

JRPP No:	2010NTH021
DA No:	2010/DA-128
PROPOSED DEVELOPMENT :	Ecotourism Development (18 Two Bedroom Cabins & Conference Centre) and demolition of piggery in 4 stages
APPLICANT:	Denis Atkinson Planning Pty Ltd
REPORT BY:	Bellingen Shire Council

Assessment Report and Recommendation

REPORT DETAIL:

Application No: 2010/DA-138

Proposal: Ecotourism Development (18 Two Bedroom Cabins & Conference Centre) and demolition of piggery in 4 stages

Subject Land: Lot Pt A DP184353, No. 383 Waterfall Way, Bellingen

Applicant: Denis Atkinson Planning Pty Ltd

Zone: Zone No. 1(a1) Agricultural Protection and 7(a) Environmental Protection (Wetlands) under the provisions of Bellingen Local Environmental Plan 2003

SUMMARY

The development application seeks approval for an “Eco-tourism Development” comprising of 18 two-bedroom tourist cabins, a Conference Centre and associated infrastructure in 4 stages. The application has been advertised, notified to adjoining property owners and referred to the DECCW (Office of Water) and NSW RFS for Integrated development approvals and the DECCW Division of Primary Industries (Aquaculture) and the RTA for comment.

The development application has been referred to the Joint Regional Planning Panel pursuant to Clause 13C(a) of the State Environmental Planning Policy (Major Development) 2005. The development is classed as “Regional Development” as the proposed tourist accommodation is not connected to an approved sewerage treatment work or system and provides accommodation for more than 25 persons.

One public submission was received, a copy of which is attached. Council has received additional information requested of the applicant and responses from the referral authorities (attached).

No significant issues have been found with the proposal that would prevent its approval. While the capacity of the proposed tourist accommodation is much greater than other tourist cabin developments in the shire (which typically have two to three cabins) and greatly exceeds the maximum of 3 cabins and 12 persons in Council's now superseded Development Control Plan no. 24 (Small Scale Tourist Facilities), it is considered that the size, scale and location of the development is acceptable. The development is low density, low rise and will barely be visible from Waterfall Way or any other properties. Buildings will be constructed using natural materials including timber and limestone. Minimal earthworks will be required as the cabins will be erected on piers, the conference centre will be located on flat land and internal roads follow the contours of the site. Revegetation works on the frontage of the site and within the gully in front of the proposed conference centre will further screen the development from view.

The development is located on the higher slopes consisting of unimproved pasture, which is well away from areas mapped as regionally significant farmland, improved pasture and wetlands. The proposed tourist development is proposed to work in conjunction with the continued use of the property for grazing 60-70 head of cattle (as part of a dairy operation run over 3 properties) and produce of 200 round bales per year for feed.

The development can comply with the Planning for Bushfire Protection Guidelines and the RFS has issued a conditional bush fire safety authority. Council officers are satisfied that waste water and stormwater can be treated and disposed of onsite without impacting on water quality within the wetland areas or the Bellinger River. Further, the DECCW (Aquaculture) have no concerns with the proposal and the DECCW (Office of Water) have provided general terms of approval for a licence under the *Water Management Act 2000*. The vehicular access location is considered acceptable to the RTA, provided upgrading works as recommended in the applicant's Traffic Impact Statement are implemented. Further, there is sufficient area on site available to provide car parking for users of the conference centre and guests staying in the tourist cabins.

The proposal involves selective clearing of 1.67ha of vegetation (comprising of mixed Eucalypt and Tallowood Forest communities as well as Lantana) and the under-scrubbing of an additional 0.78ha to establish Asset Protection zones around the development. However, it is acknowledged that the majority of this vegetation is regrowth (less than 30 years old). Further, no threatened plant species were found to occur in these areas. The applicant's ecological consultants have undertaken a thorough and detailed flora & fauna assessment and the assessing officer concurs with their conclusion that the development is unlikely to have a significant impact on the two Endangered Ecological Communities that occur along Connells Creek or any threatened flora, provided that a number of mitigation measures are implemented as part of the development.

The proposal is considered to be generally compliant with the objectives of the 1(a1) Agriculture Protection zone and applicable clauses under the Bellinger Local Environmental Plan 2003, Council's Development Control Plan 2010 and other relevant legislation.

It is recommended that the application be approved subject to conditions including a requirement for specific details on how the development will meet the criteria for an Eco-tourism operation under the Australian Eco Certification Program prior to the issue of any Construction Certificate and proof of registration as an "Eco-tourism" operator within 12 months of the use commencing.

THE SITE

The subject land is Part Lot A DP184353, 383 Waterfall Way, Fernmount. The subject land is a 66.3ha property sited east of the village of Fernmount and 6km east of Bellingen. It is zoned 1(a1) Agricultural Protection and 7(a) Environmental Protection (Wetlands) under the Bellingen Local Environmental Plan 2003.

Waterfall Way splits the property into two sections. The northern section is improved pasture on low-lying alluvial flats that have frontage to the Bellinger River. The southern section also has low lying alluvial flats that contain wetlands and a creek that graduates to unimproved pastures on the lower foot slopes and minor ridgelines with regrowth forest.

Regular flood events as well as the 1% flood affect the low-lying parts of the site. They are also affected by Class 3 Acid Sulfate Soils. The western corner of the southern section of the site is classified as floodway. Some portions of the property are mapped as regionally significant farmland.

The site adjoins rural properties of similar or smaller size to the east and west and Tarkeeth State Forest to the south.

Two approved dwellings exist on the lower slopes of the southern section of the property and an abandoned piggery is sited at the edge of the regrowth forest on a low ridgeline at the rear of the property. An existing vehicular access point is located towards the western boundary.

The property is currently used as part of a 200 head of cattle dairy farm operation run by a member of the owner's family that utilises two other nearby properties. The subject property is used to run cattle and to produce round bales for supplementing feed production. The dairy bails are located on one of the other properties.

THE PROPOSAL

The application seeks approval for a "tourist facility" and "place of assembly" on a portion of the property zoned 1(a1) Agricultural Protection under the Bellingen Local Environmental Plan 2003.

The applicant has also submitted the development as a "eco-tourism facility" to satisfy the requirements of Clause 27 of the BLEP 2003 and to facilitate reduced asset protection and construction standard requirements under the *Planning for Bushfire Protection Guidelines* (refer to Fast Fact 10/07). To satisfy Council of the fact that the development would indeed operate as an Eco-tourism facility, documentation detailing how the owners intend to obtain ecotourism certification was requested and this has now been provided.

The proposed tourist development comprises of the following aspects:

- A conference centre with the capacity to host functions for up to 120 people. This building will include:
 - 3 meeting rooms which can convert to one large function room,

- A lounge/reception area
 - A commercial kitchen
 - Toilet facilities
 - A large deck
 - An outside BBQ area
- 18 Two-bedroom cabins, which can provide accommodation for up to 72 people. Each of the cabins contain their own toilet, bathroom and kitchen facilities.
 - Associated infrastructure including new internal roads, upgraded roads, electricity, telecommunication services, on-site wastewater disposal, stormwater treatment facilities, installation of water tanks, on-site parking provision.
 - Clearing of 1.65 ha of vegetation (1.35ha of native vegetation and 0.32ha of lantana) and the under-scrubbing of an additional 0.78ha to establish the required Asset Protection zones.
 - Planting and regeneration works over an area of 3.5 ha, involving planting of up to 1,480 trees in 4 locations on the site.

The development is proposed to occur in 4 stages as described in the development phasing plan provided by the applicant and as generally described (excluding ancillary works) below:

Stage 1 – Construction of six cabins, plus a temporary marquee for functions

Stage 2 – Construction of six cabins,

Stage 3 - Removal of the marquee and construction of the conference centre and parking areas,

Stage 4 – Construction of the final six cabins.

Note: The temporary marquee as previously proposed to occur in Stage 1 in the SEE was not mentioned in the revised phasing plan provided in September. The applicant has verbally advised that it is to be erected as part of Stage 1.

SECTION 79C(1) MATTERS FOR CONSIDERATION

SECTION 79C(1)(A)(I) – ANY ENVIRONMENTAL PLANNING INSTRUMENT

Bellingen Local Environmental Plan 2003

Clause 11 – Zoning Controls; Definition of development & Permissibility

The subject land is zoned 1(a1) and 7(a) under the provisions of Bellingen Local Environmental Plan 2003 (BLEP 2003). The development will occur on the portion of land zoned 1(a1). The proposed uses are defined as “Tourist Facility” and “Place of Assembly” which are permissible with consent in the 1(a1) zone.

The proposed development is considered to be consistent with the zone objectives as follows:

Zone No 1 (a1) (Agricultural Protection Zone)

- (a) *to protect and conserve the productive potential of agricultural land, and*

Comment: The cabins and conference centre are located on unimproved land that is not utilised for grazing purposes. The best grazing land is on the flood affected alluvial flats which will not be developed or affected by this development.

