

Pacific Pines, Lennox Head

Submission to Council - Sports Fields and Conservation Zone

Prepared for: Royal Bank of Scotland
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PO Box 119
Lennox Head NSW 2478
T 02 6687 7666

PO Box 1446
Coffs Harbour NSW 2450
T 02 6651 7666

info@geolink.net.au

SPORTS FIELDS

Overview

The Royal Bank of Scotland (“RBS”) is the land owner of Pacific Pines estate at Lennox Head. Together with development partner, Lend Lease, RBS is working to implement a State Government approval to develop approximately 560 residential lots, a neighbourhood shopping centre, and associated infrastructure and amenities (refer to Figure 1 below).

The development will be delivered in stages over an anticipated 10-15 year timeframe.

A range of key public community infrastructure will be delivered ‘up-front’ as part of the initial stage of development. This will include district sports fields to be constructed by the developer on adjoining Ballina Shire Council-owned land, and the extension of Hutley Drive to access the fields. ***This infrastructure will be delivered before any new residential lots can be titled and settled.***

The purpose of this submission is to seek Council support for a proposal to enter into a voluntary planning agreement (between council and the developer) to ensure the timely delivery of the district sports fields and other key public infrastructure, in a way that allows it to be delivered to a high standard and in the shortest possible time.



Figure 1 Approved Pacific Pines Concept Plan

Desired Outcome

RBS remains committed to providing important public and community infrastructure in the first stage of the Pacific Pines development.

In relation to the sports fields the land owner's desired outcome, following ongoing consultation with council officers, is to have high quality sports fields, associated amenity building, car parking and access to the facility completed, on the ground, with the fields playable within 18 months from commencement of construction.

As outlined below, delivery of this infrastructure comes with some high financial risk. The desired outcome, therefore, includes an agreement whereby Council shares some of this risk, without the need for Council to provide any funding.

Relevant Background

The whole of the Pacific Pines site was originally rezoned in 1989. At that time, Council did not have a formal Developer Contributions Plan and therefore negotiated an agreement with the then land owner to provide sports fields and amenities. The agreement originally called for dedication of land for the sports fields to Council and the construction of certain facilities by Stage 3 of the development, with the full facilities then to be delivered as the residential stages continued.

The previous land owner then negotiated with Council to delay the construction of fields in exchange for providing all of the agreed facilities 'in one go'.

To date four stages of the development have been constructed. The land was dedicated to Council in 2000, and the previous owner obtained development consent (DA 2004/1113) for four rugby/ soccer fields, two cricket pitches, tennis courts and associated infrastructure in March 2005 (refer to Figure 2 below).

Subsequent to this, the remainder of the Pacific Pines estate was sold, and State Government legislative changes meant that approval for the remaining subdivision needed to be obtained under Part 3A of the Act from the State Government.

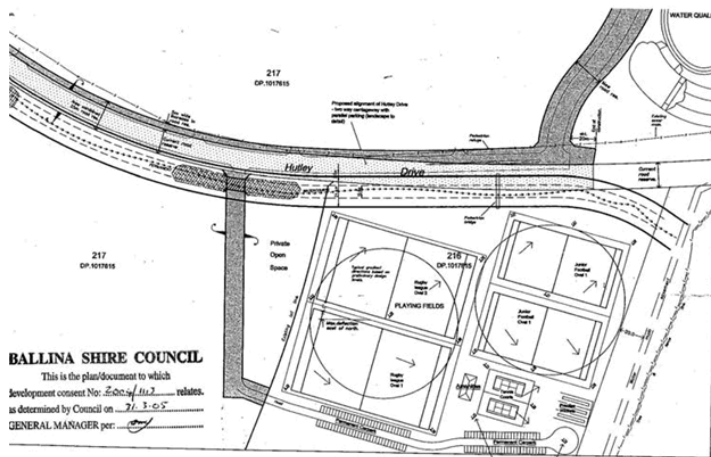


Figure 2 Approved Sports Fields Plan

The State Government approval was obtained in 2008 and requires, in part, that the sports fields approved by Council be delivered before title can be issued for any new lots in Stage 1 of the approved development.

