

JOINT REGIONAL PLANNING PANEL (Northern)

JRPP No	2014NTH015
DA Number	2014/DA-00129
Local Government Area	Bellingen Shire Council
Proposed Development	Subdivision into 239 lots and associated works
Street Address	8138 & 8140 Pacific Highway, Urunga NSW 2455
Applicant/Owner	Trustees of the Roman Catholic Church – Bellingen Parish
Number of Submissions	Six (6)
Regional Development Criteria (Schedule 4A of the Act)	<p>3 General development over \$20 million Development that has a capital investment value of more than \$20 million.</p> <p>9 Coastal subdivision Development within the coastal zone for the purposes of subdivision of the following kind: (b) subdivision of land for residential purposes into more than 100 lots, if the land: (ii) is wholly or partly in a sensitive coastal location,</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy No 14–Coastal Wetlands</i> • <i>State Environmental Planning Policy No 44–Koala Habitat Protection</i> • <i>State Environmental Planning Policy No 55–Remediation of Land</i> • <i>State Environmental Planning Policy No 62–Sustainable Aquaculture</i> • <i>State Environmental Planning Policy No 71–Coastal Protection</i> • <i>State Environmental Planning Policy (Infrastructure) 2007</i> • <i>State Environmental Planning Policy (Rural Lands) 2008</i> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>Bellingen Local Environmental Plan 2010</i> • <i>Bellingen Shire Development Control Plan 2010</i> • Draft planning agreement that the developer has offered to enter into under section 93F: s79C(1)(a)(iv) • <i>NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast</i> • <i>Australian Standard AS 2601—1991: The Demolition of Structures</i> • <i>Bellingen Coastal Zone Management Study</i>

List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects • Addendum to Statement of Environmental Effects, 19 August 2014, 31 August 2015 (with revised subdivision plans) & 23 November 2015 • Department of Primary Industries-Water General Terms of Approval, 7 September 2015, and currency certification, 1 February 2016 • NSW Rural Fire Service General Terms of Approval, 1 February 2016 • Roads & Maritime Services <i>State Environmental Planning Policy (Infrastructure) 2007</i> comments, 23 September 2014 • Essential Energy <i>State Environmental Planning Policy (Infrastructure) 2007</i> comments, 7 September 2015 • Submissions • GeoLINK planning agreement offer, 13 April 2016
Recommendation	The granting of consent to the application, subject to conditions
Report by	Matthew Hutchings
Report date	13 April 2016

REPORT SUMMARY

Development Application Number 2014/DA-00129 (DA) seeks consent to undertake a staged residential subdivision and associated works on Lots 1 and 2 in DP 792596, 8138 and 8140 Pacific Highway, Urunga (the land). This report provides an assessment of the DA and makes a recommendation for the Northern Joint Regional Planning Panel to approve the development subject to the imposition of conditions and advisory notes.

Section 79C of the *Environmental Planning and Assessment Act 1979* (EPAA) requires a consent authority to take into consideration various matters when assessing a development application, including the likely impacts of the proposed development on the natural, built and social environments. The matters of relevance to the subject application are considered in this planning Report.

REPORT DETAIL

Application Information

<i>Panel Reference:</i>	2014NTH015
<i>Type of Matter:</i>	Development Application
<i>Region:</i>	Northern Joint Regional Planning Panel
<i>LGA:</i>	Bellingen Shire Council
<i>DA Number:</i>	2014/DA-00129
<i>Project Title:</i>	Staged 238 Residential Lot Subdivision and Associated Works
<i>Address/Location:</i>	Lots 1 & 2 DP 792596, 8138 & 8140 Pacific Highway, Urunga
<i>DA Lodgement Date:</i>	20 August 2014
<i>Type of Development:</i>	Coastal Subdivision
<i>Date DA Registered with Secretariat:</i>	27 August 2014
<i>Capital Investment Value:</i>	\$25,000,000
<i>Applicant:</i>	Trustees of the Roman Catholic Church – Bellingen Parish
<i>Consent Authority:</i>	Bellingen Shire Council with the Northern Joint Regional Planning Panel having the determining function

Application Category:
Approval Bodies:
Approvals Required:
Land Use Zones:

Integrated Development
Office of Water; Rural Fire Service
Controlled Activity Approval; Bush Fire Safety Authority
Zone RU2 Rural Landscape, Zone R1 General Residential, Zone E3
Environmental Management and Zone E2 Environmental Protection
under the provisions of *Bellingen Local Environmental Plan 2010*
(BLEP)

Locality Plan

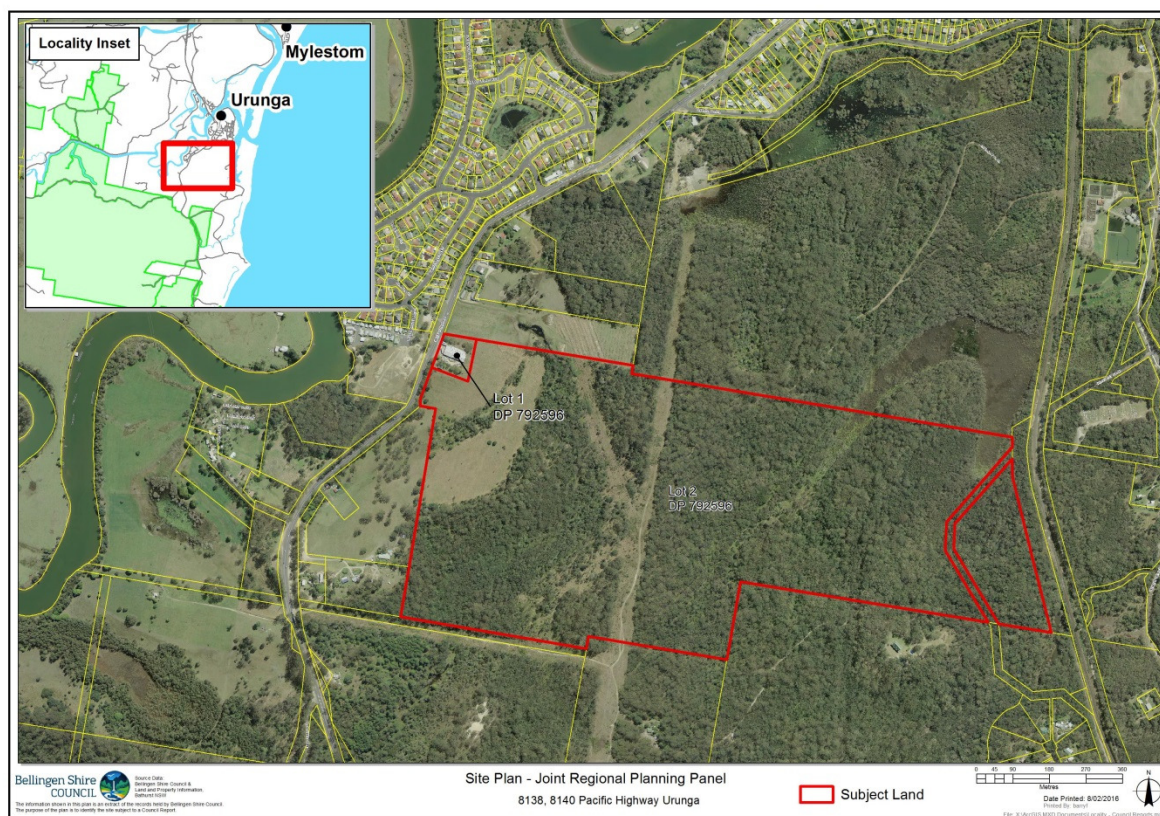


Figure 1 – Site Plan (Source: BSC Mapping)

BACKGROUND

The *Bellingen Shire Growth Management Strategy*, August 2007, identified the land as part of a 49 hectare residential land release area located on the southern outskirts of Urunga. This Strategy acknowledged a number of environmental constraints to the development of the land and was used to inform a transition in land use zones through the *Standard Instrument (Local Environmental Plans) Order 2006* from Zone Number 2 (b) Village Area Zone under the *Bellingen Local Environmental Plan 2003* to the current distribution of environmental, residential and rural zones under the BLEP. The South Urunga Investigation Area, which includes over a dozen lots in addition to the land, is forecast in the Strategy to yield up to 250 residential allotments. This is now considered by Council to be more in the order of 500 lots.

The applicant has planned a number of developments on the land over the years, including a Catholic High School and a previous residential subdivision. None of these developments have been realised, with the DA constituting the latest iteration of planning for the land.

The DA registered by Council on 20 August 2014 seeks the right to subdivide and remediate the land in three stages. It is categorised as regional development under the *State Environmental Planning Policy (State and Regional Development) 2010* due to the capital investment value and the scale and nature of the coastal subdivision being captured by

Schedule 4A of the EPAA. The DA is consequently one which the Joint Regional Planning Panel (Northern) is authorised to exercise the consent authority function of Council.

The DA is categorised as integrated development in that it requires development consent and general terms of approval for both a Controlled Activity Approval and a Bush Fire Safety Authority under the provisions of the *Water Management Act 2000* and *Rural Fires Act 1997* respectively. While the DA was nominated as integrated development under the *Roads Act 1993*, through Council's referral process it was identified by the Roads and Maritime Services that the development was not integrated in this regard. The DA was not nominated as integrated development under the *National Parks and Wildlife Act 1974*.

The DA was advertised and notified pursuant to Chapter 11 of the *Bellingen Shire Development Control Plan 2010* (DCP) and clause 89 (3) (a) of the *Environmental Planning and Assessment Regulation 2000* from 3 September 2014 to 3 October 2014 inclusive. A total of six (6) submissions were made in relation to the proposal as a result of the exhibition period.

Referrals were made to the Roads and Maritime Services and Essential Energy under the provisions of *State Environmental Planning Policy (Infrastructure) 2007* and to the Office of Environment and Heritage for assessment of the potential impact to biodiversity.

A request from Council to the applicant for additional information including matters raised by the Rural Fire Service as relevant to the issue of a Bush Fire Safety Authority was issued on 10 October 2014. Subsequent requests for additional information concerning issues raised by the Rural Fire Service and the Office of Environment and Heritage were also made on 13 November 2015 and 11 December 2015. The additional information received by Council through this process forms the modified development application the subject of this Report.

THE DEVELOPMENT SITE

The land comprises two lots, being Lot 1 DP 792596 with an area of 8,464.6 m² and Lot 2 DP 792596 with an area of 85.54 hectares. Lot 1 is subject to Zone R1 General Residential under the BLEP, while Lot 2 is part Zone RU2 Rural Landscape, part Zone R1 General Residential, part Zone E3 Environmental Management and part Zone E2 Environmental Protection. The land is currently addressed as 8140 Pacific Highway (Lot 1) and 8138 Pacific Highway (Lot 2), Urunga, and is located on the eastern side of the Pacific Highway approximately 2 kilometres south of the Urunga central business district.

The land is generally bound by the Pacific Highway and the rural/urban interface of Urunga to the west, undeveloped Crown land vested in the Coffs Harbour and District Local Aboriginal Land Council to the northeast, the north coast rail corridor to the east and sparsely developed bushland to the south containing dispersed dwelling houses and tourist and visitor accommodation.

The land forms part of the South Urunga Investigation Area which was rezoned in August 2010 to allow for the future residential development of the area in line with the Mid North Coast Regional Strategy's designated Growth Areas.

The land consists of gently undulating coastal hills at elevations from around 2 to 28 m AHD that are dissected by shallow watercourses draining into SEPP 14 wetlands to the north and east. The land has historically been cleared or otherwise logged, but significant stands of forest remain both on and adjoining the development site.

The land contains a number of natural environmental assets including Endangered Ecological Communities (EECs), SEPP 14 wetlands, watercourses, significant hollow

bearing trees and an extensive occurrence of *Allocasuarinas* (She-oaks) which provide a foraging resource to the Glossy Black-cockatoo. Seven threatened fauna species have been recorded on the land and a number of additional threatened species are also likely to occur.

The land is developed with two existing sheds adjacent to the Pacific Highway which, along with their curtilage, are used for truck parking and refuse collection, including car bodies. The land is burdened by a Right of Carriageway 5 m wide situated across the western boundary of Lot 1 that benefits Lot 2, overhead electrical transmission lines and associated easements which bisect the land from north to south and an Optus Optical Fibre line.

THE PROPOSAL

Development consent is sought to subdivide Lots 1 and 2 DP 792596 into 238 Torrens Title lots plus a residue allotment. The subdivision is for residential purposes and constitutes the first stage in the development of the South Urunga Investigation Area identified in the *Bellingen Shire Growth Management Strategy*. A copy of the proposed Subdivision Plan is submitted with this Report.

The development is proposed to take place over three stages. These stages are described in chronological order below.

Stage 1

This stage involves the demolition and remediation of the former truck depot on Lot 1 DP 792596.

Stage 2

This stage is proposed to comprise the subdivision of the land into four (4) large lots and road. The large lots are proposed for residential purposes utilising on-site sewage management systems and the on-site harvesting of water.

Stage 3

This stage seeks the further subdivision of the large lots created under Stage 2 into 238 Torrens Title lots plus a residue allotment, park and roads. Proposed residential lot areas range from 600m² to 1,725m², with subdivision works to include the construction of roads, the relocation of existing electrical and telecommunication lines, the provision of a public park, the clearing and landscaping of asset protection zones, and the conduct of ancillary engineering works such as cutting and filling, the installation of reticulated water and sewer and drainage works.

STATUTORY ASSESSMENT

Section 79C (1) Matters for Consideration

In determining a development application, a consent authority is required to take into consideration the following matters under the EPAA as relevant to the development application.

Section 79C (1) (a) (i) - Any Environmental Planning Instrument *State Environmental Planning Policy No 14-Coastal Wetlands*

The subject land is identified as being located within a designated State Environmental Planning Policy (SEPP) No. 14 wetland area. Additionally, the land adjoins and drains towards a SEPP No. 14 wetland area to the north.

The application of the policy is geographically limited 'to the land outlined by the outer edge of the heavy black line on the map'. With the exception of the preferred and alternate rising sewer main routes to service the development (shown in Appendix F of the addendum to the Statement of Environmental Effects [SEE]), no development is proposed to occur within this area. However, both nominated sewer main routes intercept SEPP No. 14 wetlands, including the Urunga Lagoon in the east and wetland adjoining Hillside Drive in the north.

The environmental impacts of developing a sewer main to service the development have not been considered in detail in the SEE and its addendum of 31 August 2015. The addendum proposes a new rising sewer main to be constructed with trenching and under-boring techniques along the Pacific Highway road reserve, Hillside Drive and Pilot Street through to the Pilot Street pump station. The route along Hillside Drive intercepts SEPP 14 wetland in two instances; these being opposite the premises addressed 14-33 Hillside Drive and 72-84 Hillside Drive.

Hillside Drive is a developed road reserve incorporating a bitumen sealed carriageway, overhead electricity, rising sewer mains and water mains. Road shoulders are maintained as lawn on each side and it is possible to develop a new rising sewer main in this locality absent the concurrence of the Director under clause 7 (1) of the SEPP (that is, the service may be developed without necessitating the clearing or filling of the wetland).

Clause 106 (3) of SEPP (Infrastructure) 2007 provides that development for the purpose of sewage reticulation systems may be carried out by or on behalf of a public authority without consent on any land. The provision of the proposed rising sewer main within the road reserve with capacity to service future development beyond the DA is therefore subject to a review of environmental factors under Part 5 of the EPAA. Such a review shall necessarily have regard to any requirements to clear or fill the land and the aim of this SEPP to ensure that the coastal wetlands are preserved and protected in the environmental and economic interests of the State. The works are additionally subject to prior approval under the *Roads Act 1993* and the *Local Government Act 1993*.

State Environmental Planning Policy No 44-Koala Habitat Protection

SEPP No. 44-Koala Habitat Protection applies to the subject land and provides an assessment hierarchy to identify whether or not the land is core Koala habitat necessitating a plan of management.

An ecological assessment contained at Appendix D of the SEE identified potential Koala habitat on the land but failed to identify core koala habitat within the meaning of the SEPP (that is, an area of land with a resident population of Koalas, evidenced by attributes such as females with young and recent sightings of and historical records of a population). The ecological assessment found that there was a 'very low detection rate of Koala scats/scratches across the study area'. The 19 August 2014 addendum to the SEE clarifies the low detection rates and intermittent use of the site by Koalas.

When considered alongside historical records that failed to detect habitat use by Koalas through surveys conducted in 2002 and 2003, the ecological assessment concludes that the site was possibly 'functioning as an adjacent supplementary foraging site, but more likely as a Koala dispersal or commuting area'. As such, the land does not qualify as core Koala habitat under the terms of the SEPP and consequently there is no need for a Koala plan of management to be developed.

State Environmental Planning Policy No 55-Remediation of Land

Under the provisions of SEPP No. 55-Remediation of Land, a consent authority must not consent to the carrying out of development unless it has considered contamination and remediation.

A Contaminated Land: Detailed Site Investigation and Remediation Action Plan is contained at Appendix H of the SEE. This document follows preliminary site investigations of the land by Holmes and Holmes Pty Ltd in 2003 and targets Lot 1 DP 762596, being the former site of a truck depot and skip collection business.

While omitted from the DA, the Holmes and Holmes Pty Ltd *Report on Sampling and Testing for Primary Contaminants for part of Lot 2, DP792596, Pacific Highway, Urunga*, evaluated the probable extent of soil contamination from small cropping activities (mainly tomatoes and zucchini) in the west of Lot 2. The Report concluded that this area is considered safe for residential development and underpins the position in the SEE that no further investigation is required for Lot 2 DP 792596.

The Detailed Site Investigation of the former truck depot and skip collection business on Lot 1 identified contamination by cadmium, arsenic and total petroleum hydrocarbons and the subsequent need for remediation in order to render the site suitable for residential purposes. A Stage 3 Remediation Action Plan including a proposal for vertical mixing and the need to undertake demolition works in order to access, sample and analyse the soil under the slab, accompanies the DA.

Clause 5.4 of the SEE provides that 'an accredited Site Auditor will be engaged to certify any remediation works on the site prior to further development of the land'. This is supported to address the concerns:

- (a) that the vertical mixing of this type of contamination is contrary to the guidelines and clause 17 of the SEPP;
- (b) that development contrary to the guidelines would forfeit Council's 'good faith' protections; and
- (c) that the initial investigation is dated, having occurred some 13 years ago.

The engagement of a Site Auditor would ensure that a suitable remediation technique for the hotspots is utilised and that the potential for soil contamination on Lot 2 is considered having regard to the passage of time since the previous assessment.

State Environmental Planning Policy No 62–Sustainable Aquaculture

SEPP No. 62-Sustainable Aquaculture requires that all development which has the potential to have an adverse impact on oyster aquaculture is referred to the Director-General of the Department of Primary Industries for comment.

Having regard to the nature and location of the development, it is not suspected that the development will exert an adverse impact on oyster aquaculture development or a priority oyster aquaculture area. While the development site is located approximately 185 metres from the Kalang River in the west, it drains towards wetlands in the east and northeast and thereafter to the confluence of the Bellinger and Kalang Rivers some 1.8 kilometres distant.

There are a number of priority oyster aquaculture areas in the Kalang River estuary. However, the separation afforded the development site by local catchments and the protection of the water quality of the receiving wetlands by other environmental planning instruments and development controls, supports the position of Council to not give notice of the application to the Director-General of the Department of Primary Industries.

State Environmental Planning Policy No 71–Coastal Protection

The land is subject to the provisions of SEPP No. 71–Coastal Protection as it is located within the coastal zone. A series of relevant matters for consideration and development controls contained at clauses 8, 14, 15, 16 and 18 are considered below and later in this Report where identified.

Clause 8 Matters for consideration

(a) the aims of this Policy set out in clause 2,

Comment. The aims of the policy are:

- (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and*
- (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and*
- (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and*
- (e) to ensure that the visual amenity of the coast is protected, and*
- (f) to protect and preserve beach environments and beach amenity, and*
- (g) to protect and preserve native coastal vegetation, and*
- (h) to protect and preserve the marine environment of New South Wales, and*
- (i) to protect and preserve rock platforms, and*
- (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and*
- (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and*
- (l) to encourage a strategic approach to coastal management.*

The aims of the Policy are either directly or indirectly considered throughout this Report in commentary to other environmental planning instruments and Council's DCP. A strategic planning approach has been observed both in the assessment of this DA and via previous strategic planning decisions in the locality that have secured protections for environmentally significant land.

It should be noted that the provisions of this SEPP relate closely to the issues identified in clause 5.5 of the BLEP and that reference should be made to that discussion later in this Report.

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

...

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

Comment. The proposed development does not present or preclude public access opportunities to and along the foreshore.

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

Comment. The suitability of the proposed development is considered in response to clause 5.5 of the BLEP.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

Comment. The land is not in proximity to a coastal foreshore, which is defined to mean 'land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform'.