- (b) *to encourage the productive and efficient use of land for agricultural purposes, and*

Comment: The use of the land for grazing and to produce round bales will be unaffected by this proposal.

- (c) *to control subdivision of land having regard to the efficient use of the land for agricultural purposes, and*

Comment: N/A

- (d) *to enable other forms of development associated with rural activity to be carried out where they are in keeping with the rural character of the area and where they minimise potential interference with the agricultural use of the land, and*

Comment: The proposed tourist accommodation development is low key and small in scale. The tourist cabins are of timber construction and finish and are sited along the flat areas along the low ridges towards the rear of the property. The conference centre is a single storey building of limestone construction sited at the back of the gully line in front of and below the tree line of the regrowth forest. Further, riparian planting is proposed along Connells Creek to screen the development from Waterfall Way. The development will not be highly visible from adjoining properties and provided cut and fill is limited and suitable colours are chosen, it should not adversely impact on the rural character of the area. The development is sited to minimise interference with the agricultural use of the land.

- (e) *to prevent development of inappropriate traffic-generating uses along main road frontages, and*

Comment: The proposed development is classified as Traffic Generating Development under the SEPP (Infrastructure). A traffic impact statement was therefore prepared which found that while the development would result in a small increase (1.5%) in average daily traffic movements the road is of adequate capacity and standard to cope with this additional traffic and provided the intersection is upgraded there should be no adverse impact on the safety and efficiency of this road. Given the above, the fact that the RTA has raised no objections to the development and the fact that the use is permissible under the BLEP 2003 it is considered that the development is appropriate in this location.

- (f) *to prevent development that is inappropriate, having regard to the risks of bush fire, flooding, soil erosion, land instability, quality of access and the provision of utility services and community facilities, and*

Comment: The development has taken into consideration the risks posed by bushfire and flooding in its layout, design and location. The vehicular access is suitably located and telecommunication and electricity services can be provided to the development.

- (g) *to protect the natural and scenic resources of the Bellingen local government area.*

Comment: It is considered that the development should not have an adverse impact on the scenery of the area.

Zone No 7 (a) (Environmental Protection (Wetlands) Zone)

- (a) *to identify and protect the wetland environment and the natural habitats it supports for conservation purposes, with particular attention being given to the protection of mangroves, and*

Comment: The proposed development is located away from the wetlands, ensuring their continued protection.

- (b) *to prohibit development that is likely to have a detrimental effect on habitat or the landscape, and*

Comment: Provided suitable effluent disposal and stormwater treatment systems are put in place the development should not have an adverse impact on habitat or the wetland landscape.

- (c) *to enable development that would not have a significant detrimental effect on the habitat.*

Comment: As above.

Clause 14 Height of Buildings

The height of the cabins is approximately 5 metres. The height of the conference centre is approximately 4.2 metres. The development therefore complies with the 10 metre height limit.

Clause 16 Construction of Dams

The proposal involves the enlargement of an existing waterhole to create a dam. The applicant originally submitted that the dam would be exempt development however as the

dam is within 50 metres of a watercourse and is on flood liable land, development consent is required.

Further details of the dam including a cross-section were therefore sought and now have been provided. The dam therefore forms part of the proposal, consistent with this clause.

Clause 18 Development in the vicinity of creeks and streams and other water bodies

A number of cabins as well as the internal road are located within 50 metres of the two gully lines (marked as watercourses on a topographical map). Despite this, most of the cabins are well out of the gullies. The gully line that runs south-north towards the wetland is currently vegetated with weeds and remnant vegetation. The proposal is to weed out and landscape this area and manage it as an Asset Protection Zone. Four cabins (6,7,18 and 17) are located within 25 metres of the gully centre line.

Despite the proximity of these cabins, the installation of these buildings is unlikely to destabilise the bank as they are to be built on piers. However, the provision of vehicular access and car parking spaces directly next to Cabins 6 & 7 is considered unnecessary. Provision for car parking for these cabins in the large conference car park will reduce the amount of works and potential soil disturbance in proximity to the gully. It is recommended that only pedestrian access be available to these cabins.

The gully line that runs in a west-east direction will feed into the proposed enlarged dam. The works required to enlarge the dam have potential to affect water quality downstream and in the wetlands if sediment from the works is allowed to enter waters downstream and if Acid Sulfate Soil is exposed. The gully line that runs in a north-south direction runs towards the wetland. The bushfire trail is shown as going over that gully – potentially impeding water flow to the wetland.

Due to the potential impacts of the works described, additional information about the works was requested. These were provided to Council on the 16th November and it is now considered that the works should not have an impact on flows to the wetland or water quality as:

- A 375mm piped culvert is proposed under the internal road (fire trail) where it transverses the gully,
- The applicant's engineer has advised that only minimal cut and fill will be required to construct the internal roads,
- No ASS or potential ASS was intersected in a 1.8 metre deep borehole 10 metres east of the existing dam wall and the risk of exposure is considered minimal,
- Stormwater from roofs, internal roads and car parking areas will be required to meet Level 3 water quality requirements of Council's DCP (Chapter 12),
- Wastewater will be disposed in the high areas of the site – away from gully lines and the wetland, and
- An Erosion & Sediment Control Plan will be prepared and implemented as part of the development.

It is therefore considered that the development can comply with this clause.

Clause 19 Flood Considerations

The conference centre and cabins will all be located above the 1% flood level. The only works required on land affected by flood are the internal access road upgrade, construction of the bushfire trail and the enlarged dam.

These works should not unduly affect the flow characteristics of floodwaters or the level of flooding on other land as all fill works will be compensated by cutting. No new soil is proposed to be brought into the site for the road works or dam wall.

It is therefore considered that the development can comply with this clause.

Clause 20 Development on land identified in an acid sulfate soil class

The low lying areas of the site are mapped as containing Class 3 Acid Sulfate Soils. As the works required for the dam would likely require works beyond 1 metre below natural ground and would disturb more than 1 tonne of soil, a preliminary ASS investigation was requested.

Based on the assessment of the site topography and the field investigation that found no actual or potential ASS in the borehole, the applicant's engineer considered the risk of exposure of ASS from the construction of the dam to be negligible. Despite this, they recommended mitigation measures in case of exposure. These will be included as conditions of consent.

The development is considered to comply with this clause.

Clause 22 Coastal Lands

NSW Coastal Policy – Provided stormwater is treated to level 3 requirements of Council's DCP (consistent with objective 1.3 of this policy), the development is generally consistent with relevant objectives and strategic actions.

Coastline Development Manual – N/A

North Coast Design Guidelines – The development is generally consistent with the guidelines as follows:

- While the cabins and conference centre are located on ridgelines, the buildings will not interrupt the skyline as viewed from Waterfall Way as vegetation to the rear of these buildings will be retained – maintaining a vegetated skyline. Further, screening vegetation at the front of the property should eventually screen the whole development from the road.
- Internal roads follow the natural contours of the site.
- Buildings are to be located on generally flat land – minimising need for cut and fill.
- Clearing is minimised to that required to establish APZ's.
- External materials of the cabins and conference centre are timber and limestone – which are in keeping with the natural surrounds.

- Cabins will be constructed on piers – minimising need for earthworks.
- The development is broken into small elements.

The development is considered to comply with this clause.

Clause 23 Wetlands and fisheries

The proposed enlarged dam intercepts the 1st order (dry) stream which runs in a west-east direction from the development site towards the wetland. It is considered that the dam enlargement is unlikely to significantly reduce the flow of waters into the wetland below as the catchment of the gully is very small and as the dam already exists.

The development is therefore considered to comply with this clause.

Clause 26 General principles for Rural Development

The development is considered to be consistent with the principles with the exception of 9(c) which requires all rural development have adequate all-weather flood free access to an urban service centre. This is not achievable or practical in the majority of cases due to the flood prone nature of the Bellinger Valley and has not been enforced if the development can meet the requirements of Council's flood policy – which is now within Council's Development Control Plan 2010 (Chapter 8 – Flood & Riverine Processes). This development complies with the requirements of the DCP and it is considered that consent may be granted under this clause.

Clause 27 Tourism Development

It is considered that consent may be granted under this clause as:

- (1) Consideration has been given to the *Tourism Development along the NSW Coast Guidelines* in the assessment of this application. The location, siting, scale and design of this proposal is considered to be generally consistent with these guidelines. Note: the *North Coast Region Tourism Development Strategy* is no longer current.
- (2) Despite the large number of cabins proposed, it is considered that the development could be considered "small-scale and low-key" by virtue of:
 - The low key nature of the individual buildings,
 - The low density nature of the development,
 - The small development footprint in relation to the size of the property,
 - The low visibility from a public place (Waterfall Way), and
 - The scale of each building is consistent with the scale of other rural buildings common in the locality – ie. sheds, houses, dairies.
- (3) (a) Adequate access by road can serve the development, and
 (b) Given the low density nature of the development, the natural materials to be utilised in construction, the minimal amount of earthworks required to site the

buildings and construct internal roads, the substantial distance between the site and Waterfall Way, the screening of the site provided by natural landform and the revegetation and vegetation screening works proposed it is considered that the development is unlikely to detract from the visual amenity of the locality. Further, provided adequate stormwater and erosion, sediment controls are put in place and the recommendations of the flora & fauna consultant are followed the development should not detract from significant features of the natural environment.

