

## NORTHERN JOINT REGIONAL PLANNING PANEL

Meeting held at Ballina Shire Council on Wednesday 17 June 2015 at 1:00 pm

Panel Members: Garry West (chair), John Griffin, Pamela Westing, Steve Barnier and David Wright

Apologies: None - Declarations of Interest: None

### Determination and Statement of Reasons

**2012NTH015 Ballina 2012/334 [at Hutley Drive, Lennox Head at Hutley Drive Unformed Road Reserve, Lot 10 DP 851865 & Road Reserve] as described in Schedule 1.**

**Date of determination:** 17 June 2015

**Decision:**

The panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

**Panel consideration:**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

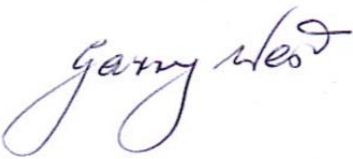


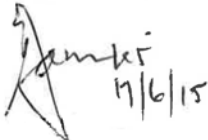
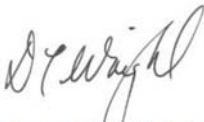
**Reasons for the panel decision:**

The panel adopted the assessment of those matters in the Council Assessment Report, except for the proposal for the stormwater treatment and detention and the acoustic/visual aspects of the proposal to be subject to deferred commencement. The Panel resolved these matters should be conditioned to be approved prior to the issue of the Construction Certificate.

The principal reason for the panel decision was that the need and justification for the proposed road has been identified in a number of strategic planning documents and is considered to be within the public interest. Other reasons for the panel decision were; 1) Concurrence has been provided by OEH, DPE, & NSW Fisheries; 2) Road traffic noise has been assessed and the conditions require consultation with impacted residents in relation to the height, location and materials of the acoustic barrier; 3) Stormwater treatment and detention has been adequately assessed and conditioned requiring the detailed plan to be submitted to and approved by Council.

**Conditions:** The development application was approved subject to the conditions in Appendix A of the Council Assessment Report as amended at the meeting and attached to Schedule 1.

**Panel members:**

 <b>Garry West (chair)</b>	 <b>Pamela Westing</b>	 <b>John Griffin</b>
 <b>Steve Barnier</b>	 <b>David Wright</b>	

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### SCHEDULE 1

1	<b>JRPP Reference – LGA- Council Reference:</b> 2012NTH015 Ballina 2012/334
2	<b>Proposed development:</b> 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
3	<b>Street address:</b> Hutley Drive, Lennox Head at Hutley Drive Unformed Road Reserve, Lot 10 DP 851865 & Road Reserve
4	<b>Applicant/Owner:</b> Ballina Shire Council and Hamlet Ridge Pty Ltd
5	<b>Type of Regional development:</b> Council related development with a Capital Investment Value of more than \$5 million
6	<b>Relevant mandatory considerations</b> <ul style="list-style-type: none"> <li>• Ballina Local Environmental Plan 2012</li> <li>• Ballina Local Environmental Plan 1987</li> <li>• State Environmental Planning Policy No. 14 (Wetlands)</li> <li>• North Coast Regional Plan</li> <li>• State Environmental Planning Policy No. 62 (Sustainable Aquaculture)</li> <li>• Ballina Development Control Plan 2012</li> <li>• Environmental Planning and Assessment Regulations 2000</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the EPA Act or EPA Regulation.</li> <li>• The public interest.</li> </ul>
7	<b>Material considered by the panel:</b> Council Assessment Report Dated: 2 June 2015 Written submissions during public exhibition: five (5) Verbal submissions at the panel meeting: Support- Andrew Pendergast; Against- NIL; On behalf of the applicant- John Truman, Group Manager Civil Services Council Staff: Andrew Smith, Manager Development Services; Dwayne Roberts, Consultant Planner; David Kelly, Manager Infrastructure Planning; Rachael Jenner, Environmental Health Officer.
8	<b>Meetings and site inspections by the panel:</b> Briefing meeting on 17 October 2013 and Site Visit on 17 June 2015
9	<b>Council recommendation:</b> Approval
10	<b>Draft conditions:</b> As tabled at the Determination meeting and attached to this schedule.

**SCHEDULE 2****SCHEDULE OF RECOMMENDED CONDITIONS****GENERAL****1. 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)**

2. 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**

3. 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.*

**4. 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.

**5. 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

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to the Issue of Construction Certificate within this Determination Notice have been satisfactorily addressed.

### **Concurrence Conditions – Department of Planning and Environment (DoPE)**

6. 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.
7. Implementation of in situ habitat restoration works. Details are to be submitted to the DoPE.
8. 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.
9. 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.
10. Documentation submitted to DoPE to address the above concurrence conditions numbered 6 to 9 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)**

11. 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.
12. 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

13. 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 tetraquetra*) - based on habitat
- g. Tinospora vine (*Tinospora tinctoria*)
- h. White Laceflower (*Archidendron hirsutum*)
- i. Rough-Shell 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.

14. The following Plans must be based on Concurrence Condition No. 13 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.

15. 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. 13 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 15 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.

### 16. Confirmation of Compliance

Documentation submitted to address the above OEH Concurrence Conditions numbered 13 to 15 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.

### 17. 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.

### 18. 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.

### 19. 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.

### 20. 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.

### 21. 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*.

### 22. 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.

### 23. Stormwater Management Plan

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. 13 so that the direct and indirect impacts on threatened species, endangered populations and/or endangered ecological communities can be accurately determined and adequately compensated.

### 24. 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.

### 25. 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.

### 26. 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.

### 27. 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.

### 28. 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.

### 29. 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.

### 30. Acoustic Barrier Design

The applicant is to undertake consultation with impacted residents in relation to the height, location and materials to be used for the proposed acoustic barrier.

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 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.

### 31. 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.

### 32. 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.

### 33. 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.

### 34. 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.

### 35. 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.

### 36. 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.*

### 37. 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.

### 38. 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.

### 39. 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.

### 40. 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.

### 41. Barrier Fencing

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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.

### 42. 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).

### 43. 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.

### 44. 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.

### 45. 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.*

### 46. 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.

### 47. 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.

### 48. 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.

### 49. 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).

### 50. 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.

### 51. 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.

### 52. Acid Sulfate Soils

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

### 53. 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.

### 54. 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).

### 55. 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.

### 56. Sediment and Erosion Control

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

### 57. 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.

### 58. 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.

### 59. 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.*

### 60. 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.

### 61. 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.

### 62. 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.

### 63. Works as Executed (asset listing)

Prior to the commencement of use and in connection with the 'Works-as Executed' drawings the proponent

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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.

### 64. 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.

### 65. 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.

### 66. 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.

### 67. 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.

### 68. 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.

### 69. 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.

### 70. 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;

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- ensure satisfactory compliance with relevant Council plans, codes and policies.