

JOINT REGIONAL PLANNING PANEL
Northern Region

JRPP No	2012NTH015
DA Number	DA 2012/334
Local Government Area	Ballina Shire Council
Proposed Development	Road construction comprising the southern extension of Hutley Drive from the Pacific Pines Estate to the Elevations Estate and including vegetation clearance within SEPP 14 affected area
Street Address	Lot 615 DP 1179450 and the Hutley Drive Road Reserve Lennox Head.
Applicant/Owner	Ballina Shire Council and Hamlet Ridge Pty Ltd
Number of Submissions	Five Submissions
Regional Development Criteria (Schedule 4A of the Act)	<p>4 Council related development over \$5 million</p> <p>Development that has a capital investment value of more than \$5 million if:</p> <ul style="list-style-type: none"> (a) a council for the area in which the development is to be carried out is the applicant for development consent, or (b) the council is the owner of any land on which the development is to be carried out, or (c) the development is to be carried out by the council, or (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • List all of the relevant environmental planning instruments: Ballina Local Environmental Plan 2012, Ballina Local Environmental Plan 1987, State Environmental Planning Policy No. 14 (Wetlands) and the North Coast Regional Plan, State Environmental Planning Policy No 62 Sustainable Aquaculture. • List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: No proposed Instruments • List any relevant development control plan: Ballina Development Control Plan 2012. • List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: No planning agreements applicable • List any coastal zone management plan: N/A • List any relevant regulations: Environmental Planning and Assessment Regulations 2000.
List all documents	Attachment 1. Plans set including locality plan and zoning

submitted with this report for the panel's consideration	map Attachment 2. Submissions Attachment 3. State Government concurrence replies (DoPE, NSW Fisheries and OEH) Attachment 4. Recommended conditions of consent.
Recommendation	That the Joint Regional Planning Panel grants deferred commencement consent to DA 2012/334 for the construction of a road comprising the southern extension of Hutley Drive from the Pacific Pines Estate to the Elevations Estate and including vegetation clearance within SEPP 14 Area No. 88.
Report by	D P Roberts Planning Solutions on behalf of Ballina Shire Council

1. Proposal

Development Application 2012/334 seeks consent to construct a road at Lennox Head comprising the southern extension of Hutley Drive from the Pacific Pines Estate to the Elevations Estate and including vegetation clearance within State Environmental Planning Policy (SEPP) 14 Area No. 88.

The Project involves the creation of a two lane carriageway over a length of 1.3 km within a 20m road reservation corridor between identified Chainages 800m and 2100m. The proposal includes a 3.5m road width per lane, a shoulder with provisions for cyclists, and a verge to accommodate a footpath on the eastern side of the alignment.

The alignment is located adjacent to but clear of the eastern limits of the Ballina Nature Reserve and directly impacts State Environment Planning Policy No. 14 (Coastal Wetlands) Area No. 88 (SEPP 14) approximately between identified Chainages 1775m and 1900m.

The proposed works carried out within SEPP 14 Wetlands trigger Clause 29 of the Environmental Planning and Assessment Act 1979 and Clause 7 of SEPP 14. As such the development as proposed, is designated development and therefore required the preparation of an Environmental Impact Statement (EIS).

A Species Impact Statement (SIS) accompanied the application which was referred to the Office of Environment and Heritage (OEH) for concurrence purposes. The concurrence required OEH to ensure that the SIS complied with the requirements of the Director General of the Department of Planning. A copy of the OEH concurrence letter is included in **Attachment 3.**

The proposal required the concurrence of the Department of Planning in relation to the clearing of SEPP 14 Wetlands and an integrated approval from NSW Fisheries pursuant to the Fisheries Management Act 1994. These concurrences/approvals have been obtained and are included in **Attachment 3.**

Chapter 3 of the EIS accompanying the DA outlined the project need and justification. An extract from this chapter states:

“The Ballina Road Network Study (2000), a joint study by Eppel Olsen & Partners and Gabites Porter Consultants, involved the development of a strategic traffic model for the whole of Ballina Shire based on the TRACKS model platform.

This report was updated by Cardno Eppel Olsen in 2005 with updated population projections for the years 2016 and 2026. It was recommended that The Coast Road be retained as the higher order route for carrying traffic between Ballina and Lennox Head and that both North Creek Road and Hutley Drive be planned as two lane Major Collector Roads to serve locally generated traffic. It was considered that development of an alternative route incorporating Hutley Drive along the western alignment through Lennox Head South would facilitate the future residential development proposed in the precinct including Pacific Pines and Henderson Farm and would enable the distribution of locally generated traffic in an area to be shared between the western alignment and the northern section of North Creek Road.”

In recognition of a number of traffic modelling studies, the Lennox Head Structure Plan 2004 identified Hutley Drive as part of Council's preferred strategic road network.

2. Consultation

The application was placed on public exhibition from Thursday 7 February 2013 to Monday 11 March 2013. A total of five submissions were received during this period. A map showing the location of submitters in relation to the proposed road alignment is included in **Attachment 1**. Each of these submitters remain the owner of these properties. The issues raised in the submissions are detailed below:

Concern	Response
We are unsure of the proposed speed zone however as the road is to be for local traffic we hope that it is speed limited to 50kph. Let's remember that locals using local roads to travel locally have no need to rush. The majority of car accidents happen within a few kilometres of home so all the more reason to slow us all down.	As the proposed road will be classified as a collector road the proposed speed limit on the road is to be sign posted at 60kph.
We are concerned about this road becoming a drag/hoon strip which would have a serious impact on associated noise & safety of pedestrians in the locality. Will barriers such as curve tracks/islands be implemented so cars have to slow down? Generally young drivers need to slow down therefore introducing curve tracks/islands would guarantee this.	At this point in time no such barriers are proposed. However, if speed becomes a problem on the road, the suitability of traffic calming devices can be examined and if considered appropriate installed at a later date.
Can you confirm the distance of the actual road from our boundary?	The proposed road is to be aligned centrally to the road corridor. However, the exact distance of the road carriageway to each property boundary will not be known until the detailed design phase. The proposed deferred commencement condition requires further consultation with affected land owners.
Can you confirm the distance of the barrier from our boundary?	The exact detail of the acoustic barrier is yet to be determined and forms a recommended deferred commencement condition, which is detailed below. The condition requires that the applicant undertakes further consultation with impacted property owners in relation to the height, location and type of materials to be used in each section of the proposed acoustic barrier prior to the consent becoming operational. It is likely that the barrier will form the rear boundary fence of adjacent residential properties.
Has the type of boundary been decided?	The exact detail of the acoustic barrier is yet to be determined and forms a recommended deferred commencement condition, which is detailed below. The condition requires that the applicant undertakes further consultation with impacted property owners in relation to the height, location and type of materials to be used in the proposed acoustic barrier prior to the consent becoming operational.

Street lighting impacts on wildlife are not well known. How will mitigation measures be put in place for this impact? Street and traffic lights will also affect residents.	Appropriate conditions of consent will ensure that street lighting will be installed in accordance with Australian Standards and to minimise light spill into the rear of residential properties and the adjacent nature reserve.
What will become of the land between our rear boundary fence and the road barrier?	It is likely that the barrier will form the rear boundary fence, however this aspect forms a recommended deferred commencement condition that will require residents to be consulted about individual sections of the barrier.
Are we able to use the barrier as our back fence?	Depending on the location along the alignment, it is likely that the barrier will form the rear boundary fence of residential properties. This aspect forms a recommended deferred commencement condition that will require residents to be consulted about individual sections of the barrier.
The stormwater from the road run off will go directly into the SEPP 14 area which is protected.	This has been considered extensively throughout the assessment of the application. It is concluded that the proposed methods of treatment and detention of stormwater will result in acceptable water quality for disposal. This aspect is recommended to form a deferred commencement condition.
The environmental impact statement appears to be inadequate.	A number of addendums were provided in relation to the EIS over the extensive assessment period. The EIS is now considered to be adequate to enable the proposal to be recommended for conditional consent.
There will be many environmental impacts (terrestrial and marine)	<p>Environmental impacts have been considered during the assessment of the application and concurrence has been provided by the Office of Environment and Heritage (OEH) for the purpose of the Species Impact Statement (SIS). The impacts can be quantified and offset which would result in a positive environmental impact overall.</p> <p>Concurrence has also been provided to the project by NSW Fisheries and the Department of Planning and Environment. These concurrences have incorporated conditions including offset requirements that will ensure that the proposal does not adversely impact on the environment and that unavoidable impacts can be addressed.</p>
It appears that if stormwater was incorporated into the road it would be no bigger than the two existing main thoroughfares being North Creek Road and Montwood Drive.	The level of stormwater detention has been assessed and it has been concluded that the proposal is acceptable subject to the application of specific conditions of development consent.
The value of properties adjacent to this road	The proposed road is predominantly located

would decrease due to perceived negative impacts of the road. Our area would suffer adverse consequences without any advantages of access, while the advantages and increased property values will be directed elsewhere. Will these be compensated by lower land values and reduced rates?	within an existing road reserve. It would have been a reasonable expectation that a road would be constructed in this location, given the road was identified in the initial planning for this estate.
Residents affected by the road have no direct access to the road.	The residents most affected by the road will have no direct access, which is mainly due to acoustic and traffic safety reasons. The properties will be benefited by reduced traffic movements on other streets and more efficient connections to other local places.
Visual impacts affecting neighbouring residents and general landscape	Agreed. There will be visual impacts created by the proposal, however the road will largely be set down lower in the landscape.
Noise impacts of road to local homes	The application has been supported by an acoustic report which has demonstrated that, subject to the installation of sound barriers, the proposal will comply with relevant noise impact guidelines. The particular height, location and barrier material in each section along its proposed length is proposed to be further negotiated with affected residents prior to the consent becoming operational.
Are there guarantees that the road will never be upgraded to a major arterial road i.e. linking up to Ross Lane?	There is currently no plan to upgrade the road to a 'major arterial road'. The completed road network studies do not identify a future need for such an upgrade within their planning horizons.
Much of the land identified in the construction is low lying. Filling and construction will affect the natural processes of storage and drainage. The cleared strip of land behind my property in Rainforest Way is less than 20 metres wide and falls steeply down to North Creek. Has this been taken into account? Any construction or disturbance causing erosion to the clay soil would cause considerable run-off into North Creek. The Richmond River, into which the run off would eventually flow, is already severely polluted. Note the present huge build-up of foam containing soil particles and mud on the beaches	The required cut and fill has been a major consideration during the assessment of the application and suitable erosion and sediment controls during and post construction as well as embankment stabilisation/revegetation is proposed and will be required.
There would also be the possibility of a risk of increased crime with the road giving easy access and escape route.	There is no evidence to suggest this will be the case.
The road would mean the loss of much loved walking tracks used by locals for recreation such as walking, photography, birdwatching etc in the natural environment.	The proposed road will significantly transform this immediate locality. However, the referred to walking tracks are not formal trails or public recreation areas. The land has been dedicated as a road reserve for an extended period of time.

As acknowledged in previous EIS and SIS reports, the proposed road goes through a large area of sensitive habitat identified and protected under State Planning Policy 14 — Coastal Wetlands. Surveys have found rare and endangered fauna and flora in the area such as Mitchell's Rainforest Snail, Black Bittern and the White-eared Monarch.	The development application has been supported by an EIS and SIS due to the environmental sensitivities of the locality and potential impact on SEPP 14 wetlands and endangered flora and fauna. OEH, DoPE and NSW Fisheries have issued concurrence for the SIS and the overall environmental impacts. The OEH concurrence will require further flora and fauna surveys to ascertain the direct and indirect impacts created by the proposal. It is understood that the proposal can achieve a net environmental benefit through suitable offsetting.
--	--

3. Site Description

Hutley Drive is located within the Lennox Meadows estate in Lennox Head. The proposed development is a southern extension of Hutley Drive between identified chainage 800 and chainage 2100 as detailed on the proposed plans and is also shown in **Figure 1** below.

The proposed road extension has a length of 1.3 km predominantly within a 20m road reservation corridor and contains SEPP 14 mapped wetland, littoral rainforest type vegetation and various exotic species.

A locality plan and zoning map of the development site and adjoining lands is provided in **Attachment 1**.



Figure 1

3.1 Topography

The site, with an approximate area of 26,000m², is contained within the Hutley Drive Road reserve and within Lot 615 DP 1179450. The site varies in elevation from 0.792m AHD at its lowest point at chainage 1900 to 25.821m AHD at its highest point at chainage 1280.

3.2 Visual context

Visually, the biggest immediate local impact created by the project will be in the form of acoustic type barriers which are proposed to be up to 4.0m in height. Specific detail has not, however, yet

been determined in relation to the exact height, location and materials to be used for individual sections of the barrier. The applicant has advised that further consultation will be undertaken with impacted residents during the detailed design phase to establish suitable heights, locations and materials for the proposed noise barriers in different locations.

4. Key Assessment Matters

4.1 Flora and Fauna

A total of 223 plant species were recorded during the applicant's survey of which 154 species were native to the area (69.1%) and 69 species were exotic or introduced (30.9%).

Five broad ecological vegetation types were recorded in the applicant's survey:

- § Littoral Rainforest
- § Swamp Forest
- § Freshwater Swamp
- § Mangroves (outside but adjoining the alignment)
- § Cleared lands

Across the northern half of the site and its surrounds the proposed road traverses low-lying floodplain supporting mainly cleared pastureland and modified freshwater swamp, and closer to North Creek, swamp forest and mangroves. Across the southern half of the site the proposed road traverses the edge of low basalt hills above the coastal floodplain and mangrove-lined North Creek. The steep rocky slopes at the edge of the basalt hills support Littoral Rainforest regrowth at the inland limit of this rainforest ecosystem. The band of Littoral Rainforest regrowth varies from 50m to 150m wide and is outside the Ballina Nature Reserve, where only wetland vegetation is represented (swamp forest and mangroves). Nine associations comprising these broad vegetation types were recorded.