Clause 28 Tourist Facilities in Zone 1(a1)

It is considered that consent may be granted under this clause as:

- (a) The operation of the tourist facility will be undertaken in conjunction with the use of the flood plain for grazing.
- (b) The operation of the tourist facility should not conflict with adjoining agricultural uses. The cabins & conference centre are located at least 50 metres from the adjoining property boundary (meeting the Rural Buffer guidelines) and will be well screened by vegetation.

Clause 37 Development on main road and highway frontages

This clause applies as Waterfall Way is classified as a “main road” under the BLEP 2003. It is considered that consent may be granted under this clause as:

- (a) Provided the upgrade described in the Traffic Impact Statement is constructed, the development should not constitute a traffic hazard or materially reduce the capacity and efficiency of the highway, and
- (b) The tourist accommodation and conference centre use is considered to be appropriate on the main road between Bellingen and the coast, and
- (c) The access location is suitable – having adequate sight distance availability. The standard and design of the access location will be upgraded to the RTA's satisfaction. There will be adequate arrangements for traffic and parking on-site, which will ensure that through traffic movements on the Waterfall Way are not impeded, and
- (d) The RTA has not indicated that the development would prejudice future improvements or realignments to the road.

North Coast Regional Environmental Plan

Clause 12 Impact on Agricultural Activities

For the reasons discussed earlier in this report it is considered unlikely that the development would have any impact on adjoining agricultural land. Further, the development will not impact on prime crop or pasture land. The development site is well away from the regional significant farmland mapped on the lower portions of the site.

Clause 15 Wetlands or fishery habitats

The matters listed have been taken into consideration in the assessment of the application. It is considered unlikely that the development would have an adverse impact on water flow to and water quality within the wetland. The development is located well away from the wetland and no wetland vegetation will be removed. It is further noted that revegetation works proposed will enhance the natural regeneration of the Swamp Sclerophyll Forest on the property.

Clause 32B Coastal Lands

Complies with the guidelines and policies referenced. Refer to discussions within Clause 22 of the BLEP 2003. No impact on public access to a foreshore.

Clause 75 Tourism Development

It is considered that consent may be granted under this clause as:

- (a) Adequate access by road exists.
- (b) N/A
- (c) As discussed earlier in this report, it is considered that the development will not be detrimental to the scenery or other significant features of the natural environment.
- (d) While reticulated water and sewerage are not available, Council officers are satisfied that on-site effluent disposal and water will be able to be provided to the development.
- (2) The assessment of the application has had regard to principles contained in the *Tourism Development Along the New South Wales Coast: Guidelines*.
- (3) The development is not considered to be large scale.

State Environmental Planning Policy No. 44

The site consists of “potential koala habitat”. The applicant’s ecological consultants found no evidence of koalas on the site – therefore the site does not class as “core koala habitat” and a koala plan of management is not required.

State Environmental Planning Policy No. 55

A disused piggery building is currently located on the site of the proposed conference centre. The piggery was built in the early 1980’s by the current owner and was operated for approximately 4 years. The piggery was a small-scale operation and held typically 10 sows, 2 boars and their progeny. It comprised of a cement floor with slats over a washdown/drainage system, a tin roof and timber and concrete block walls.

As this use is a potentially contaminating use and a change of use of the site is proposed, a preliminary contamination assessment was undertaken by Enginuity Pty Ltd. This assessment found the following:

- The piggery has not been used for any other use since the late 1980’s,
- Cleaning of the piggery was done by daily hosing with water and no chemicals or disinfectants,
- The owner did not recall using any potentially hazardous chemicals within the piggery operation, and

- The old wastewater dam (which is considered to be of negligible contamination risk) for the piggery has previously been backfilled and is located under the proposed carparking area.

The applicant's consultant engineer considered that piggeries are generally not associated with site contamination, as hazardous chemicals are typically not used in the operations. Further, he considered that any potential contamination that might have occurred 20 years ago would now have broken down. It was concluded that the risk of site contamination from the abandoned piggery and wastewater dam are negligible and should pose no risks to human health or the environment. A detailed site contamination investigation was therefore not undertaken.

This report was referred to Council's Environmental Health Officer who agreed with the conclusions in this report. It is therefore considered that the requirements of this SEPP have been met.

State Environmental Planning Policy No. 62

The application was referred to the Department of Environment, Climate Change & Water (Aquaculture) as it was considered that the development could potentially impact on priority oyster aquaculture areas. The Department raised no objections to the development.

State Environmental Planning Policy No. 71

Clause 8 – Matters for Consideration

- (a) The development is considered to be consistent with the aims of this Policy,
- (b) N/A
- (c) N/A
- (d) The type, location and design of the development is considered suitable in the context of the surrounding area,
- (e) No impact on the amenity of the coastal foreshore,
- (f) Minimal impact on the scenic qualities of the New South Wales coast,
- (g) All buildings are to be sited on already cleared land. Clearing is required to establish Asset Protection zones however the 7 part test of significance has concluded that there should not be a significant impact on threatened species provided a number of mitigation measures including retention of hollow bearing trees and revegetation are implemented,
- (h) No/Negligible impact on fish and marine vegetation,
- (i) No impact on existing wildlife corridors,
- (j) N/A
- (k) N/A
- (l) No known Aboriginal cultural sites on the development site,
- (m) Minimal impact on the water quality of coastal waterbodies expected – refer previous discussions,
- (n) No items of heritage, archaeological or historic significance will be affected,
- (o) N/A
- (p)
 - (i) No adverse cumulative impacts of the proposed development on the environment expected, and

(ii) The development includes a number of measures to ensure that water and energy usage by the proposed development is efficient. These include

- the use of hi-tech polyurethane foam insulation and 5 star energy rating thermo panels in cabin walls,
- the use of locally sourced hardwood beams and posts for the deck,
- the use of limestone walls for conference centre,
- each cabin will have its own water tank and will recycle grey water,
- grey water will be used on gardens,
- all cabins and the conference centre will have a Bokashi Composting bucket, an easy composting system, and
- solar lighting will be used throughout the development.

Clause 16 Effluent disposal

Council officers are satisfied the proposal should not have a negative effect on the water quality of the Bellinger River.

Clause 16 Stormwater

Untreated stormwater will not be permitted to discharge into the wetland. Stormwater quality treatment will be required in accordance with Council's DCP (Chapter 12).

State Environmental Planning Policy (Rural Lands) 2008

The development will take place away from the regionally significant farmland on the low lying areas of the site. The development does not conflict with the Rural Planning principles in Part 2 of this policy.

SECTION 79C(1)(A)(II) – ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT

Bellingen Local Environmental Plan 2010

The Bellingen BLEP 2010 came into force after lodgement of the development application. It is therefore considered as a draft EPI under this clause.

The subject land is zoned RU1 Primary Production under the BLEP 2010. "Tourist & Visitor Accommodation" and "Function Centres" are prohibited in this zone. A primary reason for this is to ensure the continued protection and productivity of prime agricultural land.

It is considered that despite prohibition of the proposed uses under the now current LEP, it is considered that the application may be approved as the development will not significantly impact on existing productivity of the land or affect existing use of the land for dairying and produce of feed. Further, the supplementation of income generated by the tourist development should assist in keeping the property in the family. The application has demonstrated that the development will have minimal impact on the environment and scenic amenity of the area.

SECTION 79C(1)(A)(III) – ANY DEVELOPMENT CONTROL PLAN

Bellingen Shire Development Control Plan 2010

Chapter 4 – Tourist Development

4.6.1 Accommodation: The development will comply with these criteria. The only exception is the requirement for 5.5m² of bedroom floor area per person - which is a mistake in the DCP. The Public Health (General) Regulation 2002 requires only 2m² per person for short term accommodation.

4.6.2 Guest Rooms: Can comply with these criteria.

4.6.3 Toilet & Bathroom Facilities: Will comply with these criteria.

4.6.4 Kitchen & Food Handling Facilities: Food prep areas associated with the conference centre will be required to comply with Chapter 13 Food Premises and Activities

4.6.5 Access for Disabilities: Will comply

4.6.6 Access and Parking: Will comply

4.6.7 Visual and Acoustic Privacy: Vegetation screening will be provided between the cabins. Complies

4.6.8 Outdoor Recreational Facilities: None provided

4.6.9 Heritage: N/A

4.6.10 Signage: N/A

4.6.11 Fire Safety within buildings: Will comply. Refer Health & Building Surveyor comments

4.6.12 Landscaping & Vegetation: A concept landscaping plan has been submitted. A detailed plan compliant with Chapter 9 will be required prior to issue of the Construction Certificate.