(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Comment. The SEE contains a visual assessment at section 4.10. This assessment is considered later in this Report in response to DCP clauses 3.6.1 *Land suitability – Ridgelines* and Chapter 9 – *Landscaping Requirements*.

(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

Comment. An assessment of the proposed development's impacts on biodiversity is included in this Report in response to BLEP clause 7.5 *Biodiversity*, and also in addressing submissions made by the OEH.

(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats

Comment. Measures to conserve fish are considered in this Report in response to BLEP clause 7.4 *Water* and are further secured by General Terms of Approval for a Controlled Activity Approval issued by the DPI-Water.

(i) existing wildlife corridors and the impact of development on these corridors,

Comment. The SEE considers existing wildlife corridors under section 4.1.3 of Appendix B. While the land Zone R1 General Residential does not form part of a corridor, the proposed residue lot does contain part of a regionally significant wildlife corridor. Fringe effects arising from the subdivision on this corridor are proposed to be reduced through buffer planting within the electricity corridor in the southeast of the land (refer to the GeoLINK plan entitled *Rehabilitation Areas* as contained at Appendix G of the addendum to the Statement of Environmental Effects, 31 August 2015).

The back-zoning of the eastern half of the land to Zone E3 Environmental Management secured an important corridor linking the SEPP 14 wetlands in the north, with a Regionally Significant Wildlife Corridor to the south that was identified by the OEH for regional strategic planning purposes. The corridors secured in this locality are significant in size and width and will function effectively, without significant adverse impacts from edge effects. Figure 2 (below) shows the location of Regional Wildlife Corridors in the vicinity of South Urunga.

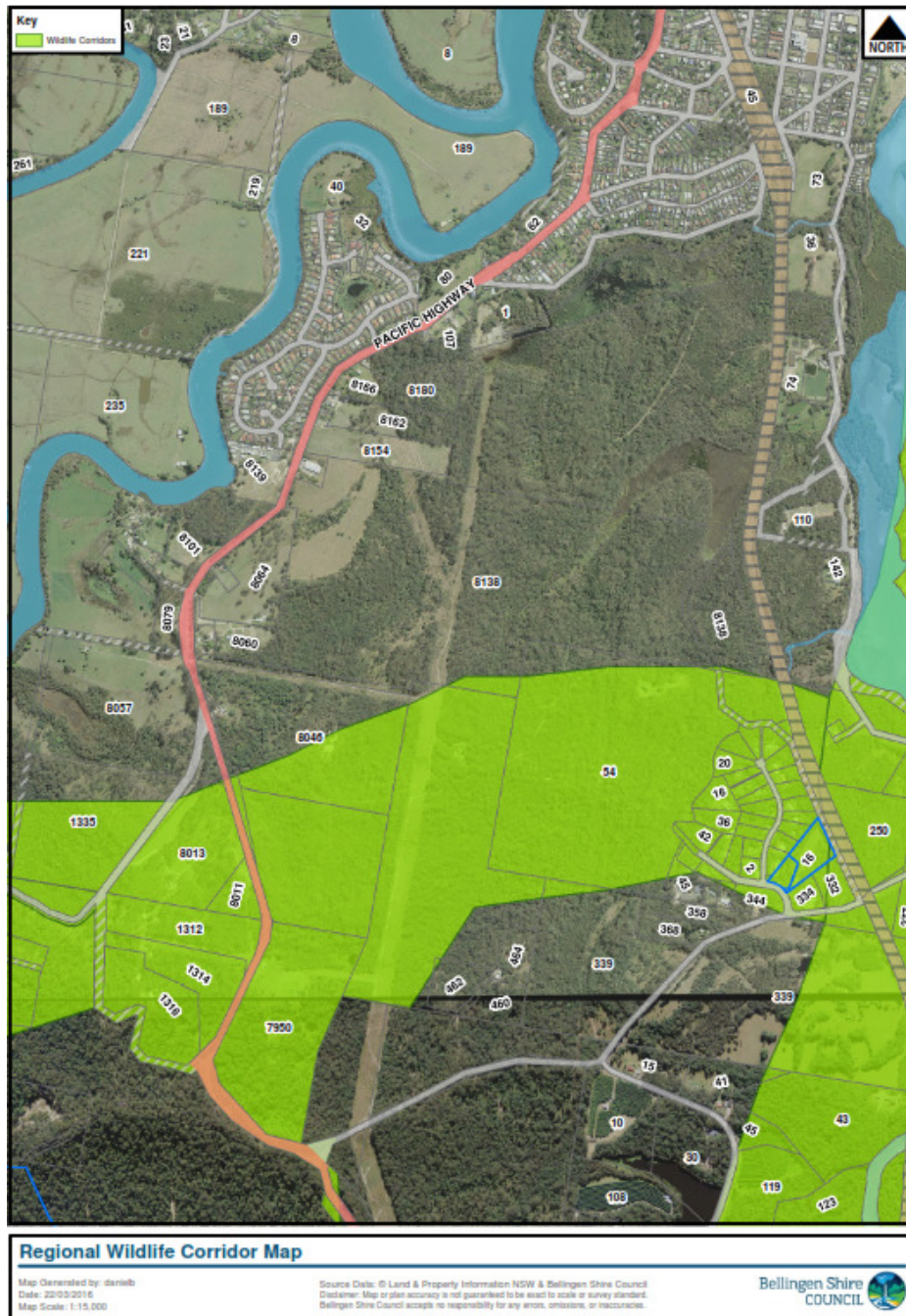


Figure 2 – Regional Wildlife Corridor (Source: BSC Mapping)

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Comment. An assessment of the likely impact of coastal processes and coastal hazards on the proposed development and vice versa is considered in this Report in response to BLEP clause 5.5 *Development within the coastal zone*.

(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,

Comment. The development does not create a potential conflict between land-based and water-based coastal activities.

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

Comment. Measures to protect Indigenous heritage are considered in commentary to BLEP clauses *5.10 Heritage conservation* and *7.2 Earthworks* and in response to the referral process to the Coffs Harbour and District Local Aboriginal Land Council as contained in this Report.

(m) likely impacts of development on the water quality of coastal waterbodies,

Comment. The likely impacts arising are considered in this Report under clause *7.4 Water* of the BLEP and *Chapter 12 – Stormwater* of the DCP.

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

Comment. The land has been identified to contain an Aboriginal object and the measures to conserve and preserve this item are considered in commentary to submissions received as a result of the public exhibition and notification process for this DA.

(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

Comment. This clause is not applicable to the DA.

(p) only in cases in which a development application in relation to proposed development is determined:

- (i) the cumulative impacts of the proposed development on the environment, and*
- (ii) measures to ensure that water and energy usage by the proposed development is efficient.*

Comment. The cumulative impacts of the proposed development are considered in this Report in response to BLEP *Clause 5.5 Development within the coastal zone*.

The proposed development is for a residential subdivision of the land, with future housing to be developed under complying development or through separate development application processes. The means to ensure the efficient usage of water and energy is accordingly safeguarded by *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*, which aims to reduce the domestic consumption of mains-supplied potable water, reduce emissions of greenhouse gases, and improve the thermal performance of residential buildings.

Clause 14 Public Access

This clause prevents the issue of development consent to development that is likely to impede or diminish the physical, land-based right of access of the public to or along the coastal foreshore. The proposed development does not present or preclude public access opportunities to and along the foreshore.

Clause 15 Effluent Disposal

This clause prevents the issue of development consent to development utilising on-site sewage management systems where there is the likelihood that the system will have a negative effect on water quality.

The development is proposed to utilise a reticulated sewerage system with the exception of proposed Stage 2 which seeks the subdivision of the land into four large lots. This Stage is reliant on on-site sewage management systems, for which no environmental assessment

has been submitted by the Applicant. Proposed Stage 2 of the development is not supported by Council and the recommendation in this Report removes any proposal to dispose of effluent via an on-site sewage management system.

Clause 16 Stormwater

This clause prevents the issue of development consent to development that has a likelihood of discharging untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.

Stormwater management and proposed systems are discussed in sections 3.11.3 and 4.6 of the SEE and are contained in the GeoLINK drawing *Proposed Subdivision Stormwater Management Plan*, 21 August 2015. A water sensitive urban design utilising stormwater bioretention and swales is proposed to treat stormwater from across the development. The suitability of the design is addressed later in this Report in response to clause 7.4 *Water* of the BLEP and *Chapter 12 – Stormwater* of Council's DCP.

Clause 18 Master plan required before certain consents may be granted

This clause provides that development consent cannot be granted to the DA unless the Minister has adopted a master plan for the land or has otherwise waived the requirement for a master plan.

Correspondence from Planning & Environment comprising an addendum to the SEE dated 19 August 2014 provides that the requirements for a master plan are waived for the proposed development. The grounds for the waiver are as follows:

The proposal is permissible under the current planning standards within the R1 General Residential zone. The master plan requirement is waived for the reasons that the objectives and controls contained in Bellingen Local Environmental Plan 2010 and Bellingen's Development Control Plan 2010, section 79C of the Environmental Planning and Assessment Act and the matters for consideration in clause 8 of SEPP 71, are considered adequate to ensure this development is carried out with due regard to the aims of SEPP 71.

State Environmental Planning Policy (Infrastructure) 2007

Development likely to affect an electricity transmission or distribution network

Clause 45 of SEPP (Infrastructure) 2007 establishes the criteria for when a development application is to be referred to the electricity supply authority for comment. The DA meets the established referral thresholds and was duly forwarded by Council to Essential Energy in correspondence dated 27 August 2014. The revised development application was similarly forwarded to Essential Energy on 1 September 2019.

Before determining the DA, the consent authority must take into consideration any response received to the notice. Essential Energy submitted a response to Council on 7 September 2015 as below. The commentary is advisory in nature and is included as an advisory note to the recommendation of this Report.

Essential Energy has an operational high voltage (energised) power line - refer to Appendix 'A' drawings. This power line supplies electricity south of the proposed development to Essential Energy's existing customer. The developer / applicant will need to directly liaise with Essential Energy to any proposed route changes to this power line.

The developer / applicant will need to lodge an application for connection through Essential Energy's connection portal for the provision of specific design information to facilitate connection to Essential Energy's distribution network.

All work to facilitate connection to Essential Energy's network will need to comply with Essential Energy's design and construction standards.

Provision will need to be made in the subdivision for electrical reticulation services including high voltage transformers / substations to facilitate the supply of electricity to individual residential housing lots.

At the time of lodging the application developer / applicant to advise of total number of lots and staging of subdivision.

Development in or adjacent to road corridors and road reservations

Roads and Maritime Services was given the opportunity to review and provide comment on the subject DA pursuant to clause 104 and schedule 3 of SEPP (Infrastructure) 2007. This arose as the development is traffic generating development involving 50 or more lots with access to a classified road (the Pacific Highway).

A submission from the Roads and Maritime Services was received by Council on 26 September 2014 with the following summarised comments to be taken into consideration in determining the DA:

1. the intersection of the Pacific Highway and the subdivision access road is to be upgraded;
2. all works on the Pacific Highway are subject to current Austroads Guidelines, Australian Standards and RMS supplements;
3. all works on the Pacific Highway will be subject to a 'Works Authorisation Deed' between the proponent and the Roads and Maritime Services; and
4. the subdivision design is to provide connectivity for pedestrians and cyclists.

In addition to considering the comments provided by the Roads and Maritime Services, a determination must take into consideration the accessibility of the site concerned and any potential traffic safety, road congestion or parking implications of the development. Clause 101 of SEPP (Infrastructure) 2007 also must be taken into consideration:

The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The above matters are considered under the following series of transport and traffic related headings.

Existing Services

State rail services are available at Urunga Railway Station via a local road trip approximately 3 kilometres north of the site. Rail access is limited to commuter transport only.

Private bus company services for school children and adult commuters are provided daily along the Pacific Highway.

Air services are available at the Coffs Harbour Airport approximately 28 kilometres north via the Pacific Highway and local roads.

There are no pedestrian and cycleway facilities adjacent to the site, although these facilities are identified to be provided in this locality as part of the *Bellingen Shire Pedestrian Access and Mobility Plan and Bike Plan*, January 2016. This Bellingen Shire Council Plan proposes a 2.5 m wide shared path along the eastern side of the Pacific Highway and southern side of Hillside Drive. The construction of the shared path from the frontage of the subdivision through to the intersection of Hillside Drive and the Pacific Highway is recommended to be undertaken by the proponent as a condition of development consent.

Existing waterway services are limited to recreational activities and hire for private functions. There are waterway public transport services available within the local waterways.

Existing Road Network

The existing property has part frontage to the Pacific Highway, with the westernmost boundary being a common boundary with the Pacific Highway road reserve.

The SEE provides traffic count data for the Pacific Highway from the year 2007 which identified 10,550 daily movements south of the site. The Pacific Highway is a classified state road under Council control as the Road Authority. Roads and Maritime Services also have an interest in the management of the existing road assets.

The Pacific Highway upgrades currently under construction include a bypass of Urunga, together with the subject section of the Pacific Highway fronting the proposed development. On completion of the Pacific Highway upgrades, the Pacific Highway is likely to be reclassified as a regional or local road under the care and control of Council.

An alternative road frontage is not available to the land and the development therefore proposes sole access off the Pacific Highway. Direct access to the existing Highway from proposed lots 1 to 6 of the subdivision will be prevented through the imposition of relevant conditions and restrictions.

Traffic to local destinations will be via the local road network, consisting of urban and rural arterial, collector and local roads.

Existing Road Network Capacity

Existing road network capacity is discussed in sections 3.8 and 4.4 of the SEE and the Traffic Impact Assessment contained at Appendix F. The assessment concludes that the proposed development will have no long-term negative impacts on the safety or efficiency of the Pacific Highway and that any staging of the development will have little effect on the traffic impact outcomes provided that the intersection is constructed at the first stage.

The SEE traffic assessment estimates the development to generate 2,097 (9 trips x 233 lots) daily traffic trips, with 198 peak hour trips. It should be noted that the revised development application submitted by GeoLINK has marginally increased the yield to 238 residential allotments and that this will result in a potential total traffic generation of 2,142 daily traffic trips. Correspondence from the Roads and Maritime Services dated 16 September 2015 concerning revised plans advised that consideration be made to the impacts of the total traffic generation.

The existing Pacific Highway is a two lane rural road with direct access to and from adjoining properties through the Urunga town area. Traffic volumes in the Pacific Highway south of the site have been counted in 2007 as 10,550 vehicle movements per day. Austroads Guidelines for laneway capacity indicate the existing Highway is operating at about 2,000 vehicles per day above its capacity and therefore any additional traffic generation will further reduce the level of service provided. With the Pacific Highway bypass of Urunga in place, through traffic volumes in the existing Pacific Highway will be significantly reduced. The SEE traffic assessment estimates that daily traffic volumes will be reduced to approximately 4,500 vehicle movements per day, 20 years after the completion of the highway bypass. Therefore the existing Pacific Highway will be operating considerably below its traffic capacity, including allowing for traffic under the site's full development (i.e. 2,142 daily traffic trips).

Other than the Pacific Highway, no assessment of traffic impacts on the local road network has been provided. Traffic generated by the development will be distributed through the local road network depending on the origin and destination of each vehicle trip. Local roads are considered to have adequate capacity to cater for additional traffic movements from the development. Moderate impacts are likely to be generated on the intersections of the Pacific Highway with Pilot and Bellingen Streets. Both of these intersections have right turn sheltered and left slip lanes to cater for the safe turning movements of current Pacific Highway entry and exit traffic. With the Pacific Highway bypass in place, the capacity of these intersections will increase due to the significant reduction (approximately 60%) in through traffic and should therefore adequately cater for traffic generated by the full development.

Accessibility

Consideration needs to be given to the accessibility of the development in terms of all modes of transport (i.e. motor vehicles, cyclists and pedestrians).

The development is proposed to be accessed from the existing Pacific Highway via a new intersection. The traffic assessment supports the provision of a 'seagull' intersection treatment, recognising that 90% of the exiting traffic onto the Pacific Highway is likely to be right turn movements north towards Urunga. Whilst this intersection treatment is supported on technical grounds, the merits of a roundabout should be considered from an urban design and traffic function perspective. The location of the intersection presents an opportunity for a southern 'gateway' entry to Urunga and entry statement for the subdivision. A landscaped roundabout better provides for such a facility and has capacity to cater for the traffic turning movements generated from the development. Once the Pacific Highway bypass is complete the majority of traffic movements at the intersection are expected to be local and therefore through traffic priority is not so crucial in terms of travel times. It is therefore recommended that engineering design plans and, where relevant, landscape plans consider the development of a roundabout.

As abovementioned, advice from Roads and Maritime Services in relation to the proposed development has been obtained pursuant to clause 104 and schedule 3 of the SEPP (Infrastructure) 2007. Roads and Maritime Services' primary interest in the development relates to any works within the Pacific Highway road reserve, particularly while the road remains a classified State road. Roads and Maritime Services support the proposed 'seagull' intersection submitted as part of the traffic impact assessment accompanying the DA and recommend this as a minimum standard of intersection until the Pacific Highway bypass is completed. Roads and Maritime Services also require a Works Authorisation Deed to be entered into prior to the commencement of any works within the State highway corridor.

Pedestrian and cycleway access to and from the development is discussed in section 3.1.2 of the Traffic Impact Assessment. The assessment acknowledges the need for these facilities within the subdivision site and also cites Council's plans for the provision of pedestrian and cycleway facilities within the Urunga area. The assessment proposes the construction of a shared walkway/cycleway along the property frontage.

Proposed Road Network

The proposed internal road network is discussed in sections 3.8, 4.4 and 5.0 of the SEE. Section 5.0 discusses the proposal in a statutory planning context while sections 3.8 and 4.4 discuss the proposal in a traffic management context which is described in more detail in section 3.1 of the Traffic Impact Assessment. Detailed concept designs are provided in Appendices A and B of the SEE, as amended by designs submitted on 31 August 2015 in response to Council concerns. The designs are referred to in the assessment below.

Road Hierarchy

The proposed road hierarchy is identified in the drawing entitled *Street Hierarchy Plan and Indicative Street Tree Species* as contained at Appendix B of the SEE and modified by the drawing entitled *Proposed Road Classification*, Revision B, dated 16 December 2015.

The *Street Hierarchy Plan and Indicative Street Tree Species* plan shows a hierarchy of collector, local and minor roads with respective road reserve widths being 23 metres for a Collector Road, 15 metres for a Local Road and 13.5 metres for a Minor Road. Variable road reserve widths are indicated on the drawing entitled *Proposed Road Classification* to facilitate stormwater management and asset protection zones around the perimeter of the development and to acknowledge decreased traffic volumes on internal roads.

Road hierarchies are controlled by Council's DCP and are discussed later in this Report in response to Chapter 3 of the DCP.

Road Geometry

The proposed road layout is constrained by the site topography, vegetation corridors and the bushfire asset protection zones. The proposed perimeter roads are supported to ensure the provision of suitable asset protection zones from bushfire and on-line stormwater quality control facilities.

Section 3.1 of the Traffic Impact Assessment cites a number of Roads and Maritime Services and Austroads guidelines in support of the proposed road layout. Concerning the road layout, the Traffic Impact Assessment refers to previous advice from the Roads and Maritime Services that:

the internal road network will need to be designed and the necessary traffic management provided to manage speed and road user safety. Cross-junctions and poor road alignments should be avoided. Junctions should be designed so that adequate sight distances are provided.

Concern was initially raised by Council with the applicant in relation to the excessive length of straight sections of road terminating in very tight curves, especially on the perimeter collector roads. Concern was also raised in relation to the staggered intersection at the eastern end of the lead-in collector road.

GeoLINK subsequently addressed the road geometry concerns through the submission of amended plans on 31 August 2015. The amended road layout provided in the drawing entitled *Proposed Road Classification*, Revision B, dated 16 December 2015, adequately addresses Council's concerns identified above.

Connectivity

Section 3.8 of the SEE and section 3.1.4 of the Traffic Impact Assessment propose allowances for three adjoining property connections. These road network connections have been further reviewed through amended plans submitted to Council such that connections to adjoining properties are now proposed in accordance with the drawing entitled *Proposed Road Classification*, Revision B, dated 16 December 2015. The proposed road reserve connections provide logical and practical connectivity to adjoining estate and should be dedicated to Council at no cost to ensure the provision of safe and functional road layouts to adjoining properties and the best use of the public road infrastructure.

The revised design layout proposes two waterway crossings of the main channel to ensure connectivity to the eastern section of the development. Formerly only one crossing of the main channel was proposed, although this limited safe evacuations if required during extreme bush fires. The proposed two crossings reduce the previously identified bush fire risk and improve vehicular flow and connectivity within the subdivision. Further discussion on the hydraulics of the bridge crossings is provided separately in this Report.

