkwood Drive.

Another concern is the fact that Henderson Lane has not had any pedestrian provision such as a footpath since we moved into the Meadows estate in 2004. The number of people who use Henderson Lane to enter and exit the estate as pedestrians has increased greatly. The major concern is the number of school students who are dropped at the top of Henderson lane and wake down the hill every school day. When driving down Henderson Lane the sun in the afternoon is directly in the drivers eyes. With the new plan the volume of traffic using Henderson Lane will increase greatly.

I implore council to reconsider the non access/exit from the planned estate for the safety of those living in the Meadows Estate and the future residents of the Reservoir Estate . The current residential roads were not design to cater for the amount of traffic this development will generate.

I look forward to council reconsideration of the changed plans.

Jeff Towers
4 Danalah Close Lennox Head
66874909.


Leah Toole

From: Rachel Allen <kiwirach13@hotmail.com>
Sent: Thursday, 17 October 2019 9:19 PM
To: Leah Toole
Subject: Revised subdivision Reservoir Hill

Hi Leah Toole

I'm writing in concerns with the revised subdivision DA 2108/512 As a paying resident of Lennox Head I'm a little concerned about this revised entry for traffic to enter down Silkwood Drive. I own a property corner of Silkwood and Kell Mather and although I'm against the opening the beautiful land where the water tower is I understand that nothing can stop this. I was happy knowing that traffic was to enter down Hutley Drive keeping traffic away from Silkwood and the park that allows our children to play freely.

Please reconsider the entry point for traffic cause it's not safe.

Kind regards
 Concerned resident

Leah Toole

From: dominiquehaenzi@yahoo.com
Sent: Thursday, 17 October 2019 9:31 PM
To: Leah Toole
Subject: Revised subdivision layout plan

Dear Leah,

I am deeply concerned and furious that you have stopped or changed the plan to connect the traffic via Hutley drive to the new Epiq centre. You are planning or thinking to use Henderson lane and Silkwood road as a connection. As usual council workers are either completely unformed, uneducated or just money driven. There is a children bus interchange, a playground for kids at Silkwood road and it seems that you lovely people are not concerned about a child friendly and safe neighbourhood. As I work for a major tv news channel I am more than happy to bring this absolutely ridiculous manner to a Sunday night show..... kind regards

Leah Toole

From: John mccarthy <jw.mccarthy@hotmail.com>
Sent: Thursday, 17 October 2019 10:39 PM
To: Leah Toole
Subject: DA2108/512

Dear MS Toole,

I just want to voice my concerns of the planned changes of the above.

I live in Silkwood road, and feel that for many reasons the revised subdivisions

are just not suitable. One of the main concerns is that the children's park is in Silkwood road.

Also I would like to ask why we, as residents have not been informed of the changes earlier.

Thank you for your time.

Regards John McCarthy

Leah Toole

From: Stuart Alps <stuart@aquajetpressureclean.com.au>
Sent: Friday, 18 October 2019 10:25 AM
To: Leah Toole
Subject: Revised subdivision reservoir hill

Good morning Leah,

I write to you with my concerns over the revised layout plans for the new subdivision DA 2108/512. My concern is that the access to the area has been changed from Hurley drive to Henderson lane which will mean that much of the traffic will be using Silkwood road which has a playground, this road is already burdened by large amounts of trucks and more traffic with the new development at epiq. I object to this proposal strongly, I am also disappointed that the Ballina shire council would not notify the local home owners directly, its sneaky and unethical.

Best regards,
Stuart Alps
General Manager
AQUAJET Pressure Clean
0418 369 328
E: stuart@aquajetpressureclean.com.au
W: www.aquajetpressureclean.com.au

Leah Toole

From: Ray Burrows <sandyray@aussiebb.com.au>
Sent: Friday, 18 October 2019 11:42 AM
To: Leah Toole
Subject: Revised Subdivision Layout Plan for Reservoir Hill Subdivision

Hello Leah

In regards to changing the access point to the estate from Hutley Drive to Henderson Lane.
Does this mean the plan to extend Hutley drive to the new proposed roundabout will no longer happen?
If so I am concerned about the increased traffic from the Epic estate that will be using Silkwood Road to travel to Lennox Head Village and North via Henderson Lane.
Silkwood Road already carries a high volume of cars per day and runs adjacent to a children's playground creating a significant safety issue.
I would appreciate it if you could clarify this situation.