4.6.13 Buffers: Buffers to adjoining properties comply with the publication *Living and working in Rural Areas* (NSW DPI). Buffers to Bushfire Risk will comply with *the Planning for Bushfire Protection Guidelines*

4.6.14 Land Suitability: The siting of the development complies with these criteria.

4.6.15 Domestic Facilities: Will be provided. Further details of garbage disposal are required to be provided prior to issue of the Construction Certificate.

Chapter 5 – Carparking and Vehicular Access

5.6.2 Surface requirements: While the minimum standard for tourist accommodation in rural zones is all weather 2 wheel drive surfacing (min 150mm compacted gravel), Council's Development Engineer has recommended that the internal access between the public road and the conference centre be of bitumen seal in recognition of the higher traffic volumes likely to be experienced in this location. The remainder of the internal roads (excluding roads with a grade greater than 15%) and parking areas will be compacted gravel.

5.6.3 Safe, legal access requirements: Vehicular access is directly to a public road, which complies.

5.6.4 Parking Requirements:

The site plan does not show a carparking layout, just a carpark location. The applicant has advised that this will be provided at the Construction Certificate Stage. The carparking proposal as described in the SEE is as follows:

- A main carparking area with 30 spaces (including 4 disabled parking spaces immediately adjoining the centre) will be located immediately east of the centre to cater for small to medium sized events
- An overflow carparking area of 10 spaces for larger events will be located to the west of the conference centre

Tourist & Visitor Accommodation: 1 per cabin. This will be provided next to each cabin (with the exception of cabins 6 & 7 which will be required to have spaces elsewhere on the site).

Function Centres: 1 per 10m² and 1 per 2 employees. The conference centre has a GFA of 204m² (excluding kitchen, toilets and entry foyer), which requires 20.4 carparking spaces. Staff information has not been provided however as the application incorporates a minimum of 40 spaces into 2 carparking areas on the site, it is considered that the development will comply with these criteria.

Chapter 8 – Flood & Riverine Processes

The property is affected by flood events, including the 1% flood, which affects land up to 6.5 metres AHD in this location. The north-west corner of the southern section of the property (which contains the vehicular access to Waterfall Way) is also located in a floodway as defined in the DCP. The General Flood Planning Level (GFPL) in this location is 7 metres AHD.

The development layout plan shows all buildings being above 6.5 metres AHD. Cabins 16 & 17 are shown between the 7 metre contour and 6.5 metre (1 % flood level) line.

In accordance with 8.9.1 of this DCP, floor levels of all buildings will be required to be at or above The GFPL. Further, flood proofing of buildings located below the GFPL will be required to be provided on all parts of the structure up to the GFPL. Safe access at the minimum GFPL minus freeboard (500mm) to land above the PMF will be available.

Chapter 9 – Landscaping Requirements

A landscape concept plan has been provided with the proposal. While the proposal as described in the documentation and shown on the plan appear acceptable, further details will be required – in accordance with the landscape documentation requirements of this DCP.

Chapter 10 – On-Site Sewerage Management

A Wastewater Management Plan was undertaken by Enginuity Design Pty Ltd which references the comments in 10.6.1 of this DCP. It has demonstrated that the site is suitable for the proposed development in terms of its wastewater generating qualities and has nominated a single 10,000L/day AWT to serve the development. Discharge is proposed to be irrigated within the APZ's along the north-east ridge and the top of the ridge to the west of the conference centre.

Chapter 11 – Advertising & Notification of Applications

The application was advertised and notified to adjoining property owners in accordance with this DCP. One submission was received which is described later in this report.

Chapter 12 – Stormwater

The applicant's consultant engineer considered it unnecessary to undertake stormwater modelling for the purpose of this development and simply recommended the following measures be put in place:

- Rainwater tanks for each cabin and the conference centre to collect the majority of roof water,
- Excess roof water to run to the enlarged dam,
- Vegetated buffer strips to deal with runoff from carparking areas, and
- Grassed swales to deal with runoff from the internal access roads.

While these measures may be adequate, the applicant will be required to submit a Stormwater Management Plan which demonstrates compliance with Level 3 Water Quality & Quantity requirements of this DCP. This will need to be demonstrated by the use of modelling.

Chapter 13 – Food Premises and Activities

The kitchen of the conference centre will be required to comply with the Bellingen Shire Council Food Premises Code.

Chapter 14 – Equity of Access

Cabins 8 & 9 have been nominated as accessible units. A floor plan of the accessible cabin design has been provided and it appears that the development should comply.

The conference centre floor plan shows no major impediments to providing a continuous accessible path of travel. An accessible toilet has not been shown – this will be required to be provided as well as at least 2 accessible car parking spaces.

SECTION 79C(1)(A)(IV) – ANY MATTERS PRESCRIBED BY THE REGULATIONS

Section 92(1)(a) – NSW Coastal Policy

Generally consistent with the objectives and strategic actions of this policy.

Section 92(1)(b) – AS 2601, Demolition of a Building

Demolition of the disused piggery will be required to comply with this standard.

SECTION 79C(1)(B) – THE LIKELY IMPACTS OF THAT DEVELOPMENT

Context & setting – The development will be barely visible from a public place, and only for a short time frame from vehicles travelling along Waterfall Way. The development is well set back from the road and cabins along the 1st ridge are screened by natural landform. The small scale, low rise and dispersed nature of the development is appropriate in its rural setting. Revegetation works at the front of the property and in front of the conference centre will further assist to protect the rural setting of the area.

Access, transport & traffic – The existing vehicular access is suitably located with good sight distance. There is ample room within the road reserve and Waterfall Way to construct the works recommended by the Traffic Impact Statement (including new left turn-out lane, right turn-in lane and intersection upgrade) which will make traffic movements into and out of the property safe and will minimise any disruption to traffic flow and safety on Waterfall Way. It is further noted that traffic generated by this development will result in only a very minor increase in traffic numbers along Waterfall Way.

Utilities – Telecommunication and Electricity services will be required to be extended to serve the development at the owners cost. No Council services will be required to be extended or be directly provided for this development however due to the likely additional demand on Council's road network and community services in the towns, S94 contributions will be levied for this development.

Heritage – No known items of cultural heritage will be impacted by this proposal.

Other land resources – As the development footprint is located away from regionally significant farmland and improved pasture, the development should not impact on agricultural productivity of the property.

Water – As discussed under Clause 18 and 23 of the BLEP 2003, the development should not have an adverse impact on water quality.

Soils – Provided soil erosion and sediment controls are put in place during and post construction the development should not have an adverse impact on soils.

Flora & Fauna - While the proposal involves selective clearing of 1.67ha of vegetation (comprising of mixed Eucalypt and Tallowood Forest communities as well as Lantana) and the under-scrubbing of an additional 0.78ha to establish Asset Protection zones around the development, it is acknowledged that the majority of this vegetation is regrowth (less than 30 years old). Further, no threatened plant species were found to occur in these areas. The applicant's ecological consultants have undertaken a thorough and detailed flora & fauna assessment and the assessing officer concurs with their conclusion that the development is unlikely to have a significant impact on the two Endangered Ecological Communities that occur along Connells Creek or any threatened flora, provided that the recommended mitigation measures and regeneration & replanting works as shown on the Figure 19 in their report are implemented as part of the development.

Waste – Council officers are satisfied that wastewater can be disposed of on site in accordance with the relevant standards and without adversely impacting on water quality

downstream or the health of visitors and residents. Garbage storage and disposal details will be required to be provided prior to issue of the Construction Certification.

Energy Efficiency – The development does incorporate some energy efficient measures, including good insulating materials for construction, solar external lighting, access to natural light in all cabin rooms, grey water reuse. Further, as the conference centre classes as a Class 9 building, BCA - Section J (Energy Efficiency) will apply.

However it is considered odd that solar hot water heating and photovoltaic panels are not to be installed to serve the development and to offset the substantial increase in energy usage that will result from this development, in particular as the majority of the cabins will have very good solar access. It is noted however that this may be required to enable eco-certification of the development. Further, it is possible that as the total floor area of these cabins exceed 300m² (as allowed for in Class 1(b) buildings), they may fall into a Class 3 building category, which also triggers Section J of the BCA.

Noise & Vibration – Noise from the tourist accommodation operation is likely to be negligible – with the exception of noise generated by traffic movements. It is considered unlikely that the traffic movements generated by the use would have an adverse impact on the amenity currently enjoyed by residents of adjoining and nearby properties given the presence of a main road and the distance between the access roads and rural dwellings on adjoining properties.