There are no existing footpaths or cycle ways within proximity to the development site. The existing Pacific Highway has one to two metre wide sealed shoulders, which are only suitable for experienced cyclists. Construction of a shared walkway/cycleway along the Pacific Highway through to the Urunga area is identified in Council's *Bellingen Shire Pedestrian Access and Mobility Plan and Bike Plan* as medium to high priority work along the Pacific Highway and medium priority work along Hillside Drive. The development will generate a high demand for walkway and cycleway linkages to the key destinations within Urunga, such as the town centre, active parks and foreshore reserves. It is therefore considered that the development should extend the proposed walkway/cycleway to Hillside Drive at no cost to Council. This will allow pedestrians and cyclists safe passage to Hillside Drive and thereafter to the Urunga town centre and adjoining parks and foreshores. With reference to the *AUSTROADS Guide to Road Design Part 6A: Pedestrian and Cyclist Paths*, the *Bellingen Shire Pedestrian Access and Mobility Plan and Bike Plan* notes the requirement for the provision of a desirable minimum width of 2.5 metres for shared use paths in this locality. It is recommended that, prior to the issue of a subdivision certificate that would culminate in the release of 75% or more of the approved lots, that a 2.5 metre wide shared cycleway/walkway be developed across the full Pacific Highway frontage of the property and to extend along the Pacific Highway to Hillside Drive.

Bus Routes

Bus services should be provided to the development in accordance with Council's adopted planning, design, and construction standards (AUSPEC) for civil engineering works associated with subdivisions and development. Section 3.10 *Road Network Elements* under AUSPEC's 'Geometric Road Layout' specifies that roads above the Local street level in the network hierarchy should be designed as bus routes and that single bay stops should be provisioned so that no more than 5% of residents have to walk in excess of 400 metres to catch a bus. The specification also identifies that collector roads with a minimum carriageway width of 9 metres are suitable as bus routes.

Having regard to the above, the subdivision is required to be developed with bus routes and stops. Accordingly, the collector roads must cater for bus movements, to be demonstrated as part of the detailed engineering designs required for the road works. Suitably spaced bus bays for all collector roads are also required.

Pedestrians and Cycleways

Section 3.8.1 of the SEE and section 3.1.10 of the Traffic Impact Assessment state that 'the proposed internal road network has been designed to support efficiency and permeability for both vehicular and pedestrian access'. While the streetscape plans provided at Appendix B

of the SEE identify a 2.5 metre wide shared pedestrian and cycleway facility on the collector roads and a 1.2 metre wide footpath on the local and minor roads, external linkages are proposed to be limited to a 2 metre wide shared pedestrian and cycleway facility along the Pacific Highway property frontage. Council's *Bellingen Shire Pedestrian Access and Mobility Plan and Bike Plan* identifies the need for a 2.5 metre wide shared pedestrian and cycleway facility to provide connectivity to key destinations within Urunga. As previously discussed, the extension of this facility beyond the frontage of the development site to the Hillside Drive intersection is considered a reasonable condition to impose upon the development in the circumstances.

Traffic Noise

A detailed Road Traffic Noise Assessment by consultants Wilkinson Murray Pty Ltd is attached to the SEE as Appendix G. The assessment has been undertaken in accordance with SEPP (Infrastructure) 2007 and State Government Departmental guidelines and considers both pre- and post-highway upgrade scenarios. With the proposed Pacific Highway upgrade scheduled for completion in late 2016, discussion is herein limited to the post-highway upgrade scenarios as modelled within the assessment at Figures B-3, B-4, C-4 and C-5.

The assessment provides that the most affected lots by traffic noise impacts are those that share a common boundary with the Pacific Highway, being proposed Lots 1-6. These lots are modelled to be exposed to noise levels of between 55 to 60 decibels by day and 60 to 65 decibels by night. Other proposed lots that are in the vicinity of the Pacific Highway will be subject to 55 decibels or less, with the impact reducing with distance attenuation. The assessment concludes that planning measures to mitigate traffic noise are required, with the following reductions to be achieved:

Modelled traffic noise by day (7am-10pm)	Modelled traffic noise by night (10pm-7am)	Required reduction
50-60 dBA	45-55 dBA	10-20 dBA
>60 dBA	>55 dBA	>20 dBA

Table 4.2 of the Roads and Traffic Authority of NSW document *Environmental Noise Management Manual* provides indicative noise reduction levels that are achieved through residential construction. This document provides that all buildings with open windows achieve a 10 dBA internal noise reduction, while light frame buildings with closed single glazed windows achieve an internal noise reduction of 20 dBA and masonry buildings with closed double glazed windows achieve an internal noise reduction of 35 dBA. That is, the required reductions in noise may be realised through future building design. The Road Traffic Noise Assessment includes the recommendation that proposed Lots 1-6 be subject to further investigation by an acoustic professional at the building design stage. This recommendation is supported.

The Road Traffic Noise Assessment gives consideration to the construction of a 2 to 2.5 metre high barrier between proposed lots 1-6 and the Pacific Highway to mitigate noise to these lots. While the inclusion of a barrier is demonstrated to improve the external acoustic quality of the site and to require less acoustic building design, its construction is not mandatory to achieve acceptable acoustic levels. The barrier is limited in effectiveness to single-storey building design and could adversely affect the aesthetics of the streetscape across the lands frontage to the Pacific Highway. Concern is also raised regarding the ongoing maintenance liability of the facility on Council. Accordingly, it is not intended to require the construction of an acoustic barrier.

Road Infrastructure Facilities

Clause 97 (1) (c) (iv) of SEPP (Infrastructure) 2007 provides that:

(1) *Development for any of the following purposes is exempt development if it is carried out by or on behalf of a public authority in connection with a road or road infrastructure facilities and complies with clause 20:*

...

(c) *erection, installation, maintenance, reconstruction, repair or replacement of any of the following, and any associated landscaping works:*

...

(iv) *pedestrian and cyclist facilities (such as footpaths, street lighting, kerb adjustments and ramps, pedestrian fences, refuges, holding rails, and bollards)*

With Council's *Bellingen Shire Pedestrian Access and Mobility Plan and Bike Plan* identifying a 2.5 metre wide shared pedestrian and cycleway facility to be constructed along the Pacific Highway as a medium to high priority, such works invariably fall within the provisions for exempt development.

Sewerage Systems

Clause 106 (3) of SEPP (Infrastructure) 2007 provides that development for the purpose of sewage reticulation systems may be carried out by or on behalf of a public authority without consent on any land. The SEE does not include an environmental assessment addressing the provision of a rising sewer main within the road reserve to Council's Pilot Street pump station on the grounds that the proposed route, being an existing road reserve, is highly disturbed. Absent further environmental assessment at the DA level, it is recommended that the rising sewer main proposed for the Pacific Highway, Hillside Drive and Pilot Street be subject to a review of environmental factors under Part 5 of the EPAA.

Water Supply Systems

Section 3.11.1 of the SEE acknowledges that a new water supply reservoir will be required to be developed to service the subdivision. Provision is accordingly made in the subdivision design for the construction of a new reservoir to the south of proposed Lot 40. This reservoir is proposed to be elevated on a steel stand with a height of approximately 30 metres in order to efficiently service the development. A conceptual image of the proposed water supply reservoir is contained at Appendix E to the addendum to the SEE of 31 August 2015.

Council has identified a preference for the provision of a new water supply reservoir to service the South Urunga precinct as opposed to one developed specifically for the lot yield arising from the DA. The water supply reservoir will be of capacity 1.4ML to serve a forecast additional 770 lots for the precinct and is the subject of a planning agreement offered by the developer under section 93F of the EPAA.

Clause 125 (1) of SEPP (Infrastructure) 2007 provides that development for the purpose of water reticulation systems may be carried out by or on behalf of a public authority without consent on any land. A water reticulation system means 'a facility for the transport of water, including pipes, tunnels, canals, bores, pumping stations, related electricity infrastructure, dosing facilities and water supply reservoirs'. As such, Council's construction of a new water supply reservoir will be subject to a review of environmental factors under Part 5 of the EPAA.

State Environmental Planning Policy (Rural Lands) 2008

Clause 10 of SEPP (Rural Lands) 2008 requires the consent authority to take into account a series of matters when determining the subdivision of land in a rural zone, a rural residential zone or an environment protection zone which is to be used for the purposes of a dwelling.

The development site includes land that is Zone RU2 Rural Landscape, Zone E3 Environmental Management and Zone E2 Environmental Protection under the provisions of the BLEP. The land that is within these zones is to be retained entirely within the residual allotment and will have dwelling potential through clause 4.2A of the BLEP.

Zone RU2 Rural Landscape has a limited distribution of approximately 2.07 hectares that is bound by Strahler Order 2 streams draining from the adjoining Lot 1 DP 1211272 to their confluence generally between the proposed reservoir and Sewage Pump Station Number 2. The Zone is entirely vegetated with Blackbutt Dry Sclerophyll Forest and Swamp Mahogany/Swamp Box Dry Sclerophyll Forest.

Land that is Zone E3 Environmental Management and Zone E2 Environmental Protection is distributed to the east of the proposed residential subdivision. This land is vegetated with a significant range of forest communities and SEPP 14 wetland.

The DA proposes to retain land that is subject to natural and physical constraints within the residual allotment, and thereby plan for dwelling opportunities outside those constraints. While it is not nominated within the DA as to what the purpose of the residual lot is, various scenarios including its incorporation into the Bellinger Heads State Park have been investigated. None of the options presented indicate that the residual lot is intended to be used for the purposes of a dwelling, and accordingly a dwelling house on this land remains under the generic control of the BLEP Land Use Table.

In accordance with SEPP (Rural Lands) 2008, the proposed development does not fragment existing rural land or contribute to land use conflicts between land that is zoned for residential purposes and land that is zoned for other rural land uses.

State Environmental Planning Policy (State and Regional Development) 2011

Clause 20 of SEPP (State and Regional Development) 2011 establishes the DA as regional development in that it meets criteria 3 and 9 of Schedule 4A of the EPAA. That is, the proposed development has a nominated capital investment value of more than \$20 million and involves the subdivision of a sensitive coastal location into more than 100 residential lots. The Northern Joint Regional Planning Panel is accordingly the consent authority for the subject application.

Bellingen Local Environmental Plan 2010

Clause 2.2 Zoning of land to which Plan applies

Clause 2.2 of the BLEP provides that the land is partly Zone RU2 Rural Landscape, Zone R1 General Residential, Zone E2 Environmental Protection and Zone E3 Environmental Management. The proposed subdivision retains land that is Zone RU2 Rural Landscape, Zone E2 Environmental Protection and Zone E3 Environmental Management in a single residual allotment, thereby confining the residential subdivision to land that is Zone R1 General Residential.

Access to and egress from the subdivision is proposed to be via the Pacific Highway. This land is covered by the Zone SP2 Infrastructure and is for the purpose of a Classified Road.

Clause 2.3 Zone objectives and Land Use Table

Clause 2.3 (2) of the BLEP provides that the 'consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone'.

The objectives for development in the Zone R1 General Residential include the objective to 'provide for the housing needs of the community' and to 'enable other land uses that provide

facilities or services to meet the day to day needs of residents'. The DA seeks to deliver 238 residential lots and associated facilities including an outdoor recreation reserve, water storage facility for domestic consumption and a possible future corner store. The proposed uses are permissible developments within the Zone R1 General Residential and the residential yield is consistent with the 250 residential lots forecast in the *Bellinghen Shire Growth Management Strategy* for The South Urunga Investigation Area by the year 2026.

Proposed Stage 2 of the DA, which involves the subdivision of the land into four large lots and road, is not considered to be consistent with the objectives for development in Zone R1 General Residential. The Stage increases the potential diversity of ownership over the land and, coupled with an investment in large lot residential assets, escalates the chance for dispute. This situation is capable of frustrating the most efficient way of servicing the land and realising optimal residential lot yields. It can further frustrate planning horizons for the timely development of the land. Accordingly, it is considered that the land should not be constrained by an interim subdivision or through the need for re-subdivision. Instead, planning for the site should provide for the housing needs of the community in a manner that is consistent with the *Bellinghen Shire Growth Management Strategy* and the objectives for Zone R1 General Residential. This would be more efficiently achieved if the site was not subject to a large lot subdivision which has the capacity to fetter Council's planning outcomes for the land.

The retention of land subject to Zone RU2 Rural Landscape, Zone E2 Environmental Protection and Zone E3 Environmental Management in the residual allotment is consistent with the respective zone objectives provided under the BLEP Land Use Table.

The proposed development of a new intersection on land that is covered by Zone SP2 Infrastructure is consistent with the purpose subject to the imposition of conditions as advised by the Roads and Maritime Services through the referral provisions of SEPP (Infrastructure) 2007.

Clause 4.1 Minimum subdivision lot size

Clause 4.1 of the BLEP requires the proposed development to comply with the applicable minimum subdivision lot size shown on the Lot Size Map.

The Lot Size Map provides two minimum subdivision lot sizes on the land, being 40 hectares and 600m². The 40 hectare development standard applies to land east of the Zone R1 General Residential and the 600m² development standard applies to the land west thereof.

The proposed residential lots are planned to occur within land that is subject to the 600m² minimum subdivision lot size. The proposed residential lot sizes range from 600m² to 1,725m² and conform to the standard.

The residue lot is documented in the SEE as having an area of 57.5 hectares. While this calculation relates to the original development footprint and does not have regard to the modified application, it is adequate to demonstrate that the residue lot meets the 40 hectare principal development standard. The land has an overall area of 86.39 hectares and the proposed residential lots consume 17 hectares. While the area for proposed roads and adjoining reservoir, stormwater treatment and park is not specifically recorded, the residue lot will maintain a sufficient area to comply with the development standard.

Land areas attributed to the reservoir, park and for stormwater treatment exceed the minimum subdivision lot size.

Clause 4.3 Height of buildings

In order to restrict the height of buildings in a manner that preserves the character and amenity of localities in the Bellingen Shire, clause 4.3 of the BLEP provides that 'The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map'. The maximum height shown for the land on the Height of Buildings Map is ten (10) metres.

The DA includes the proposal to develop a water supply reservoir to the south of proposed Lot 40. This building has an indicative height of 34 metres to provision the subject subdivision.

Council has identified the need to develop a water supply reservoir with a capacity of 1.4ML to serve the South Urunga precinct. This project is the subject of a planning agreement offered by the developer under section 93F of the EPAA and removes the requirement to develop and reserve a water supply reservoir on the land. Recommended conditions of consent address these revisions to the DA.

Clause 5.5 Development within the coastal zone

The proposed development is situated wholly within the coastal zone and the consent authority is therefore required to consider the matters under clause 5.5 (2) of the BLEP and to be satisfied that the development meets the provisions of clause 5.5 (3) of the BLEP. The provisions and associated planning commentary are provided below.

(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*

Comment. The proposed development does not present or preclude public access opportunities to and along the foreshore.

(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*

Comment. The development has been demonstrated as suitable having regard to the objectives of the land use zones applying to the development site and is considered suitable in terms of this provision.

Potential impacts arising from the development on adjoining land uses are considered in this Report under SEPP (Rural Lands) 2008 above and DCP clause 3.6.2 *Buffers to adjoining landuses, areas of environmental constraint or risk* below.

Impacts on the natural scenic quality of the coastal zone are similarly discussed in response to DCP clause 3.6.1 *Land suitability – Ridgelines*.

The proposed built form of the road network is considered previously in this Report in response to the provisions of *State Environmental Planning Policy (Infrastructure) 2007*. The proposed built form of the road is substantially supported, although the potential to reduce the carriageway width of collector roads to 9 metres was identified in order to minimise construction impacts, reduce impervious areas and slow traffic speeds.

- (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*

Comment. The land is not in proximity to a coastal foreshore, which is defined to mean 'land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform'.

- (d) *how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and*

Comment. The SEE contains a visual assessment at section 4.10. This assessment is considered in this Report in response to DCP clause 3.6.1 *Land suitability – Ridgelines*.

- (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*

Comment. The impact of the development on biodiversity and ecosystems is considered in this Report in response to BLEP clause 7.4 *Water* and clause 7.5 *Biodiversity* and DCP Chapter 12 - *Stormwater*.

- (f) *the cumulative impacts of the proposed development and other development on the coastal catchment.*

Comment. Cumulative impacts may result from a number of activities with similar impacts interacting with the environment in a region. They may also be caused by the synergistic and antagonistic effects of different individual impacts.

Cumulative impacts arising at the local level are considered through the body of this Report and include the remediation of contaminated land, the disposal of stormwater, flood affectation, increased traffic, fauna rehabilitation works, and so forth.

The strategic planning that underpins the BLEP land use zones and minimum subdivision lot sizes effectively constrain cumulative impacts from occurring at the landscape level. The proposed development aligns with the BLEP standards and reflects a comprehensive strategic planning process that integrated studies applicable to the development site, its locality and its region. These include the *Bellingh Shire Growth Management Strategy*, the *Mid North Coast Regional Strategy* and the *South Urunga Development Land Ecological Assessment*. In 2010, 31 hectares of land Zone E2 Environmental Protection and 260 hectares of land Zone E3 Environmental Management were introduced west of the railway line in this area. Specific to the subject land, 35 hectares was back-zoned as E3 Environmental Management in a reduction of over 40% in the extent of the residential zoning previously applied. Strategic planning processes have accordingly guided development and limited any potential cumulative impacts from occurring.

- (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*

Comment. The proposed development does not impede or diminish practical public access to and along the foreshore.

- (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*

Comment. Stage 2 of the proposed development involving the creation of four large lots seeks to dispose effluent by a non-reticulated system. This aspect of the development is not accompanied by the submission of 'a comprehensive report from a suitably qualified person' demonstrating each lot to be suitable to receive the wastewater and nominating an on-site sewage management system as required by clause 10.6.3 of Council's DCP. The information was not supplied on the grounds that the each proposed large lot has sufficient area to sustainably accommodate a non-reticulated system. The subdivision of the land into four large lots as an initial stage is not supported for other reasons detailed in this Report.

Effluent disposal on the land is currently via septic tank and trench(es) located in proximity to the buildings fronting the Pacific Highway. Council does not hold records regarding this arrangement and the recommendation to this Report includes decommissioning.

- (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*

Comment. All stormwater generated by the development is proposed to be treated prior to discharge to the environment. Development controls for stormwater quantity and quality, including sediment and erosion control measures during construction works, are contained in *Chapter 12 – Stormwater* of Council's DCP. Compliance with Chapter 12 is considered in this Report in response to *Chapter 12 – Stormwater* of the DCP and *Clause 7.4 Water* of the BLEP.

- (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.

Comment. The coastal hazard of increased sea levels was considered by the elected Council in February 2013 and the sea level rise projections of 0.4 m by 2050 and 0.9 m by 2100 adopted. These projections are in line with the recommendation of the NSW Government's Chief Scientist and Engineer and are marginally less than the 0.91 m scenario adopted in the *Flood Level Assessment* contained at Appendix E of the SEE. The *Flood Level Assessment* has been used to inform the subdivision design which provides for no residential lots to be created below the general flood planning level, inclusive of coastal hazards.

The potential for the development to increase the risk of inundation on any other land is considered in this Report in response to DCP *Chapter 8 – Flood and Riverine Processes* and in recommended conditions of development consent.

Clause 5.9 Preservation of trees or vegetation

Clause 5.9 of the BLEP seeks to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation. The clause operates in conjunction with the DCP and provides that the clearing of vegetation on the land that is Zone R1 General Residential cannot occur without the authority conferred by a development consent. If approved, the subject DA would constitute the requisite development consent.

Clause 5.10 Heritage conservation

Clause 5.10 of the BLEP seeks to conserve the environmental heritage of Bellingen; to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views; to conserve archaeological sites; and, to conserve Aboriginal objects and Aboriginal places of heritage significance. This is generally achieved through describing an item, area or site in Schedule 5 of the BLEP and showing its location on the Heritage Map.

The development site does not contain or adjoin a heritage item, area or site described in Schedule 5 of the BLEP or shown on the Heritage Map.

Clause 5.10 (2) of the BLEP provides that development consent is required to demolish or move an Aboriginal object, or to subdivide land on which an Aboriginal object is located. An Aboriginal object is defined in the BLEP as follows:

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

As per the definition, Aboriginal objects are not limited to the provisions of Schedule 5 of the BLEP or the Heritage Map.

The subject DA is accompanied by an Aboriginal Heritage Impact Assessment as prepared by McCardle Cultural Heritage Pty Ltd and contained at Appendix J of the SEE. While the assessment does not identify the existence of an Aboriginal place of heritage significance, it does identify the presence of an Aboriginal object. Development consent is therefore required to be obtained. If approved, the subject DA would constitute the requisite development consent.

The potential impacts of the subdivision on cultural heritage are considered later in this Report in response to clause 7.2 *Earthworks* of the BLEP and submissions from the Coffs Harbour and District Local Aboriginal Land Council and the OEH. It is concluded from that assessment that development consent may be issued subject to the imposition of conditions to mitigate the impact of subdivision work on Aboriginal objects.