An EIS and SIS were prepared and accompanied the development application. The DoPE, OEH and NSW Fisheries have completed their assessments of the proposal and have granted their respective concurrences/approvals to the proposal subject to conditions which are included in **Attachment 3.**

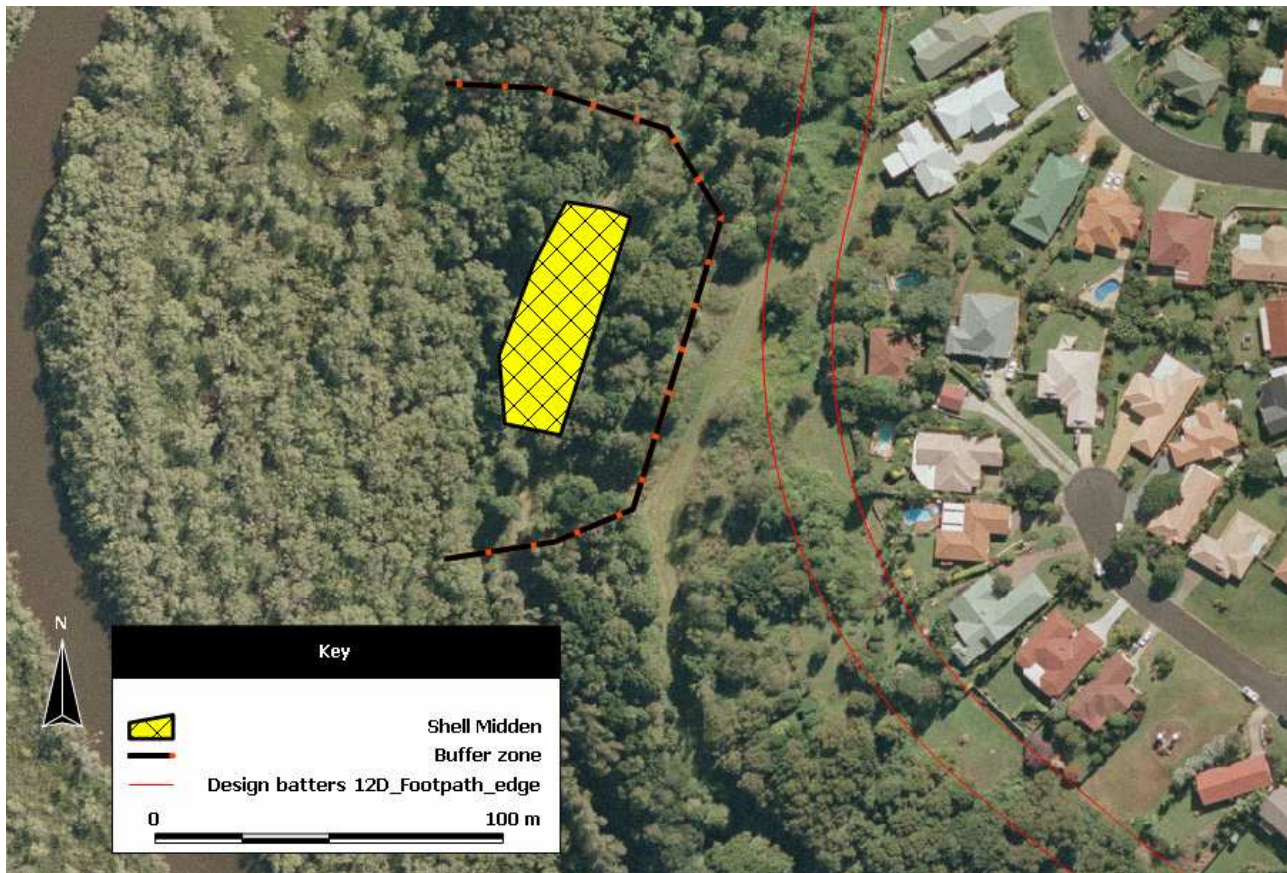
4.2 Cultural Heritage

Whilst the proposed location of the road is not within the vicinity (within 60m) of a heritage item nor does the road reserve contain a heritage item, a 'Cultural Heritage Assessment' was undertaken by 'Everick Heritage Consultants Pty Ltd' dated March 2010 which provided the following recommendations:

Specific Recommendations to Protect the Aboriginal Midden

The following recommendations apply in order to prevent any further damage to the Aboriginal shell midden that is identified to the west of the Subject Lands (Figure 22). It is recommended that:

1. A cautionary Buffer Zone should be established around the midden. The Buffer Zone should be:
 - (a) fenced with temporary fencing, so that it is not inadvertently damaged during the course of constructing the Project; and
 - (b) marked on all working plans.



Midden Site located west of the Subject Lands showing buffer zone

2. The existing pipelines within the current sewerage and water easement alignment be decommissioned, rather than removed from the site. The easements which are now mown, would be revegetated after the lines are decommissioned.
3. Petrac, the current owners of the land on which the midden is situated, should be advised of the midden's high cultural significance to the Aboriginal community.
4. The midden should be registered as a Site in the Aboriginal Heritage Information Management System (AHIMS) managed by the DECCW.

Recommendation 2: Aboriginal Human Remains

It is recommended that if human remains are located at any stage during construction works within the Subject Lands, all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Jali LALC, and the DECCW Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and the DECCW should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations. It is also recommended that in all dealings with Aboriginal human remains, the proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.

Recommendation 3: Aboriginal Cultural Material

It is recommended that if it is suspected that Aboriginal material has been uncovered as a result of development activities within the Subject Lands:

- (a) work in the surrounding area is to stop immediately;
- (b) a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
- (c) an appropriately qualified archaeological consultant is to be engaged to identify the material; and
- (d) if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the DECCW guidelines: "Interim Community Consultation Requirements for Applicants" (2005).

4.3 Flooding and Stormwater

The application was referred to Council's Engineers who provided the following comments with respect to flooding and stormwater:

4.3.1 Flooding

"BMT WBM was engaged to provide a flood report for the Hutley Driver project. The assessment was undertaken for the 100 year ARI design flood event with climate projections of a 900mm sea level rise and a 30% rainfall intensity increase. These projections are considered to be the worst case scenario for 2100. The resulting peak flood level at the site was assessed to be 2.35m. Hutley Drive has been designed with a minimum crown level of 2.25m which is sufficient to maintain trafficability during that event."

Three box culverts have been provided at Ch 1470 and one box culvert at Ch 2040 as flood alleviation measures.

4.3.2 Stormwater Management

The proposed development was split into two catchments, namely Ch 1280 – Ch2100 and Ch 800 to Ch1280.

SMEC have provided a stormwater management report for the portion of Hutley Drive from Ch 1280 – Ch2100. A stormwater analysis for Ch 800 to Ch1280 was supplied to SMEC by the Council for an independent design check.

Ch1280 – Ch2100. Stormwater design by SMEC

During construction – *Stormwater mitigation methods have been identified as temporary sediment basins, silt fencing and check dams however a final sediment and erosion plan has not been provided.*

A wet earth basin (Type D/F) has been detailed and sized to provide appropriate stormwater quality reductions during construction. MUSIC modelling of the basin demonstrates pollution reduction targets will be met. Approximate positioning of the wet earth basin has been identified at Ch 2100 however a final location will need to be determined.

A comprehensive construction stormwater plan is required to be prepared and approved prior to the issue of the Construction Certificate.

Stormwater Detention - *XP-Rafts was used to determine the detention requirements for the development. The catchment was modelled for the Q100 events from 10 minutes to three hours. The peak post developed flow was 0.390m³/s greater than the pre developed flow which resulted in a detention volume requirement of 228m³/s. The stormwater report suggests that this storage volume could be provided by an oversized piped network with a restricted orifice, however volume calculations have not been provided. The report identifies the limited space available for conventional detention systems such as basins or underground tanks.*

A detailed design proving detention volumes can be met will be required prior to the issue of a Construction Certificate.

Quality – MUSIC modelling of the development has been undertaken to assess pollutant loadings and to propose appropriate stormwater treatment devices. The applicant has demonstrated that the stormwater quality objectives described in Council DCP can be achieved with the use of a gross pollutant trap and proprietary filtration devices. Design details of the stormwater treatment devices are to be provided at the detailed road design phase.

Ch 800-1280. Stormwater designs by BSC, Aspects and Elevations DA

The stormwater catchment in this area of the proposed Hutley Drive between Ch 800 and Ch1280 is made up of the Aspects, Elevations and the proposed Hutley Drive developments. Stormwater detention and treatment options between the Aspects, Elevations and Hutley Drive developments have varied over time as each development has progressed. A summary of events is provided below.

- There is an existing farm pond in the proposed Hutley Drive road reserve that the Elevations development intended to utilise in their stormwater treatment train. Detention and treatment calculations were made without taking into account the future Hutley Drive under the responsibility of Elevations ie from CH585 to CH800. The volume of the farm pond was also reduced due to the future road alignment.*
- Council required the Elevations development to include the Hutley Drive road reserve in their catchment models and treatment trains from chainage 585 to 900. Newton Denny Chapelle (NDC) prepared a Stormwater Management Plan (Addendum Rev C) in response. The revised stormwater management plan includes the Hutley Drive Catchment (Ch 585-900) and takes into account the loss of volume from the farm pond due to the proposed Hutley Drive road alignment. The SMEC stormwater report in the DA application incorrectly concludes that the Hutley Drive road reserve was not included in the Elevations stormwater quantity and quality modelling.*
- The revised NDC stormwater plan augments the existing bio-retention basin constructed as part of the Aspects development. The existing Aspect basin forms a dry pond area and the proposed augmented section a wetland type area. The treatment system drains under the proposed Hutley Drive via a small catch area and culvert system to the existing farm pond on the western side of Hutley Drive. The western pond wall has also been raised by 0.75 m to provide extra detention. The proposal was considered adequate by BSC and therefore this development application does not need to consider stormwater flows from Ch 585 to Ch 900.*
- Council calculated detention and treatment requirements for the Proposed Hutley Drive road reserve from CH 900 to Ch 1280. A bio-retention basin on the eastern side of Hutley Drive and to the north of the Aspect's basin was proposed. The bio-retention basin has a permeable wall and weir which drains to the same catch area and culvert as the Elevation wetland which delivers stormwater to the western pond. SMEC were asked to check the detention and water quality calculations of the bio-retention basin provided for Ch 900-1280. SMEC concluded that the bio-retention basin was undersized for detention but provided sufficient treatment. The deficient volume was not supplied by SMEC.*
- The applicant has provided plans illustrating that there is extra space available for the bio-retention basin should an increase in size be necessary. A computer model confirming the bio-retention basin size for stormwater quantity will be required prior to CC."*

Given the particular environmental sensitivities of the locality, this aspect is not reasonable to be deferred to the Construction Certificate phase and should form a deferred commencement condition so that any changes required to the concept design are properly considered and assessed.

4.4 Acoustic Impacts

The application was referred to Council's Senior Environmental Health Officer who provided the following comments:

"In respect of road traffic noise assessment, it has been established that the applicant will receive the benefit of transition provisions referenced on the EPA Website relating to Part 4 (Designated) Projects based on when the DGRs for the new application were received. As the DGRs were received before 1 July 2011, the project is to be assessed under the less stringent ECRTN.

Whilst the information submitted in the original package relating to noise barriers offers some generic information, there is no specific information. The barrier heights are likely to be dictated by the finished height of the roadway in respect of the affected residences and in some cases there is very limited space to erect a barrier. Potentially barriers will form boundary walls, and there is the prospect of difficult foundation conditions for any wall of substance. Because of these constraints it could be argued that we need to know now just what the adjoining people will have to look at, and for that to happen the technical facts (from the acoustics expert), are needed to determine the minimum specification of the barrier along its necessitated length.

The applicant submitted a Noise and Vibration Mitigation Options Report prepared by SMEC and dated 9 November 2012 which showed the indicative heights of the required acoustic barriers are to vary between two and four metres in relation to the natural ground levels, see Figure 2 below. However the relationship between the given acoustic barrier heights and the required cut and fill levels needs to be clarified to fully assess any impacts that may result from the construction of the acoustic barriers.

Specific design details including exact locations, heights and construction materials for the acoustic barriers have not been confirmed to date. These details assist in assessing any potential aesthetic impacts.

Significant difficulty may be experienced when trying to negotiate, with multiple parties, the construction of the required acoustic barriers to the rear of the affected properties especially in locations where the height of the barriers will need to exceed two metres."

Therefore, this aspect is not recommended to be deferred to the construction certificate phase and should form a deferred commencement condition.

5.1 Section 79C(1)(a)(i) Provisions of any Environmental Planning Instrument

State Environmental Planning Policy No.14 – Coastal Wetlands

The application seeks consent to clear land that is mapped as SEPP 14 – Coastal Wetlands and therefore is designated development requiring the preparation of an EIS which accompanied the application. Council is the consent authority via the Joint Regional Planning Panel and the concurrence of the Director pursuant to Clause 7(1) of the SEPP has been provided and is included in **Attachment 3**.

State Environmental Planning Policy No.55 – Contaminated Land

A Preliminary Site Investigation (PSI) has been prepared by SMEC dated 21 March 2011. The PSI involved a review of the site history and concluded that a cattle dip site and associated holding yards have the potential to impact the southern end of the project. Therefore it is recommended that a Detailed Site Investigation (DSI) be undertaken for soils disturbed in this location. A PSI is not recommended for the remainder of the site.

The conclusions of the report are supported and condition will be applied relating to the further investigation required in the location of the dip site and associated holding yards.