Provided no live music or amplifiers are used on the deck or in the gardens during night time functions it is considered unlikely that the use would exceed background noise levels by more than 5dbA at night time.

Natural Hazards – The development has been sited and designed to avoid risks posed by bushfire and flooding.

Technological hazards – Negligible risks posed by previous use of the site as a piggery and wastewater dam. Refer to discussions under SEPP no. 55.

Safety, security & crime prevention (refer to CPTED Consultation Protocol) – Each cabin will be able to be locked to prevent theft and intrusion.

Social impact in the locality – Expected to be positive. The development provides a function facility not available elsewhere in the shire.

Economic impact in the locality – Expected to be positive. As the facility will not be a “total destination resort” (which is prohibited under the 1(a1) zoning) guests are likely to make good use of the shops, services and tourist facilities in the area during their stay. Further, the additional tourist accommodation provided by this development is expected to contribute to the continued viability of events in the area such as Global Carnival and the Jazz Festival as there is often a shortage of accommodation during these events.

Site design & internal design – The design and layout of the development is considered acceptable.

Disabled access requirements – Will be provided. Refer to discussions under Chapter 14 of Council's DCP 2010.

Construction impacts – Impacts on the environment and amenity of the area should be able to be minimised by imposition of limited construction hours and dust suppression and erosion control requirements.

Cumulative impacts – No adverse cumulative impacts anticipated.

SECTION 79C(1)(C) – THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The site is considered suitable for this development for the reasons discussed in this report.

SECTION 79C(1)(D) – ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

As previously discussed, the application was notified to adjoining owners from the 15th September 2010 to the 6th October 2010. One submission was received and a copy of this submission is attached. The main points of objection are discussed below.

Submission: *I note the roads of less than 15 degrees of slope will be unsealed together with the half carpark. As I understand the terrain in this area this would equate to much of the roadwork being unsealed which would create a huge dust problem, bearing in mind during the drier times of the year most of the wind is of an easterly direction which would blow the dust directly at my home.*

Comment: In view of the above and the higher traffic movements likely to be experienced between the intersection with Waterfall Way and the conference centre, Council's Development Engineer has recommended that this area be bitumen seal.

Submission: *I understand the sewerage treated water will be irrigated in bushland when soil moisture conditions are right. Who will control this, or will it be allowed to drift into a situation where the pumps are turned on day or night, rain hail or shine....?*

Comment: The applicants consulting engineer has provided a comprehensive Wastewater Management Plan for the site which details provision for wet weather storage. During wet weather, effluent will be pumped to a 135kL (30,000 gallon) capacity storage tank for detention. Council's Health & Building Surveyor has advised that this capacity is satisfactory. Further, to ensure the effluent disposal system is operating to Council's satisfaction, Council will require a 3 monthly inspection program to be implemented for this development. Continued monitoring of the system will ensure that system failure is identified and rectified quickly.

Submission: *I note Stage 1 is for 10 cabins and a marquee for a convention centre which does not sound viable. If it provides to be non-viable what will happen to the 10 cabins? Will they become permanent/semi-permanent accommodation, which would increase traffic significantly and to a full-on daily basis?*

Comment: The applicants have altered the proposed staging so that Stage 1 involves the erection of 6 cabins only. "Tourist facilities" involving accommodation only are permitted on their own in the 1(a1) zone under the BLEP 2003. The conversion of these buildings into permanent accommodation will not be permissible under the BLEP 2010 and therefore consent for such a use would not be granted. It is further noted that if the venture proves unviable the cabins should be able to be easily relocated off site.

SECTION 79C(1)(E) – THE PUBLIC INTEREST

Approval of the application is not considered to be contrary to the public interest.

ANY OTHER RELEVANT LEGISLATION/MATTER

Internal Referrals

Engineering and Operations Division

Council's development engineer provided the following comments and raised no objection to approval of the development, subject to the imposition of conditions which are included in the recommended conditions of approval attached to this report.

Access

The intersection with Waterfall Way doesn't comply with RTA standard and must be upgraded. This is a traffic generating development and a significant increase in traffic is anticipated during peak time. The intersection would require special treatment, as also recommended by RTA. The available sight distance on both sides are very good and complies with AS 2890.1:2004.

The internal access way is of compacted gravel and about 2.7m wide. It is proposed to widen the access way to 6.5m to cope with increased traffic. RFS has recommended 8m wide access. It is proposed to have gravel paved internal access. Given the traffic volume and diverse range of vehicles that would be entering into the premises, it is recommended to have bitumen paved access at least up to the proposed conference centre. This is also consistent with table 5.6.2 of DCP 2010. The proposed loop road surrounding the cabins can be constructed of 150mm compacted gravel, laid over compacted road base of appropriate thickness.

The intersection with Waterfall Way shall be upgraded in the light of the report "Traffic Impact Statement" prepared by Enginuity Design Pty Ltd. Type 'AU' has been recommended for left and right turn treatment. This also complies with RTA recommendations.

Stormwater

The lot is within coastal protection zone and SEPP 71 shall apply for the development. The vegetated swale drains, as proposed, would absorb a significant portion of nutrients. It also would allow infiltration and sedimentation. Once stormwater is discharged into the enlarged dam, there would be more removal of nutrients and sediments. It is anticipated that stormwater quality would improve to a significant extent, that won't pose any threat to the coastal environment. However, water quality modelling is recommended to verify the fact.

Sewer

In absence of Council's reticulated sewer system, it is proposed to provide an on-site sewage disposal system.

Water

Two existing buildings are presently served by Council's reticulated water supply system. However, due to limitations with supplying the proposed development from Council's reticulated water supply, it is proposed to provide rain water tank to supply water to all cabins and the conference centre. It is proposed to provide 20,000 L tank for each cabin and 40,000 L tank for the conference centre.

Flood

The 1% AEP flood level at the property is about 6.5m AHD. The area to the south of Waterfall Way, where the proposed development would be sited, is basically flood storage area. The only filling works proposed is raising the dam wall to 3.5m AHD, which is below 1% AEP level. There won't be any loss in flood storage. All the cabins and the conference centre would have floor level at or above GFPL. The 1% AEP flood level runs along the eastern and southern boundary and some part of the middle section. The land to the north of Waterfall Way is entirely below the 1% AEP level. About 60% of the land to the south is also below the 1% AEP flood level. However, the proposed development is above that level.

Waterfall Way and the internal access will be inundated during major flood event. Since the facilities are to be used for seminars, conferences etc, there is a potential risk of large no of people being water locked for indefinite period. Pursuant to section 8.9.1 of DCP, the internal access shall be at a minimum level of the flood immunity of the adjoining public road. On the event of any emergency, provision should be made to rescue people. The main car parking should be big enough to enable helicopter landing and must be above PMF level.

Health & Building Surveyor

Council's health & building surveyor provided the following comments and raised no objection to approval of the development, subject to the imposition of

conditions, which are included in the recommended conditions of approval attached to this report.

BCA

The proposed cabins would be class 1(b) buildings and the conference centre would be a class 9(b) building pursuant to the BCA classification regimen. The separation between the buildings does not create any issues re spread of fire. Each cabin should be fitted with smoke detectors in each bedroom and as is the case with the design of the subject cabins, one in the living area. A system of lighting must be installed for assistance in evacuation.

Condition shall apply for access for people with disabilities.

Bushfire

The bushfire report is comprehensive and the Rural Fire Service has provided conditions of Development Consent in the form of a Bushfire Safety Authority. Methods to comply with the construction requirements for the cabins and conference centre shall be provided prior to the release of Construction Certificates for the respective buildings.

On site sewerage

The proposed wastewater management strategy prepared by Engenuity Design Pty Ltd is comprehensive and references relevant standards for the scale of the development. The report and recommendations are considered satisfactory. Condition shall be applied that stages beyond stage 1 of the development will be subject to the satisfactory operation of the waste management facility serving stage 1. The approval to operate the system should have inspection frequencies at the outset at 3 to 6 months.

Consultation with Government Departments

The application was referred to the RTA, RFS and DECCW. No objections to the development were raised. Copies of their responses are attached.

CONCLUSION

All matters under Section 79C (1) of the Environmental Planning and Assessment Act 1979 have been carefully considered and the relevant matters have been discussed in the foregoing report.