Clause 7.1 Acid sulfate soils

Acid sulfate soils (ASS) were formed naturally along the NSW coastline over the last 10,000 years. They cause no harm if left undisturbed. However, if exposed to air by drainage and excavation, sulphuric acid may be produced in levels that can adversely affect water quality and nearby aquatic systems.

The development footprint extends into land that is classified as Class 5 ASS as shown on the BLEP ASS Map. Works proposed on this land that are 'within 500 metres of adjacent Class 1, 2, 3, or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land' are required to be undertaken in accordance with an ASS management plan unless the works involve the disturbance of less than 1 tonne of soil and are unlikely to lower the water table.

While the proposed subdivision will require substantial earthworks, section 4.7.5 of the SEE provides that there is 'no known occurrence' of ASS within the development footprint and that the distribution of ASS on the land is limited to a 'low probability' of occurrence at depths of between 1 to 3 metres in conjunction with the SEPP 14 wetland in the north-east. The findings of this assessment are accepted, being that an ASS management plan is not

required for the proposed works. Nevertheless, a standard condition is recommended to be applied to any approval issued for the proposal addressing any ASS soils that are encountered during subdivision works.

Clause 7.2 Earthworks

Before granting development consent for earthworks, the consent authority must consider the matters contained under clause 7.2 (3) of the BLEP. These matters and associated commentary follow.

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,

Comment. The site contains ridgelines with moderate to steep slopes draining to waterways and wetlands. Site slopes in the range of 5% to 15% cover the majority of the site, with some sections up to 25% slope.

A 'preliminary geotechnical assessment' of the site soil capabilities is provided in section 4.7 of the SEE, with no detailed assessment being submitted to confirm or otherwise the presence of unstable landforms. The preliminary assessment has evaluated the site soils to have moderate to high risk of erosion, with section 4.7.2 of the SEE noting that 'exposed subsoil surfaces during earthworks may be subject to sheet and gully erosion'.

Earthworks are proposed for road construction and stormwater controls, with some minor works for allotment presentation. A conceptual earthworks plan showing the extent of cut and fill is provided at Appendix A of the SEE. This plan relates to the DA as originally submitted and has not been updated through subsequent modifications to the application.

Proposed earthworks impact three watercourses, being:

- a Strahler order 1 stream that originates within the development footprint in the northeast of the development site and drains to the east towards SEPP 14 wetland number 356A;
- a Strahler order 3 stream that is central to the residential land and drains to the north and its confluence with the Strahler order 1 stream below, and on to SEPP 14 wetland number 354; and
- a Strahler order 1 stream that originates on the adjoining Lot 1 DP 604508 and drains to the northeast through the development site towards SEPP 14 wetland number 354.

These works are subject to a controlled activity approval to be issued under the *Water Management Act 2000* for the development, the general terms of which accompany the recommendation to this Report. Designs for the earthworks are also required to be accompanied by a certified flood study that demonstrates that subdivision works meet the relevant development controls contained at Chapter 8 of the DCP and a stormwater management plan to be developed under the provisions of Chapter 12 of the DCP. Erosion and soil control measures compliant with the DCP and AUSPEC design requirements are additionally required to be in place prior to the commencement of any earthworks, and maintained by the proponent until the site is fully stabilised.

(b) the effect of the proposed development on the likely future use or redevelopment of the land,

Comment. The earthworks are proposed for road construction, stormwater control and allotment presentation, and in this regard facilitate the future residential use of the land. This is consistent with Council's objectives for the Zone R1 General Residential.

Minor earthworks are proposed along the frontages of the residential allotments. While the 'preliminary geotechnical assessment' concludes from the visual inspections that there is no evidence of slope instability or mass ground movement, the SEE acknowledges that detailed assessment of each building site will be required to ensure the suitability of each lot for building construction. A site classification of each site is therefore recommended to be undertaken by a CPEng Geotechnical Engineer in accordance with AS 2870. The classifications shall be submitted prior to the release of each Subdivision Certificate and be effected through a section 88B restriction as to user under the *Conveyancing Act 1919* on each allotment.

Given the grades of the land and the moderate to high risk of soil erosion, slab floor construction is recommended to be limited on moderate to steep allotments within the development site. Slab floors are more suited to low to moderately sloping allotments and normally result in excessive cut and fill when applied to moderate to steep allotments. In conformance with clause 1.6.9 of the DCP, all sites with slopes in excess of 15% should be restricted to a maximum of 1 metre excavation and 1 metre fill to ensure that excessive earthworks and inherent drainage problems are avoided. This is further consistent with mitigation measures and safeguards for visual amenity identified in the SEE to minimise visible cut faces and maintain smooth transitions to cut and fill.

(c) the quality of the fill or the soil to be excavated, or both,

Comment. Soil to be excavated includes soil that has been contaminated with cadmium, arsenic and total petroleum hydrocarbons as a result of former land uses (truck depot and skip collection business) and land that has been used for agricultural purposes which is an activity that may cause contamination as per Table 1 of the *Managing Land Contamination, Planning Guidelines, SEPP 55-Remediation of Land*. The quality of the soil to be excavated is considered in this Report under commentary to *State Environmental Planning Policy No 55-Remediation of Land*.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties,

Comment. Earthworks can have an adverse effect on adjoining properties through erosion, sedimentation and dust arising from the construction phase and ongoing impacts attributable to changes in visual amenity, drainage patterns and flood behaviour. These aspects of the development are each addressed separately in this Report and are the subject of recommended conditions to mitigate impacts on adjoining properties.

(e) the source of any fill material and the destination of any excavated material,

Comment. It is calculated in the SEE that the proposed earthworks will result in 12,900 cubic metres of excess soil. Accordingly, no fill material is anticipated to be received at the development site, and excess material is likely to be removed.

No specific disposal site/s have been identified for the excavated material. It is therefore recommended that the proponent be required to identify the sites and

prepare a haulage route impact assessment for Council approval prior to the commencement of any earthworks that require the cartage of material from the site.

(f) the likelihood of disturbing relics,

Comment. The land does not contain a heritage item, area or site listed in the BLEP and is not a recorded site on the OEH maintained Aboriginal Heritage Information Management System.

The DA is accompanied by an Aboriginal Heritage Impact Assessment prepared by McCardle Cultural Heritage Pty Ltd as contained at Appendix J of the SEE. The assessment identified the presence of an Aboriginal object at site SU1 and 'raw materials utilised for stone tool manufacture' within Survey Unit 5.

The potential for further archaeological deposits on the land was considered by McCardle Cultural Heritage Pty Ltd to be very low or negligible. This is contrary to referral advice submitted to Council through the DA assessment process from the CHDLALC to the effect that potential archaeological deposits and some Aboriginal objects exist on the land in addition to those identified in the Aboriginal Heritage Impact Assessment.

Council holds a previous cultural heritage assessment of the land undertaken by Davies Heritage Consultants Pty Ltd in October 2004. That assessment concluded that there are no known indigenous cultural or archaeological sites on the land, but that there exists the potential for indigenous archaeology to be inadvertently damaged through subdivision works due to survey limitations. The discovery of previously unidentified archaeology in the more recent Aboriginal Heritage Impact Assessment prepared by McCardle Cultural Heritage Pty Ltd is clear evidence that there is the potential for further archaeology on the land and supports the reservations of the Coffs Harbour and District Local Aboriginal Land Council.

The Aboriginal Heritage Impact Assessment prepared by McCardle Cultural Heritage Pty Ltd acknowledges that visibility was a limitation in the conduct of the assessment. This limitation was proposed to be mitigated in the Davies Heritage Consultants Pty Ltd assessment by permitting the Coffs Harbour and District Local Aboriginal Land Council 'the opportunity to undertake a walk-over inspection of the site immediately after vegetation clearance to ensure that any cultural heritage material that may be present is dealt with in an appropriate manner'.

Conditions of development consent are included in the recommendation of this Report to address the potential occurrence of Aboriginal heritage on the land.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Comment. The impact of the proposed development on watercourses, their catchments and environmentally sensitive areas are considered in this Report in response to BLEP clause 7.4 *Water* below.

Clause 7.3 Flood planning

Clause 7.3 of the BLEP applies to land at or below the flood planning level and provides that the consent authority must be satisfied that the development:

(a) is compatible with the flood hazard of the land, and

- (b) *will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*
- (d) *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The site is affected by mainstream flooding of the Kalang and Bellinger catchments up to an estimated Probable Maximum Flood (PMF) height of RL 6.5 metres AHD. However, flooding of the local catchment results in higher flood levels for shorter durations due to the local topography. This localised flooding regime has been detailed in a flood study undertaken by Van Drie in 2011 as contained at Appendix E of the SEE. The study identified a range of flood scenarios to describe flood behaviour, levels and hazard at the site and includes potential climate change impacts attributable to increased rainfall and sea level rise. The adopted climate change scenarios were those capable of exerting the greatest influence, being 0.91m sea level rise and a 30% increase in peak rainfall and storm volume.

Data from the Van Drie flood study informs the GeoLINK *Existing Site Constraints Plan* and the resultant allotment design which provides for all residential lots above the general flood planning level.

Agency Advice

The OEH advised as follows in relation to the flooding aspects of the development:

- 2. *In relation to flooding and sea level rise, OEH recommends that Council considers the most up-to date modelled data in its assessment of the DA.*
- 3. *Prior to determining the DA, the applicant should provide further details to Council on the hydraulic structures proposed in order that flooding impacts on lots and infrastructure can be modelled. The duration and frequency of isolation across a full range of events should be identified.*

Council's most current flood modelling for the lower Bellinger and Kalang Rivers has been provided by a flood study prepared by WBM Oceanics. The flood extents mapping for a range of floods provided as part of this study, up to and including the PMF, has been examined by Council's Asset Management and Design staff in relation to the proposed development. The mainstream PMF mapping extends into the subject properties at an estimated level of 6.5 metres AHD. This correlates with the PMF extents shown on the GeoLINK revised engineering design layout.

Flood Study

The elevation of the development site varies from 5 metres AHD in the low lying gullies to 28 metres AHD along the higher ridgelines. A detailed flood study is contained at Appendix E of the SEE and the modelling therein has adopted estimates for the 1:100 ARI flood levels (with climate change and sea level rise allowances) at the site as described in the following Table.

North Western Tributary			Main Channel		
Distance from DS Boundary	Flood level AHD	Hazard V x D	Distance from DS Boundary	Flood level AHD	Hazard V x D
50m	4.0m	Medium	220m	5.0m	High
125m	5.0m	High	360m	6.0m	High

200m	6.0m	High	480m	7.0m	High
270m	7.0m	High	620m	8.0m	High
365m	8.0m	High	680m	9.0m	High
420m	9.0m	High			
450m	10.0m	High			
<i>*The distances and levels shown are interpolated from the flood study figure 65.</i>					

It is noted that the Van Drie flood study has modelled an earlier lot layout, showing allotments within the north western tributary. The revised DA layout has all allotments located above the plotted general flood planning level. The application layout therefore removes a number of concerns raised in the flood study with respect to the potential flooding of allotments.

The flood study conclusions and recommendations are prefaced on the accuracy limitations of the digital terrain data used to develop the flood models. The flood study recommends as part of the detailed engineering designs for the development works that further detailed survey is to be undertaken to verify the flood study estimated flood levels. It is considered this recommendation can be taken forward as a condition of any consent issued for the development as the risk of significant level differences between the digital data and final ground surveys is likely to be low. Also, the consequences of such level differences will be borne by the development should it be found that the estimated flood heights derived from the digital data need to be adjusted to higher AHD levels.

Flooding impacts have been discussed and assessed in sections 2.3.5 and 4.2 of the SEE and the GeoLINK assessment under each of the above has been considered and generally concurred with. With the exception of the proposed road crossings of the north western tributary and main channel, and ancillary earthworks within the road reservations, all subdivision works will be located above the flood hazards.

Council's DCP requires access to and from all allotments to be provided at a minimum level of the general flood planning level minus freeboard. Isolation will therefore only occur in flood events of a magnitude greater than 1:100. The isolation of sections of the development may occasionally result, although this will be for very short periods. As there are adequate advance warnings in place through the Local Flood Plan, construction of the road crossings as per the DCP standard is adequate. It should be noted that, while Council's DCP provides for access to and from all allotments at or above the 1:100 flood event, the alternative access road is not bound to this level of flood immunity and is recommended to be constructed to provide flood immunity up to the 1:20 flood event at a minimum.

Clause 7.4 Water

The provisions of this clause apply to works that are to be undertaken in or within 50 metres of any waterway identified on the *Natural Resources Sensitivity-Water Map*. There are three waterways so identified and in all instances subdivision works are proposed to extend into the waterway. The waterways comprise Strahler order 1, 2 and 3 streams that drain to the north and east of the development site.

Before determining the DA, the consent authority must consider any adverse impact from the proposed development on the water quality of receiving waters, the natural flow regime, the natural flow paths of waterways, the stability of the bed, shore and banks of waterways, and be satisfied that:

- (a) *the development is designed, sited and will be managed to avoid any adverse environmental impact, or*

- (b) *if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Stormwater management has been considered in sections 3.11 and 4.6 of the SEE, with the stormwater management plan proposing to achieve the water quality and quantity objectives detailed for performance based solution 'B' under Chapter 12 of the DCP. This requirement was queried in its efficacy by the Office of Environment and Heritage in their submission to Council dated 9 October 2014, having particular regard to the subdivision's encroachment into the catchment of SEPP 14 wetland No. 356A, as occurring within the residual lot to the east of the development.

Council's DCP provides that stormwater must be treated to the greatest level of treatment of two options, categorised as Option A and Option B. Option A sets the requirement for 'no net increase in the average annual pollutant load of stormwater entering the stormwater systems and receiving waters, above that occurring under pre-development conditions'. This Option has been presented by the Applicant as being impractical as the predevelopment conditions of forest and pasture require 'an impractically large area of stormwater treatment'.

The development site drains to SEPP 14 wetland No. 354 in the north and No. 356A in the east. The wetland to the north is located within an existing urban catchment and will be the receiving wetland for stormwater runoff from 78% of the proposed residential allotments. This wetland includes land at Hillside Drive that contained an Antimony Processing Plant which operated from 1969 to 1974. Contaminated tailings and wastewater from the processing plant were discharged directly onto the Plant site and the adjoining SEPP 14 wetland, causing a large area of the wetland vegetation to die and acting as a continued source of contamination for wetland vegetation, downstream waterbodies and groundwater. The site is the subject of a Management Order under the *Contaminated Land Management Act 1997* and is currently subject to remediation works in an attempt to redress the significant concentrations of contaminants (antimony, arsenic and mercury) that exceed human health and ecological criteria.

Given the quality of receiving waters in this catchment, the Option B requirements in Council's DCP provide suitable design standards. Option B requires the following minimum treatment criteria to be achieved:

- 90% reduction in Total Suspended Solids;
- 65% reduction in Total Phosphorous;
- 45% reduction in Total Nitrogen; and
- 90% reduction in Average Annual Gross Pollutant load (>5mm).

The catchment supporting SEPP 14 wetland No. 356A in the east is predominately undeveloped and, with the exception of a dwelling house on Lot 5 DP 776494, the north coast rail corridor and overhead electricity transmission lines, is entirely subject to forest. The encroachment of the development into this catchment has the potential to adversely impact the water quality of the relatively pristine receiving environment. In these circumstances, the highest level of treatment is required to protect water quality and ecological values. Reduced perimeter road widths as recommended by Council through this Report will assist in providing additional land within the development for necessary stormwater treatment.

The maintenance of natural flow regimes are controlled by Chapter 8 of Council's DCP, including wetting and drying regimes and the requirement for the development to not create

any increase in peak discharges at the downstream property boundary for up to the 1% Annual Exceedance Probability storm event. Concerning SEPP 14 wetland No. 356A, the relevant property boundary will be the proposed road reserve.

Proposed residential allotments are segregated over the land into three broad clusters in a design response to the presence of watercourses. This minimises the impact of the development on watercourses in the western portion of the site.

A minor tributary watercourse in the east of the development footprint adjoining proposed lots 151 and 152 is proposed to be retained as a stormwater drainage reserve 'so as not to alter the downstream flow path'. It is noted that the reserve is proposed to be developed with a stormwater drainage pipe and a gravity sewer main and that the natural flow path will be intercepted in the perimeter road reserve for bioretention. The retention of the natural flow path in a reserve in this location is not supported by Council on maintenance and access grounds. As such, the proposed reserve should be consolidated into the adjoining residential lots.

The Department of Primary Industries – Water has assessed the development application with specific regard to the principles of ecologically sustainable development and the protection of water sources, their associated ecosystems, ecological processes and biological diversity and their water quality. As a result of this process, the Department issued general terms of approval for development works requiring a controlled activity approval under the *Water Management Act 2000* on 16 September 2014. These general terms of approval do not require amendment despite modifications made to the DA through the assessment period.

Clause 7.5 Biodiversity

This clause applies to land that is identified as 'sensitive land' on the Natural Resources Sensitivity-Biodiversity Map. With the exception of land in proximity of the westernmost watercourse and the Pacific Highway, the land is mapped as sensitive land. As such, consideration must be given to any adverse impact from the proposed development on native ecological communities; the habitat of any threatened species, populations or ecological community; regionally significant species of fauna and flora or habitat; and, habitat elements providing connectivity. In addition, development consent must not be granted to that part of the DA on sensitive land unless:

- (a) *the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
- (b) *if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Section 4.1 and Appendix D of the SEE consider the ecology of the land and the ecological impacts arising from the proposed subdivision. The assessments contained therein were further reviewed by the Applicant on 31 August 2015 in response to amended subdivision plans submitted to Council.

The proposed development footprint requires the removal of 20.46 hectares of native vegetation, comprising:

- 15.58 hectares of Blackbutt Dry Sclerophyll Forest;
- 2.16 hectares of Mixed Open Woodland;
- 2 hectares of Ironbark/Tallowood/Mahogany Dry Sclerophyll Forest including 0.08 hectares of the Endangered Ecological Community (EEC) Subtropical Coastal Floodplains Forest of the NSW North Coast Bioregion;

- 0.35 hectares of Blackbutt Woodland; and
- 0.37 hectares of the EEC Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast Bioregion.

These vegetation communities were identified to support seven threatened fauna species, being the Glossy Black-cockatoo, East-coast Freetail Bat, Little Bent-wing Bat, Eastern Bent-wing Bat, Grey-headed Flying-fox, Large-footed Myotis and Eastern Osprey. An additional 18 threatened fauna species were considered potential occurrences on the site. The identified 25 species were each considered in the ecological assessment under a seven-part test in accordance with section 5A of the EPAA which concluded 'that the proposal is unlikely to result in significant impact on the local population of the subject threatened fauna species'.

This impact was queried by the Office of Environment and Heritage (OEH) with specific regard to the Glossy Black-cockatoo. This species is listed as Vulnerable under the *Threatened Species Conservation Act 1995* and the land and adjoining lands to the north, east and south have been identified to support a local population of this species of at least 12 to 15 birds. Glossy Black-cockatoos feed almost exclusively and selectively on the seeds of She-oak trees. This specialisation, along with a scarcity of nesting resources, prompted OEH concern 'that the proposed development area may potentially be of higher importance to this species than concluded within the ecological assessment'.

Further investigation of the suitability of seven hollow-bearing trees within the study area as nesting habitat for the Glossy Black-cockatoo was made by the Applicant and the results submitted to Council in additional information dated 31 August 2015. The additional field surveys undertaken found that none of the four hollow-bearing trees located within the development footprint exhibit the key nesting characteristics attributable to the Glossy Black-cockatoo, but that two of the three hollow-bearing trees situated outside the development footprint do provide potential Glossy Black-cockatoo habitat. These potential nesting trees do not require removal through the subdivision of the land and are adequately separated from the development area.

To further inform the seven-part test for the Glossy-black Cockatoo, OEH recommended that the local Glossy Black-cockatoo population be accurately defined and the impact of the proposed loss of feeding resource trees be assessed specific to this population.

The *South Urunga Development Area Ecological Assessment* undertaken by EcoPro in 2006 identified the locality to be 'likely to provide important habitat for a small population (approx. 12-15 birds) of glossy black cockatoos'. This population size was determined with regard to the extensive distribution of foraging habitat in the locality (71 hectares of Black-She-oak comprising 19.4 hectares of very dense stands, 30.3 hectares of dense stands and 21 hectares of moderate densities), the proximity of water, the availability of suitable nesting resources and bird observations during site surveys. The Applicant has advised Council in additional information dated 31 August 2015 that 'this population forms part of the larger mid-North Coast population and was considered the 'local population' for the statutory Seven-Part Test of Significance Assessment in GeoLINK (2013)'. That is, the seven-part test for the Glossy-black Cockatoo as contained at Appendix D of the SEE was undertaken with regard to a local population.