The approval also acknowledges the cost to the developer to deliver this public infrastructure by confirming the previous agreement that developer contributions for local parks and sporting fields would be 'waived' for any development at Pacific Pines.

Council's Developer Contributions Plan 2008 has also been written to acknowledge this agreement, with the clear implication that the value of the providing the infrastructure would be approximately equal to the value of the contributions 'waived'.

Current Situation

Costs to deliver sports fields

Detailed design of the sports fields has now been undertaken, allowing a detailed costing of the works.

The cost to construct the current design is estimated to be \$3M. In addition, the value of the land previously dedicated to Council is in the order of \$5M.

Under the current arrangement, these costs must be totally borne by the developer before any lots can be titled and settled.

Now that the real costs are understood, it is possible to examine the fairness of this situation in the context of the developer contributions that have been waived, and in relation to the open space contributions that are payable by other developers in Lennox Head.

Developer Contributions scenario

If the sports fields were not delivered by the developer, Council would need to deliver the facilities and would need to amend the current contributions plan to recover the costs from future development.

It is important to state that this is not the preferred scenario for the Royal Bank of Scotland.

The Developer Contributions Plan 2008 requires all developers in Lennox Head to contribute towards the provision of local parks, district parks, playing fields, regional facilities and administration. However, the development at Pacific Pines only attracts contributions for district parks, regional facilities and administration (i.e. contributions for local parks and sports fields are 'waived' in lieu of the sports fields' development).

The current per lot contributions rates are:

▪ Local Parks	\$224	(waived)
▪ District Parks	\$935	
▪ Playing Fields	\$1,828	(waived)
▪ Regional Facilities	\$866	
▪ Administration	\$34	
▪ TOTAL	\$3,887	per new residential lot

In addition, the following contributions are also required:

▪ Community Facilities	\$5,309	
▪ Roads	\$10,804	
▪ TOTAL	\$16,691	per new residential lot

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In total, therefore, development in Lennox Head attracts developer contributions under S94 of the Act of \$20,000 per new residential lot.

Contributions for water and sewer are separate to this, requiring an additional payment of \$19,785 per lot. The combined development contributions per lot at Pacific Pines total \$39,785 per lot.

As indicated above, the Contributions Plan 2008 does not currently contain a provision for Council to collect contributions for the Pacific Pines sports field facility. Therefore, if the fields were to be delivered by Council, the Plan would need to be reviewed and, notionally, the playing field contributions would increase and would be levied against all new developments in Lennox Head.

The State Government has mandated a \$20,000 per lot ceiling on Section 94 contributions. As the current contributions are at this cap, Council could not increase charges without a specific approval from the State Government.

Pacific Pines Open Space Contributions

Under the current arrangement, the developer of Pacific Pines is obliged to pay \$1,835 per lot for district parks, regional facilities and administration.

The contributions 'waived' (local parks and playing fields) currently total \$2,052 per lot.

If this arrangement were discontinued, the contributions would be for the full range of open space, being \$3,887 per lot.

The proposed development provides for approximately 560 new lots. If the full open space contribution was paid, the total value of contributions over the life of the development would be \$2,176,720.

The total value of the 'waived contributions', over the life of the development would be \$1,149,120.

As outlined above, the estimated costs of providing the sporting fields are:

▪ Land dedication	\$5,000,000
▪ Construction	\$3,000,000
▪ <u>TOTAL</u>	<u>\$8,000,000</u>

The current arrangement requires the developer to totally fund this \$8M provision of public infrastructure.

This is clearly well in excess of the \$1.15M value of the 'waved contributions'.

If the existing arrangement were not in place, the same development would only be required to contribute \$2.2M toward the same infrastructure.

Requested Adjustment to Current Arrangement

As outlined above, the developer remains committed to the 'up-front' delivery of sports fields at Pacific Pines. It is clear, however, the current agreement is not equitable in that it requires one developer to fund the full delivery of a community facility, and relieves other developers of this same obligation. In summary, the developer of Pacific Pines is expected to pay contributions which should be fairly levied on all Lennox Head developments.