State Environmental Planning Policy No.62 – Sustainable Aquaculture

Part 3A of this SEPP requires a consent authority to consider the following before determining a development application:

- 15B(1) Before determining a development application for any development, a consent authority:*
- (a) must consider whether, because of its nature and location, the development may have an adverse effect on oyster aquaculture development or a priority oyster aquaculture area, and*
 - (b) if it suspects that the development may have that effect, must give notice of the application to the Director-General of the Department of Primary Industries.*

Subject to compliance with conditions of consent, the proposal is unlikely to have any adverse impact on the oyster aquaculture industry. In addition to the above, the application required concurrence from NSW Fisheries pursuant to the *Fisheries Management Act 1994*. A copy of the concurrence is included in **Attachment 3**.

Ballina Local Environmental Plan 1987 (BLEP 1987)

At the time of lodgement, the BLEP 1987 was the only LEP in force and the current BLEP 2012 was still a draft instrument and referred to as draft BLEP 2011. Therefore in accordance with clause 1.8A of the BLEP 2012, this plan is to be considered as a draft instrument.

Under the provisions of BLEP 1987 part of the subject land is zoned 7(a) - Environmental Protection (Wetlands) and part zoned 2(b) – Village Area.

The objectives of the 7(a) zone are:

A The primary objectives are:

- (a) to protect and conserve significant wetlands, and*
- (b) to prohibit development which could destroy or damage a wetland ecosystem.*

B The exception to these objectives is development of public works and services, outside the parameters specified in the primary objectives, only in cases of demonstrated and overriding public need and subject to the impact on wetland ecosystem being minimised as much as is reasonably practical.

The proposal is considered to comply with the above objectives as the proposed 'road' is considered to be 'public works' with the applicant presenting the case that there is an overriding

public need for the subject road from a strategic planning perspective. Additionally, the impact on the wetland will be offset by the concurrence requirements of OEH, DoPE and NSW Fisheries. Subject to compliance with conditions of consent and the separate concurrence requirements, the proposal will have a net environmental benefit.

The objectives of the 2(b) zone are:

A The primary objectives are:

- (a) to regulate the subdivision and use of land to permit a wide range of urban purposes, and*
- (b) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for varying housing densities, commercial and special uses and other urban and tourist facility purposes.*

B The secondary objectives are to allow a variety of housing types and designs and to encourage greater visual amenity by requiring site landscaping.

C The exception to these objectives is to permit development of land within the zone for public works and services, outside the parameters specified in the primary objectives.

The proposal is considered to comply with the above zone objectives as the proposed 'road' is considered to be an 'urban purpose' and also falls within the term 'public works' and therefore is consistent with objectives A and C.

Clause 18 – Items of environmental heritage

No items of environmental heritage exist or are within 60m of the proposed road alignment. Irrespective of this, a Cultural Heritage Assessment was undertaken with the details and recommendations detailed in Section 4.2 of this report.

Clause 24 Development within Zone No. 7(a) states:

- (1) This clause applies to land within Zone No 7 (a).*
- (2) A person shall not clear, drain, excavate or fill land to which this clause applies without the consent of the council.*
- (3) The council shall not consent to the carrying out of development on or adjacent to land within Zone No 7 (a) unless it has taken into consideration:*
 - (a) the likely effects of the development on the flora and fauna found in the wetlands,*
 - (b) the likely effects of the development on the water table, and*
 - (c) the effect of the wetlands of any proposed clearing, draining excavating or filling.*

The proposal has been assessed having regard for the above clause. Whilst the exact impact on the wetlands (direct and indirect) has not been completely clarified, concurrence has been provided by the relevant government agencies, including the DoPE.

The concurrence from NSW Fisheries ensures that the proposal will have a net environmental benefit to 'fisheries habitat' through offsetting requirements. The concurrence from the DoPE requires a 10:1 compensatory offset site to be established through the establishment of a Wetland Compensation Management Plan.

Subject to conditions of consent requiring the direct and indirect impacts of the project to be accurately quantified, the proposal is considered to comply with this clause.

Clause 36 – Development on land identified on Acid Sulfate Soils Planning Maps

The site has been identified as containing ASS and an Acid Sulfate Soils Assessment and Management Technical Paper has been prepared by SMEC dated July 2012. It assesses the ASS risk and provides a Preliminary ASS Management Plan.

A more detailed ASS Management Plan will need to be prepared prior to works commencing and will need to be implemented during the construction phase of the project. Conditions will be applied to address this.

5.2 Section 79C(1)(a)(ii) Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

Ballina Local Environmental Plan 2012 (BLEP 2012)

Clause 1.8A – Savings provision relating to development applications states:

“If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.”

The application was lodged (made) 17 August 2012 and as such BLEP 2012 is to be treated as a draft instrument where the relevant clauses are discussed below.

Under the provisions of BLEP 2012 the land is part zoned R3 – Medium Density Residential

The objectives of the R3 zone are:

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

Whilst the proposed development which involves the construction of a road is not expressly consistent with the zone objectives, it is consistent with the third dot point as it provides a service to meet the day to day needs of residents. Overall the use of land zoned R3 for the purpose of a road is consistent with its intent due to the fact it is within an existing road reserve.

Clause 5.5 Development within the coastal zone, requires that consent must not be granted on land within the coastal zone unless:

- (2) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:*
- (a) *existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:*
 - (i) *maintaining existing public access and, where possible, improving that access, and*
 - (ii) *identifying opportunities for new public access, and*
 - (b) *the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:*
 - (i) *the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and*
 - (ii) *the location, and*
 - (iii) *the bulk, scale, size and overall built form design of any building or work involved, and*
 - (c) *the impact of the proposed development on the amenity of the coastal foreshore including:*
 - (i) *any significant overshadowing of the coastal foreshore, and*

- (ii) *any loss of views from a public place to the coastal foreshore, and*
 - (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*
 - (e) *how biodiversity and ecosystems, including:*
 - (i) *native coastal vegetation and existing wildlife corridors, and*
 - (ii) *rock platforms, and*
 - (iii) *water quality of coastal waterbodies, and*
 - (iv) *native fauna and native flora, and their habitats, can be conserved, and*
 - (f) *the cumulative impacts of the proposed development and other development on the coastal catchment.*
 - (3) *Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:*
 - (a) *the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and*
 - (b) *if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
 - (c) *the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and*
 - (d) *the proposed development will not:*
 - (i) *be significantly affected by coastal hazards, or*
 - (ii) *have a significant impact on coastal hazards, or*
 - (iii) *increase the risk of coastal hazards in relation to any other land.*

The proposal has been assessed having regard for the above clause. It is considered that the proposal is consistent with the requirements of this clause for the following reasons:

- The physical land based right of access of the public to the foreshore will not be impeded. Direct access will be impeded to the North Creek for adjacent residents across the roadway. This is, however, considered reasonable in all the circumstances.
- The proposal has no impact on the amenity of the public foreshore.
- Subject to conditions of consent (including making stormwater disposal a 'deferred commencement condition'), the proposal will not discharge untreated stormwater in the estuary.
- The proposal will not be significantly affected by coastal hazards, have a significant impact on coastal hazards or increase the risk of coastal hazards in relation to any other land.

Clause 5.10 Heritage Conservation, this has been discussed in detail above (see Section 4.2), where it is concluded that the proposal is acceptable in regards to possible heritage impacts subject to conditions of consent.

Clause 7.1 Acid Sulfate Soils (ASS), requires Council *to ensure that development does not disturb expose or drain acid sulphate soils and cause environmental damage.*

The site has been identified as containing ASS and an Acid Sulfate Soils Assessment and Management Technical Paper has been prepared by SMEC dated July 2012. It assesses the ASS risk and provides a Preliminary ASS Management Plan.

A more detailed ASS Management Plan will need to be prepared prior to works commencing and will need to be implemented during the construction phase of the project. Conditions will be applied to address this.

Clause 7.2 Earthworks, requires Council *to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

A Geotechnical Constructability Assessment was undertaken by SMEC for the proposed road. The report concludes that:

“Mitigation measures to reduce the risk of geological and landform instability will be adopted during the detailed design stage of the road to ensure that potential impacts are adequately managed through the design life of the road. Given that the road design is at a concept stage at the time of writing this EIS, it is recommended that further investigations be performed as part of the detailed design stage to reduce the geotechnical risk to the road.”

Appropriate conditions of consent have been recommended to require that further geotechnical assessment is undertaken during the detailed design stage of the project and prior to the issue of a Construction Certificate.

5.3 Section 79C(1)(a)(iii) Provisions of any Development Control Plan

Ballina Development Control Plan 2012 (DCP 2012)

Chapter 2 – General and Environmental Considerations

Clause 3.3 Natural Areas and Habitat

The objectives of this clause are:

- a. Protect and enhance ecologically significant areas;*
- b. Provide for development that is compatible with ecological values and that minimises risk to ecologically sensitive environments; and*
- c. Encourage development that contributes to the maintenance, enhancement or rehabilitation of environmental values and ecologically sensitive areas.*

Whilst the exact impact on the wetlands (direct and indirect) has not been clarified, concurrence has been provided by OEH which requires further impact analysis to be undertaken prior to the issue of a Construction Certificate.

In addition to the above, concurrence has been issued by the DoPE and NSW Fisheries in relation to the proposed clearing within SEPP 14 mapped wetland. The concurrence issued by NSW Fisheries ensures that the proposal will have a net environmental benefit to ‘fisheries habitat’ through offsetting requirements. The concurrence of the DoPE requires a 10:1 compensatory offset site to be established through the establishment of a Wetland Compensation Management Plan.

Subject to conditions of consent requiring the direct and indirect impacts to be accurately quantified, the proposal is considered to comply with this clause.

Clause 3.4 Potentially Contaminated Land

This matter has been discussed under the SEPP 55 assessment in Section 5.1 above where it was concluded that the proposal is satisfactory subject to conditions.

Clause 3.6 Mosquito Management

The proposal will assist in the mosquito management of surrounding residential uses by establishing an improved buffer in the form of a road and associated additional drainage between the residences and the wetland breeding areas.

Clause 3.7 Waste Management

Appropriate conditions of consent have been implemented to require the submission of a site waste minimisation and management plan prior to the issue of a CC.

Clause 3.9 Stormwater Management

This matter has been discussed in detail in Section 4.3 where it was concluded that the proposal is satisfactory in regards to stormwater management subject to conditions of consent.

Clause 3.10 Sediment and Erosion Control

The application was referred to Council's Senior Environmental Health Officer who provided the following comments:

"Generally Council is comfortable to condition consents requiring the submission of Soil and Water Management Plans prepared in accordance with the requirements of Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004 prior to the issue of Construction Certificates.

The subject site is highly constrained (i.e. the available road corridor) and the receiving waters are very sensitive (SEPP 14 wetlands). Immediately adjacent to the lower sections of the development site the sediment and erosion management at the site is especially constrained and critical.

During the assessment period Council has not been entirely satisfied in relation to this matter having concerns about the effect of the construction phase of the project on the receiving waters.

If the consent is granted it will be critical that a detailed soil and water management plan is prepared which outlines how downstream waterways will be protected over the various stages of the project. This will need to be implemented in full during the construction phase of the project.

The consent will be conditioned to address this requirement."

Clause 3.12 Heritage

The application has been supported by a Heritage Impact Statement which is discussed in Section 4.2. Subject to conditions of consent the application is considered to comply with this control.

Clause 3.20 Vibration

Appropriate methods of excavation will be required during the construction phase to ensure that nearby properties are not adversely impacted through excavation vibration.

5.4 Section 79C(1)(a)(iia) Provisions of any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F

The subject site is not the subject of any planning agreement that has been entered into under Section 93F, or any draft planning agreement that has been agreed to or entered into under Section 93F of the E P and A Act 1979.

5.5 Section 79C(1)(a)(iv) The regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Division 5 Public participation – designated development

Clauses 77 – 81 of the Regulations specifies how public participation must be undertaken for designated development. It is confirmed that Clauses 77 – 81 have been complied with through Council's notification of the application and the forwarding of the submissions to the Director-General as required by Clause 81.

Threatened Species Conservation Act 1995

Under Section 5A of the E P and A Act 1979, a 7-part test of significance was undertaken for all threatened species and/or ecological communities recorded during the seasonal surveys. These studies also considered all species regarded as being likely to be present within the vicinity of the proposed road works.

As the 7-part test of significant concluded that the proposal was likely to have a significant impact on threatened species, DGRs were requested from the Director of National Parks and Wildlife.

The DGRs required a Species Impact Statement to be prepared for each of the threatened species regarded as likely, or proven, to exist within or adjacent to the alignment. The concurrence provided by OEH ensures that the proposed development, including the individual SIS for each of the threatened species, is consistent with the DGRs.

5.6 Section 79C(1)(a)(v) Provisions of any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

No specific coastal zone management plan applies to the site.

5.7 Section 79C(1)(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The likely impacts of the proposal have been considered and discussed in the above report, the following provides a brief summary of each of the likely impacts and how they have been addressed:

Amenity Noise Impacts

Noise barriers have been proposed to address the impact of road noise on surrounding residences. A Noise and Vibrations Operation report was submitted with the application which recommends that further consultation be undertaken with surrounding residents during the detailed design stage of the project to address these outstanding matters.

As discussed in various sections of this report, this aspect should form a deferred commencement condition.

Flora and Fauna

The proposal has been subject to flora and fauna assessment within the EIS and SIS accompanying the DA. In the absence of satisfactory information to determine the direct and indirect impacts created by the proposal, OEH have provided concurrence subject to further flora and fauna surveys.

Whilst this is not ideal and these impacts typically should be determined with the DA, OEH has provided concurrence and therefore the application can be appropriately conditioned in this regard.