RECOMMENDATION

That the Consent be granted pursuant to the provisions of Section 80(1) of the Environmental Planning and Assessment Act, 1979 subject to the following conditions for the reasons shown in brackets at the end of each condition:-

- 1). The development shall be carried out in accordance with the approved plans attached to this consent and as amended by the following conditions. The approved plans and other documents are endorsed with a Council stamp and authorised signature. A copy of this consent and approved plans are to be kept on site at all times while work is being undertaken.
 - 2010/AF-166/1[To ensure the legality of the development]
- 2). Prior to issue of any Construction Certificate, a clear staging site plan nominating each stages of the development (and the cabins to be constructed as part of each stage) in accordance with the approved written description of the staging is to be submitted.
[To ensure clarity]
- 3). The development may be carried out in stages as provided for in this consent / with more than one Construction Certificate being issued for the development, provided that such stages are provided in a logical and functional arrangement to the satisfaction of the Director of Environmental Health & Planning and Director of Engineering & Operations.
[To allow flexibility in establishing the development]
- 4). Specific commitments and details on how the development will meet the criteria for an Eco-tourism operation under the Australian Eco Certification Program is required to be provided to Council prior to the issue of any Construction Certificate. Further, proof of registration as an "Eco-tourism" operator within 12 months of the use commencing.
[To ensure best practice and that the environmental impact of the development is minimised]
- 5). The proposed use must not be conducted in such a manner as would interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise.
In particular:
 - The noise level emanating from the use of the development must not exceed the background level by more than 5 d(B)A when measured at the boundary of the allotment.

- Truck movements and deliveries must be scheduled to minimise noise impacts.

[To preserve the amenity of the area]

- 6). The proposed construction works and excavation works on the site must be carried out in such a manner as to minimise the effects of dust on adjoining residents.

In particular:

- All necessary dust suppression measures must be installed and operational prior to work commencing on the site; and
- Excavation and construction works are to be suspended where environmental conditions inhibit effective dust control measures.

[To minimise dust problems]

- 7). Contributions described in the following schedule are to be paid to Council. These contributions are current at the date of this consent and are based on an increase (or potential increase) in occupancy beyond 3 bedrooms (or potential bedrooms) plus an additional project administration component.

Payment is to be made **prior to issue of a Construction Certificate**.

Schedule of contributions authorised under s.94 of the Environmental Planning and Assessment Act (1979) are listed below.

Contribution Plan	Unit Type	Contribution Base Rate	Unit Rate	Contribution Levied	Contribution Base Rate Applicable until
Community Facilities and Open Space 2008	Increase in Occupancy	\$670.00 (per person)	1.2 ET x 18	A \$14,472	30 June 2011
Local Roads and Traffic Infrastructure 2009	Increase in Occupancy Catchment No: 17	\$163 (per person)	1.2 ET x 18	B \$3,532	30 June 2011
Project Administration	Administration	A + B + Bushfire Contribution	0.06 x \$24,548	\$1,473	30 June 2011

Note: The contribution Base Rate is adjusted at 1st July each year according to the previous Quarter Consumer Price Index (CPI) for Sydney All Groups.

The rates are determined under Council's Section 94 Plans which are available for inspection at Council's Administration Centre, Hyde Street, Bellingen during normal office hours.

[Contribution towards provision of services and facilities - Section 94 of the Environmental Planning & Assessment Act, 1979]

- 8). Due to the increased demands on bushfire services created by this development, a contribution must be lodged with Council towards the supply of equipment and or buildings for the purpose of **bushfire** fighting. Payment is to be made **prior to commencement of the development/ issue of a Construction Certificate/ issue of a Subdivision Certificate**.

The base rate per lot/dwelling (2.4 ET) is: \$606

{i. Shire Wide Contribution \$ 427

{ii. Fernmount Brigade \$ 179

The total contributions applicable to this development (total 21.6 ET) are \$6,544

The contribution payable is for 18 x 2 bedroom tourist cabins

NOTE: The Contribution Base Rate is adjusted at 1st July each year according to the previous Quarter Consumer Price Index (CPI) for Sydney All Groups. Prior to 1st July 2007 the Base Rate had been adjusted daily.

The rate is determined under Council's Section 94 Plans which are available for inspection at Council's Administration Centre, Hyde Street, Bellingen during normal office hours.

[Contribution towards provision of services and facilities - Section 94 of the Environmental Planning & Assessment Act, 1979]

- 9). All waste is to be collected, stored and disposed of to the satisfaction of the Director of Environmental Health and Planning. A waste management plan which addresses the collection, storage and disposal of waste and that complies with the requirements of Section 2.6.11 of the Bellingen Shire DCP 2010 is to be submitted to and approved by the Director of Environmental Health and Planning **prior to the issuing of a Construction Certificate**. The plan must incorporate measures to separate recyclable materials and describe the methods for collection of waste containers from the site.

[To provide for recycling and adequate disposal of waste]

- 10). All temporary structures must be securely fixed and held down to the satisfaction of the Director of Environmental Health and Planning.

[Public safety]

- 11). The floor level of the cabins must be erected at or above the General Flood Planning Level (GFPL) of 6.5 metres, ie; 500 mm above the 1% Annual Exceedance Probability (AEP) (1:100 year) flood level. A registered surveyor must determine the floor levels and a compliance certificate with regard to this level must be submitted to Council prior to issue of the Occupation Certificate for cabins 5,15,16 & 17. No further work is to proceed until the certificate has been submitted to Council.

[To reduce flood hazard]

- 12). Flooding proofing shall be provided to all parts of buildings below the GFPL in accordance with the requirements of Appendix 8.5 of the Bellingen Shire DCP 2010.

[To reduce flood damage]

- 13). The works required to enlarge the dam as proposed shall cause no net loss of flood storage at any level below the GFPL.

[To reduce impacts of the development]

- 14). A search for koala scats is to be made prior to tree clearing particularly around the base of the Tallowwood (*Eucalyptus microcorys*) species. Individual koalas are to be

protected from tree felling operations wherever detected. A tree containing a koala shall not be felled while the koala is in the tree.

[To protect koalas]

- 15). When selectively clearing and under-scrubbing for Asset Protection Zones, preference should be given to retaining tree types and species in the following order:

1. Hollow-bearing trees,
2. Cone-bearing she-oaks,
3. Forest Oaks,
4. Fleshy Fruited understorey shrubs – which mainly occur in vegetation Block A (Figure 4 in the Flora & Fauna Assessment undertaken by Flametree Ecological Consulting),
5. Tallowwoods, and
6. All other species

[To protect the habitat of threatened fauna species]

- 16). To ensure that the multiple objectives of vegetation conservation, bushfire protection and minimising visual impact are appropriately dealt with at the site preparation stage, the proponents must arrange for an on site meeting prior to the commencement of works with at least the following people in attendance;

- a) A representative from the RFS or Holiday Coast Bushfire Solutions to assist in identifying selective clearing to achieve a suitable outcome that ensures the objectives and specifications of the Asset Protection Zones are met together with the requirements of retaining habitat of threatened species and koala habitat trees.
- b) A qualified ecological consultant to assist in identifying the species requested to be retained in preference (as per condition 15) on the site.
- c) The Contractor who will undertake the site preparation works (eg: clearing, excavation etc.) and
- d) A Council representative.

The objective of the meeting will be to ensure that the site is appropriately marked out to prevent unnecessary clearing and vegetation removal and to ensure that the Contractor is fully aware of their obligations.

[To ensure that the conditions of consent are correctly implemented]

- 17). "Hollow-bearing tree 0" as shown on Figures 10 and 16 of the Flora & Fauna Assessment dated January 2009 undertaken by Flametree Ecological Consulting must be retained.

[To protect fauna species inhabiting the site]

- 18). If any hollow bearing trees are required to be removed, four microbat nest boxes are to be installed in nearby vegetation at least one week prior to tree removal.

[To protect fauna species present on the site]

- 19). If any threatened species is encountered in the area, Council's Division of Environmental Health and Planning and NSW National Parks and Wildlife Service is to be contacted immediately and logging operations are to cease in that locality until ameliorative prescriptions are determined for the site. The operation is to be carried out in accordance with those ameliorative prescriptions.

[To protect threatened species]

- 20). Planting/regeneration as described in Section 4.4 of the Flora & Fauna Assessment dated January 2009 undertaken by Flametree Ecological Consulting must be undertaken as part of the proposal, under the guidance of a qualified bush regenerator. Planting of Zone A must be done and properly established **prior to issue of any Occupation Certificate** for Stage 1 of the proposal. Planting, fencing and regeneration of Zones B, C & D are to be commenced prior to the Occupation Certificate for Stage 1 and completed to Council's satisfaction prior to issue of the Occupation Certificate for any further stage in the development.

[To offset the impact of the development on fauna habitat and to protect the visual amenity of the area]

- 21). To allow free movement by Koalas, any new fences at the site are to be Koala-permeable (ie. with a bottom rung at least 50cm above the ground).