Section 5A of the EPAA concerns the significant effect of development on threatened species, populations or ecological communities, or their habitats, and provides that various matters need to be taken into account in making a determination, including:

- *in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction; and*
- *in relation to the habitat of a threatened species, population or ecological community:*
 - (i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and*
 - (ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and*
 - (iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,*

The revised development seeks to remove 1.71 hectares of very dense She-oak, 3.85 hectares of dense She-oak, plus 1.24 hectares of moderately dense She-oak from the subject site. This constitutes 29.95% of the foraging habitat for the Glossy Black-cockatoo on the land, which currently comprises 6.0 hectares of very dense, 12.1 hectares of dense and 2.8 hectares of moderately dense She-oaks.

Having regard to the broader locality assessment undertaken by EcoPro, clearing under the development would equate to 9.49% of the 71 hectares of moderately dense to very dense she-oaks identified on and adjoining the development site. According to the seven-part test, the 'fragmentation and removal of forage trees would have an impact upon the local GLBC population, however it is unlikely that this impact would reduce the numbers in the population and would not place this local population at risk of extinction'.

It is evident that the subdivision has been designed to minimise the impact on the Glossy Black-cockatoo population. No nesting habitat is to be removed by the development, vegetated buffers are proposed to waterways, and the land retains a distribution of moderate to very dense She-oak trees within the Zone R1 General Residential plus the full distribution of She-oaks within the residue lot. This includes significant proportions of very dense She-oaks interspersed with dense to moderately dense She-oaks.

Illustration 5.1 in Appendix D of the SEE describes the unrevised development footprint in relation to the distribution of She-oaks on land that is Zone R1 General Residential. This Illustration should not be considered in isolation of the significant distribution of She-oaks on the residue lot, nor the larger geographic distribution of She-oaks across the locality that are conserved through BLEP environmental zonings. The following Figure 3 shows the local distribution of She-oaks and identifies their effective preservation through environmental zonings under the BLEP.

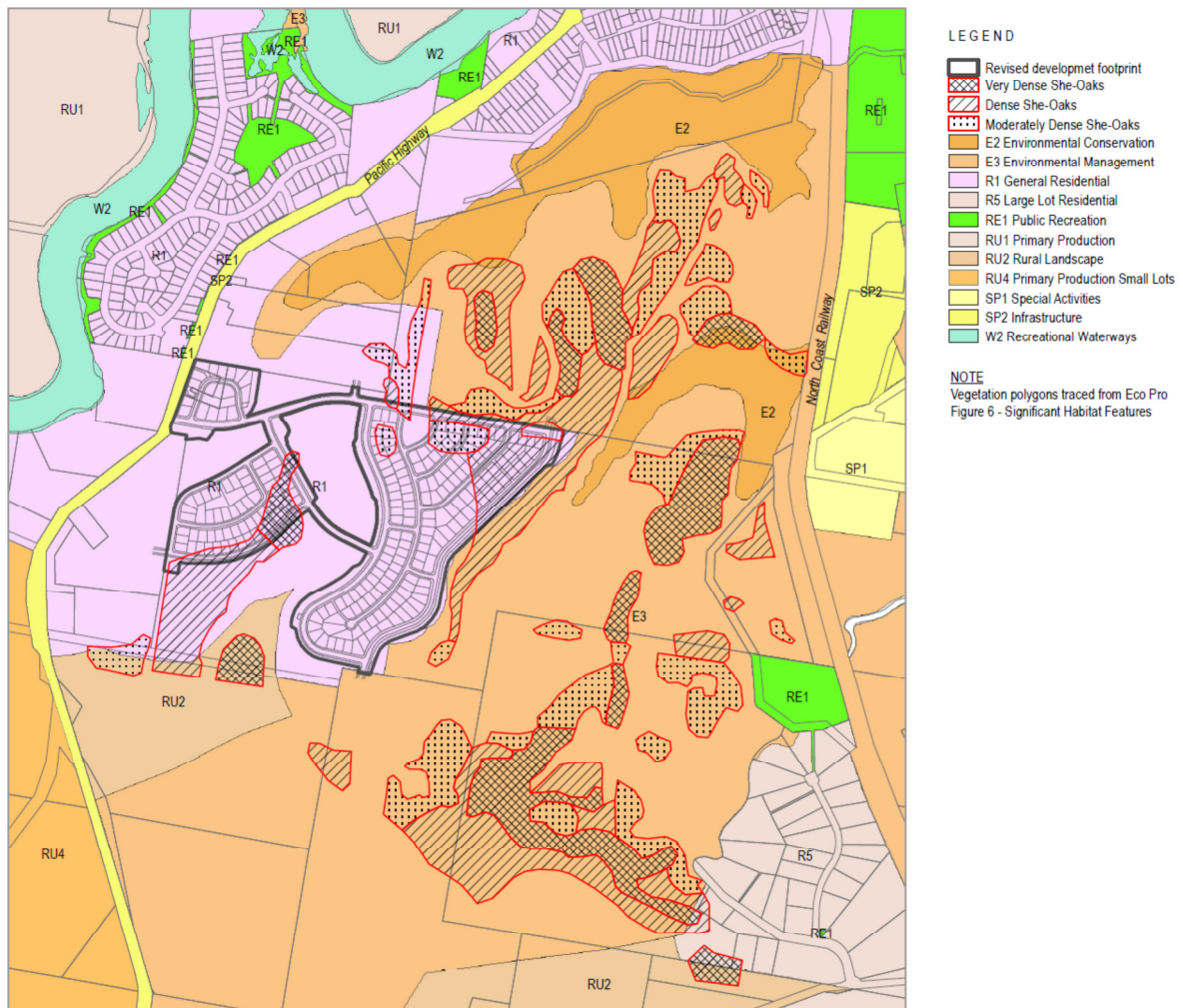


Figure 3 – South Urunga She-oak distribution by density and zone (Source: GeoLINK 2016)

While the removal of She-oaks constitutes a key threatening process, it is concluded that the above information supports the seven-part test undertaken by GeoLINK.

Concerning EECs, the proposed development requires the removal of 0.08 hectares of Subtropical Coastal Floodplains Forest of the NSW North Coast Bioregion and 0.37 hectares of Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast Bioregion.

The subdivision is proposed to comprise three distinct residential areas that are responsive to, and offset from, EECs. This sympathetic design retains some 95% of existing EECs identified within the Ecological Assessment at Appendix D of the SEE, and effectively limits removal to the provision of a road network servicing the subdivision in compliance with the provisions of *Planning for Bush Fire Protection 2006*.

Impacts attributable to the clearing are proposed to be mitigated through the provision of buffers plus rehabilitation and replanting areas. Appendix G to the additional information submitted by GeoLINK, 31 August 2015, identifies areas on the residual lot for the rehabilitation of 1.405 hectares of EEC and the replanting of 0.263 hectares of EEC. This proposal would see an improvement in the condition of EEC along the westernmost watercourse, but would culminate in an overall loss of 0.187 hectares (2.14%) of EEC on the land.

Having regard to section 5A of the EPAA and the extent to which the EECs are proposed to be removed and modified, the conclusions of GeoLINK that the action proposed 'is unlikely to result in a significant impact' is supported.

No threatened plants were identified at the site, including the threatened Newry Golden Wattle which had previously been recorded along the southern portion of the western property boundary. Seven significant hollow bearing trees were, however, identified. Four of these are required to be removed to deliver the proposed development.

Clause 7.9 Public utility infrastructure

Clause 7.9 of the BLEP requires the consent authority to be satisfied that all public utility infrastructure required for the development is available, or that appropriate arrangements have been made to make that infrastructure available.

The development has direct road connection to the existing road network and is in proximity to existing public utility infrastructure, water, sewer, telecommunications and electricity. The DA identifies where connections will be made to the existing infrastructure and includes the offer to enter into a planning agreement to provide for water and sewer infrastructure to be available when it is required by the development. Subject to conditions of development consent, the proposed measures are satisfactory.

Section 79C (1) (a) (ii) - Any Proposed Environmental Planning Instrument

There are no relevant proposed instruments that are or have been the subject of public consultation under the EPAA, or that have been notified to the consent authority or otherwise directed by the Director-General. As such, this section is not relevant to the assessment of the DA.

SECTION 79C (1) (a) (iii) – ANY DEVELOPMENT CONTROL PLAN

The *Bellingen Shire Development Control Plan 2010* (DCP) applies to the land. The DCP contains a series of chapters, with each chapter dealing with a different aspect of development within the Shire. The following chapters are discussed as relevant to the proposed development.

Chapter 3 – Subdivision

The provisions of this Chapter apply to any Development Application that is received by Council for the subdivision of land.

Clause 3.6.1 Land suitability – Watercourses

In accordance with the DCP standard, the proposed subdivision avoids the creation of additional lots with frontages to watercourses. All watercourses in the development footprint are either retained within the residual lot or reserved as public road, thereby creating no additional domestic and stock rights for water access.

The impacts of road frontages to watercourses on biodiversity are considered separately in this Report.

Clause 3.6.1 Land suitability – Steep Lands

The DCP provides that the subdivision of land should avoid slopes in excess of 15%. While the majority of the development site is covered by slopes of between 0 and 15% as per Illustration 2.4 of the SEE, there is a component of the land that is proposed to be developed that is in excess of the 15% grade and up to 25%. This is justified in the SEE on the basis that the avoidance of the small proportions of steep land in the development would culminate in an inefficient use of the site.

An assessment of the site soil capabilities is provided in section 4.7 of the SEE. It is noted that the assessment has been undertaken on the basis of a 'preliminary geotechnical assessment' and that no detailed assessment has been provided to Council to confirm or otherwise the presence of unstable landforms. The site soils have been assessed in the SEE to have moderate to high erosion risks once exposed, with a low to moderate risk for urban capability.

The steeper areas that are proposed to be developed are situated in the north-eastern fringe of the development and within the catchment area for sewage pump station number 3. In this locality, sections of between 20 and 25% slope are proposed to be developed for residential allotments and road. The SEE acknowledges that, while there is no visual evidence of slope instability or mass ground movement, a detailed assessment of each building site will be required to ensure the suitability of the allotments for building construction. Limitations concerning the extent of cut and fill and a site classification of each site on steeply sloping ground in accordance with AS 2870-2011 *Residential slabs and footings* are recommended in order to provide appropriate levels of environmental protection and to encourage a high standard of residential development in accordance with the aims of the DCP chapter.

All residential sites that are subject to a variation in the DCP should be restricted to a maximum one meter cut and fill to avoid excessive earthworks and inherent drainage problems. Where imposed as a covenant, such a restriction is considered to also apply to future complying development under clause 1.20 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, in that it is 'a covenant imposed by a council ... requiring compliance with a development standard'; namely Figure 1.3 of the DCP.

A conceptual earthworks plan showing the extent of cut and fill is provided in the SEE at Appendix A. This encompasses earthworks for road construction with some minor works along the frontages of the proposed residential allotments for presentation. Sedimentation and erosion control measures compliant with the DCP and Aus Spec design requirements will be necessary for these works until the site is fully stabilised.

Clause 3.6.1 Land suitability – Flood liable land

The DCP facilitates minor filling of flood liable land for the purposes of subdivision where the essential features of the landscape are not significantly altered and compliance with Chapter 8 of the DCP is demonstrated.

As abovementioned, a conceptual earthworks plan showing the extent of cut and fill is provided in the SEE at Appendix A. While this plan does not reflect modifications made to the DA through the assessment process, it is sufficient to demonstrate that no filling is proposed to occur on flood liable land for the purposes of creating building envelopes.

Proposed earthworks on flood liable land are considered under Chapter 8 below and are the subject of general terms of approval issued by the DPI-Water, including the following requirement to maintain essential features of the landscape:

The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.

Clause 3.6.1 Land suitability – Vegetated Land

Consistent with this development control, the proposed subdivision will retain significant areas of sensitive native vegetation on the residue lot. This will prevent fragmented management techniques and is suitably identified at section 3.14 of the SEE:

*The owner of the 52 ha residual lot is responsible for the rehabilitation of EEC, EEC buffers and fauna connection as defined in the Ecology Report (refer to **Appendix D**).*

While the DCP discourages the clearing of vegetation from within individual allotments at the subdivision level, the provision of asset protection zones and the conduct of minor earthworks for allotment presentation will necessitate vegetation removal. The impacts of this removal on biodiversity has been considered in the ecological assessments accompanying the DA and is consistent with the specific aim of the clause ('To provide appropriate levels of protection for environmentally sensitive or constrained areas of land from development pressure') and overarching aims of the DCP Chapter. Subdivision works within residential lots can contribute to a higher standard of residential development through the provision of coherent design and landscapes that facilitate the intended use.

Clause 3.6.1 Land suitability – Ridgelines

To provide for appropriate levels of environmental protection, this clause discourages lot layouts that promote residential development on prominent ridgelines, and moots building height restrictions where buildings could intrude into the skyline and have adverse visual impacts.

The land consists of gently undulating coastal hills of elevations up to 28 metres AHD. Higher landforms exist to the south of the development site and this vegetated backdrop should help preserve the broader skyline as viewed from Urunga, having particular regard to development along Hillside Drive and High Street.

Current views to and from the Pacific Highway are generally restricted by vegetation, but exist directly at the common property boundary and intermittently at the ridgeline servicing proposed lots 28 to 56. With the exception of traffic heading north along the Pacific Highway towards the proposed intersection, the curvature of the Pacific Highway substantially precludes the development site from constituting a focal point to road users.

A Visual Impact Assessment is contained at section 4.10 of the SEE and concludes that, 'as a whole, the development would present a low visual impact'. The landscape over the development footprint will be fundamentally altered by the DA. While this can be an improvement when considering the demolition and redevelopment of the existing buildings fronting the Pacific Highway, it can also significantly alter view sheds, having particular regard to views from residences along the eastern side of the Pacific Highway immediately to the north of proposed Lots 6 to 11 and from the residences to the west and southwest of the proposed water tower.

It is concurred with the SEE that, while the development will herald a fundamental shift in the developed landscape, this alteration will not constitute a significant deleterious impact on vistas and may be somewhat mitigated through suitable landscaping and sympathetic bulk earthworks.

Clause 3.6.1 Land suitability – Previous land uses and potential contamination

This clause sets minimum standards for development applications concerning the investigation of potential contamination arising from previous land uses and is addressed under the provisions of SEPP No. 55-Remediation of Land.

Clause 3.6.2 Buffers to adjoining landuses, areas of environmental constraint or risk

This clause aims to provide sufficient buffers, or mitigating measures, between potentially conflicting land uses, to areas of environmental constraint, and to the hazard of bush fire.

Section 4.13.6 of the SEE considers the potential for land use conflict to arise from the proposed development and incorporates a land use conflict risk assessment in accordance with the publication *Living and Working in Rural Areas – A handbook for managing land use conflict issues on the NSW North Coast*. The proposed development has been identified to be within the recommended minimum buffers to small cropping land, grazing land, Regionally Significant Farmland, native vegetation and waterways, and the land use conflict risk assessment has been prepared to consider the likelihood and severity of any impact arising as a result. This is a legitimate planning response, as the recommended minimum buffers represent ‘an approximation of what constitutes best practice and a level of separation that will assist to minimise rural land use conflict at this time while acknowledging that site specific and development specific factors will always play a role in determining the most appropriate level of separation and approaches to conflict avoidance’ (*Living and Working in Rural Areas* 2007:89).

The identified small cropping land is situated to the north of the development site on Lot 3 DP 513358. This land is currently maintained in a slashed state and is subject to Zone E3 Environmental Management and Zone R1 General Residential under the BLEP.

The identified Regionally Significant Farmland is located approximately 95 metres to the west of the development site and borders the Kalang River. This land is developed as a manufactured home estate and is approved for subdivision into 15 residential lots, 1 public reserve lot, 1 lot for caravan park and 1 special purpose lot (utility installation) under Development Consent No. 2008/DA-083. This development consent is current.

Land to the west of the development site on Lot 1 DP 604508 is used for grazing. This land is subject to Zone R1 General Residential under the BLEP and is identified for future residential subdivision.

The land use conflict risk assessment identifies that the development has the potential to cause conflict with adjoining land uses through impacts to air quality (dust and spray drift from pesticide use), noise (farm machinery, equipment and animals) and water quality (increase in impervious surfaces). In each instance the risk is assessed as being acceptable where mitigation measures, including the provision of stormwater management controls and vegetated buffers, are implemented.

The potential for land use conflict arising through noise and vibration attributable to busy roads has been considered in this Report in response to SEPP (Infrastructure) 2007. Concerning the proximity of the residential development to the north coast rail corridor, the offset between the two developments of over 550 metres is outside the acoustic assessment zones established in the Department of Planning’s *Development Near Rail Corridors and Busy Roads – Interim Guideline* and requires no further environmental assessment.

The proposed residential subdivision is on land that is mapped as bush fire prone land and requires authorisation under section 100B of the *Rural Fires Act 1997*. The proposed subdivision incorporates the relevant matters under *Planning for Bush Fire Protection 2006* regarding asset protection zones, setbacks, public roads and the provision of services as necessary to protect persons, property and the environment from danger that may arise from a bush fire. A Bush Fire Safety Authority was accordingly issued for the development by the NSW Rural Fire Service on 1 February 2016 and the general terms of this Authority are contained in the conditions and advisory notes in the recommendation to this Report.

Clause 3.7.1 Minimum lot size requirements

All proposed allotments resulting from the subdivision meet the minimum subdivision lot size requirements in the BLEP. As such, the undersized allotment criteria under clause 3.7.2 *Subdivision of lots with approved dwelling* are not applicable to the DA.

Clause 3.7.3 Lot orientation and frontages

This DCP clause aims to encourage neighbourhoods where lot configurations provide for solar access and for future dwellings that address the street.

The proposed subdivision layout provides for residential allotments that are orientated and sized to facilitate the siting of dwellings with solar access, considering the likely dwelling size, the relationship of each lot to the street and the undulating topography. In addition, the proposal complies with the DCP requirement for the lots to be orientated to allow for the future erection of buildings that address the street. In this regard the residential lots are, to the extent practicable, provided with a single street frontage. This prevents undesirable streetscape situations where lots back onto the road network and maximises opportunities for future dwellings to front the street. The exceptions are proposed Lots 1 to 6 which require access via an internal road network and also front the Pacific Highway. Landscaping plans addressing the development frontage to the Pacific Highway will need to pay particular regard to mitigating the potential streetscape and privacy issues arising from this situation.

The subdivision includes three allotments of a battle-axe type configuration, being proposed lots 6, 74 and 75. These lots represent less than 1.3% of the proposed lot yield and do not constitute a repeated design measure in the subdivision layout. All battle-axe allotments are required to be developed with a minimum access handle width of four metres.

Clause 3.7.4 Road Network

This clause establishes the requirement for subdivisions to avoid the creation of rights of carriageway and to utilise road hierarchies in accordance with the given design specifications.

The proposed development has been designed such that it does not require the creation of any rights of carriageway. Furthermore, it will abolish an existing right of carriageway 5 wide on DP 792596 that burdens Lot 1 on that deposited plan.

In accordance with the DCP, the proposed development has a distinctive road hierarchy, with clear physical differences proposed between each type of road given its function, capacity, vehicle speeds and public safety. The landscape design plans contained at Appendix B of the SEE detail carriageway widths that are compliant with the DCP design specifications. However, due to the topography of the site and the proposal for perimeter collector roads to traverse the steeper-sided slopes, it is recommended that the collector roads be developed with a nine metre wide carriageway as opposed to the DCP standard eleven metre wide carriageway. This will reduce the extent of earthworks, provide greater capacity for stormwater quality outcomes and calm traffic speeds. The nine metre wide carriageway should be developed with suitably spaced bus stops and laybacks for all collector roads.

Road reserve widths are described on plan and in the landscape design documentation at Appendix B of the SEE. The latter design details are in compliance with the DCP design specifications. It is evident that perimeter road reserve widths exceed the relevant width standards to accommodate stormwater treatment and asset protection zones between residential development and the extant bush fire hazard. This is considered acceptable.

Clause 3.7.5 Subdivision pattern and connectivity

The aim of this clause is to encourage healthy spaces and places by facilitating physical activity through the built environment. This is to be substantially achieved:

- through connectivity along a grid style public road network that avoids narrow pedestrian linkages;
- by limiting cul-de-sacs to servicing a maximum 10% of the lot yield; and
- via the avoidance of lots that back onto public reserves or drainage lines.

The proposed subdivision road pattern incorporates elements of curvilinear design interspersed with parallel components.

Pedestrian linkages are proposed in two instances to connect the road network between proposed residential lots 151, 152, 155 and 180 at the north-eastern portion of the subdivision, and from the end of the proposed cul-de-sac near the southern portion of the subdivision between proposed Lots 200, 201, 226, and 227. Clause 3.7.5 of the DCP does not favour the provision of pedestrian pathways between residential lots, with a preference to providing the pedestrian network along public roads: 'Connectivity must be provided by the public road network rather than narrow pedestrian linkages provided between different areas of development'. However, an aim of clause 3.7.5 is to encourage 'greater levels of walking and cycling in neighbourhoods'. In this regard, the proposed linkage from the end of the cul-de-sac near the southern portion of the subdivision is acceptable as it will provide a linkage for pedestrians and cyclists to the adjacent through road. This linkage will assist in providing a shorter passage to the road network accessing the Urunga town centre and to potential bus stops located along the perimeter road. Judging by the natural land contours, the pathway grade would be relatively steep. Appropriate subdivision earthworks should be considered with the aim of reducing the longitudinal grade of the pathway to encourage use by pedestrians and cyclists. This pathway will also provide the opportunity to provide a stormwater overland drainage flow path from a low point in the public road, which is not located through private property.