Regards
Ray and Sandra Burrows
13 Meadows Drive
Lennox Head

Leah Toole

From: Glen Boyd <boydkaz@hotmail.com>
Sent: Friday, 18 October 2019 11:47 AM
To: Leah Toole
Subject: EXTREME OBJECTION to REVISED SUBDIVISION FOR RESERVIOR HILL , LENNOX HEAD DA 2108/512

Follow Up Flag: Follow up
Flag Status: Flagged

Sent from [Out](#)

We are writing in extreme protest to the alteration made to the Reservoir Hill Subdivision, in particular to the removal of its access from Huntley drive to Henderson Lane.

This has the potential of increasing vehicular traffic along Silkwood Rd by at least multiples of 240 vehicles once the subdivision is populated. This does not include external traffic from trade and construction vehicles.

Silkwood Rd was never designed to cater for that type a traffic nor should we as residents put up with this.

This has been highlighted with increased traffic during the construction of the EPIC estate.

We would like to point out that Hutley drive will be the main access Rd to the Meadows, Epic and Pines and in particular to the Woolworths shopping centre so it should also link The Reservoir Hill subdivision.

A proper road design for Hutley Drive would allow this.

The only solution is to put the access road back on Hutley Drive into Reservoir Hill as previously planned.

We would also like to comment on the way we were notified (not !!) of these changes which were in a very deceptive and unclear way.

We would question the integrity of these current plans going forward.

[look](#) Glen & Karen Boyd
16 Silkwood Road ,
Lennox Head NSW
Ph : 02 66 874 364
Mobile : 0415 414 628
Email : boydkaz@hotmail.com

Leah Toole

From: Lesley Tallon <googsnes@hotmail.com>
Sent: Friday, 18 October 2019 12:18 PM
To: Leah Toole
Subject: Reservoir Hill Subdivision (DA2108/512) submission

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Leah,

I would like to submit comments on the above proposed Revised Subdivision Layout Plan for Reservoir Hill Subdivision. On further studying of the application I have noticed that there is no planned access to Hutley Drive which I thought was included in the original proposal.

I feel it imperative that there is vehicular access provided to and from Hutley Drive. Two vehicular access points from roads 4 and 5 onto Henderson Drive will be disastrous for existing residents in the Meadows estate directing all traffic generated by the proposal onto Henderson Lane and the intersection at North Creek Road. This intersection is already increasing in traffic numbers with the new buildings in the Epiq estate using Stoneyhurst Drive to access Henderson Lane and North Creek Road and it will only get worse as housing numbers increase and the Woolworths Development is operational.

I cannot see why there is no access onto Hutley Drive as I think this would be the most commonsense solution to distribute traffic flow more evenly.

Thank you for the opportunity to comment on this proposal and, the Hutley Drive access is my only concern.

Lesley And Gordon Tallon
2/13 Meadows Drive
Lennox Head NSW 2478
0411101816.

Simon Smith
18 Silkwood Road
Lennox Head
NSW 2478

silkwood@exemail.com.au

18/10/19

Attn: Leah Toole
Strategic Planner
Planning and Environmental Health Division
council@ballina.nsw.gov.au

Exhibition of Planning Proposal BSCPP 18/004 – 20 North Creek Road, Lennox Head

Dear Leah,

I am providing the following submission on the Planning Proposal BSCPP 18/004 at 20 North Creek Road, Lennox Head:

I have previously made a submission on the development application DA 2018/51 for this site, in which I voiced my concerns regarding the existing wetland lot (Lot 124), which is to be set aside for drainage and ecological reasons. Having read the ongoing correspondence via DAs online it is my understanding that the developers and Council are still in disagreement regarding the drainage characteristics and ecological values of the development, and especially the proposed drainage/ecological reserve referred to as Lot 124.