[To minimise impact of the development on koala movement]

- 22). To prevent disturbance to waterbirds (particularly Black-necked Storks) foraging in the Connell's Creek Wetlands, signs should be put up near the cabins asking guests to avoid disturbing waterbirds

[To minimise the impact of the development on waterbirds]

- 23). A minimum of 20 car parking spaces in addition to 1 per 2 employees for the conference centre and 1 carparking space per cabin is to be provided on the site in the locations shown on the site plan and as described in the Statement of Environmental Effects dated July 2010. The driveway and car parking spaces (including the space required to be accessible for persons with disabilities) are to be constructed to a suitable surface and clearly line-marked in accordance with Chapter 5 of the Bellingen Shire DCP 2010. Suitable signs are to be erected to direct vehicles to parking areas. Plans and specifications of the car parking areas must be submitted to and approved by the Director of Engineering and Operations prior to commencement of any work.

The car parking layout shown on the submitted plan is not sufficiently detailed. Further, carparking provision adjacent to cabins 6 & 7 is not permitted. **Prior to the issuing of a Construction Certificate** a detailed car parking layout in compliance with Chapter 5 of the Bellingen Shire DCP 2010 must be submitted to and approved by the Director of Environmental Health and Planning.

A Construction Certificate is to be obtained prior to the commencement of any work.

[To ensure adequate parking]

- 24). The internal road network and carparking areas, is to be designed to accommodate the turning movements of a large bus.

[To provide adequate road design]

- 25). The use of the development is limited to tourist accommodation. No one person may occupy any of the guest rooms for:
- (a) more than 42 consecutive days with an interval of at least 14 days between occupancies; and/or
 - (b) more than 100 days in any 12-month period.
- [To ensure that the development is used as a tourist facility and not for permanent occupation]
- 26). A maximum of 4 persons is to be accommodated in each cabin at any time.
- [To limit the extent of the development, particularly in relation to the capacity of existing services such as effluent disposal]
- 27). An accommodation register shall be maintained with details of guest names and addresses, dates of arrival and departure receipt no's for daily and/or weekly accommodation and shall be made available for inspection when required by Council.
- [To ensure the capacity of the development is not exceeded]
- 28). The proprietor/operator of the tourist facility must be a permanent resident of the property.
- [To ensure adequate supervision and management of the facility]
- 29). Operators involved in food preparation for the proposed conference centre must obtain appropriate training in food safety and hygiene, acceptable to Council and prior to commencing operations.
- The facilities used for food preparation must comply with the requirements of Chapter 13 (Food Premises & Activities) of the Bellingren Shire DCP 2010.
- [To protect public health]
- 30). A detailed landscaping proposal, including a site analysis plan, landscape documentation and a landscape maintenance schedule based on the concept plan and prepared submitted to Council on the 13th July 2010 and in accordance with the requirements of Chapter 9 of the Bellingren Shire DCP 2010 is to be submitted to and approved by the Director of Environmental Health and Planning **prior to the issue of any Construction Certificate**.
- In addition to the concepts described in the submitted landscape concept plan, the proposal is to show shade and landscaping vegetation around and within the carparking areas and the conference centre. The landscaping is to be carried out in accordance with the approved plan prior to occupation of the conference centre.
- [To enhance the amenity and appearance of the development / to maintain privacy for neighbours and to preserve the amenity of the area]
- 31). All buildings are to be finished in colours to blend with the surroundings. Details are to be submitted to and approved by the Director of Environmental Health and Planning **prior to the issuing of a Construction Certificate**.
- [To minimise visual impact]

- 32). The proposed development must be provided with a potable water supply in accordance with the “Australian Drinking Water Guidelines 1996” published by the National Health and Medical Research Council and the Agriculture & Research Management Council of Australia and New Zealand.

[To ensure an acceptable level of water quality]

- 33). In the event of Acid Sulfate Soils being intersected on the site during construction works on the dam or internal access roads, excavation works are to cease and Council's Environmental Health Officer is to be notified immediately. Works shall not recommence until such time as:

- A detailed assessment, comprising boreholes and/or test pits is carried out to determine the area, extent and depth of ASS,
- The exposed Acid Soils are dealt with in accordance with an Acid Sulfate Soil Management Plan approved by Council, and
- Written authority from a Council representative to recommence works (with conditions if required) is received.

[To minimise impact of the development on water quality]

- 34). **Prior to the issue of any Construction Certificate**, a Stormwater Management Plan developed using water quality modelling demonstrating compliance with the Level 3 requirements for water quality and peak discharge contained within Chapter 12 of the Bellingen Shire DCP 2010 is to be submitted for the approval of the Director of Environmental Health & Planning.

[To ensure best practice and that the impact on water quality is minimised]

- 35). The Construction Certificate shall not be issued over any part of the site requiring a licence under Part 5 of the *Water Act 1912* until a copy of that licence has been provided to Council.

[To ensure the legality of the development]

Building conditions

- 36). The site and surrounding areas are to be kept in a clean and tidy condition at all times. Waste paper must be stored in a closed receptacle. Any construction works involving the generation of noise which extends beyond the boundary of the premises shall be confined to 7.00 am to 5.00 pm Monday to Saturday.

[To minimise the impact of building works on the locality]

- 37). A sign detailing the name and address and contact number of the builder or prime contractor and the Principal Certifying Authority is required to be displayed on the site during construction, stating “NO UNAUTHORISED ENTRY TO SITE”.

[To ensure ready identification by Council, suppliers and the general public].

- 38). Use / Occupation of the cabins and conference centre must not take place until the building has been inspected and approved for the purpose by the Principal Certifying Authority and an Occupation Certificate issued.

Prior to occupation the building must be:-

- provided with adequate sanitary facilities;
- weatherproofed;
- have adequate safety features (i.e. balustrades and smoke detectors); and
- be of adequate visual appearance.

[To ensure compliance]

- 39). Soil erosion control measures must be implemented for all earthworks on the site. These are to be in accordance with the “Planning for Erosion and Sediment control on Single Residential Allotments” guidelines in Appendix 12.1 of Council’s DCP 2010/.

These erosion control measures must be implemented immediately on the completion or temporary cessation of the earthworks and prior **to commencement of building works** to the satisfaction of the Director of Environmental Health and Planning.

[To minimise soil erosion]

- 40). A durable notice must be permanently fixed to the building in a prominent location, such as a meter box or the like, indicating antcaps, edgebeams and termite barriers shall be inspected each 3-6 months.

[To alert the occupants of the need for inspection]

- 41). All plumbing work shall be carried out by a Licensed Plumber and drainer and in accordance with Australian Standard AS 3500 and NSW Variations.

In particular, pipework is to be bedded and secured in accordance with relevant provisions.

It is the applicants responsibility to notify the plumber/drainer of all conditions of approval.

Note 1: Granular bedding required to all drains.

Note 2: Water must not be drawn from Council’s water supply until a meter has been installed by Council’s Water Operator

[To ensure compliance with relevant standards]

- 42). All roof and surface storm water is to be discharged on site in a nuisance free manner and so that it;

- does not affect adjoining properties,
- is clear of the effluent disposal area,
- is directed away from any buildings,
- Does not cause or contribute to erosion.

[To ensure adequate stormwater disposal]

- 43). All building works must be carried out in accordance with the provisions of the Building Code of Australia.

[To ensure the work is carried out to an acceptable standard and in accordance with the State’s Building Code]

- 44). Access and facilities for persons with disabilities are to be provided in accordance with AS 1428 - Design for Access and Mobility and Council’s Development Control Plan 2010, Chapter 14 – Equity of Access. Complete details of compliance with the DCP and Australian Standard, including how access for people with disabilities is to be provided in each stage of the development, are required **prior to the issue of a Construction Certificate for the development.**

[To ensure adequate parking, access and facilities for persons with disabilities]

- 45). The Fire Safety Measures listed in schedule below are to be installed in the conference centre in accordance with the Building Code of Australia.

Pursuant to Clause 168 of the Environmental Planning & Assessment Regulation 2002, it will be necessary for the owner of the building, on completion of work, to furnish Council with a Final Fire Safety Certificate from a competent person so as to certify the Fire Safety Measures listed in the attached schedule, that are appropriate to the building. In addition, it will be necessary for the building owner to cause Council to be given an annual fire safety statement. The statement must indicate that:

Each essential fire safety measure installed in the building was found, when it was assessed, to be capable of performing to a standard not less than that specified in the fire safety schedule for the building for which the certificate is issued.

That a properly qualified person has inspected the building and has certified that, as at the date of inspection, the condition of the building did not disclose any grounds for a prosecution under Division 4C.

[Public safety]

FIRE SAFETY SCHEDULE

Exit Signs	Part E4 of the Building Code of Australia and AS2293.1 "Emergency Evacuation Lighting in Buildings - Design and Installation" AS2293.2 - "Emergency Evacuation Lighting in Buildings - Inspection and Maintenance"
Portable Fire Extinguishers	Clause E1.6 of the Building Code of Australia AS2444 - "Portable Fire Extinguishers Selection and Location". AS1841 to AS1850 - "Portable Fire Extinguishers". AS1851 Part 1 - "Maintenance of Fire Protection Equipment - Portable Fire Extinguishers".