Stormwater Management

As discussed above, the proposed road alignment is effectively split into two catchments and Council's development engineers have assessed the proposal and considered it to be satisfactory subject to conditions of consent. The proposed conditions require further analysis of the detention requirements to be carried out and may require an increase in the existing detention pond at the

southern edge of the proposal which may have flow on ecological impacts, which will need to be addressed in responding to the OEH's concurrence conditions.

From a planning perspective, this aspect should form a deferred commencement condition.

5.8 Section 79C(1)(c) The suitability of the site for the development

Most of the site is contained within an existing 'road reserve' which is considered suitable for the road construction. Various matters are still outstanding in terms of requiring more technical detail in relation to stormwater management, flora and fauna impacts and acoustic/visual impacts. However, conditions of consent have been provided to ensure these issues are adequately addressed before construction work commences.

Subject to compliance with the conditions of consent, the subject site is considered suitable for the proposed development.

5.9 Section 79C(1)(d) Any submissions made in accordance with this Act or the regulations

The application was placed on public exhibition from Thursday 7 February 2013 to Monday 11 March 2013. A total of five submissions were received during this period. The issues raised in the submissions have been discussed in Section 2 of this report.

5.10 Section 79C(1)(e) The public interest.

The public interest is best achieved by a proposal complying with the relevant planning instruments. In this instance, the majority of the proposal has demonstrated compliance with the applicable planning instruments and other areas require further detail but can be addressed through deferred commencement conditions or general conditions as recommended.

The material public benefit of the proposed road must also be taken into consideration, which in this instance is considered to warrant support of the application. The need and justification for the proposed road has been identified in a number of strategic planning documents referenced in Section 1 of this report.

The proposal as a whole, subject to conditions of consent, is considered to be within the public interest.

Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C (1) of the *Environmental Planning and Assessment Act 1979*.

The challenge with this project is balancing the need for important public infrastructure, a narrow road corridor and sensitive adjacent lands. The majority of the proposal has been suitably addressed by the applicant, however the three outstanding matters, being stormwater quality and quantity, acoustic/visual impact, and ecology, require further detail and studies prior to the consent becoming operational.

Whilst OEH, DoPE and NSW Fisheries have considered it suitable to provide concurrence and to effectively defer more specific flora and fauna impact assessment to the detailed design phase of the project, it is not considered appropriate for the stormwater treatment and detention and the acoustic/visual aspects of the proposal to be deferred to this stage.

The indirect impacts created by the proposed road, particularly in relation to the need to increase the level of, and to provide stormwater detention in both the northern and southern catchments may have flow on ecology impacts which have not been accurately determined at this stage. These

impacts need to be quantified prior to the consent becoming operational and will be relevant in addressing part of the concurrence requirements of OEH, DoPE and NSW Fisheries.

Recommendation

It is recommended that Development Application 2012/334 be approved pursuant to Section 80(1)(3) of the *Environmental Planning and Assessment Act 1979* by way of deferred commencement consent subject to conditions included in **Attachment 4**.

Attachment 1

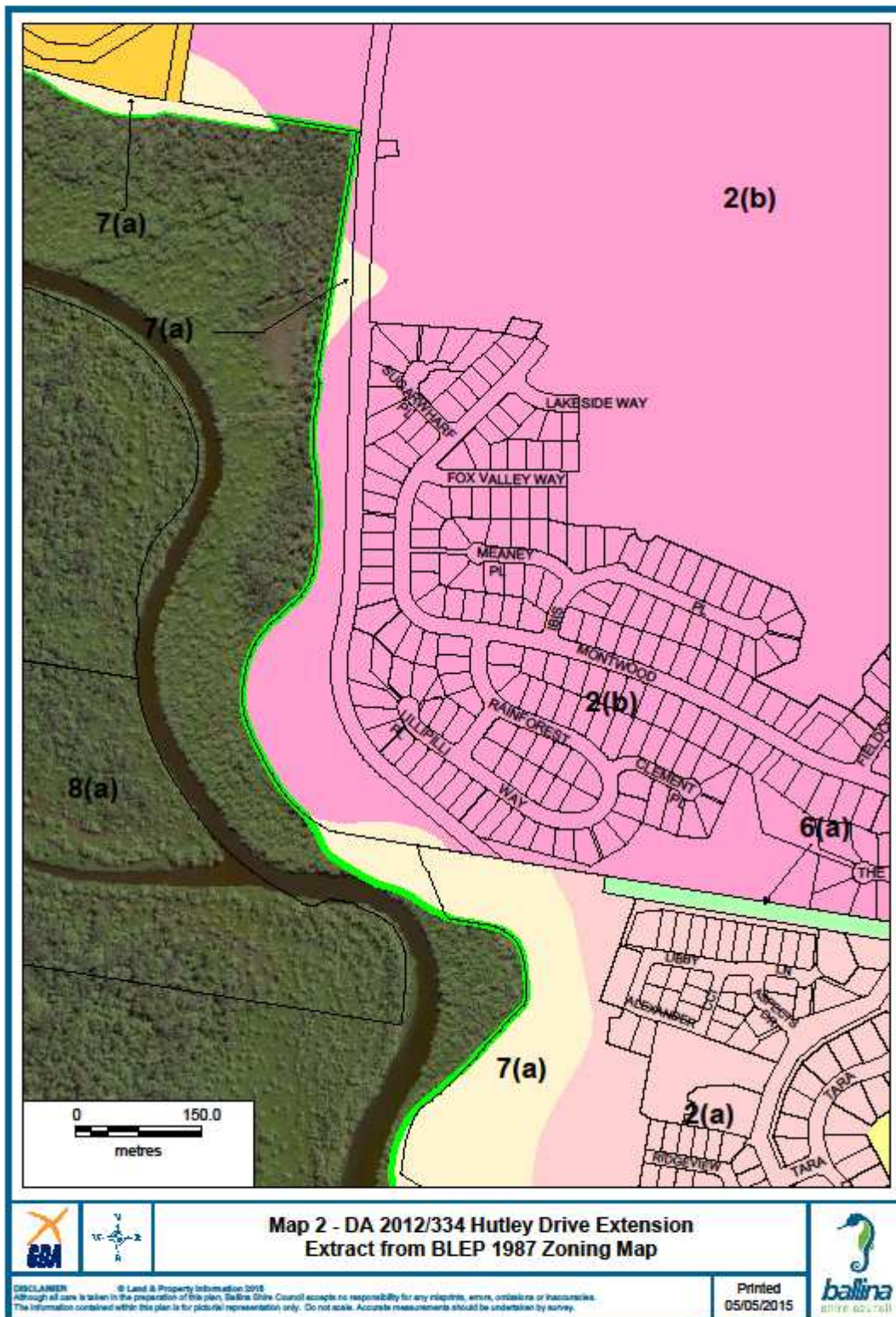


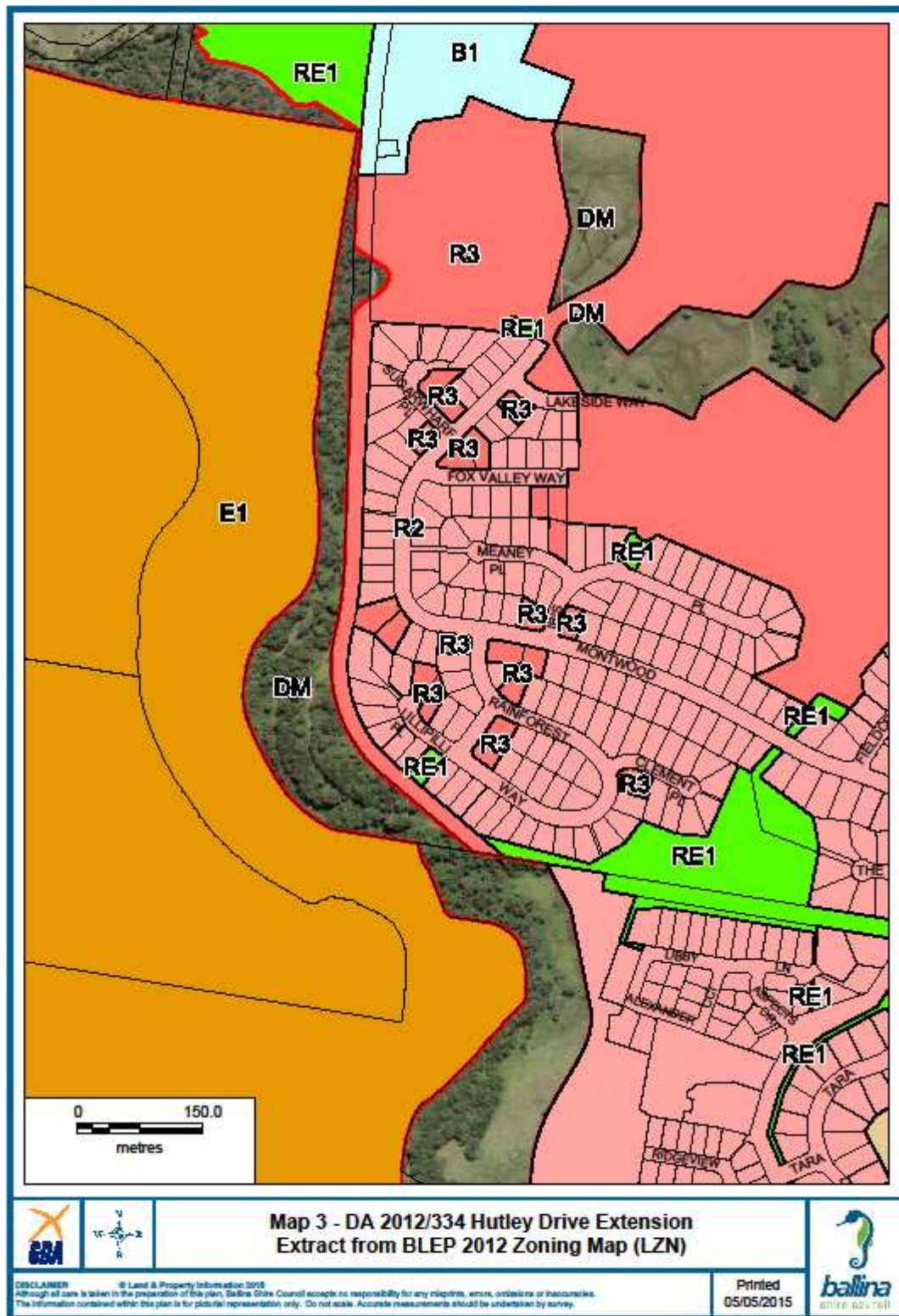
**Map 1 - DA 2012/334 Hutley Drive Extension
Locality Plan and Location of Submitters (blue)**



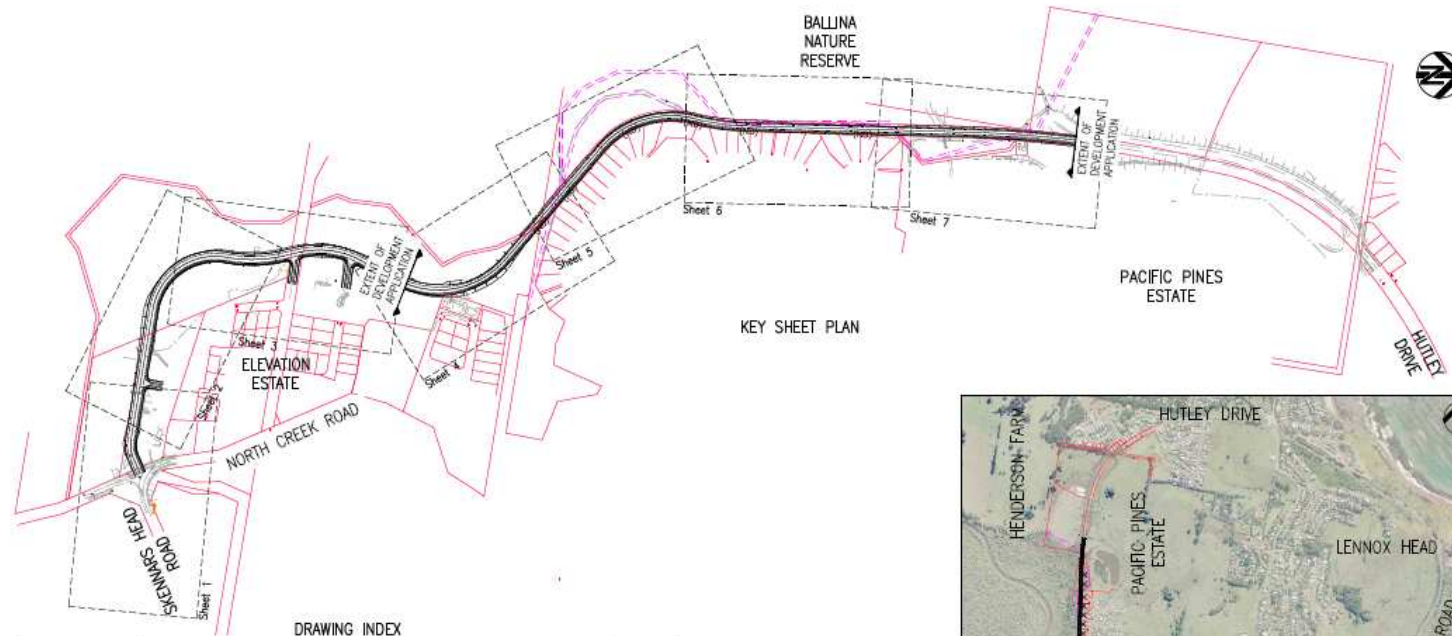
DISCLAIMER © Land & Property Information 2015
Although all care is taken in the preparation of this plan, Ballina Shire Council accepts no responsibility for any misprints, errors, omissions or inaccuracies.
The information contained within this plan is for pictorial representation only. Do not scale. Accurate measurements should be undertaken by survey.