One of my concerns with the DA was that I couldn't find any reference to the long-term management of proposed Lot 124. It is unclear how the drainage characteristics and ecological values of this lot, including the two large discharge drains, are to be maintained in perpetuity. Is Council intending to take over management of the site? If not, how will Council ensure that the future owner of the site does not allow the drainage characteristics of the site to fail by neglecting their maintenance? The existing wetland area is already subject to inundation during heavy prolonged rainfall events, presumably more so post-development, and the two large storm water discharge pipes will continue to need periodic clearing of debris. It is essential that Council take over management of this area of the site, as it would never be possible to rely on the developer to maintain the site in perpetuity as clearly developers aren't around forever.

Also, what is meant by the term "future development" shown on the plans for Lot 124? Does this infer a possibility that Council may permit development inconsistent with its currently proposed use as a drainage reserve and ecologically important wetland? I would like to see this "future development" statement removed from the drainage/ecological reserve lot on all development application and any rezoning plans.

Furthermore, it would be inappropriate to permit any adjustment to zone boundaries while the developer has yet to satisfy Council's DA concerns regarding the drainage and ecological values of the site. The developer is reliant on stormwater "bioretention" basins being constructed in the drainage reserve to manage post-development stormwater runoff, a site feature that Council has yet to determine as an acceptable mitigation response, especially given their siting within the drainage/ecological reserve. I believe that such important matters should be resolved at the earliest possible stage in the planning process. So, I believe that rezoning should take into account the current uncertainty in the development assessment process regarding the drainage and ecological values of the site, hence I submit that any rezoning, if permitted at all, should, only serve to mitigate

this uncertainty by substantially increasing the size of the area dedicated for the protection of the drainage and ecological values of the site. To do otherwise has the potential to compromise the ongoing development assessment process.

I also submit that both the DA and the zoning of this area should clearly stipulate that any form of residential/ commercial/industrial development in this area is prohibited.

I also submit that any adjustment to zone boundaries is a significant development, and as such would warrant the DA to again be put on public exhibition.

Regards
Simon Smith

Leah Toole

From: Andrew Wafer <andrewwaferphysio@gmail.com>
Sent: Sunday, 20 October 2019 2:14 PM
To: Leah Toole
Subject: North Creek Rd

Hi Leah,

My name is Andrew Wafer. I have called you several times and left messages. I have also left a message with one of your colleagues to pass on and unfortunately still have not heard back from you Re; Planning proposal Bscpp 18/004. As you are the designated person I would have hoped for a return call prior to the end of submissions however I now see that this date has passed.

The description of "Road reserves" in blue on the diagram is vague. What do road reserves allow for and when do you see a solution in sight for the frequent traffic accidents at the southern end of the north creek road road reserve? Increased vehicle numbers will certainly not help.

I cannot see how anyone in the Lennox community would benefit from further reduction in block sizes and thereby more blocks selling in the new estate. Given my phone calls were not responded to, I have concerns as to whether the rest of the community were heard during the allotted time for submissions.

Kind Regards,
Andrew

Leah Toole

From: Thomas O'Dwyer <thomas.odwyer@lism.catholic.edu.au>
Sent: Sunday, 20 October 2019 3:39 PM
To: Leah Toole
Subject: DA 2108 512 Reservoir Hill Subdivision Lennox Head

Dear Leah

As residents of Silkwood Rd for over 17 years we are against ammdamendments as access has been changed from Hutley Dr. To Henderson Lane. Ridiculous!


An extra 250plus cars and trucks will now travel up our road to access the Reservoir estate passing family homes and a well used playground.

Already we are plagued with excessive traffic from 4 stages of EPPiQ.

Council needs to visit first hand and see the desperate need to open Hutley to the coast road not only quickly but properly.

Thankyou Leah.