- 46). Smoke alarms must be installed in each cabin, on or near the ceiling;

- (a) in every bedroom; and
- (b) in the hallway between the bedrooms and the remainder of the building.

A system of lighting to assist evacuation of occupants in the event of a fire, and:

- (a) be activated by the smoke alarms; and
- (b) consist of—
 - (i) a light incorporated within the smoke alarm; or
 - (ii) the lighting located in the corridor, hallway or area served by the smoke alarm.

[Fire safety]

- 47). **Prior to Council issuing a Construction Certificate**, full details and specifications are required for the On-site sewerage management system in accordance with the Wastewater Management Strategy produced by Engenuity Pty Ltd. This includes the Aerated Wastewater Treatment System, Holding tanks, drainage and irrigation lines and the irrigation field (effluent disposal area). A detailed site plan must also accompany this. Consideration on the installation of a suitably sized grease arrestor for the conference centre must also be considered for Stage 3 of the development.

[To ensure a final satisfactory level of detail is provided for approval]

- 48). The on-site sewerage management system, subject of this approval may not be operated or used until the completed work has been inspected and Council has issued written approval to the owner to operate the on-site sewage management system. Upon commencement of the use of Stage 1 of the proposed development, the on site sewerage management system shall be inspected at a minimum of a 3 monthly basis to ensure operational compliance. The same shall apply to successive stages.

[To comply with State Government legislative requirements]

Engineering conditions

- 49). **Prior to issue of a Construction Certificate**, the applicant is to submit detailed design plans for the development for approval by the Director of Engineering and Operations. The works are to conform to the standards and requirements set out in Councils "Standard Conditions for Engineering Works Associated with Developments-1993". No works are to be undertaken until Council has issued a Construction Certificate for the work. The following details, as a minimum, are required to be shown:

- a. Details of the proposed upgrade of the intersection with Waterfall Way including all dimensions, typical cross section, long section, proposed materials, special treatment for left and right turn and drainage features.
- b. Detail design of access way within private property.
- c. Details of all drainage lines.
- d. Details of the scour protection beds at all out-fall.
- e. Details of central car park design, including key dimensions such as aisle and car park width, drainage etc.
- f. Line marking and signage.
- g. Details of erosion and sediment control measures during construction.
- h. Details of stormwater treatment & detention devices.

- 50). An approved vehicular access that is continuous between the approved public road access and the property boundary must be provided as part of the development. The access must be provided at no cost to council and comply with the following;

- (i) The access must be completed prior to issue of the final occupation certificate.
- (ii) Design and construction of the vehicular access for the development must satisfy:
 - The conditions of a consent, pursuant to the Roads Act 1993, specific to this File No: **2010/AF-166**
 - The Director of Engineering and Operations.

The design and construction of the access must be in accordance with the stamped and approved drawings as part of this development consent and the associated Roads Act consent.

[The likely impacts of the development in respect of Construction, site attributes, public interest, traffic, access and safety]

- 51). The vertical profile and pavement surface of vehicular access construction must ensure all weather accessibility by two wheel drive passenger vehicles (generally) conforming with the vehicular, "Ground Clearance Template", being Figure C1 of Appendix C of AS 2890.1:2004.

[The likely impacts of the development in respect of Construction, site attributes, public interest, traffic, access and safety]

- 52). Within the road reserve, an access driveway pavement must be provided, at least matching the standard of the public road pavement. (as further detailed in the associated Road Act Consent, specific to this application 2010/AF-166. This standard of access pavement construction must be continuous, at least between the property boundary and the existing public road. The access must incorporate an approved culvert or dish drain as appropriate, including proprietary manufactured headwalls and guideposts.

[The likely impacts of the development in respect of Construction, site attributes, public interest, traffic, access and safety]

- 53). The construction and use of any vehicular access driveway and any ancillary, other frontage or on-site works or activities must reasonably ensure the protection, safety, utility, amenity and durability of the adjacent public road and any utility, amenity or drainage assets.

[The likely impacts of the development in respect of Construction, site attributes, public interest, traffic, access and safety]

- 54). The intersection with the Waterfall Way must be constructed to a 'Type AU' standard, as proposed. All work shall be done in accordance with council's "Standard Conditions for Engineering Works associated with Development" at no cost to council.

[The likely impacts of the development in respect of Construction, site attributes, public interest, traffic, access and safety]

- 55). Within private property an access driveway must be provided with carriageway 6.5m wide and a 1m shoulder on both sides. The section of the road between the property boundary to the north and the proposed conference centre must be suitably formed, drained, compacted and constructed with two coats (10 mm and 7 mm aggregate coats) sprayed bitumen on an approved gravel base course not less than 200 millimetres compacted thickness;

The loop road, surrounding the entire development must be provided suitably formed, drained, compacted and surfaced with not less than 150 mm of compacted gravel on an approved road base. Where gradients approach or exceed 15% the surface must be bitumen sealed or concreted.

[The likely impacts of the development in respect of Construction, site attributes, public interest, traffic, access and safety]

- 56). The cross-fall should be one-directional toward any swale drains and should not be more than 10%. The gradient shall not exceed 25%, even for short reach. The internal, driveway must not divert or concentrate stormwater runoff onto the public road reserve or cause other nuisance.

[The likely impacts of the development in respect of Construction, site attributes, public interest, traffic, access and safety]

- 57). The applicant is required to demonstrate that the access satisfies the performance requirements of "Planning for Bush Fire Protection 2006" and conditions posed by the NSW RFS in the Bush Fire Safety Authority.

[The likely impacts of the development in respect of public interest, traffic, access and safety]

- 58). A scour protection bed must be provided at all out-falls. All work shall be done in accordance with council's "Standard Conditions for Engineering Works associated with Development".

[The likely impact of the development in respect of public interest]

- 59). All fill for the proposed dam enlargement to be placed and compacted as level 1 fill in accordance with AS3798-2007.

[To minimise future settlement and help protect against scour during flood events]

- 60). Prior to release of Construction Certificate, the applicant shall submit "Erosion and Sediment Control Plan (ESCP)", as proposed.

[To minimise erosion and sediment transport]

- 61). Construction works including excavation associated with the development must be carried out in such a manner as to minimise the effects of dust on adjoining residents.

- A dust suppression plan must be designed and approved prior to work commencing on the site. Details of the plan including performance measures must be submitted to and approved by the Director of Environmental Health and Planning as part of the preparatory process.
- Excavation and construction works will be suspended where environmental conditions inhibit proper dust control measures.

[The likely impact of the development in respect of public interest]

- 62). The main car parking area for the proposed development shall be designed in accordance with AS2890.1: 2004. This shall include compliance with the maximum grades and rate of change of grade. The parking must be at or above the PMF level to enable helicopter landing, on the event of any emergency.

[The likely impacts of the development in respect of traffic, safety, drainage, public interest and security]

- 63). No work shall occur within the road reserve until Roads Act consent has been issued and the conditions contained therein complied with.

[The likely impacts of the development in respect of traffic, utilities, safety, drainage, the public interest and security]

- 64). Compliance certification by a Certified Practicing Engineer (CPEng) is required for the access driveway and other external works including drainage within the road reserve, and certifying that the access, drainage, ancillary and other civil construction conforms with the approved access design and the intent and the specification included in, this and the associated Roads Act consent.

[The likely impacts of the development in respect of traffic, utilities, safety, drainage, the public interest and security]

- 65). Any utility service installation to the property and which affects any road pavement must not be trenched. Such services, except drainage, must be laid using under road boring techniques and placed in durable traffic load supporting conduits with not less than 450 mm cover.

[The likely impacts of the development in respect of utilities, safety, traffic, public interest and security]

- 66). The surface levels and profiles of all infrastructure appurtenances, such as electrical and telecommunications pits/covers must be finished consistent with the designed and constructed levels and planes of the finished subdivision.

These installations must not represent trip hazards or discontinuities with the finished land profiles.

[The likely impacts of the development in respect of safety, construction, amenity, site attributes and public interest]

OTHER APPROVALS: This consent also includes:

1. General Terms of Approval provided by the Office of Water for “works” requiring approval under Part 5 of *the Water Act 1912* (refer to Attachment D)
2. General Terms of Approval for a Bush Fire Safety Authority issued under S100B of *the Rural Fires Act 1997* (refer to Attachment H)

ATTACHMENTS:

- A Additional information provided by applicant on the 11th November 2010 comprising of additional information on the proposed access roads, the proposed dam and a preliminary ASS assessment.
- B Response to additional information request from the NSW RFS dated the 27th September 2010
- C Submissions x 1
- D Response from the NSW Office of Water dated the 23rd August 2010
- E Response from the RTA dated the 25th August 2010
- F Response containing a request for additional information from the NSW RFS dated the 2 September 2010
- G Response from Industry & Investment NSW dated the 13th September 2010
- H Bushfire Safety Authority from the RFS dated the 24th November 2010