Printed
05/05/2015



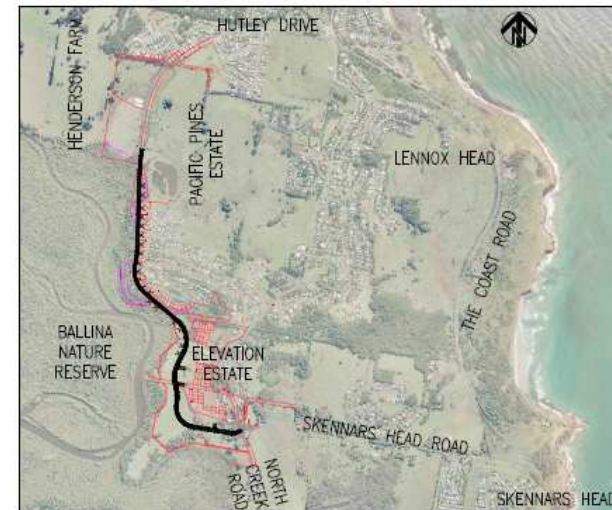


HUTLEY DRIVE EXTENSION, CONCEPT PLANNING NORTH CREEK ROAD TO HUTLEY DRIVE



DRAWING INDEX

Drawing Number	Title	Revision
3003419-DI-1000	Cover Sheet, Locality Plan And Index	07
3003419-DI-1001	General Notes	05
3003419-TC-1000	Typical Cross Sections	05
3003419-GA-1001	General Arrangement, Long Section, Legend & Setout Data Sheet 1 of 7	06
3003419-GA-1002	General Arrangement And Long Section Sheet 2 of 7	06
3003419-GA-1003	General Arrangement And Long Section Sheet 3 of 7	07
3003419-GA-1004	General Arrangement And Long Section Sheet 4 of 7	07
3003419-GA-1005	General Arrangement And Long Section Sheet 5 of 7	06
3003419-GA-1006	General Arrangement And Long Section Sheet 6 of 7	06
3003419-GA-1007	General Arrangement And Long Section Sheet 7 of 7	07
3003419-XS-1001	Cross Sections Sheet 1 Of 6	06
3003419-XS-1002	Cross Sections Sheet 2 Of 6	06
3003419-XS-1003	Cross Sections Sheet 3 Of 6	06
3003419-XS-1004	Cross Sections Sheet 4 Of 6	06
3003419-XS-1005	Cross Sections Sheet 5 Of 6	06
3003419-XS-1006	Cross Sections Sheet 6 Of 6	06



LOCALITY PLAN
N.T.S.

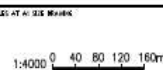
Ballina Nature Reserve, Pacific Pines Estate, Elevation Estate, Skenknars Head Road, North Creek Road, Hutley Drive Extension, Concept Planning, North Creek Road to Hutley Drive

Sheet 1 of 7

Project 3003419 - HUTLEY DRIVE EXTENSION, CONCEPT PLANNING, NORTH CREEK ROAD TO HUTLEY DRIVE

Project 3003419 - HUTLEY DRIVE EXTENSION, CONCEPT PLANNING, NORTH CREEK ROAD TO HUTLEY DRIVE

PROJECT FILE LOCATION / NAME V:\Projects\3003419 - HUTLEY DRIVE EXTENSION, CONCEPT PLANNING, NORTH CREEK ROAD TO HUTLEY DRIVE	DATE 25 Oct 2012	TIME 14:22:24
REVISIONS	DESCRIPTION	DATE
1	PRELIMINARY CONCEPT DESIGN	12/10/2012
2	FINAL CONCEPT DESIGN	05/11/2012
3	FINAL CONCEPT DESIGN	20/11/2012
4	FINAL CONCEPT DESIGN	01/12/2012
5	FINAL CONCEPT DESIGN	12/12/2012
6	FINAL CONCEPT DESIGN	12/12/2012
7	FINAL CONCEPT DESIGN	12/12/2012



PROJECT TITLE SHIRE OF BALLINA HUTLEY DRIVE EXTENSION NORTH CREEK ROAD TO HUTLEY DRIVE COVER SHEET, LOCALITY PLAN AND INDEX	SCALE AS SHOWN	DRAWING STATUS CONCEPT DESIGN	PROJECT / DRAWING NO. 3003419-DI-1000	REVISION 07
---	-------------------	----------------------------------	--	----------------

Attachment 2

Andrew & Helen Woodburn
37b Headlands Drive
Skennars Head
2478, NSW

6th March 2013

**ATTENTION DWAYNE ROBERTS DA 2012/334 REGARDING PROPOSAL OF THE
CONSTRUCTION OF HUTLEY DRIVE CONNECTION TO ELEVATION ESTATE &
VEGETATION CLEARANCE IN SEPP14 AFFECTED**

Dear Dwayne,

My wife and I are the new owners of 11 Sugarwharf Place, Lennox Head and intend on moving into our home in September when our present tenants move out.

We received notification that the road, which is to pass the rear of our property, is going ahead so a few weeks ago we visited the Lennox library to look at the proposal. We have a few queries and hope you can shed some light on the following issues:

- We are unsure of the proposed Speed zone however as the road is to be for local traffic we hope that it is speed limited to 50kph. Let's remember that locals using local to travel locally have no need to rush. The majority of car accidents happen within a few kilometres of home so all the more reason to slow us all down.
A 50kph speed limit will
 - ensure safety of local children, pedestrians and cyclists who will be dominating the local area
 - minimize car and road noise which may impact on local residents
- We are concerned about this road becoming a drag/hoon strip which would have a serious impact on associated **noise & safety** of pedestrians in the locality. Will barriers such as curve tracks/islands be implemented so cars have to slow down? Generally Young drivers need to slow down therefore introducing curve tracks/islands would guarantee this.
- Can you confirm the distance of the actual road from our boundary?
- Can you confirm the distance of the barrier from our boundary?
- Has the type of boundary been decided?
- What is the height and location of the road lights in relation to our boundary?
- What will become of the land between our rear boundary fence and the road barrier?
- Are we able to use the barrier as our back fence?

We thank you for your time and look forward to your reply,

Kind regards,

Andrew & Helen Woodburn

10 March 2013
Nataley Bush

45 Rainforest Way

Lennox Head NSW 2478

PH: 66874776

Re : Objection for submission for Da 2012/334

Proposal: The Construction of Hutley Drive connection to Elevation Estate and Vegetation Clearance in Sepp 14 affected area.

Dear Dwayne Roberts,

My objections when viewing this proposal are the following:

- The storm water from the road run off will go directly in the Sepp 14 which is a protected area.
- The environmental impact statement appears to be inadequate.
- There will be many environmental impacts (terrestrial and marine)
- It appears that if storm water was incorporated into the road it would be no bigger than the two existing main thorough fairs being North Creek Road and Montwood Drive.
- Land values will go down due to our land being enclosed by two main arterial roads.
- Residents affected by the road have no direct access to the road.
- Visual impacts effecting neighboring residence and general landscape
- Noise impacts of road to local homes
- Are there guarantees that the road will never be upgraded to a major arterial road i.e. linking up to Ross lane.

Kind Regards,

Nataley Bush

10 March 2013

Nicole Murphy

62 Montwood Drive

Lennox Head NSW 2478

PH: 66876812

Re : Objection for submission for Da 2012/334

Proposal: The Construction of Hutley Drive connection to Elevation Estate and Vegetation Clearance in Sepp 14 affected area.

Dear Dwayne Roberts,

My objections when viewing this proposal are the following:

- ☐ The storm water from the road run off will go directly in the Sepp 14 which is a protected area.
- ☐ The environmental impact statement appears to be inadequate.
- ☐ There will be many environmental impacts (terrestrial and marine)
- ☐ It appears that if storm water was incorporated into the road it would be no bigger than the two existing main thorough fairs being North Creek Road and Montwood Drive.
- ☐ Land values will go down due to our land being enclosed by two main arterial roads.
- ☐ Residents affected by the road have no direct access to the road.
- ☐ Visual impacts effecting neighboring residence and general landscape
- ☐ Noise impacts of road to local homes
- ☐ Are there guarantees that the road will never be upgraded to a major arterial road i.e. linking up to Ross lane.

Kind Regards,

Nicole Murphy

Huttley Drive Extension EIS Submission 8.3.13

As a resident of Rainforest Way I wish to make the following comments:

1. As acknowledged in previous EIS and SIS reports, the proposed road goes through a large area of sensitive habitat identified and protected under State Planning Policy 14 – Coastal Wetlands. Surveys have found rare and endangered fauna and flora in the area such as Mitchell's Rainforest Snail, Black Bittern, White-eared Monarch
2. Though partly degraded, it contains one of the remaining areas of rainforest in Lennox Head. Clearing of this vegetation, loss of hollow bearing trees and disturbance to the surrounding area would affect the viability of endangered species in the area. Construction of the road would have negative impacts on the long term survival of species such as the Mitchell's Rainforest Snail, Grey-headed flying fox, Black Bittern, Bush hen as well as a number of threatened plant species.
3. Street lighting impacts on wildlife are not well known. How will mitigation measures be put in place for this impact. Street and traffic lights will also affect residents.
4. Much of the land identified in the construction is low lying. Filling and construction will affect the natural processes of storage and drainage. **The cleared strip of land behind my property in Rainforest Way is less than 20 metres wide and falls steeply down to North Creek. Has this been taken into account?** Any construction or disturbance causing erosion to the clay soil would cause considerable run-off into North Creek. The Richmond River, into which the run off would eventually flow is already is already severely polluted. Note the present huge build up of foam containing soil particles and mud on the beaches (March 8th)
5. Contaminants associated with traffic including oils, brake lining fibres and heavy metals would also affect North Creek and other low-lying wetlands adjoining the proposed road, especially after heavy rain. Any pollution would be to the detriment wildlife particularly amphibians, bird and fish species.
6. Despite the proposed provision of sound barriers, properties especially those backing onto the road would suffer from intrusive traffic noise.
7. There would also be the possibility of a risk of increased crime with the road giving easy access and escape route.

8. How is the proposed speed limit of 60kph to be policed? 50kph would be preferable. How would the speed limit be policed?
9. The road would mean the loss of much loved walking tracks used by locals for recreation such as walking, photography, birdwatching etc in the natural environment.
10. The road itself would be of no use for adjoining householders to shorten their travel distance between Rainforest Way and North Creek Rd. Montwood Drive is already in place and should be used instead, thus saving money and major destruction of the environment.
11. The value of properties adjacent to this road would decrease due to perceived negative impacts of the road. Our area would suffer adverse consequences without any advantages of access, while the advantages and increased property values will be directed elsewhere. Will these be compensated by lower land values and reduced rates?
12. Occasional surveys of the area cannot completely identify all species of birds resident and migratory in the area. I attach a list of birds I have observed in the area over the past 4 years, some of which have not been recorded during the surveys.

When are we humans going to stop putting the environment last?! Native fauna should not have to suffer for bad planning in the past. To quote from the Community Strategy Plan 2013-2023: *HE1.3 Promote our open spaces, natural areas and their heritage values.*

Signed: Jo Wieneke



Owner and resident at #37 Rainforest Way, Lennox Head 2478.

Graduate Certificate in Ornithology (CSU)

Author of *Where to find Birds in North East Queensland*, *Birds of Magnetic Island* and numerous papers and articles in ornithological and nature journals.

Birds Seen in and around 37 Rainforest Way but not including STP area
May 2009-March 2013

Note: Many migratory species use the area. A visiting consultant biologist reported five Spectacled Monarchs and one White eared Monarch together in January.

Australian Brush Turkey	*Forked Tailed Swift	Golden Whistler
White-faced Heron	Laughing Kookaburra	Rufous Whistler
Australian White Ibis	Rainbow Bee-eater	*Little Shrike-thrush
Royal Spoonbill	Dollarbird	Grey Shrike-thrush
Brahminy Kite	Noisy Pitta	Figbird
Masked Lapwing	*Regent Bowerbird	Olive-Backed Oriole
White-headed Pigeon	Superb Fairy-wren	Grey Butcherbird
*Spotted Turtle-Dove	Variegated Fairy-wren	Pied Butcherbird
*Brown Cuckoo-Dove	White-browed Scrubwren	Australian Magpie
Emerald Dove	*Large-billed Scrubwren	Pied Currawong
Crested Pigeon	*White-throated	Spangled Drongo
*Rose-crowned Fruit-Dove	Gerygone	Rufous Fantail
*Superb Fruit Dove	Brown Thornbill	Grey Fantail
*Topknot Pigeon	Striated Pardalote	Willie Wagtail
Yellow-tailed Black	Eastern Spinebill	Torresian Crow
Cockatoo	Lewin's Honeyeater	White-eared Monarch
Little Corella	Noisy Miner	Black-faced Monarch
Galah	Little Wattlebird	Spectacled Monarch
Rainbow Lorikeet	Scarlet Honeyeater	Eastern Yellow Robin
Scaly-breasted Lorikeet	Brown Honeyeater	Red-browed Finch
Australian King Parrot	White-cheeked	*Mistletoebird
Eastern Rosella	Honeyeater	Welcome Swallow
Pheasant Coucal	Blue-faced Honeyeater	Silveryeye
Common Koel	Noisy Friarbird	*missing from EIS list
Channel-billed Cuckoo	*Little Friarbird	
Shining Bronze-Cuckoo	Striped Honeyeater	
Fan-tailed Cuckoo	Eastern Whipbird	
Australian Owlet Nightjar	Black-faced Cuckoo-shrike	
*White-throated	Cicadabird	
Needletail	Varied Triller	

Other species seen at STP not on EIS list

Black Swan	Great Egret
Little Pied Cormorant	Fairy Martin
Latham's Snipe	Tawny Grassbird
Buff-banded Rail	White-breasted Wood swallow
Australasian Grebe (breeding)	Swamp Harrier
Little Bittern	Black-shouldered Kite
	Australian Hobby

Dear Dwayne Roberts,

Proposal: The Construction of Hutley Drive connection to Elevation Estate and Vegetation Clearance in Sepp 14 affected area.