Yours in hopeful anticipation

 Tom and Naomi O'Dwyer

Leah Toole

From: Leah Toole
Sent: Thursday, 24 October 2019 9:41 AM
To: balibob
Subject: CM - RE: Reservoir Hill site DA18/004

Record Number: 2019/0082034

Good morning Monica,

In relation to the planning proposal BSCPP 18/004, any submissions received prior to the matter being reported to the Council will be considered in this instance.

I am in the process of drafting a response to submitters to provide some clarity regarding the two matters currently being considered in relation to this site, being the planning proposal referred to above and the development application DA 2018/51. I will send you a copy of this correspondence.

Regards,

Leah

Leah Toole
Strategic Planner



ballina.nsw.gov.au | discoverballina.com
p: (02) 6686 1454 | f: (02) 6686 7035 |



This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please pass it on to the intended recipient in its original form, or contact the Ballina Shire Council.

Opinions, conclusions and other information contained within this message that do not relate to official Council business are those of the individual sender, and shall be understood as being neither given nor endorsed by the Ballina Shire Council.

From: balibob <balibob@bigpond.com>
Sent: Monday, 21 October 2019 2:01 PM
To: Ballina Shire Council <BallinaShireCouncil@ballina.nsw.gov.au>
Cc: 'Lennox Residents' <lhrainc@gmail.com>
Subject: Reservoir Hill site DA18/004

Good afternoon

LHRA had only been talking to Matthew Wood a matter of months ago but missed this exhibition (on holidays).

May we have an extension please as a quick scan of the BSCPP 18_004 indicates that issues that LHRA originally raised are not addressed.

Thank you
Kind regards
Monica Wilcox
for LHRA

Leah Toole

From: balibob <balibob@bigpond.com>
Sent: Thursday, 24 October 2019 11:17 PM
To: Leah Toole
Subject: RE: 20 North Creek Road, Lennox Head

Thank you Leah for clarifying there are 2 different matters.

Therefore, there is no need to make another submission and glad to know that the issue of traffic and access (and connectivity to the rest of the community) is still on the table.

Regards
Monica Wilcox

From: Leah Toole [mailto:Leah.Toole@ballina.nsw.gov.au]
Sent: Thursday, 24 October 2019 2:44 PM
Subject: 20 North Creek Road, Lennox Head

Good afternoon,

I am writing to you in response to your recent submission to Council.

There are currently two matters relating to land at 20 North Creek Road, Lennox Head (known locally as Reservoir Hill) that are being considered by Council. One is a development application for the subdivision of the land for residential purposes (DA 2018/51) and the other is an amendment to the local environmental plan (BSCPP 18/004).

The development application lodged with Council proposes the subdivision of land to create 118 residential lots, five super-lots and one open space lot, construction of roads, stormwater management and drainage (including detention basins and piping of creek), infrastructure servicing, earthworks, vegetation clearing and temporary signage. This proposal was publically exhibited in July and August 2018 and adjoining owners were notified of the proposals by letter. Traffic and access is an issue identified in submissions received and consideration of this issue forms part of the assessment of the application. It is anticipated that the application will be determined by the elected Council once the planning assessment is complete. Although the assessment of the application has substantially progressed, at this stage, the timing for the completion of the assessment and reporting to Council is not known.

Separate to the development application, the local environmental plan amendment (BSCPP 18/004) seeks to make minor zone boundary adjustments and enable the creation of land parcels for the provision of stormwater management infrastructure. The zoning changes reduce the area of land identified for R3 medium density residential zoning and the stormwater related changes relate to the entire shire. The zoning changes addressed in this plan amendment will not influence traffic and access to the site.

The traffic and access issues raised in your submission are matters for consideration in relation to the development application for the subdivision of the land and not the local environmental plan amendment. In terms of the decision making process, the plan amendment and associated submissions (including your submission) will be the subject of reporting to Council.

For further information, please contact Council on 1300 86 4444 and ask for the:

- Development Services section, for all DA related enquiries (including traffic and access issues) (DA 2018/51), or
- Strategic Services section, for all LEP amendment enquiries (including zoning amendment issues) (BSCPP 18/004).