The potential 'pathway' at the north-eastern portion of the subdivision is undesirable. It does not provide any more direct pedestrian routes to other roads or facilities. Provision of this pathway potentially and unnecessarily requires Council to allocate additional budget funding for the maintenance of this public land. It is noted that this path could be used to provide a stormwater overland flow path from a low point in the public road which desirably would not be located through private property. However, it is expected that scope exists to design the subdivision earthworks so that this low point in the road is eliminated (i.e. so that the road has a continuous longitudinal grade to the north).

A cul-de-sac is proposed to service 21 of the proposed lots, being proposed lots 201-212 and 218-226. These lots equate to less than 10% of the proposed lot yield and are adequately serviced by the cul-de-sac in the context of the overall road network and guiding topography.

The subdivision has been designed to preclude the creation of lots that back onto public reserves and drainage lines in accordance with the development control. This has been achieved through the provision of perimeter roads that separate the proposed lots from the proposed park, reservoir and stormwater treatment train. The residual lot has similarly been segregated from the proposed residential allotments. Proposed pedestrian linkages between roads, as abovementioned, are situated to the side boundaries as opposed to rear boundaries of the respective allotments.

The proposed subdivision pattern is supported given the clear road hierarchy and logical internal roadside pedestrian linkages and external road linkages, including to undeveloped adjoining estate.

Clause 3.7.6 Infrastructure requirements–General

The DA is accompanied by draft service plans including the drawings entitled *Proposed Subdivision Stormwater Management Plan*, *Proposed Subdivision Water Reticulation Plan*, *Proposed Subdivision Sewerage Reticulation Plan* and *Proposed New Route for the Sewer Rising Main* contained at Appendix F to the additional information of 31 August 2015. These plans demonstrate that the majority of the proposed infrastructure to service the development will be contained within road reserves. Instances of inter-allotment drainage and reticulated sewerage are the acceptable exception.

Additional infrastructure connections beyond the development site include road intersection upgrade works, the provision of a shared path along the Pacific Highway to Hillside Drive and a contribution toward both a new reservoir and the upgrading of the Pilot Street Pump Station. The latter two matters form the subject of a planning agreement offered by the developer.

Infrastructure that is directly necessary for the proposed development is the subject of conditions in the recommendation to this Report.

Clause 3.7.6 Infrastructure requirements–Kerb and Guttering

In line with the provisions of the DCP, the proposed subdivision will be provided with kerb and gutter in accordance with Council's AUSPEC 'Standard Conditions for Engineering Works Associated with Developments'.

Clause 3.7.6 Infrastructure requirements–Footpaths and/or shared footpaths and cycleways

This clause provides that the frontage of the development site is to be developed with a shared bicycle/pedestrian path to a width of two metres. The DCP references the *Bellingen Shire Pedestrian Access and Mobility Plan and Bike Plan* which has been amended in January 2016 to identify the need for a 2.5 metre wide shared pedestrian and cycleway facility along the east of the Pacific Highway and Hillside Drive. A 2.5 metre standard is therefore required to ensure that the works are in the public interest and reflect contemporary locality planning.

A range of internal pedestrian and cycle way networks are proposed throughout the interconnected street network as described in the landscape design plans contained at Appendix B of the SEE. These networks will facilitate and encourage pedestrian and cycle access throughout the subdivision. However, the proposed network is disconnected from local destinations external to the development site. It is considered essential that the residential subdivision further improve connections with the existing urban area of Urunga in line with healthy planning principles, the public interest and the *Bellingen Shire Pedestrian Access and Mobility Plan and Bike Plan*. A condition of consent is recommended to require provision of a dedicated shared pedestrian/ cycleway along the Pacific Highway north of the development site to Hillside Drive.

Clause 3.7.6 Infrastructure requirements–Electricity and Telephone Services

Electricity

In line with the provisions of the DCP, the proposed subdivision will be fully serviced by underground reticulated electricity. This includes the existing 11 kilovolt overhead electrical network, which is proposed to be converted to an underground line and re-routed through the subdivision.

Electrical works shall be in accordance with the requirements of the electricity authority (Essential Energy) and shall include the provision of street lighting to all new roads in accordance with AS1158. The placement of conduits for future requirements or upgrades

should be included in the electrical designs and evidence by way of letter from the electricity provider, indicating compliance, conditioned as a DCP requirement.

Telecommunications

The SEE identifies an Optus Optical Fibre line within the development site that will require relocation. It is proposed to transfer this service to within the western asset protection zone and Optus has advised the Applicant that relocation is feasible.

All allotments within the proposed subdivision are required to be connected to an underground telecommunication network in accordance with the requirements of the service provider. Service provision should also consider the placement of conduits for future requirements or upgrades. Evidence by way of letter from the service provider, indicating compliance, is included in the recommendation of this Report.

Developers are able to choose carriers to service the telecommunications requirements of their developments. An application to the telecommunications provider will determine what the most appropriate infrastructure to be delivered to a new development is by assessing the availability of existing infrastructure in the area and the cost of deploying the new infrastructure.

Clause 3.7.6 Infrastructure requirements–Reticulated Water

The DCP provides that ‘individual allotments must each have a connection point to a Council water main’. Proposed Stage 2 of the development, comprising subdivision into four large lots utilising on-site roof water supply, does not meet this development standard, however it is recommended that this Stage not be approved.

In compliance with the DCP, proposed Stage 3 includes the construction of reticulated water systems as shown in the drawing entitled *Proposed Subdivision Water Reticulation Plan*, Revision B, 16 December 2015.

The proposed new water supply reservoir to be developed on the land following the connection of the first sixty allotments has been revised and removed from the application. In lieu of this reservoir, the developer will enter into a planning agreement for the provision of a contribution to Council to go towards the cost for design and construction of a new reservoir and delivery system to be owned and constructed by Council at an alternative site.

Council’s computerised water model has been used to assess the water volume and pressure requirements of the development. The scenarios modelled identified that, absent a new water reservoir, the supply of water within Council’s adopted level of service cannot be achieved to proposed lots 78 to 238 inclusive. A condition of development consent is therefore required to restrict the issue of a subdivision certificate for these lots until Council has developed the new water supply reservoir and associated delivery system.

The development is required to be provisioned with fire hydrants that comply with contemporary servicing requirements and a condition of development consent is recommended to achieve this.

Clause 3.7.6 Infrastructure requirements–Reticulated Sewer

The DCP provides that ‘each Torrens title allotment created by subdivision must be provided with a connection point to a Council sewer main’. Proposed Stage 2 of the development, comprising subdivision into four large lots utilising on-site sewage management facilities, does not meet this development standard, however it is recommended that this Stage not be approved in any case.

The proposed development includes the construction of reticulated sewerage systems as identified on the GeoLINK plan entitled *Proposed Subdivision Sewerage Reticulation Plan*, Revision B. This sewerage network is proposed to be connected to the existing pump station at Pilot Street via a new rising main. Council has identified that the Pilot Street pump station will require upgrading in order to service the development precinct. To facilitate this process, the developer has offered to enter into a planning agreement for the provision of a contribution toward the upgrade. The necessary works to the pump station are being advanced by Council and will not impede the issue of a subdivision certificate for the development.

Conditions of development consent are contained in the recommendation to this Report that ensure sewer infrastructure is provided in line with the provisions of the DCP and the planning agreement.

Clause 3.7.6 Infrastructure requirements–Stormwater

The provisions of this clause are addressed later in this Report in response to DCP *Chapter 12 – Stormwater*.

Clause 3.7.7 Previous land uses and potential contamination

This clause is addressed in response to the provisions of SEPP No. 55-Remediation of Land as previously considered in this Report.

Clause 3.7.8 Landscaping

The provisions of this clause are addressed separately in this Report in response to DCP *Chapter 9 – Landscaping Requirements*.

Clause 3.7.9 Split Zoned Land Parcels

Split zoned land parcels involve land that contains two zonings pursuant to BLEP 2010. Lot 1 DP 792596 contains one zone and Lot 2 DP 792596 contains more than two zones which renders this clause not applicable to the proposed subdivision.

It is noted in commentary in this Report to the provisions of SEPP (Rural Lands) 2008 that a land use is not nominated for the residue lot, and that a possible option is for the land to be amalgamated with the Bellinger Heads State Park. Any proposal to retain an adequate building envelope for the residual lot on land that is Zone R1 General Residential is therefore unnecessary in the circumstances and any dwelling potential is more suitably addressed through strategic planning processes.

Clause 3.9 Development Criteria – Subdivision of Rural Land

This clause is relevant to the proposed development having regard to the land use zones applicable to Lot 2 DP 792596 under the BLEP.

The development site does not contain any regionally significant farmland and therefore does not fragment this resource.

Consistent with the DCP, residual vegetated portions of the land are proposed to be contained entirely within the residual lot. All rural and environmental zones applicable to the land are also proposed to be contained entirely within the residual lot, thereby protecting environmentally sensitive or constrained land identified through strategic planning from development pressure.

Chapter 6 – Preservation of Trees and Vegetation

This Chapter applies to land that is Zone R1 General Residential under the BLEP and provides that development consent is required for the clearing of vegetation within this Zone.

Certain principles arising through this Chapter are relevant to the proposed development, in particular the provisions for offsets given under clause 6.6 (e) ('Council may impose conditions of consent requiring that any vegetation to be removed is replaced by a suitable species of plant given the characteristics of the site') and the requirement to afford maximum protection to endangered ecological communities under clause 6.6 (g) ('Vegetation forming part of an Endangered Ecological Community (EEC) will be afforded maximum protection and will not be permitted to be removed except for in the most limited of circumstances where no other alternative exists to mitigate an immediate hazard to human life').

The DA as originally lodged with Council sought the removal of 0.23 hectares of high quality Swamp Sclerophyll on Coastal Floodplain EEC and proposed to offset this through replanting 0.37 hectares and rehabilitating 1.37 hectares of low condition Swamp Sclerophyll on Coastal Floodplain EEC for a net gain of 0.14 hectares of EEC. Subsequent amendments to the DA to provide for an alternative access road were necessitated to mitigate the hazard to human life and property arising from bush fire. The revised DA provides for an overall loss of 0.187 hectares of EEC.

Commentary regarding the ecological impacts of the proposed development is contained in this Report in response to clause 7.5 of the BLEP (above) and where submissions from government agencies are addressed (below).

Chapter 8 – Flood and Riverine Processes

Chapter 8 of the DCP outlines development controls to be applied for residential subdivisions partially or fully contained within flood prone lands. With part of the lower reaches of the property being flood prone and the access and evacuation implications presented by the proposed public road network, this Chapter of the DCP is relevant to the assessment of the DA.

The property is hydraulically classified as a 'flood fringe area' and 'floodway'. A flood fringe area is defined in the DCP as being 'the remaining area of flood prone land after floodway and flood storage areas have been defined', while floodways involve significant discharges of floodwater during floods and often align with naturally defined channels. These hydraulic categories are applied for assessment purposes under the DCP.

Clause 8.9.8 of the DCP outlines flooding requirements with respect to subdivisions in flood fringe areas. Concerning flood proofing, each proposed lot is required to be provisioned with a minimum area of 400m² above the level of a 1:100 flood event. The SEE provides that all lots are above the General Flood Planning Level (i.e. a 1:100 flood event plus 0.5m freeboard) and the GeoLINK *Existing Site Constraints Plan* establishes all lots to be above the Q100 flood inundation area. This Q100 flood inundation area derives from the Van Drie flood study at Appendix E of the SEE and represents the 1:100 flood event inclusive of the 'most severe' climate change allowances.

While all allotments are located in accordance with the development control on the submitted plans, the Van Drie flood study identifies a potential discrepancy between the LIDAR and photogrammetric data underlying the study and survey levels. The final flood levels must therefore be confirmed as part of the detailed survey and engineering design plans to accompany a construction certificate application for the development.

Safe vehicular access and egress is required for the development at a minimum level of the 1:100 flood event. In this regard, the proposed road network will be required to provide connectivity through the development site and to the Pacific Highway at a minimum 1:100 flood immunity level. This does not require all watercourse crossings to be developed to this level, but does necessitate a continuous evacuation route capable of serving all proposed allotments. It is feasible for the northern and/or southern watercourse crossings to be

developed to the required level of immunity and recommended conditions of development consent reflect this flexibility.

Earthworks comprising cut and fill are proposed to occur in and adjoining the north western tributary and main channel, including for the purposes of road crossings. According to the Van Drie flood study, the road crossings are located in floodways, mainly due to the high hazard classification of the floodwaters (i.e. high velocity/depth ratios). As this flood risk category is limited to the residual allotment and the road network, the proposed subdivision remains consistent with clause 8.10.8 of the DCP as pertaining to subdivisions in floodways.

Filling in floodways could cause a significant redistribution of flood flow or a significant increase in flood levels. Therefore, fill is only permitted in floodways where accompanied by compensatory works and a flood study report demonstrating that there will be no measurable adverse effect on flood behaviour or existing buildings and infrastructure, and drainage or surface runoff beyond the property boundary.

A shortcoming acknowledged in the Van Drie flood study is that no post development assessment of flooding has been considered.

The SEE acknowledges the need for further detailed analysis of the hydraulic works and proposes that this detail be submitted as part of the engineering designs for a construction certificate. The DCP requirement for these details prior to the determination of the DA has been considered by Council's asset management and design staff in light of the risks associated with deferring the matter to the issue of a construction certificate. The test of certainty is normally applied in these circumstances, and in this regard Council is satisfied that the development can be conditioned on the basis of the flood assessment being undertaken at the construction certificate level. This is due to the consequences of any further flood analysis being unlikely to be significant (that is, the analysis will not significantly alter the lot layout, vegetation corridors or stormwater management systems) and is capable of being mitigated through design.

It is apparent from the flood extents and associated contours mapped on the application plans that a suitable bridge structure can be designed and constructed within the footprint of the watercourse crossings as shown. For example, a single span bridge or similar will cater for estimated flows, including losses for debris build up.

As abovementioned, a failsafe evacuation route is required as there are no flood free alternative routes proposed. In this regard, the appropriate flood planning levels need to be examined and applied as a condition of any development consent. Unless the road crossings are constructed at or above the probable maximum flood extent, the isolation of sections of the development may occasionally result for very short periods. As there are adequate advance warnings in place through the Local Flood Plan, construction of the road crossings to the 1:100 flood event as per the DCP standard is adequate, unless allowances for debris loadings and so forth dictate a higher level.

All bridge crossings will be required to be designed in accordance with Council's AUSPEC design and construction specifications for Bridges and Culverts.

Chapter 9 – Landscaping Requirements

This Chapter applies to the proposed development in accordance with clause 9.3 of the DCP and sets out controls with respect to the landscaping of public and private spaces.

The SEE discusses the street landscape aims and features at section 3.9 and provides conceptual designs for proposed roads, park and bioretention basins and swales at Appendix B. While the conceptual design plans demonstrate that landscaping to the land is

achievable in accordance with the provisions of the DCP, the plans reflect the DA as originally lodged with Council and therefore do not detail urban design features for all new roads to be dedicated as public roads or battle-axe handles. The designs also neglect the Pacific Highway road frontage and propose significant street tree plantings at maturity, including *Eucalyptus microcorys* (Tallowwood), which could affect Council's ongoing maintenance responsibilities and the requirements for asset protection zones consistent with the bush fire safety authority issued by the NSW Rural Fire Service.

Whilst Council's DCP supports street landscaping through amenity objectives and plantings at the rate of one (1) tree per ten (10) metres of property frontage, amended landscaping plans are recommended that have regard to the abovementioned matters.

Proposed residential lots 1 to 6 are provisioned with dual road frontage. Future residences on these lots will address the internal road network and back on to the Pacific Highway. As these lots present a rear frontage to the Pacific Highway and constitute a significant element in a streetscape which acts as a gateway to Urunga, landscaping designs are recommended to include uniform fencing along the common boundary of these lots to the Pacific Highway. Fencing design should have regard to privacy for future residents and include sound mitigation for private open spaces where practicable.

The rehabilitation, revegetation and maintenance of vegetation on the residual lot is recommended to be the subject of a Vegetation Management Plan in accordance with the Safeguards contained at clause 6.1, Appendix D of the SEE.

Landscaping in conjunction with stormwater controls is subject to ongoing maintenance and management in accordance with the provisions of clause 12.6.4 of the DCP. This includes the preparation and implementation of a Stormwater Device Maintenance and Management Plan and an assessment of ongoing annual maintenance costs.

Chapter 10 – On Site Sewage Management

A search of Council's records provides no information concerning onsite sewage management for the existing buildings on Lot 1 DP 792596. However, effluent has been managed on site in conjunction with the former trucking depot, with Council's site inspection identifying the existence of a septic tank and trench(es) which have been partially decommissioned.

The system will need to be decommissioned in accordance with the NSW Health Advisory Note *3-Destruction, Removal or Reuse of Septic Tanks, Collection Wells, Aerated Wastewater Treatment Systems and other Sewage Management Facility Vessels* to facilitate the residential use of the land. The relevant works will require prior approval under section 68 of the *Local Government Act 1993*.

Proposed Stage 2 of the DA comprising the creation of four large lots would be reliant on the provision of onsite sewage management systems, however this aspect of the development is not supported for reasons previously detailed in this Report.

Chapter 11 – Advertising and Notification of Development Applications

As previously described, the DA was advertised and notified pursuant to Chapter 11 of the DCP and clause 89 (3) (a) of the *Environmental Planning and Assessment Regulation 2000* from 3 September 2014 to 3 October 2014 inclusive. Notification extended to all owners of property in the vicinity of the proposal and an advertisement was lodged in the *Bellingen Shire Courier Sun* Wednesday edition of 3 September 2014.

The DA was additionally notified to the Coffs Harbour and District Local Aboriginal Land Council through an established referrals protocol for all development applications lodged

with Bellingen Shire Council. It was also referred to the Office of Environment and Heritage for guidance in the assessment process in light of the nature of the proposal.

The agency responses and public submissions are considered in this report under the heading *Section 79C (1) (d) – Any submissions made in accordance with this Act or the Regulations* as provided below.

Chapter 12 – Stormwater

The proposed development is described as ‘Residential subdivision more than 5 extra lots’ for the purposes of Table 12.1 of the DCP. A performance based solution to stormwater quality treatment through a Stormwater Management Plan is therefore a DCP requirement. This involves design to either Option A or Option B standards, depending on which option provides the greatest level of treatment.

Stormwater management and proposed systems are discussed in sections 3.11.3 and 4.6 of the SEE. A water sensitive urban design is planned in accordance with the design principals outlined for Option B of the DCP and Council’s Aus Spec design specifications. This includes a ‘bioretention’ system for the management of stormwater quality and for the detention of runoff to facilitate recharge to ground waters and minimise flooding impacts on downstream properties.

The SEE provides a schematic stormwater layout in the *Proposed Subdivision Stormwater Management Plan* that shows the proposed locations of the stormwater treatment facilities, primarily involving ‘bioretention’ and infiltration swales along the periphery of the road network. The system proposed is commonly used throughout Australia and is supported by Department of Planning and Environment water sensitive urban design guidelines.

Section 3.11.3.1 of the SEE proposes treatment facilities on the basis of the following:

Option A criteria (no net increase in annual average pollutant load above predevelopment conditions) were initially considered however due to the predevelopment conditions of forest/pasture this criteria requires an impractically large area of stormwater treatment. Therefore the Option B criteria ... which replicate contemporary criteria in other water authority guidelines, were considered more suitable criteria for the proposed development.

This requires a variation to the DCP Chapter and compliance with the aims of clause 12.1. As considered in response to BLEP *Clause 7.4 Water* earlier in this Report, the implementation of Option B is justified for development within the catchment of SEPP 14 wetland No. 354 in the north, but the highest level of treatment is warranted for development within the catchment of SEPP 14 wetland No. 356A in the east.

Water quantity controls are required to be installed in accordance with clause 12.6.2 of the DCP and demonstrated through the use of hydrologic and hydraulic modelling software and a Stormwater Management Plan to not create any increase in peak discharges at the downstream property boundary across the 100%, 20%, 10% and 1% Annual Exceedance Probability storm event. Further detailed analysis demonstrating compliance will be required to accompany an application for a construction certificate.

The stormwater management system is to be designed and constructed in accordance with Council’s Aus Spec design and construction specifications for stormwater drainage.

In addition to Council’s requirements, Trade and Investment – Crown Lands have specified that stormwater or other drainage discharges may not be directed onto any adjoining Crown land or road. All stormwater must subsequently be discharged on-site or to the Council road in a controlled, nuisance and scour free manner.