My objections when viewing this proposal are the following:

- ☐ Land values will go down due to our land being enclosed by two main arterial roads.
- ☐ Residents affected by the road have no direct access to the road.
- Visual impacts effecting neighboring residence and general landscape
- ☐ Noise impacts of road to local homes
- Are there guarantees that the road will never be upgraded to a major arterial road i.e. linking up to Ross lane

Kind regards

Lexie & Peta Hooker

6 Lillipilli Place,

Lennox Head

Attachment 3



Planning &
Infrastructure

RECORDS
SCANNED

23 DEC 2013

Doc No.....

Batch No.....

Mr P Hickey
General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

Our ref: 12/15086
Your ref: DA2012/334

Dear Mr Hickey

Request for concurrence under State Environmental Planning Policy No 14 for the proposed crossing of Wetland No 88 by Hutley Drive near Lennox Head

I refer to your letter of 12 September 2012 and subsequent correspondence requesting the Director General's concurrence in the above matter.


Following consideration of the application I as the Director General's delegate have granted concurrence under clause 7(1) of *State Environmental Planning Policy No 14* for the wetland crossing identified in the EIS prepared by SMEC Consultants reflected in the consultants' planning report dated November 2012, provided the following are considered as conditions as consent:

- implementation of all actions listed in 'Section 9 Statement of Commitments' of the EIS and all management plans listed throughout the document including: Acid Sulfate Soils Management Plan; Erosion And Sediment Control Plan; Stormwater Management Plan; Flora Management Plan; Surface Water Quality Management Plan; Groundwater Management Plan; Fauna Management Plan; Weed Management Plan; Translocation Plan for Hairy joint grass and Square-stemmed spike rush and Bush Regeneration Plan;
- the erection of fauna fencing (along the border of the SEPP 14 coastal wetland adjacent to the road) and other fauna movement measures as appropriate;
- implementation of *in situ* habitat restoration works;
- identification of an appropriate 10:1 compensatory wetland site (with similar wetland habitat features to the site being impacted) either *in situ* or within 10km of the impacted SEPP14 wetland (e.g. at Chickiba Creek Wetland in the Prospect Bridge area or the wetlands on Fishery Creek or other appropriate site with similar characteristics). Advice concerning details and location of compensatory habitat and proposals for its maintenance and monitoring to be forwarded to the department for information; and
- preparation of a Wetland Compensation Management Plan for this site/s which includes: a hydrology assessment of the wetland; mapping of existing wetland vegetation and weeds; and creation of a weed eradication program, focused towards natural wetland vegetation regeneration. The plan should further contain: a detailed costing; timetable for actions; and assignment of responsibilities. The Office of Environment and Heritage and the Department of Primary Industry (Fisheries) should be consulted during preparation of the Wetland Compensation Management Plan. A copy of the completed plan should be provided to this department.

Concurrence was granted as wetland disturbance is relatively minor and proposed compensatory works should mitigate any adverse impact.

If you wish to discuss the matter further please contact Steve Jensen on 6626 5638 (Tuesday to Friday) or Jim Clark on 6641 6604.

Yours sincerely

 18 December 2013
Steve Murray
General Manager, Northern Region
Growth Planning and Delivery



Office of
Environment
& Heritage

Your reference DA 2012/334
Our reference: DOC14/260996
Contact: Krister Waern (02) 6640 2503

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478



Attention: Mr Rod Willis

Dear Mr Hickey

**Re: Concurrence Request for Construction of Hutley Drive
(Chainage 800-2100m)**

Thank you for your letter dated 24 October 2014 to the Office of Environment and Heritage (OEH) requesting concurrence to the proposed extension and construction of Hutley Drive between chainage 800m-2100m in accordance with section 79B of the *Environmental Planning and Assessment Act 1979* (EP&A Act). I appreciate the opportunity to provide a response and apologise for the delay in finalising this matter.

Concurrence was requested by Ballina Shire Council on the grounds that the development would result in potential significant impacts on Hairy Jointgrass (*Arthraxon hispidus*), Square-stemmed Spike-rush (*Eleocharis tetraquetra*) and the Bush-hen (*Amauornis moluccana*).

The Square-stemmed Spike-rush is listed as Endangered under Schedule 1 of the *Threatened Species Conservation Act 1995* (TSC Act) and the Hairy Jointgrass and the Bush-hen are both listed as Vulnerable under Schedule 2 of the TSC Act.

Part of the alignment is cleared land, however, approximately 1.76ha of native vegetation will be cleared and there will be indirect impacts to adjoining areas of native vegetation.

This vegetation is a combination of a number of Endangered Ecological Communities (EEC's) and vegetation identified under the State Environmental Planning Policy No. 14 – Coastal Wetlands.

OEH has reviewed the Species Impact Statement (SIS), and other supporting documentation for the proposed extension and construction of Hutley Drive between chainage 800m-2100m located in part on Lot 10 DP851865 and Hutley Drive Road Reserve, Lennox Head, for which the Joint Regional Planning Panel on behalf of Ballina Shire Council is the Consent Authority.

OEH has considered the application by Ballina Shire Council for concurrence in accordance with Section 79B of the EP&A Act and, as delegate for the Director General, I have decided to grant concurrence to the development subject to the Concurrence Conditions set out in **Attachment 1** to this letter.

Locked Bag 914, Coffs Harbour NSW 2450
Federation House Level 7, 24 Moonee Street,
Coffs Harbour NSW 2450
Tel: (02) 6651 5946 Fax: (02) 6651 6187
ABN 30 841 387 271
www.environment.nsw.gov.au

If you require further information or clarification please contact Senior Operations Officer, Mr Krister Waern, on (02) 6640 2503

Yours sincerely

Dimitri Young 6 March 2015

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

Attachment 1: Concurrence Conditions - Construction of Hutley Drive (Chainage 800-2100m)

1. The development must be undertaken in accordance with the Statement of Commitments in Chapter 9 of the Environmental Impact Statement (EIS).

Reason: To ensure that the proposal is undertaken as described in the EIS and SIS and incorporates amelioration measures for threatened species and ecological communities as agreed to by the Minister administering the Threatened Species Conservation Act 1995 in this Concurrence Report.

2. The applicant must inform the Office of Environment and Heritage (OEH), prior to any clearing or construction, of any proposed variations in location or design of any structures or relative timing of clearing of the approved development that may impact on threatened species matters, which is not contained within the EIS, SIS or accompanying documentation or addressed by consent conditions. Any such proposed variations must be approved, in writing, by OEH's Senior Team Leader Planning, North East Region, before works associated with the variation commence. Requests for variations must be in writing and include an assessment of the potential impacts of the proposed variation on threatened species, endangered populations and endangered ecological communities (including their habitats).

Reason: To ensure that any proposed variations to the development do not increase adverse impacts on threatened species and their habitats, or lessen protection provided to threatened species and their habitats.

3. Further survey and accurate mapping is to be undertaken for the following threatened ecological communities and flora species, prior to a construction certificate being issued. The mapping methodology is to be approved by OEH and Council prior to surveys commencing.

- Littoral rainforest
- Swamp oak floodplain forest
- Swamp sclerophyll forest
- Freshwater wetland
- Hairy Joint Grass (*Arthraxon hispidus*) - based on habitat
- Square Stemmed Spike Rush (*Eleocharis tetraquetra*) - based on habitat
- Tinospora vine (*Tinospora tinoporoides*)
- White Laceflower (*Archidendron hendersonii*)
- Rough-Shelled Bush Nut (*Macadamia tetraphylla*)
- Scrub Turpentine (*Rhodamnia rubescens*)

Reason: To provide accurate mapping at the detailed design stage which will enable direct and indirect impact areas to be more accurately identified in the proposed impact mitigation strategies (offset strategy translocation and seed collection plan) and ensure the mitigation can be implemented to maximum effect. The current figures are estimates only.

4. The following Plans must be based on Concurrence Condition 3 above and provided and approved by OEH and Council prior to a construction certificate being issued:

- a. Weed Management Plan;
- b. Translocation and Seed Collection Plan;
- c. Bush Regeneration Plan, and;
- d. Vertebrate Pest Management Plan

Reason: To ensure that the proposed mitigation measures are accurately and appropriately detailed in approved plans and ensure they can be implemented to maximum effect.

5. An offset strategy must be prepared in consultation with OEH and approved by OEH and Council prior to a construction certificate being issued. The offset strategy, must provide the following information:
- a. Updated mapping for threatened ecological communities and flora species based on Concurrence Condition 3 above.
 - b. The area of direct and indirect impacts to biodiversity to be offset, including but not limited to:
 - i. Littoral rainforest
 - ii. Swamp oak floodplain forest
 - iii. Swamp sclerophyll forest
 - iv. Freshwater wetland
 - v. Hairy Joint Grass (*Arthraxon hispidus*)
 - vi. Square Stemmed Spike Rush (*Eleocharis tetraquetra*)
 - vii. Bush Hen (*Amaurornis moluccana*)
 - viii. Common Planigale (*Planigale maculata*)
 - c. Calculation of the required biodiversity offsets based on the direct and indirect impacts identified. A suitable metric must be used to calculate the biodiversity values of the losses and gains associated with the proposal in a repeatable and transparent way. OEH promotes the use of the BioBanking Assessment Methodology to ensure the offsetting contributions will improve or maintain environmental outcomes.
 - d. The quantum and type of offset determined in accordance with Concurrence Conditions 5a, b and c above, and in accordance with OEH's offsetting principles as described at <http://www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm>
 - e. The mechanism(s) proposed to secure the offset in perpetuity.

Reason: To ensure that the proposed offset strategy provides an appropriate offset prior to the works commencing.

(End of Concurrence Conditions)



Department of Primary Industries

Our Ref: TRIM11/1054 OUT13/31079

The General Manager
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

RECORDS
SCANNED

22 OCT 2013

Doc No.....

Batch No.....

17 October 2013

Attention: Mr Dwayne Roberts

Dear Mr Roberts

**Re: Development Application No. DA 2012/334 Hutley Drive assessment of
additional information**

Thank you for your email dated 18 September 2013 providing Fisheries NSW with the additional information that was sought by the NSW Office of Environment and Heritage (OEH). Fisheries NSW understands that OEH have a concurrence role in the assessment of this proposal.

Fisheries NSW letter of 16 May 2013 noted OEH's request and sought the opportunity to review the additional information prior to finalising, if appropriate, General Terms of Approval. The information sought by OEH related to 'options to reduce the impact on native vegetation, particularly in the SEPP 14 Wetland'. As SEPP14 Wetlands are considered, Type 1 Highly Sensitive Key Fish Habitat within the Department's *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)* this additional information was considered of direct relevance to Fisheries NSW.

Fisheries NSW subsequent assessment of the additional information considered how the road corridor construction and operational footprint directly and unavoidably impacts on key fish habitats such as the SEPP14 Wetland. The assessment also considered how site constraints limit the full and effective provision of mitigation measures such as water quality controls and habitat buffers distances to avoid, or at least minimise to acceptable levels, the impacts of the proposal on fish and fish habitat (as outlined in Fisheries NSW *Policy and Guidelines for Fish Habitat Conservation and Management 2013*). These site constraints compromise the employment of a range of mitigation measures during both construction and operation of the Hutley Drive extension.

Fisheries NSW has a policy of 'no net loss' of key fish habitat. Avoidance of impacts on fish habitat is prioritised, where that is not fully achieved mitigate of impacts is conditioned and when mitigation can not be undertaken to reduce impacts to an acceptable level, then offset or compensatory habitat may be conditioned. Accordingly the GTAs outlined below centre on offsetting the direct and indirect impacts of the proposal consistent with the following Fisheries NSW policy and guidelines from *Policy and Guidelines for Fish Habitat Conservation and Management 2013*. This document is available for download at: www.dpi.nsw.gov.au/fisheries/habitat/protecting-habitats/toolkit

Section 3.3.3.2 of the document outlines policies that apply to rehabilitation and compensation works. Essentially, NSW DPI enforces a 'no net loss' habitat policy as a permit condition or condition of consent. This may require proponents to conduct habitat rehabilitation and or provide environmental compensation generally on a like for like basis. A monetary bond or payment may be required to be lodged with NSW DPI to ensure the works are completed in accordance with the permit conditions.

Additional, NSW DPI calculates habitat compensation on a minimum 2:1 basis for all key fish habitat (TYPE 1-3) and at a ratio of 10:1 for disturbance to SEPP14. Impacts in SEPP14 may also require approval from the Department of Planning and Infrastructure. The compensation ratio is to help redress other indirect impacts of development. A greater compensation ratio may be considered if opportunities for compensation are not available in the vicinity of, or of the type of, habitat that has been lost.

Conclusion

The absence of both detailed final plans for the construction footprint and a specific plan demonstrating effectively compensation of the SEPP14 Wetland area at a minimum of 10:1 necessitate Fisheries NSW' ongoing involvement in assessment of this proposal prior to the release of the Construction Certificate. Subject to the following General Terms of Approval, which condition for such ongoing involvement, Fisheries NSW will raise no objection to the development application.