Regards,

Leah Toole
Strategic Planner

Leah Toole

From: John mccarthy <jw.mccarthy@hotmail.com>
Sent: Thursday, 24 October 2019 3:39 PM
To: Leah Toole
Subject: Re:20 North Creek Road, Lennox Head

Thank you Ms. Toole for your correspondence.

We live at 1/2 Silkwood, and never received information from you concerning all the changes in our area, we assumed this was because we don't back directly onto the land concerned, but never the less we will be impacted, by all the changes with traffic running down Silkwood, which is a huge concern, especially once the Epiq project is complete, with not only local traffic but also, people shopping at the new Woolworth's etc. The best solution seemed to be that of the extension of Hutley drive to join the roundabout at North Creek road.

Thank you for your time.

Regards John and Wendy McCarthy.

Sent from my OPPO A57 on the Telstra Mobile Network
On Leah Toole <Leah.Toole@ballina.nsw.gov.au>, 24 Oct 2019 13:44 wrote:
Good afternoon,

I am writing to you in response to your recent submission to Council.

There are currently two matters relating to land at 20 North Creek Road, Lennox Head (known locally as Reservoir Hill) that are being considered by Council. One is a development application for the subdivision of the land for residential purposes (DA 2018/51) and the other is an amendment to the local environmental plan (BSCPP 18/004).

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- Strategic Services section, for all LEP amendment enquiries (including zoning amendment issues) (BSCPP 18/004).

Regards,

Leah Toole
Strategic Planner

Leah Toole

From: michael plowman <michael@ansteyhomes.com>
Sent: Tuesday, 12 November 2019 3:45 PM
To: Leah Toole
Subject: BSCPP 18/004 - 20 North Creek Road Lennox

Hello Leah,

I am responding to the letter from council dated 23 Sep. 2019.

We live at 1 Henderson Place Lennox, and due to the consistent development it has become highly unsuitable to continue living here as the traffic/fumes are at unbearable levels.

We have placed our home on the market to be sold.
Real estate agent is asking, " is Hutley Dr going to be connected to North Creek Rd",???
as indicated with the blue line on the letter map.

☐ If Hutley Dr is going to be connected into Nrth Crk Rd, has council done a feasibility study to determine the relaxation of traffic flow along Nth Crk Rd?

I realise this email is after the 18 October deadline, though at that stage we were not going to sell.

Hopefully you can give us some satisfying news.

Thank you for your time.

Regards,

Michael Plowman
Anstey Homes P/L
Mobile 0438 859 267
www.ansteyhomes.com

Leah Toole

From: Leah Toole
Sent: Wednesday, 13 November 2019 9:58 AM
To: michael plowman
Subject: CM - RE: BSCPP 18/004 - 20 North Creek Road Lennox
Attachments: Locality Diagram.pdf; Public Submissions_Public Disclosure.pdf
Record Number: 2019/0088221

Hi Michael,

Thank you for your submission.

With regards to your reference to the 'blue line' on the map, this does not mean that Hutley Drive will be connected to North Creek Road.

The planning proposal seeks to make minor realignments to zone boundaries on the parcel of land located at 20 North Creek Road, Lennox Head, as outlined in red on the attached locality diagram. It is common planning practice to zone road reserves the same zone as the adjacent land parcel. This does not mean that any development associated with the proposed subdivision, or any extensions to existing roads, will occur within the road reserve outlined in blue on the attached locality diagram.

In relation to the extension of Hutley Drive Council, at its ordinary meeting held in October 2019, resolved to approve an application to extend Hutley Drive through to Byron Bay Road. For further information on this project, see Council's website https://www.ballina.nsw.gov.au/cp_themes/default/page.asp?p=DOC-JTF-22-06-77

I trust this answers your query. If you would like further information regarding the planning proposal, please contact me.

Please note the requirements regarding public submissions and public disclosure requirements as outlined in the attached document.