Council is therefore requested to share some of this financial burden, in a way that allows the desired outcomes to be achieved, without Council needing to make any up-front payments.

It is therefore suggested that the full cost of providing the sports fields be considered as a 'credit' against all future contributions levied against Pacific Pines, not just the open space contributions, but all section 94 contributions, up to an agreed value that considers design and construction costs and land value.

Justification

The desired outcome is to achieve contemporary sports fields on Council's land in 18 months (including access to them), before registration of any lots at Pacific Pines.

This is markedly different to the arrangements at other major subdivisions such as Ballina Heights and Ferngrove, where facilities will not be provided until a certain number of lots have been created.

We are advised that Council's experience has been that those arrangements have resulted in delays where lots have been 'held-back' to avoid the need to deliver infrastructure.

In the Pacific Pines scenario, however, the delivery of the sports fields can be achieved 'up-front'. The financial comparison outlined above, however, demonstrates that the costs to the developer to do this are well out of proportion with contributions they would otherwise be required to make toward the infrastructure, and certainly well in excess of the amount of contributions waived in lieu of providing the fields.

This submission simply seeks Council's agreement to an equitable outcome, where the Pacific Pines developer is treated in the same way as any other developer would be at Lennox Head. The 'crediting' arrangement suggested would allow this to happen in a way that ensures the prompt delivery of the fields and does not require Council to make any monetary payments to deliver them.

The arrangement could be achieved by way of a Voluntary Planning Agreement between the land owner and Council that documents the key principles of the 'future credits'. Detailed costs would need to be agreed, and could be based on a tender process that would allow consideration of 'real' construction costs.

Additional Community Infrastructure

In addition to the sporting fields, the Pacific Pines development will deliver a range of additional community infrastructure/ facilities that will service the needs of the wider community as well as the future population of the estate. This will include:

- Construction of a 600m section of Hutley Drive within the development.
- Dedication to Council of an allotment of 0.18 ha to be used for a future community centre, together with construction of a 300m² community hall on that allotment.
- Trunk water, recycled water and sewerage infrastructure, including the provision of a site for a future potable water reservoir.

The provision of this community infrastructure is currently in addition to the requirement to pay developer contributions. It would seem logical, therefore, that the suggested Voluntary Planning Agreement could deal with all of these infrastructure matters. In drafting the Agreement, Council and the land owner could agree the infrastructure costs that could be 'creditable' against the contributions required by the future development of the estate.

Improved Sports Fields Design

It is worth noting that we have also identified an improved sports field design, which could deliver the same facilities as the current approval but in a better configuration (refer to Figure 3 below).



Figure 3 Alternate Sports Fields Concept

These improvements have come about following ongoing dialogue with Council's General Manager and Strategic Planning staff. Estimated costs would be similar to the current approved design, and the proponent would be keen to continue to liaise with Council to facilitate the identified improved outcomes.

CONSERVATION ZONE

Overview

The approved development includes a centrally-located Conservation Zone of approximately 14 ha. This zone will protect and enhance a number of important plant species and communities and provide for a biological connection between rainforest remnants in the eastern part of the site and the Ballina Nature Reserve which adjoins to the west (refer to Figure 4 below).



Figure 4 Conservation Zone

The Conservation Zone will achieve a range of important ecological outcomes and Council officers were prominent in its planning during the assessment of the application.

Detailed Environmental Management Plans, developed with detailed input from Council officers, have been approved for the Conservation Zone to ensure that the desired ecological outcomes are achieved.

The application, and the State Government approval, envisaged that upon completion of the development, and once the ecological rehabilitation works had been completed, the Conservation Zone would be dedicated to Council as 'public land'.

The approvals require that the developer retain ownership of the zone and be responsible for its maintenance until 5 years after the release of the last stage of residential development. The reality is that this will mean that it remains in private ownership for at least 15 years.

Current request of Council

The Conservation Zone contains Hairy Joint Grass, which is currently listed under Commonwealth environmental legislation as a threatened species. Accordingly, the development has required, and obtained, approval from the Commonwealth government.