Clause 12.6.5 of the DCP requires the development of an erosion and sediment control plan in accordance with the publication *Managing Urban Stormwater: Soils and Construction* to address both construction and site stabilisation. Such a plan is recommended as a condition of development consent.

The above measures are adequate for the development having regard to the proposed land use and the nature of the receiving environment.

Section 79C (1) (a) (iiia) – Any Planning or Draft Planning Agreement

The Applicant submitted an offer to Council to enter into a planning agreement under Section 93F of the EPAA on 13 April 2016. The terms of the agreement concern the provision of water and sewer services to the development and provide for enhanced capacity:

In order to ensure determination of the development application we agree to the following:

Water Reservoir & delivery system

- *The developer will enter into a planning agreement for the provision of a contribution toward a new reservoir which will service the development precinct. The contribution will be split based on Equivalent Tenements developed. For the South Urunga Development the Developer agrees to contribute 238/770ET (30.91%) toward the cost for design and construction of this reservoir and delivery system and that this contribution will be required once the initial 60 lots have been sold. We understand that the Reservoir will not be placed within the proposed development site and will be owned and constructed by Council.*
- *We understand that the reservoir will have a 1.4ML capacity to serve the forecast additional 770 Lots for the precinct.*

Pilot St Pump Station Upgrade

- *The developer will enter into a planning agreement for the provision of a contribution toward upgrading of the Pilot Street Pump Station to service the development precinct. The contribution will be split based on Equivalent Tenements developed. For the South Urunga Development the Developer agrees to contribute 238/1,478ET (16.1%) toward the cost for design and construction of this upgraded.*

The recommendation to this Report reflects the changes created by this offer.

Section 79C (1) (a) (iv) – The Regulations

Clause 92 of the *Environmental Planning and Assessment Regulation 2000* provides that the provisions of *Australian Standard AS 2601—1991: The Demolition of Structures* and the publication entitled *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast* must be taken into account.

Stage 1 of the DA seeks authorisation for the demolition of buildings. In accordance with clause 92 (1) (b) of the *Environmental Planning and Assessment Regulation 2000*, this work is subject to the provisions of AS 2601. Conditions of development consent accompanying the recommendation to this Report address this requirement.

The land is subject to the *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*. This Policy sets the context for providing for population growth and economic development while at the same time protecting the natural, cultural, spiritual and heritage values of the coastal environment. To achieve this, the Policy has a strong integrating philosophy based on the principles of ecologically sustainable development. These principles are:

- conservation of biological diversity and ecological integrity;
- inter-generational equity;
- improved valuation, pricing and incentive mechanisms; and
- the precautionary principle.

Commentary to the DA from the NSW OEH endorses the application of the precautionary principle to the proposed removal of foraging resources for the threatened Glossy Black-cockatoo. The precautionary principle requires a risk averse approach to decision making such that where there are threats of serious or irreversible environmental damage, lack of full scientific certainty is not to be used as a reason for postponing measures to prevent environmental degradation. The OEH recommends that:

Given the lack of information about the significance of the impact of the proposed clearing on the local population of glossy black-cockatoos, the OEH questions the Council's ability to appropriately assess the impact of the development on this threatened species in accordance with Section 5A of the Environmental Planning and Assessment Act 1979. As a consequence, we reiterate our strong recommendation to reduce the footprint of the proposed subdivision to avoid impacting dense concentrations of she-oaks in the north-eastern parts of the site.

The identified 'lack of information' concerns the size and extent of the local population of Glossy Black-cockatoos and the implications of removing She-oaks.

As considered earlier in this Report in response to clause 7.5 *Biodiversity* of the BLEP, an ecological assessment of the locality undertaken by EcoPro identified that it is 'likely to provide important habitat for a small population (approx. 12-15 birds) of glossy black cockatoos'. This conclusion was made on the basis of the distribution of She-oaks, nesting resources, water resources and bird observations in the locality.

Vegetation removal through the DA will culminate in the removal of 9.49% of the 71 hectares of moderately dense to very dense she-oaks identified by EcoPro in the locality. While this is found to have an impact on the local Glossy Black-cockatoo population, the ecological assessment accompanying the DA concludes that 'it is unlikely that this impact would reduce the numbers in the population and would not place this local population at risk of extinction'.

The retention of over 90% of the local distribution of moderate to high density Glossy Black-cockatoo feed trees, combined with the maintenance of water resources and the integrity of nesting habitat, is consistent with the risk averse approach to decision making espoused by the precautionary principle. The residual distribution of moderate to high density She-oaks in the locality is extensively conserved through environmental zonings under the BLEP. These zones serve to mitigate cumulative effects and associated risk and are supported by public estate that is similarly populated by She-oaks, including the Newry State Forest and Jaaningga Nature Reserve. It is noted that the precautionary principle does not require a 'no development' approach, and a consideration of the subdivision in the local context provides that the impact of the development on the Glossy Black-cockatoo is consistent with the NSW Coastal Policy.

An ecological assessment accompanies the SEE at Appendix D. This assessment has regard to the conservation of biological diversity and ecological integrity, and includes a series of mitigation measures under section 6 which address the need to conserve the variety of all life forms, especially the variety of species, and to ensure that the productivity, stability and resilience of ecosystems is maintained.

The effectiveness of the mitigation measures contained in the ecological assessment has been challenged by OEH in correspondence to Council dated 23 February 2016. Therein

OEH recommends that, if the DA is to be approved, a condition of consent be imposed to offset the loss of biodiversity arising from the development. The OEH considers that offsets should utilise the Biodiversity Banking and Offsets Scheme (BioBanking) assessment methodology and be determined for all native vegetation proposed to be removed.

BioBanking is a voluntary, market-based scheme under Part 7A of the *Threatened Species Conservation Act 1995* that offers an alternative assessment pathway to the use of section 5A of the EPAA for assessing and offsetting the biodiversity impacts of development. It establishes an 'improve or maintain' test for biodiversity values. This test differs to that contained under the EPAA, which demands the consideration of the likely effects of development while encouraging conservation and the orderly and economic use and development of land.

The ecological assessment accompanying the DA concludes through Part 5A of the EPAA that the development will not have a significant impact on EECs and threatened species. Offsets comprising the rehabilitation and replanting of 1.7 hectares of EEC, the replanting of 0.25 hectares of fauna habitat and the replanting of 3.814 hectares of buffer areas are recommended. While the extent of these offsets is limited, they are contained within the subject site and can be delivered with certainty.

It is evident from this Report that the subdivision has been designed with proper care. This is particularly the case when having regard to the strategic planning that has occurred to impose environmental zones in the locality and maintain biodiversity outcomes given the development of residential land.

There are numerous tools available to Council to provide for conservation outcomes through local planning. Council has elected to utilise the strategic planning process to achieve these outcomes, at a landscape scale, rather than relying upon the development assessment process to deliver them.

The area of land on the subject site alone that has been categorised Zone E3 Environmental Management is almost double the area of native vegetation that is intended to be cleared as part of the DA. When combined with the 256 hectares of other land in this locality that is provisioned with an environmental zoning, it is submitted that there is no additional need for offsets to be calculated and that more than adequate provision has been made in the immediate locality for biodiversity conservation.

A condition of consent that warrants biodiversity offsets for the 20.46 hectares of native vegetation is unjustified in the context of the development and its site. The subdivision maintains the diversity of the environment for the benefit of future generations and the variety of all life forms in the locality and is considered to be consistent with the NSW Coastal Policy.

Section 79C (1) (a) (v) – Any Coastal Zone Management Plan

Council has an adopted Bellingen Coastal Zone Management Study, as prepared in accordance with the *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*. The Study contains a series of recommendations and implementation strategies seeking to manage the impacts of coastal hazards on coastal land and assets. The development site is outside the geographical extent of the Bellingen Coastal Zone Management Study as illustrated in Figure 1-1 of that Study.

Section 79C (1) (b) – The Likely Impacts of that Development

Section 79C (1) (b) of the EPAA requires the likely impacts of the development (including environmental impacts on both the natural and built environments) and social and economic

impacts in the locality to be taken into consideration. The following is an assessment of the impacts of the current proposal that have not been covered elsewhere within this Report.

Public domain

The subject development nominates a new public park to be developed at the entrance to the subdivision adjoining the Pacific Highway. This park is proposed to be linked to the subdivision via interconnected footpaths and landscaped with child safety fencing, tables, seating, a combination of natural and structural playground facilities and paths. A draft design of the park is provided at Appendix B of the SEE in the drawing entitled *Public Park and Indicative Images*.

The SEE anticipates that the development of this park will assist in offsetting the future dependence by residents on motor vehicles by providing certain facilities within the development area. Additional information submitted through the DA process further provides that 'good recreational planning would suggest that a local park and facilities should be provided as part of a new development area which would accommodate over 230 lots'.

Council's DCP contains no specific development criteria for the planning, design and operation of public open spaces. Council's *Bellingen Shire Open Space and Community Facilities Study 2010* and *Community Facilities and Open Space Infrastructure Section 94 Developer Contribution Plan 2014* are therefore referred to for guidance.

The proposed development will create demands on local and regional recreation facilities. Regional facilities such as the active sporting fields and foreshore reserves within Urunga and Bellingen have limited capacity to cater for demands generated from future developments. Accordingly, Council's *Community Facilities and Open Space Infrastructure Section 94 Developer Contribution Plan 2014* requires development that generates demands on these facilities to pay contributions towards identified improvements. Although the Plan does not identify the proposed local park, this does not preclude it from being developed and dedicated to Council. It does, however, prevent the land being so dedicated in lieu of monetary contributions levied under section 94 of the EPAA.

Council's *Bellingen Shire Open Space and Community Facilities Study 2010* is used to guide the future provision, development and management of open space and community facilities in Bellingen Shire. This Study highlighted a key community aspiration for the provision of 'adequate and accessible' community services. It also identified the following key community demands that are relevant to the proposed park within the subject development:

- *There is likely to be demand for non-family and family oriented facilities and spaces;*
- *The large proportion of single parent families highlights the need to provide affordable facilities and activity opportunities for families;*
- *More children's play areas (with shade and safe spaces); and*
- *The Seaboard is a growth area and facilities will be required to cater for the future population.*

There are no local parks within safe walking distances of the majority of allotments within the proposed development. As a result - and in addition to placing demands on regional facilities - the development will exert a demand for the provision of a local park that will cater for the likely future residents of the subdivision. The *Bellingen Shire Open Space and Community Facilities Study 2010* rationale to support the development of the local park is as follows:

The Seaboard is a growth area with a strong tourism focus. Whilst the planning area has a good provision of open space and community facilities there are some gaps and potential to enhance facilities to better meet the needs of future residents and visitors.

The proposed local park will service the South Urunga area and is acceptable for dedication to Council given its alignment with the key objectives and rationale supporting the *Bellingen Shire Open Space and Community Facilities Study 2010*. The proposed open space will be landscaped and furnished by the proponent in accordance with landscaping plans, including footpaths and play equipment as generally detailed in the *Public Park and Indicative Images* plan at Appendix B of the SEE. Preliminary planning for landscaping to the local park, including playground facilities, child safety fencing and furniture, is consistent with the demographic data contained at Table 4.11 of the SEE and the likelihood that future residents will be adults aged 35 years and over and children of a school age.

Further to supporting the construction of the facility, the on-going operation and maintenance implications for Council need to be considered. Council adopted plans do not commit Council to any funding for this local park and it is therefore recommended that Council's acceptance of the public asset be subject to the maintenance of the park by the proponent until 75% of the approved lots are sold. This maintenance period will ensure that the space is useable with a good amenity for residents while Council builds on financial reserves during the development of the subdivision. A deed of agreement will be required to be entered into for this purpose.

Regard should also be made to the timing of the local park's construction. Demand for the facility will increase commensurate with the rate of the development and it is therefore considered reasonable that the local park be created upon release of 25% of the allotments proposed. This will allow a reasonable level of income to be generated by the proponent to finance the construction of the park.

Provision within the development to dedicate land to Council is additionally made through the proposed road network and extended reserves for the treatment of stormwater and asset protection zones. Indicative designs for these works are likewise contained at Appendix B of the SEE, although further details will be required to be submitted to Council for endorsement with any construction certificate. Landscaping to land that is to be dedicated to Council should ensure that the spaces are compatible with *Planning for Bush Fire Protection 2006*, useable, provide a good level of amenity to residents, and can be efficiently maintained and serviced. Regard should also be made to any potential public open space opportunities at the site described as Bioretention system identifier 5 on the drawing *Proposed Subdivision Stormwater Management Plan*. This is a reserve area to be used for stormwater treatment of around 4,000 m² in the north of the development site with views through to SEPP 14 wetlands in the north.

No proposal for the future use or ownership of the approximately 57.5 hectare residue lot accompanies the DA, although section 3.18 of the SEE provides that options have been investigated to:

- incorporate the land into the Bellinger Heads State Park as Crown land;
- transfer ownership of the land to Council as a reserve; or
- retain the land in a private capacity.

Social impact in the locality

Some general impacts, both positive and negative, are identified below and have regard to objections raised by the local community where applicable.

Positive social impacts include:

- the provision of housing in accordance with regional planning strategies;
- the delivery of objectives for the development of residential land;
- the delivery of objectives for the management of environmental land;

- economic benefits to Urunga and region through increased patronage for shops and services;
- the enrichment of the local community through increased population and the potential to attract a mix/diversity of population into the area;
- enhanced availability and viability of local services and facilities through increased thresholds of demand;
- enhanced infrastructure; and
- the promotion of community health and well-being through the provision of footpath networks and a neighbourhood park.

Negative social impacts include:

- dislocation of existing businesses from the development site;
- increased traffic generation and associated impacts on parking and road safety in the local area;
- increased demand on services and facilities, including medical and community services;
- loss of amenity and the overall village ambience of Urunga;
- impact of the development on the local housing market and property values, including approved subdivisions yet to come on-line; and
- the potential to harm cultural heritage.

The proposed development is considered to have predominately positive social benefits for the community. The body of this Report includes consideration of many likely impacts and, subject to the recommended imposition of conditions of consent, the proposed development is found to be consistent with the 2030 Bellingen Shire Council *Community Strategic Plan*. This includes the potential to address identified issues experienced in the Shire by increasing the supply and affordability of housing, while meeting the challenge to protect waterways and cultural heritage.

Construction impacts

Adverse impacts arising from subdivision works, including land disturbance, noise and vibration, waste minimisation, remediation and heavy haulage impacts, are collectively addressed in the recommendation to this Report.

Section 79C (1) (c) – The Suitability of the Site for the Development

The development site is assessed as being suitable for the proposed development as subject to the conditions documented in the recommendation to this Report.

With the exception of the land at South Urunga, there is very little land that is available for greenfield subdivision in Urunga. Much of this land has been strategically back-zoned in recognition of the constraints on the land imposed by native vegetation with a high conservation value and native vegetation that provides habitat for threatened species.

The land that is Zone R1 General Residential represents a portion of the significant amount of land that was previously available for residential development in this location. Having regard to the strategic significance of the land for residential development and in recognition of the biodiversity conserved through environmental zones, the land is suitable for development that achieves its planned potential development yield.

Section 79C (1) (d) – Any Submissions Made in Accordance with this Act or the Regulations

A total of six (6) submissions were made in relation to the proposal as a result of the exhibition and notification period. These submissions are required to be taken into consideration in determining the DA.

The key matters raised in the submissions are summarised below and commented on in turn, with copies of all independent submissions attached to this Report.

Issue 1: *Stormwater treatment and detention should ensure no adverse impact on downstream properties and receiving wetlands.*

Comment: The standards for stormwater treatment and detention are detailed in Chapter 12 of Council's DCP. This Chapter aims to maintain the high ecological, recreational and agricultural values of waterways and to ensure that stormwater systems are carefully planned, designed and located to protect the quality of receiving waters. Stormwater treatment is required to meet the Level 3 standards established under the DCP Chapter, with Option B considered acceptable for development within the catchment of SEPP 14 wetland No. 354.

Issue 2: *Logical future road connections to adjoining lands, including access to the north on either side of the central drainage area, should be provided.*

Comment: The development site adjoins land to the north and west that forms part of the South Urunga Investigation Area as identified in the Bellingen Shire Growth Management Strategy and zoned in the BLEP. It also adjoins landlocked estate to the north and south including Lot 253 DP 46013 and Lot 5 DP 776494.

The DA as exhibited made allowances for three (3) adjoining property connections (refer to sections 3.1.4 and 3.8.3 of the SEE and Appendix A). These connections have been further reviewed as part of additional information, with connections to adjoining properties now proposed in accordance with the drawing entitled *Proposed Road Classification*, Revision B, as dated 16 December 2015. The road reserve connections to adjoining land are extensive, providing connectivity for future development to the north, west and south.

Contrary to the submission, access to the north is afforded only to the east of the central drainage area. This level of connectivity is deemed adequate given that access to the west of the central drainage area is afforded from the Pacific Highway. With the Nambucca Heads to Urunga Pacific Highway upgrade project due for completion later in 2016, the current Pacific Highway will experience a significant reduction in traffic volumes and types, thereby facilitating future access off this road network.

Issue 3: *Services for the development should be designed so that, if required, they can be extended without the need to purchase land or an easement to connect to adjoining lands.*

Comment: The layout of the proposed subdivision does not exclude future adjacent development from proceeding and linkages to adjoining estate through the road network negate requirements for future easements.

Issue 4: *The proposed sewerage system should be appropriately sized and designed to provide for the possible future urban expansion of land to the northeast.*

Comment: Council is proposing to upgrade an existing pump station at Pilot Street, Urunga, to cater for potential development in the South Urunga area, including accommodation of additional capacity in the rising sewer main to deliver sewage to this pump station. Future developers will be required to enter into arrangements to pay their share of the cost to use these upgraded facilities.

Issue 5: *The development includes the installation of a Sewage Rising Main on adjoining land and the proponent should contact the respective owners to:*

a. obtain an application for development; or

b. to negotiate a mutual agreeable outcome.

Comment: The preferred location of the rising sewer main was reviewed and amended following the exhibition period to exclude any works on land other than the subject land and existing road. The new sewer main to service the development is proposed to be routed from the development site to Council's Pilot Street pump station in the northeast via the Pacific Highway road reserve, Hillside Drive and Pilot Street. From this point effluent will be pumped to the Urunga Sewage Treatment Plant. The proposed route is described in Appendix F to the additional information dated 31 August 2015 and is amenable to Council subject to the offered planning agreement and relevant assessments and approvals under Part 5 of the EPAA, the *Roads Act 1993*, *Local Government Act 1993* and, where relevant, SEPP No 14-Coastal Wetlands.

Issue 6: *There appear to be inconsistencies between the South Urunga Development Area Ecological Assessment originally prepared by EcoPro for Bellingen Shire Council in May 2003 and the proposed development having particular regard to the proposal to develop land of significant ecological value to the east of the power grid as opposed to intensifying development west thereof.*

Comment: Under the *Bellingen Local Environmental Plan 2003*, South Urunga was subject to an extensive distribution of 2 (b) Village area zoning, with guidance provided by clause 41 as to the matters that would need to be dealt with in any development of the land. In this context, Council engaged the services of EcoPro to advise on a new Development Control Plan that considered the relative environmental values of the precinct and the preference to secure large and effective wildlife corridors that would not be subject to undesirable edge effects. The ecological assessment was originally prepared for Bellingen Shire Council in May 2003.

Investigations undertaken by EcoPro essentially highlighted that land to the east of the powerline easement running through the site possessed higher conservation significance, whilst land to the west was considered mostly suitable for high density development. Subsequent investigations undertaken by GeoLINK, in conjunction with EcoPro, resulted in revised recommendations in 2006 that added a portion of land to the east of the powerline easement as a 'Potential Development' area, while reducing land available for development to the west of the easement to conserve new EEC listings.

It was concluded by EcoPro in the revised ecological assessment that 'there is neither high fauna or vegetation conservation areas immediately to the east of the powerline easement and development could encroach into this area without adversely impacting upon the ecological values of the site'. This conclusion was used to inform the eastern extent of the Zone R1 General Residential as mapped in the BLEP.

Issue 7: *The development should include fencing and the ongoing maintenance of fencing along the eastern perimeter to prevent the incursion of domestic animals into environmental zones and to protect the integrity of these zones.*

Comment: The Ecological Assessment comprising Appendix D of the SEE contains mitigation measures that include controls on the future fencing of the land. These are that no barbed-wire is to be used on the site and that 'Koala friendly fencing and urban design principles would be used'.

Development that incorporates Koala-friendly fencing either helps Koala movement and dispersal within and across the landscape, or is designed to prevent koalas from entering an area that poses a threat, such as across busy roads.

To reduce the impacts of the subdivision road network, the SEE includes the proposal for roads to be developed with traffic calming devices and signs warning of Koalas and other

wildlife in the area. It is also proposed to furnish the road reserve with habitat, to the extent permissible in a bush fire asset protection zone.