General Terms of Approval

- Prior to the release of the Construction Certificate for DA2012/334 the proponent shall liaise with Fisheries NSW in relation to the final road footprint, construction methodology and mitigation measures to be employed to minimise impacts on the SEPP14 Wetland. Endorsement by Fisheries NSW of a Construction and Environmental Management Plan outlining the final road footprint, construction methodology and specific mitigation measures to be adopted is to be demonstrated to Council by a signed letter from Fisheries NSW.

- Prior to the release of the Construction Certificate for DA2012/334 the proponent shall prepare a *SEPP14 Compensation Plan* to the satisfaction of Fisheries NSW and other relevant authorities. Final endorsement of the *SEPP14 Compensation Plan* from Fisheries NSW will be demonstrated to Council by a signed letter from Fisheries NSW regarding 'Final endorsement of proposed SEPP14 Compensation Plan: Hutley Drive'. Within the *SEPP 14 Compensation Plan* the area of SEPP 14 impacted in the construction works and final road footprint is to be off-set at a ratio of a minimum of 10:1. Any additional impacts on the SEPP14 wetland community that occur during construction work, beyond those already accounted, are to be similarly compensated. The *SEPP 14 Compensation Plan* shall specify the location of the compensatory area and specify actions to be undertaken, their sequencing and duration, to achieve and maintain effective compensation of impacted SEPP 14 Wetland. The Compensation Area should, ideally, be located within 5km of the SEPP14 Wetland impacted by the Hutley Drive extension. But this can be subject to negotiation between Fisheries NSW, the Office of Environment and Heritage and the proponent.

The scope and actions within the *SEPP 14 Compensation Plan* are to be generally consistent with *Best Management Practice Guidelines for Coastal Saltmarsh* (DECC 2009) and *Saltwater Wetlands Rehabilitation Manual* (DECC 2008) including the sections on monitoring and adaptive management. The document *Guidelines Wetland Restoration Plans* (Department of Urban Affairs & Planning, 1999) also provides useful information on the content of a SEPP14 Compensation Management Plan.

- A permit under s200 of the *Fisheries Management Act 1994* for dredging and reclamation activities be obtained prior to commencement of the works at the site.

If you or the proponent wish to discuss these General Terms of Approval I encourage you to contact Fisheries Conservation Manager (North), Patrick Dwyer on 02 6626 1397.

Yours sincerely



Patrick Dwyer
Fisheries Conservation Manager (North)

Attachment 4

SCHEDULE OF RECOMMENDED CONDITIONS

DEFERRED COMMENCEMENT CONDITIONS

Deferred Commencement

The operation of this consent being deferred, pursuant to Section 80(3) of the Environmental Planning & Assessment Act, until:

1. The applicant undertakes consultation with impacted residents in relation to the height, location and materials to be used for the proposed acoustic barrier. At a minimum, the acoustic barrier shall be of masonry construction (or equivalent) that achieves a 50 year design life and also the identified project specific noise goals identified in the Noise and Vibration Mitigation Options Report dated 9 November 2012 prepared by SMEC. Following this consultation, a record of the outcomes of this consultation, including the design details of the acoustic barrier, is to be provided to Council.
2. A detailed Stormwater Management Plan is to be submitted to and approved by Council. This plan, to be prepared by a suitably qualified and experienced hydraulics consultant and/or engineer, is to adequately demonstrate that the proposed method(s) of stormwater treatment and detention are in accordance with the requirements of Council's Development Control Plan Chapter 2, Section 3.9 – Stormwater Management. This plan shall also have regard for the existing stormwater and overland drainage systems that discharge onto the site via adjacent properties.

The approved Stormwater Management Plan is to be referenced in addressing the OEH's condition of concurrence No. 15 so that the direct and indirect impacts on threatened species, endangered populations and/or endangered ecological communities can be accurately determined and adequately compensated.

The deferred commencement conditions are to be complied with within two years of the date of the issue of this consent.

GENERAL

3. **Approved Plans and Documentation**
Development being carried out generally in accordance with the plans and associated documentation lodged by, or on behalf of, the applicant, including the Hutley Drive Southern Extension EIS prepared by SMEC Australia including Appendices and Volume 2 Technical Papers with their recommendations and any subsequent amendments and final concept design drawings titled General Arrangement and Long Section Sheets 4 to 7 (inclusive) and associated Cross Sections dated 12/10/2012, except as modified by any condition in this consent.

Concurrence Condition – Department of Planning and Environment (DoPE)

4. Implementation of all actions listed in 'Section 9 Statement of Commitments' of the EIS and all management plans listed throughout the document including: Acid Sulfate Soils Management Plan; Erosion and Sediment Control Plan; Stormwater Management Plan; Flora Management Plan; Surface Water Quality Management Plan; Groundwater Management Plan; Fauna Management Plan; Weed Management Plan; Translocation Plan for Hairy joint grass and Square-stemmed spike rush and Bush Regeneration Plan, except as modified by any condition in this consent.

Concurrence Condition - NSW Office of Environment and Heritage

5. Prior to any clearing or construction, the applicant must inform the Office of Environment and Heritage (OEH), of any proposed variations in location or design of any structures or relative timing of clearing of the approved development that may impact on threatened

species matters, which is not contained within the EIS, SIS or accompanying documentation or addressed by consent conditions. Any such proposed variations must be approved, in writing, by OEH's Senior Team Leader Planning, North East Region, before works associated with the variation commence. Requests for variations must be in writing and include an assessment of the potential impacts of the proposed variation on threatened species, endangered populations and endangered ecological communities (including their habitats).

Reason: To ensure that any proposed variations to the development do not increase adverse impacts on threatened species and their habitats, or lessen protection provided to threatened species and their habitats.

PRIOR TO ISSUE OF CIVIL CONSTRUCTION CERTIFICATE

The following conditions in this section of the consent must be complied with or addressed prior to the issue of any Civil Construction Certificate relating to the approved development.

6. Issue of Construction Certificate
The construction of the proposed road under the terms and conditions of this Development Consent must not be commenced until detailed plans and specifications of the proposed road have been endorsed with a Construction Certificate.
7. Appointment of a Project Manager
A Project Manager is to be appointed, whose name and contact details are to be provided to Council. The Project Manager is to be responsible for ensuring the development is carried out in accordance with the terms and conditions of this consent. The Project Manager is to submit a schedule of compliance, with the application for a Construction Certificate, detailing how each condition under the headings General and Prior to the Issue of Construction Certificate within this Determination Notice have been satisfactorily addressed.

Concurrence Conditions – Department of Planning and Environment (DoPE)

8. The erection of fauna fencing (along the border of SEPP 14 coastal wetland adjacent to the road) and other fauna movement measures as appropriate. Details are to be submitted to the DoPE.
9. Implementation of in situ habitat restoration works. Details are to be submitted to the DoPE.
10. Identification of an appropriate 10:1 compensatory wetland site (with similar wetland habitat features to the site being impacted) either in situ or within 10km of the impacted SEPP14 wetland (e.g. at Chickiba Creek Wetland in the Prospect Bridge area or the wetlands on Fishery Creek or another appropriate site with similar characteristics). Details and location of compensatory habitat and proposals for its maintenance and monitoring are to be submitted to the DoPE.
11. Preparation of a Wetland Compensation Management Plan for this site/s which includes: a hydrology assessment of the wetland; mapping of existing wetland vegetation and weeds; and creation of a weed eradication program, focused towards natural wetland vegetation regeneration. The plan should further contain: a detailed costing; timetable for actions; and assignment of responsibilities. The Office of Environment and Heritage and the Department of Primary Industry (Fisheries) should be consulted during preparation of the Wetland Compensation Management Plan. A copy of the completed plan is to be submitted to the DoPE.
12. Documentation submitted to DoPE to address the above concurrence conditions numbered 8 to 11 inclusive, together with written confirmation from DoPE that these conditions have been satisfactorily addressed, is to be submitted to Council with the application for Construction Certificate.

General Terms of Approval - NSW Department of Primary Industries (Fisheries)

13. The proponent shall liaise with Fisheries NSW in relation to the final road footprint, construction methodology and mitigation measures to be employed to minimise impacts on the SEPP14 Wetland. Endorsement by Fisheries NSW of a Construction and Environmental Management Plan outlining the final road footprint, construction methodology and specific mitigation measures to be adopted is to be demonstrated to Council by a signed letter from Fisheries NSW.
14. The proponent shall prepare a SEPP14 Compensation Plan to the satisfaction of Fisheries NSW and other relevant authorities. Final endorsement of the SEPP14 Compensation Plan from Fisheries NSW will be demonstrated to Council by a signed letter from Fisheries NSW regarding 'Final endorsement of proposed SEPP14 Compensation Plan: Hutley Drive'. Within the SEPP 14 Compensation Plan the area of SEPP 14 impacted in the construction works and final road footprint is to be off-set at a ratio of a minimum of 10:1. Any additional impacts on the SEPP14 wetland community that occur during construction work, beyond those already accounted, are to be similarly compensated. The SEPP 14 Compensation Plan shall specify the location of the compensatory area and specify actions to be undertaken, their sequencing and duration, to achieve and maintain effective compensation of impacted SEPP 14 Wetland. The Compensation Area should, ideally, be located within 5km of the SEPP14 Wetland impacted by the Hutley Drive extension. But this can be subject to negotiation between Fisheries NSW, the Office of Environment and Heritage and the proponent.

The scope and actions within the SEPP 14 Compensation Plan are to be generally consistent with Best Management Practice Guidelines for Coastal Saltmarsh (DECC 2009) and Saltwater Wetlands Rehabilitation Manual (DECC 2008) including the sections on monitoring and adaptive management. The document Guidelines Wetland Restoration Plans (Department of Urban Affairs & Planning, 1999) also provides useful information on the content of a SEPP14 Compensation Management Plan.

Concurrence Conditions - NSW Office of Environment and Heritage

15. Further survey and accurate mapping is to be undertaken for the following threatened ecological communities and flora species. The mapping methodology is to be approved by OEH and Council prior to surveys commencing.
 - a. Littoral rainforest
 - b. Swamp oak floodplain forest
 - c. Swamp sclerophyll forest
 - d. Freshwater wetland
 - e. Hairy Joint Grass (*Arthraxon hispidus*) - based on habitat
 - f. Square Stemmed Spike Rush (*Eleocharis tetraquatra*) - based on habitat
 - g. Tinospora vine (*Tinospora tinoporoides*)
 - h. White Laceflower (*Archidendron hendersonii*)
 - i. Rough-Shelled Bush Nut (*Macadamia tetraphylla*)
 - j. Scrub Turpentine (*Rhodamnia rubescens*)

Reason: To provide accurate mapping at the detailed design stage which will enable direct and indirect impact areas to be more accurately identified in the proposed impact mitigation strategies (offset strategy translocation and seed collection plan) and ensure the mitigation can be implemented to maximum effect. The current figures are estimates only.

16. The following Plans must be based on Concurrence Condition No. 15 above and submitted to and approved by OEH and Council.
 - a. Weed Management Plan;
 - b. Translocation and Seed Collection Plan;
 - c. Bush Regeneration Plan; and
 - d. Vertebrate Pest Management Plan.

Reason: To ensure that the proposed mitigation measures are accurately and appropriately detailed in approved plans and ensure they can be implemented to maximum effect.

17. An offset strategy must be prepared in consultation with OEH and approved by OEH and Council. The offset strategy, must provide the following information:
 - a. Updated mapping for threatened ecological communities and flora species based on Concurrence Condition No. 15 above.
 - b. The area of direct and indirect impacts to biodiversity to be offset, including but not limited to:
 - i. Littoral rainforest
 - ii. Swamp oak floodplain forest
 - iii. Swamp sclerophyll forest
 - iv. Freshwater wetland
 - v. Hairy Joint Grass (*Arthraxon hispidus*)
 - vi. Square Stemmed Spike Rush (*Eleocharis tetraquetra*)
 - vii. Bush Hen (*Amaurornis moluccana*)
 - viii. Common Planigale (*Planigale maculata*)
 - c. Calculation of the required biodiversity offsets based on the direct and indirect impacts identified. A suitable metric must be used to calculate the biodiversity values of the losses and gains associated with the proposal in a repeatable and transparent way. OEH promotes the use of the BioBanking Assessment Methodology to ensure the offsetting contributions will improve or maintain environmental outcomes.
 - d. The quantum and type of offset determined in accordance with Concurrence Conditions Nos 17 a, b and c above, and in accordance with OEH's offsetting principles as described at <http://www.environment.nsw.gov.au/biodivoffsets/oehoffsetprincip.htm>
 - e. The mechanism(s) proposed to secure the offset in perpetuity.

Reason: To ensure that the proposed offset strategy provides an appropriate offset prior to the works commencing.

18. Confirmation of Compliance
Documentation submitted to address the above OEH Concurrence Conditions numbered 15 to 17 inclusive, together with written confirmation from OEH and Council that these conditions have been satisfactorily addressed, is to be submitted with the application for Construction Certificate.
19. Section 138 Certificate
A Section 138 Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.35% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.
20. Civil Works
Detailed engineering design drawings for road and drainage works shall be submitted to and approved by Council under Section 138 of the Roads Act 1993. The design shall comply with the minimum requirements of the Northern Rivers Local Government Development Design and Construction Manuals (as current at the time of construction works commencing) and shall be submitted with a completed Certification Report as set out in Annexure DQS-A of the manuals.
21. Engineering Design Drawings
The detailed engineering design drawings shall address the findings of the SMEC road safety audit, Hutley Drive Extension, Shire of Ballina, Road Safety Audit – (Stage 2)

Concept Design, July 31 2013. The design shall demonstrate how each of the high and medium risk findings have been reduced to the low risk category.

22. Vehicular Access

A vehicle management plan is to be submitted to Council describing how delivery and construction vehicles will enter and exit the site in a forward direction. Details of turnaround facilities are to be included on the engineering design plans submitted prior to the issue of the Construction Certificate.