A condition of that approval is that a restriction on title, covenant, or other conservation mechanism must be created over the area occupied by the Conservation Zone, specifying that area to be retained for conservation purposes. A covenant under the Conveyancing Act is proposed as the most appropriate mechanism. Such a covenant requires a 'benefiting authority' that has the ultimate responsibility for ensuring the terms of the covenant are met.

In this case, it is most logical for Council to be nominated as that authority, as the Commonwealth or State governments are too removed from the site.

Council has therefore been requested to agree to being nominated as that 'benefiting authority', so that the terms of the covenant can be provided to the Commonwealth government to demonstrate compliance with the condition of their approval.

Justification

Council staff were instrumental in an insistence that this 14 ha of land be protected and enhanced to achieve conservation outcomes. Importantly, the developer is committed to implementing the approved management plans that will achieve those outcomes.

When rehabilitated and enhanced, the Conservation Zone will provide a range of broad public benefits. It is fitting, therefore, that it be land vested in public ownership, and Council is the logical public body to accept ownership.

The concern raised by Council officers has revolved around ongoing maintenance requirements. In response to those concerns, the following points are made:

- The enhancement/ rehabilitation of the area has been designed to minimise ongoing maintenance requirements – for the majority of the area, once the rehabilitation has become established, it will effectively be a self-sustaining ecosystem that will need little to no intervention (potentially some weeding every five years or so) – effectively, therefore, the ongoing maintenance requirements, after hand-over, would not be different to Council's normal maintenance practices of slashing and weed control.
- The areas that will contain Hairy Joint Grass have purposely been located along the edges of the zone, adjacent to road verges to ensure that normal slashing can easily be achieved (refer to Figure 5 below) – these areas will only need slashing once a year.
- The developer will retain ownership for around 15 years before a final decision is required from Council to accept ownership of the area.
- The intention would be for the 'hand-over' process to be undertaken over a suitably long time period, so that Council can be assured that the environmental standards for the area are in accordance with the approved Management Plans.

At this stage, we simply request that Council provide a letter indicating that it agrees to being nominated as the 'benefiting authority' for the proposed Conservation Covenant.



Figure 5 Areas Requiring Future Slashing

We believe an address to Ballina Shire Council to present these important matters and to answer any questions would be beneficial, and we welcome the opportunity at the Council's earliest convenience.

Rob van Iersel
Director/ Senior Planner

<i>UPR</i>	<i>Description</i>	<i>Date Issued</i>	<i>Issued By</i>
1675-1228	First issue (draft)	13/03/2014	RVI
1675-1229	Second issue (final draft)	14/03/2014	RVI
1675-1230	Third issue (final)	18/03/2014	RVI