Regards,

 Leah Toole
Strategic Planner

From: michael plowman <michael@ansteyhomes.com>
Sent: Tuesday, 12 November 2019 3:45 PM
To: Leah Toole <Leah.Toole@ballina.nsw.gov.au>
Subject: CM - BSCPP 18/004 - 20 North Creek Road Lennox

Hello Leah,

I am responding to the letter from council dated 23 Sep. 2019.

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I realise this email is after the 18 October deadline, though at that stage we were not going to sell.

Hopefully you can give us some satisfying news.

Thank you for your time.

Regards,

Michael Plowman
Anstey Homes P/L
Mobile 0438 859 267
www.ansteyhomes.com

Leah Toole

From: Ralph Tully <ralphtully2@bigpond.com>
Sent: Wednesday, 20 November 2019 9:53 PM
To: Leah Toole
Subject: Re: 20 North Creek Road, Lennox Head (Reservoir Hill Site)

Thanks Leah

As I mentioned briefly yesterday my concern with the Reservoir Hill development has to do with the apparently needless increased traffic flow up Henderson Lane onto North Creek Rd and then down the steep approach to the Coast Rd roundabout.

The current subdivision plan shows no access or exit from the north west corner out onto the Hutley Drive extension, and then onto either the Byron Bay Rd or up to the new commercial precinct along Hutley Dr. This then requires all 118 lots to use the above exit from the new estate with some having to travel an extra 1 or 2 km to gain access to a roundabout that is literally a stones throw from the corner of their estate.

As the owners of the property at 43 North Creek Rd, which we purchased on the understanding at the time of the original North Creek Rd bypass proposal, we have not only had the increased traffic flow from several new estates accessing NCR, but will also get an increase from the Stoneyhurst Dr extension onto Henderson Dr. as well as the Reservoir Hill traffic.

In brief, an access from the bottom north west corner will not only save the new residents of Reservoir Hill estate time and money but will reduce traffic flow on Henderson Dr, Silkwood Rd and North Creek Rd as well.

Ralph and Johanne Tully

Sent from my iPhone

On 19 Nov 2019, at 4:27 pm, Leah Toole <Leah.Toole@ballina.nsw.gov.au> wrote:

Good afternoon Ralph,

Further to our telephone conversation this afternoon, please find additional information below regarding the two separate applications that are currently being considered by Council in relation to this site.

There are currently two matters relating to land at 20 North Creek Road, Lennox Head (known locally as Reservoir Hill) that are being considered by Council. One is a development application for the subdivision of the land for residential purposes (DA 2018/51) and the other is an amendment to the local environmental plan (BSCPP 18/004).

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identified for R3 medium density residential zoning and the stormwater related changes relate to the entire shire. The zoning changes addressed in this plan amendment will not influence traffic and access to the site.

The traffic and access issues you raised are matters for consideration in relation to the development application for the subdivision of the land and not the local environmental plan amendment. In terms of the decision making process, the plan amendment and associated submissions (including your submission) will be the subject of reporting to Council.

For further information, please contact Council on 1300 86 4444 and ask for the:

- Development Services section, for all DA related enquiries (including traffic and access issues) (DA 2018/51), or
- Strategic Services section, for all LEP amendment enquiries (including zoning amendment issues) (BSCPP 18/004).

As advised, the exhibition period for both applications has now concluded. However, as you have been away from your property I will accept your submission (should you wish to make one) and will forward it onto the development services section for consideration with the development application, as noted above.

Regards,

Leah Toole
Strategic Planner

Leah Toole

From: Leah Toole
Sent: Thursday, 24 October 2019 2:44 PM
Subject: CM - 20 North Creek Road, Lennox Head

Record Number: 2019/0082299

Good afternoon,

I am writing to you in response to your recent submission to Council:

There are currently two matters relating to land at 20 North Creek Road, Lennox Head (known locally as Reservoir Hill) that are being considered by Council. One is a development application for the subdivision of the land for residential purposes (DA 2018/51) and the other is an amendment to the local environmental plan (BSCPP 18/004).

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Regards,

Leah Toole
Strategic Planner