23. Landscape Plan

A landscape plan, prepared by a person competent in the field is to be submitted to and approved by Council prior to the issue of a Construction Certificate. Where batters are steeper than 1V:4H (non mowable), a low maintenance landscape strategy is to be provided. The plan shall show the mature height, location, quantity and species of all plantings and should also give details of soil conditions and the planting and maintenance program. The landscape plan and selection of appropriate plants shall be made generally in accordance with the Council's Development Control Plan Chapter 3 – Urban Subdivision and the *Ballina Shire Urban Garden Guide*.

24. Shared Footpath / Cycleway

The provision of a concrete path a minimum of 2.0 metres wide along the eastern side of Hutley Drive generally in accordance with the typical cross section described in Chapter 4 of the EIS. The path is to be designed and constructed in accordance with Standard Drawing R07 of the Northern Rivers Local Government Development Design and Construction Manuals. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.

25. Stormwater Management Plan

Certification is to be provided by a qualified engineer that the provision of stormwater controls in the final road design is in accordance with the approved Stormwater Management Plan (Deferred Commencement Condition No. 2).

26. Road Safety Audit

At the developer's expense, a road safety audit is to be completed in accordance with the Transport Roads and Traffic Authority: Guidelines for Road Safety Audit Practices (July 2011) and the Austroads Guide to Road Safety Part 6: Road Safety Audit.

27. Filling of the Site (flooding)

No filling is to be placed on the site that will cause surface water flooding of any adjoining property. The development shall make due provision for the diversion of the existing stormwater quantities that discharge onto the site via adjacent properties. The development shall be required to provide a suitable drainage system and demonstrate that the pre-development performance of the existing stormwater and overland drainage system is maintained. Details are to be included in the stormwater designs and submitted to and approved by Council prior to issue of the Construction Certificate.

28. Asset Listing

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

29. Acid Sulfate Soils

An Acid Sulfate Soil Management Plan for any area identified as containing potentially acid sulphate soil is to be submitted to and be approved by Council prior to the release of the Construction Certificate. The Plan must include the principles to be adopted on site for areas that are likely to contain acid, such as the deeper excavations for drainage works and trench construction.

30. Contaminated Lands

A Stage 2 Detailed Investigation must be completed in accordance with Clause 3.4.1 of the SEPP 55 and the Office of Environment and Heritage Guidelines for Consultants Reporting on Contaminated Sites (2011). The investigation is to define the nature, extent and degree of contamination of soils likely to be disturbed by excavation activities associated with the former holding yards of the Meaney's Cattle Dip, to assess potential risks posed by contaminants to health and the environment, and to obtain sufficient information to develop a remedial action plan (RAP), if required, to be submitted to and approved by Council.

31. Soil and Water Management

A Soil and Water Management Plan (SWMP) shall be submitted to and approved by Council prior to the issue of the Construction Certificate. The SWMP shall be prepared in accordance with the requirements of Managing Urban Stormwater – Soils and Construction, LANDCOM, March 2004. In addition, this plan is to address, but is not limited to, the following:

- a. The construction access to the site shall have a shake down grid or equivalent to minimise the transportation of material onto the road network via vehicular movements from the site;
- b. A water truck, or equivalent method designed to suppress dust from exposed surfaces and access roads, shall be available at the site at all times. Exposed surfaces and access pads shall be regularly wetted to suppress dust generation;
- c. Suitable covering and protection must be provided to all stockpiles to ensure that no material is removed by wind from the site, causing a nuisance to neighbouring properties; and
- d. All disturbed and exposed areas shall be revegetated. Revegetation of such areas shall be implemented as soon as construction works end in each area of the development.

32. Acoustic Barrier Design

The final design and location of the acoustic barrier/s is to be submitted to and approved by Council. Details shall include, but not be limited to, the following:

- a. The height of the acoustic barrier/s above natural ground level;
- b. The acoustic barrier/s shall be of masonry construction (or equivalent) that achieves a fifty year design life to the approval of Council's Engineer;
- c. Specifications for any landscaping treatment (i.e. width, species, quantity, location etc.) of the acoustic barrier; and
- d. Confirmation that the outcomes of the community consultation as required by Deferred Commencement Condition No. 1 have been incorporated into the final design.

Acoustic treatments achieving the identified project specific noise goals identified in Noise and Vibration Mitigation Options dated 9 November 2012 prepared by SMEC shall be incorporated into the final construction plans. Certification prepared by the acoustic consultant detailing that the acoustic barrier has been incorporated into the final construction plan and will achieve the required noise reductions is to be submitted to Council with the application for a Construction Certificate.

33. Retaining Walls

Retaining walls exceeding one metre in height are to be designed in accordance with AS 4678-2002. A retaining wall design report must accompany the Construction Certificate Application. Certification is required with the Construction Certificate application, from a registered certified practicing engineer competent in the field of retaining wall design and familiar with the geotechnical aspects of the project, that the retaining walls depicted in the Construction Certificate drawings and the associated Design Report comply with the requirements of AS 4678-2002.

34. Retaining Walls and Services

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

35. Dilapidation Report

A dilapidation report detailing the current structural condition of the adjoining buildings shall be prepared and endorsed by a qualified structural engineer. The report shall be submitted to Council.

36. Construction Management Plan

The Draft Construction Environmental Management Plan, submitted with the application, is to be updated and the final version submitted to and approved by Council prior to issue of the Construction Certificate. The Plan shall detail measures to be employed to minimise impacts of the final road design and construction works on nearby residents and adjoining sensitive environmental lands. The plan is to integrate the various site management plans required by conditions of this consent. The plan is also to include, but not be limited to, the following:

- a. Name and contact details of construction manager;
- b. Hours of operation, sequencing/staging of works and duration of project;
- c. Complaints management;
- d. A Traffic Management Plan; and
- e. Management of construction noise, sediment and erosion control and waste.

This plan shall also detail the induction program to be followed that informs all relevant site construction workers of the terms and conditions of this development consent.

37. Street Lighting

The applicant shall be responsible for the design and installation of public street lighting along the entire length of the proposed road. All street lighting must be designed in accordance with AS / NZS 1158 based on the installation of Essential Energy Style 1 lanterns fitted with high pressure sodium light fittings and designed to minimise light spill on all adjoining residents and fauna habitat areas. Engineering design plans and specifications must be submitted to and approved by Council prior to the issue of the Construction Certificate.

38. Construction Waste

The construction waste component of the Site Waste Minimisation and Management Plan (SWMMP), submitted with the application, shall be provided to and approved by Council prior to the issue of the Construction Certificate in accordance with the requirements of Council's DCP 2012 Chapter 2 Section 3.7.3.

PRIOR TO CONSTRUCTION WORK COMMENCING

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

39. Notification of Commencement of Work

The Project Manager is to inform Council in writing of the date of commencement of works on site at least 48 hours prior to the work commencing.

40. NSW Fisheries Permit

A permit under s200 of the Fisheries Management Act 1994 for dredging and reclamation activities is to be obtained prior to commencement of the works at the site.

41. Notice of Commencement of Civil Works

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

42. Traffic Control

All traffic control shall be in accordance with the NSW Roads and Traffic Authority "Traffic Control at Works Sites Manual". A Traffic Control Plan must be prepared by a person holding a current "Design & inspect Traffic Control Plan" qualification. The traffic control plan must be certified and include the designer's name & certificate number. Details are to be submitted to Council prior to the commencement of construction.

43. Barrier Fencing

To protect the sensitive environs adjacent to the subject site, the proponent is to erect visible barrier fencing, or the like, to establish the Limit of Works (LoW), prior to any works commencing at the site. Signage depicting the purpose of the fencing is to be installed on the fence.

44. Identification Sign

A suitable sign/s is to be provided on the construction site in a prominent location, indicating the construction manager's name, licence number and contact telephone numbers (including after hours numbers).

45. Construction Waste Containment

Suitable waste containers capable of holding blowable type construction waste must be made available on the site, if necessary, prior to work commencing. Construction waste must be regularly cleaned up and placed in the waste containers so that it cannot be blown off the site and pollute the locality.

46. Toilet Provision.

Suitable toilets are to be provided on-site before work commences. Such facilities are to either connect to Council's sewer or suitable approved chemical closets are to be provided.

47. Safety Fencing

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

DURING CONSTRUCTION

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

48. Compliance Reports

Within four weeks of commencement of works on-site, the Project Manager is to submit to Council a progress report on the development's compliance with the conditions of this consent. Thereafter, three-monthly reports are to be submitted by the Project Manager to Council detailing the progress of the construction work and compliance with the conditions of this consent. These reports are required to be submitted for the construction life of the project.

49. Cultural Heritage

A cautionary Buffer Zone should be established around the midden, located to the west of the proposed road. The Buffer Zone should be fenced with temporary fencing, so that it is not inadvertently damaged during the course of constructing the road and marked on all working plans. The existing pipelines within the current sewerage and water easement alignment be decommissioned, rather than removed from the site. The easements which are now mown, should be revegetated after the lines are decommissioned. The current owners of the land on which the midden is situated, should be advised of the midden's high cultural significance to the Aboriginal community. The midden should be registered as a Site in the Aboriginal Heritage Information Management System (AHIMS) managed by the OEH.

50. Aboriginal Human Remains

If human remains are located at any stage during construction works within the subject lands, all works must halt in the immediate area to prevent any further impacts to the remains. The site should be cordoned off and the remains themselves should be left untouched. The nearest police station, the Jali LALC, and the OEH Regional Office, Coffs Harbour are to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the site for criminal activities, the Aboriginal community and the OEH should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations. It is also recommended that in all dealings with Aboriginal human remains, the proponent should use respectful language, bearing in mind that they are the remains of Aboriginal people rather than scientific specimens.

51. Aboriginal Cultural Material

If it is suspected that Aboriginal material has been uncovered as a result of development activities within the subject lands:

- a. work in the surrounding area is to stop immediately;
- b. a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;
- c. an appropriately qualified archaeological consultant is to be engaged to identify the material; and
- d. if the material is found to be of Aboriginal origin, the Aboriginal community is to be consulted in a manner as outlined in the OEH guidelines: "Interim Community Consultation Requirements for Applicants" (2005).

52. Work in Accordance with Construction Manuals

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

53. Damage to Council Infrastructure

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

54. Acid Sulfate Soils

The Acid Sulfate Soil Management Plan approved by Council must be implemented in full during the construction period.

55. Hours of Construction

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

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

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

56. Noise Management

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

57. Waste Management

All construction waste, or the like, is to be transported and disposed of to an approved waste facility. If alternative disposal methods are sought, the prior written approval of Council must be obtained.

The export of waste (including fill or soil) from the site must be in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Department of Environment and Climate Change's (DECC) 'Environmental Guidelines Assessment, Classification and Management of Non-Liquid Wastes', which may require laboratory testing in accordance with EPA and Council requirements.

58. Sediment and Erosion Control

The approved Soil and Water Management Plan (SWMP) must be implemented in full during the construction period.

59. Fill

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

60. Dewatering

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

61. Burning of Vegetation

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

PRIOR TO COMMENCEMENT OF USE

Unless otherwise stated all development and works referred to in other sections of this consent are to be completed together with the following conditions prior to the commencement of the use of the road.

62. Final Compliance Report

The Project Manager is to submit to Council the final compliance report documenting the project's compliance with all conditions of this consent, including compliance with all environmental works required by the conditions of concurrence under the various management plans and offset compensatory plans.

63. Civil Works

All civil works approved under Section 138 of the Roads Act 1993 and Section 68 of the Local Government Act 1993, are to be completed to the satisfaction of Council prior to the commencement of use. All works are to be completed in accordance with the Northern Rivers Local Government Development Design and Construction Manuals.

64. Works as Executed Drawings

Prior to the commencement of use, the applicant shall submit to Council a hard copy of a 'Works-as-Executed' (WAE) drawing at scale of 1:500 in addition to an electronic copy of the WAE information in AutoCAD and PDF format. Separate drawings shall be provided for roads, water, sewer and stormwater drainage. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.

65. Works as Executed (asset listing)

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

66. Stormwater

Prior to the commencement of use, certification must be provided to Council that all stormwater works have been provided in accordance with the approved Construction Plan and the approved Stormwater Management Plan. Overland flow paths must not be impeded through structures or landscaping and must direct stormwater flows to the public drainage system and not onto adjoining properties. This certification is to be provided by a suitably qualified and experienced practising Engineer competent in the field of stormwater design who is familiar with all aspects of the project.

67. Road Signs

Prior to the commencement of use, all road signs must be installed in accordance with the requirements of Australian Standards 1742, 1753 & 1744.

68. Survey Marks.

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

69. Retaining Walls

Prior to the commencement of use, certification must be provided to Council that all retaining wall works have been provided in accordance with the approved Construction Plan lodged with the Section 138 application. This certification is to be provided by a suitably qualified and experienced Engineer familiar with all aspects of the project.

70. Acoustic Barriers

The acoustic consultant shall provide Council with certification that the acoustic barriers/treatments have been constructed in accordance with the specifications in the final construction plans prior to the commencement of the use of the road.

71. Stormwater Maintenance Management Plan

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

72. Dilapidation Report

A second dilapidation report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining buildings. The report shall be submitted to Council and should be compared with the earlier report to ascertain what, if any, changes have occurred.

REASONS FOR CONDITIONS

- ensure compliance with the requirements of the Environmental Planning & Assessment Act, 1979;
- ensure compliance with the objectives of the Ballina Local Environmental Plan, 1987;
- ensure an appropriate level of amenities and services is available;
- protect the existing and likely future amenity of the locality;
- maintain, as far as practicable, the public interest;
- ensure compliance with the Building Code of Australia and relevant Australian Standards;
- ensure satisfactory compliance with relevant Council plans, codes and policies.