Information shown is for illustrative purposes only

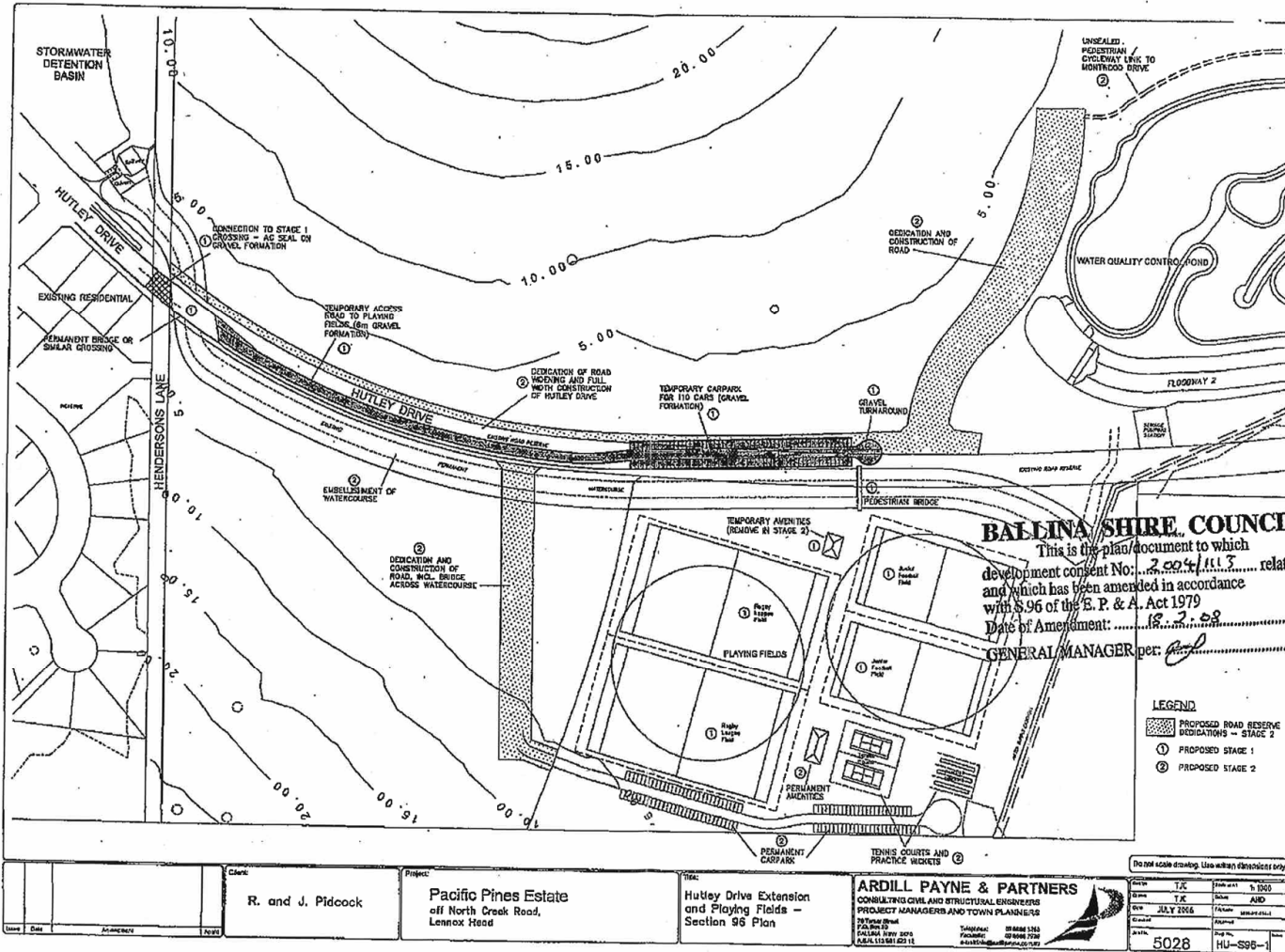
Drawn by: TJP Checked by: MVE Reviewed by: DGH Date: December 2012
 Source of base data: Ballina Shire Council & Kennedy Surveyors



Vegetation Communities in Conservation Zone

Conservation Zone Management Plan: Pacific Pines
 1675-1008

Illustration 3.1



BALLINA SHIRE COUNCIL
 This is the plan/document to which
 development consent No. 2004/1113 relates,
 and which has been amended in accordance
 with §96 of the E.P. & A. Act 1979
 Date of Amendment: 18.2.08
 GENERAL MANAGER per: *[Signature]*

LEGEND
 [Hatched Box] PROPOSED ROAD RESERVE DEDICATIONS - STAGE 2
 ① PROPOSED STAGE 1
 ② PROPOSED STAGE 2

Client: R. and J. Pidcock		Project: Pacific Pines Estate off North Creek Road, Lennox Head		Title: Hutley Drive Extension and Playing Fields - Section 95 Plan		ARDILL PAYNE & PARTNERS CONSULTING CIVIL AND STRUCTURAL ENGINEERS PROJECT MANAGERS AND TOWN PLANNERS 187/189 Street, Ballina NSW 2463 Phone: (066) 555 5555 Fax: (066) 555 5555 Email: info@ardillpayne.com.au		No net scale drawing. Use with plans only. Date: <u>JULY 2006</u> Scale: <u>ASD</u> Drawn by: <u>[Name]</u> Checked by: <u>[Name]</u> 5028 HU-S9B-1	
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