The provision of boundary fencing to exclude companion animals would similarly impose a limitation on fauna seeking to use native vegetation in roadside landscaping for food, shelter and movement opportunities. Furthermore, any fence that is intended to contain companion animals and exclude native fauna increases the impacts of the development on vegetation as practical clearances must be maintained from any tree that could be used to cross the fence.

The movement of domestic dogs is restricted by the *Companion Animals Act 1998* and actions can be taken under section 32 of that Act to protect persons and animals against a nuisance cat: 'A cat can be lawfully seized if that is reasonable and necessary to protect any person or animal from injury or death'. While the fence would provide a physical barrier in addition to these laws, the animals may be so restricted within individual residential lots. This would have benefits for the aesthetics of the streetscape and would:

- address the limitations of a perimeter fence where it terminates at adjoining property boundaries;
- reduce ongoing maintenance costs on the public;
- maintain fauna connectivity to roadside landscaping; and,
- reduce fringe effects attributable to the clearing and maintenance of the fence line.

Issue 8: *The development should prohibit dog and cat ownership to preserve the ecological corridor to the east.*

Comment: Increased exposure to predators such as dogs and cats is an anticipated impact from edge effects created between the development and the protected eastern vegetation. Mitigation measures incorporated into the subdivision design include expansive peripheral road buffers of up to 40 metres in width and the avoidance of privately owned residential lots backing onto forested areas. No further mitigation measures are recommended in the Ecological Assessment contained at Appendix D of the SEE.

Restrictive covenants on the residential allotments are not supported on social and compliance grounds, noting that they are difficult to enforce and that companion animals form an important part in the lives of many people, with the majority of homes in Australia having at least one companion animal.

Issue 9: *The development adjoins Crown land and a Crown public road and the proponent should not undertake any development activity on the Crown land/road or direct stormwater discharges onto Crown land/road.*

Comment: The DA does not seek approval for such works and a condition of consent is recommended to ensure that the development does not encroach onto Crown land or direct stormwater onto Crown land.

Issue 10: *For the development to proceed an Aboriginal Heritage Impact Permit should be applied for and granted by the Office of Environment and Heritage.*

Comment: If harm to an Aboriginal object or Aboriginal place is anticipated, then an Aboriginal Heritage Impact Permit (AHIP) must be firstly obtained from the Office of Environment and Heritage under Part 6 Division 2 of the *National Parks and Wildlife Act 1974*.

An Aboriginal Heritage Impact Assessment for the proposed development is contained at Appendix J of the SEE and considers archaeological constraints and opportunities on the land. The Assessment identified raw materials utilised for stone tool manufacture and one isolated core, with cultural knowledge relaying the presence of a disturbed fire hearth and

stone artefacts. No potential archaeological deposits (i.e. areas that are likely to contain sub-surface cultural deposits) were identified in the Assessment and the following recommendations were made:

- *The persons responsible for the management of the site will ensure that all staff, contractors and others involved in construction and maintenance related activities are made aware of the statutory legislation protecting sites and places of significance. Of particular importance is the National Parks and Wildlife Amendment (Aboriginal Objects and Aboriginal Places) Regulation 2010, under the National Parks and Wildlife Act 1974;*
- *The involvement of the registered Aboriginal stakeholders in the ongoing management of the Aboriginal cultural materials, should any further artefacts be found within the development footprint should be promoted and included in the Environmental Management Plan and/or the Aboriginal Heritage Management Plan;*
- *A cultural awareness program including artefact recognition should be included as part of the site induction program and developed with the registered Aboriginal stakeholders and form part of the Environmental Management Plan and/or the Aboriginal Heritage Management Plan.*
- *If site SU1 will be harmed by any future development, an AHIP will be required prior to works.*

Site SU1 is that area of the development site fronting the Pacific Highway. This area is the subject of extensive subdivision works. Site SU1 is also separately identified in the Assessment. Both sites are subject to subdivision works and the issue of an AHIP by the Office of Environment and Heritage will be required.

Section 79C (1) (e) – The Public Interest

The expression ‘the public interest’ does not have any fixed meaning and depends on the particular set of circumstances applying to the development. It does require a determination as to what best serves the advancement of the interest or welfare of the public, society or the nation and requires consideration of the competing facets of the public interest.

Proposed Stage 2 of the DA for the subdivision of the land into four large lots incorporating an Infrastructure Development Plan warrants the issue of a partial consent that does not endorse this aspect of the development. The housing needs of the community as planned by the *Bellingen Shire Growth Management Strategy* and the Zone R1 General Residential could not be achieved through an interim subdivision of the land and there is no demonstrable valid planning reason to support this aspect of the application. In relation to the public interest consideration, the wider public interest is best served where the future growth of Urunga is produced in an efficient, timely and environmentally sensitive manner. In this regard, proposed Stage 2 of the application is inconsistent with the aim in section 5 (a) (ii) of the EPAA, which seeks ‘the promotion and co-ordination of the orderly and economic use and development of land’.

The primary competing facets of the public interest are the need to cater for housing demand and the need to protect sensitive coastal and natural environments. For the purposes of this development, the public interest is best served by the orderly and economic use of land for which it is zoned. The land use zones attributable to the development site have been imposed having regard to the ecology of the locality and include a comprehensive environmentally zoned corridor of SEPP 14 wetlands and a regionally significant wildlife corridor.

The proposed development is permissible with consent and achieves all objectives for each zone attributable to the land under the BLEP. The proposed development will promote the social and economic welfare of the State and, based on a consideration of all of the material obtained through the DA process, is considered to be in the public interest.

Any Other Relevant Legislation/ Matter

Contributions

The proposed subdivision attracts a contribution payment under Section 94 of the EPAA.

Contributions are also applicable under the *Water Management Act 2000* for the water and sewer connections.

Easements

The land is subject to the following identified easements:

Lot 1 DP 792596

This Lot is restricted by an *easement for pipeline - 5 wide and variable width* on DP 644801 and a *Right of carriageway - 5 wide* on DP 792596

Lot 2 DP 792596

This Lot is restricted by an *easement for pipeline - 5 wide and variable width* on DP 644801 and benefits from a *Right of carriageway - 5 wide* on DP 792596.

None of the easements will impair the proposed development of the land.

BUDGETARY IMPLICATIONS

Significant budgetary implications for Council can arise should an appeal be lodged in the Land and Environment Court. Such appeals may be made by the Applicant as a judicial review or as a merit appeal where the Applicant is dissatisfied with the determination of the consent authority, or a specific aspect of that determination. The Applicant can also appeal to the Land and Environment Court against a failure of the consent authority to make a decision within the timeframes specified in the *Environmental Planning and Assessment Regulation 2000*. This is known as a 'deemed refusal'.

There are no appeal rights for objectors who are dissatisfied with the determination of a consent authority to grant consent to a development application, with all third party appeal rights being limited to judicial review. Judicial review proceedings involve a review of the legality of the decision under challenge, and do not enable a review of the merits of the development.

Budgetary implications are also identified in the servicing of the development and the maintenance of assets to be dedicated to Council. This will have direct and indirect impacts on current and future budgets and may trigger service level changes and have implications on resourcing/staff. Recommended handovers to Council have regard to the establishment of an additional rate base, while infrastructure development specific to the provision of water and sewer will require significant investment by Council and the implementation of the planning agreement to be made between the respective parties.

SUSTAINABILITY ASSESSMENT

The economic, environmental and social effects of the proposed development have been considered in this Report in response to the provisions of section 79C of the EPAA. An adoption of the recommendation to this Report will further the objects of the Act, including the promotion and co-ordination of the orderly and economic use and development of land.

ENGAGEMENT

As previously documented, the DA was advertised and notified for public comment and a total of six submissions received. All of those submissions contained grounds of objection, with the key issues raised therein being considered under the heading 'Section

79C (1) (d) - any submissions made in accordance with this act or the regulations' of this Report.

Internal Referrals

The application was referred to Council's Asset Management and Design staff, Team Leader Building and Regulation, Senior Strategic Planner, Environmental Officer and Land Information Officer for comment. The Asset Management and Design staff were assisted by Cliff Toms, who was engaged to assess the impacts associated with engineering matters arising through the subdivision. The application was additionally referred to the Mid North Coast Regional Organisation of Councils' Contaminated Land Management Project Officer who currently operates out of Council's Administration Centre.

The commentary of these officers has been considered in the compilation of this Report, having particular regard to transport and traffic, stormwater management, flooding, public open space, reticulated sewer and water services, demolition and remediation, on-site sewage management, strategic planning, addressing and developer contributions.

Government Authorities

The DA was referred to the Roads and Maritime Services (RMS) and Essential Energy under the provisions of *State Environmental Planning Policy (Infrastructure) 2007* and to both the Department of Primary Industries – Water (DPIW) and the Rural Fire Service (RFS) through the integrated development provisions of the EPAA. It was also notified to:

- Trade and Investment – Crown Lands;
- Coffs Harbour and District Local Aboriginal Land Council (CHDLALC); and
- Office of Environment and Heritage.

The responses received are summarised below and discussed elsewhere in this Report.

Roads and Maritime Services

The DA was nominated as integrated development under the *Roads Act 1993*. However, through the referral process to the RMS it was identified that the development was not integrated in this regard.

Section 91 (3) of the EPAA provides that development 'is not integrated development in respect of the consent required under section 138 of the *Roads Act 1993* if, in order for the development to be carried out, it requires the development consent of a council and the approval of the same council'.

The DA proposal to connect a new road to the Pacific Highway requires the 'consent of the appropriate roads authority' under section 138 (1) of the *Roads Act 1993*. The relevant roads authority as prescribed by section 7 (4) (a) of that Act is Council for all public roads within the Shire other than a freeway or Crown road. As the relevant section of the Pacific Highway is neither a freeway nor Crown road, Council is the prescribed roads authority. Hence, the development requires the development consent of Council and the approval of the same Council as the appropriate roads authority. As aforementioned, this situation does not constitute integrated development.

Prior to Council approving works under the *Roads Act 1993* in respect of a classified road, the concurrence of the RMS is required. For this reason it is recommended that conditions of development consent be imposed that require the developer to obtain the necessary authorisation.

The RMS reviewed the DA and provided comment to Council pursuant to clause 104 and schedule 3 of *State Environmental Planning Policy (Infrastructure) 2007*. These comments are discussed in this Report under the relevant Policy above. Amended plans for 12

additional allotments (which were later revised by the applicant to 5 additional allotments in response to planning for bush fire protection) were also reviewed by the RMS in correspondence dated 16 September 2015, with the following commentary provided:

- *The applicant's submission has not addressed the impact of additional traffic movements on the intersection of the subdivision collector road and the Pacific Highway.*
- *The intersection treatments identified in the Traffic Impact Assessment are likely to accommodate the increase in traffic movements generated by the additional allotments. Council may wish to seek further clarification from the applicant.*
- *Roads and Maritime reiterates the comments in our previous response of 29 April 2014.*

Essential Energy

A referral was made to Essential Energy pursuant to the requirements of clause 45 of State Environmental Planning Policy (Infrastructure) 2007. A submission was received as a result of this process on 7 September 2015 as considered in this Report in response to SEPP (Infrastructure) 2007.

Department of Primary Industries – Water

The DPIW (formerly the Office of Water) issued general terms of approval for development works requiring a controlled activity approval under the *Water Management Act 2000* on 16 September 2014. Revisions to the DA following the issue of the general terms of approval were forwarded by Council to the Department. Through this process it was confirmed that 'the existing General Terms of Approval issued 16 September 2014 remain relevant and do not require amendment as a result of the amended design'.

The general terms of approval are contained in the conditions of the Recommendation to this Report.

NSW Rural Fire Service

Initial assessment of the DA by the RFS indicated the requirement for the submission of additional information to inform further assessment. The additional information was sought to address:

- the provision of road with the design characteristics of dead-end roads;
- perimeter roads where they did not traverse the full extent of the urban-bushland interface; and,
- a reliance on the extant vegetation characteristics on adjoining property.

A revised DA was submitted, with the RFS assessment subsequently identifying the requirement for the submission of a further plan to identify the BAL-29 'contour', consistent with the separation distances evaluated by AS 3959-2009. This requested 'contour' defines on plan the location of suitable building envelopes where future residential buildings can be constructed to meet radiant heat flux levels of 29kW/m² or lower (refer to the GeoLINK plan APZ Options, identified as drawing number 1499/16, Revision B, 16 December 2015).

Radiant heat calculations prepared by Bushfire Risk in response to the additional information request by the RFS informed an amended subdivision design and the issue of general terms of approval on 1 February 2016. The general terms of approval are contained in the conditions and advisory notes of the recommendation to this Report.

Trade and Investment – Crown Lands

Crown Lands identified that the proposal does not directly impact on the Crown estate, but due to the development adjoining Crown land and a Crown public road, has requested that the development does not:

- encroach upon the Crown land/road;
- remove any vegetation from the Crown land/road;
- stockpile materials, equipment or machinery on the Crown land/road;
- direct stormwater discharges onto Crown land/road; or
- use the Crown land/road as an Asset Protection Zone.

Crown Lands were further consulted concerning the potential provision of a rising sewer main on the adjoining Lot 253 DP 46013. That land, owned by Crown Lands but vested in the CHDLALC through Aboriginal Land Claim 2128, was identified by the applicant as the preferred route for a rising sewer main to service the subdivision. Upon review, this route was withdrawn from the DA by the applicant.

Coffs Harbour and District Local Aboriginal Land Council

The DA was notified to the CHDLALC in accordance with an established protocol for development applications and then referred on 27 August 2014 following a request from the CHDLALC for 'further investigation works for Aboriginal cultural heritage prior to any development consent being granted'.

CHDLALC has identified a number of shortcomings in the Aboriginal Heritage Impact Assessment contained at Appendix J of the SEE. These are as follows:

- CHDLALC Cultural Heritage Officers identified a number of potential archaeological deposits and some Aboriginal objects on the land which are not reflected in the Aboriginal Heritage Impact Assessment;
- requests for further consultation with elders in the compilation of the Aboriginal Heritage Impact Assessment were overlooked;
- further consultation with CHDLALC should be a condition of development consent;
- bearings to adjoining development may be inaccurate; and
- the requirement for an Aboriginal Heritage Impact Permit may not be limited to the location of Survey Unit 1.

Due to amended subdivision design plans, it is now understood that an Aboriginal Heritage Impact Permit is required to be issued for the development. Previous iterations of subdivision plans considered by the CHDLALC in correspondence to McCardle Cultural Heritage Pty Ltd on 27 May 2013 identified that 'the location for SU 1 is outside of any proposed ground disturbance activities for the property'. This situation has been modified by the submission of the drawing entitled *Proposed Subdivision Sewerage Reticulation Plan*, Revision B, 16 December 2015, and it is recommended that an Aboriginal Heritage Impact Permit be obtained accordingly. The permit will hold specific conditions for both methodology and ongoing processes for the development to proceed in a way that is mindful of the heritage values of the land.

A further recommendation for any development consent issued is for the proponent to create and implement a Cultural Heritage Management Plan for the construction and operation phase of the development. This Plan will assist in identifying any additional areas that may require the issue of an Aboriginal Heritage Impact Permit and will provide an avenue for the continued involvement of the registered Aboriginal stakeholders.

Amendments made to the DA concerning the route for the rising sewer main address any concerns arising from the former proposal to traverse land that is vested in the CHDLALC.

Office of Environment and Heritage

Council referred the DA to the OEH for comment on 27 August 2014 and received a submission on 9 October 2014. This submission is considered to have been received during the notification period as a one week extension was granted for the submission to be made given a strong reliance in the SEE on the EcoPro South Urunga Development Area Ecological Assessment, and the absence of that Assessment from the DA.

Commentary from the OEH was included in Council's additional information request to the Applicant dated 10 October 2014, to which a response was received and dated 31 August 2015.

OEH supplied Council with a second submission dated 9 November 2015 which was again forwarded to the applicant and responded to on 23 November 2015. OEH's final submission to the DA is dated 23 February 2016.

The matters raised by OEH are considered below and in the body of this Report.

Aboriginal Cultural Heritage

OEH identified a 'discrepancy regarding the apparent need for an Aboriginal Heritage Permit' to be resolved prior to the determination of the DA.

The Aboriginal Heritage Impact Assessment recommends that an Aboriginal Heritage Impact Permit be obtained for subdivision works where site SU1 will be harmed. There are two sites described as SU1 in the Assessment, being Survey Unit 1 in proximity to the Pacific Highway (see Figure 6.1 of the Aboriginal Heritage Impact Assessment) and an isolated artefact presented at Tables 7.1 and 8.1 of the Aboriginal Heritage Impact Assessment as being within site SU1 but elsewhere identified at Figure 6.3 as being within proposed road in the northeast of the development site at Survey Unit 6.

Despite the inconsistencies and those identified by the CHDLALC, it is evident that an Aboriginal Heritage Impact Permit is required for the development. That is, subdivision works are proposed throughout Survey Unit 1 and the isolated artefact in Figure 6.3 will be affected by subdivision works as described in the drawing entitled *Proposed Subdivision Sewerage Reticulation Plan*, Revision B, 16 December 2015.

The DA does not identify that the development is integrated development in respect of an Aboriginal heritage impact permit required under Part 6 of the *National Parks and Wildlife Act 1974*. General terms of approval for an Aboriginal heritage impact permit have therefore not been applied for or obtained through the DA process.

Section 91 (2) of the EPAA provides that:

Development is not integrated development in respect of an Aboriginal heritage impact permit required under Part 6 of the National Parks and Wildlife Act 1974 unless:

- (a) an Aboriginal object referred to in that Part is known, immediately before the development application is made, to exist on the land to which the development application applies, or*
- (b) the land to which the development application applies is an Aboriginal place within the meaning of that Act immediately before the development application is made.*

As the Aboriginal object was known prior to the lodgement of the DA, the development is integrated in respect of an Aboriginal heritage impact permit. The validity of any development consent granted in respect of integrated development without first complying with the provisions of section 91A of the EPAA is therefore reliant on the Land and Environment Court case *Maule v Liporoni & Anor* [2002] NSWLEC 25, 19 March 2002, where Justice Lloyd reasoned that "[t]here was and is no compulsion on an applicant to

make an application for an integrated development approval, if he or she chooses not to do so.”

OEH further identified that the site identified as SU1 in the Aboriginal Heritage Impact Assessment has not yet been registered in the Aboriginal Heritage Information Management System. This has been confirmed by a search of the register undertaken by Council on 4 April 2016 and is recommended to be redressed through an advisory note to the determination of the DA. It is noted that the absence of the site from the register is contrary to correspondence from the CHDLALC to McCardle Cultural Heritage Pty Ltd dated 27 May 2013 where it was provided that ‘the isolated object of Aboriginal origin ... has been recorded on the DECC’s AHIMS database and is now protected under the National Parks and Wildlife Act 1974’.

Therefore, to summarise, a condition of consent will be included requiring that an Aboriginal Heritage Impact Permit is to be obtained for the relevant works. Furthermore, the failure of the applicant to identify this as an integrated development requirement at the time of lodging the application is not considered to affect the validity of any consent.

Flooding

In relation to flooding and sea level rise, OEH recommends that the consent authority considers the most up-to-date modelled data in its assessment of the DA. Engineering commentary informing this Report as contained under clause 7.3 *Flood Planning* of the BLEP and *Chapter 8 – Flood and Riverine Processes* of the DCP has regard to the relevant matters.

Biodiversity

OEH advises that all biodiversity losses must be appropriately offset. As considered in this Report in addressing the provisions of the *NSW Coastal Policy 1997: A Sustainable Future for the New South Wales Coast*, the proposed mitigation measures within the DA and the strategic imposition of environmental zones on the land and in the immediate locality provide an appropriate offset to the impacts of the proposed subdivision. This is supported by the Environmental Assessment comprising Appendix D of the SEE.

OEH further recommends that the development should be undertaken in accordance with an Environmental Management Plan to control the construction and operation phase of the development. The recommendation to this Report includes the compilation and implementation of the relevant Plan.

SEPP 14 Wetland Number 422

OEH advice on the development reinforced the need to consider stormwater runoff impacts on SEPP 14 wetlands within the site catchment. In this regard, Council requested further information from the Applicant in relation to the suitability of the nominated DCP Level 3 – performance based solution Option B.

GeoLINK provided additional information dated 31 August 2015 in support of the Level 3 performance based solution Option B, citing industry adopted standards in support of its use for greenfield subdivision sites.

The applicability of Option B is considered in this Report in response to BLEP clause 7.4 *Water*. It is concluded therein that the adoption of Option B for the subject subdivision proposal is acceptable in the western catchment, but, consistent with OEH concerns for SEPP 14 wetland No. 356A in the east (recorded by OEH as SEPP 14 Wetland Number 422), the highest level of treatment attainable from Option A and Option B is recommended in that catchment.

Impact Mitigation

Concern is raised by OEH that the possible future incorporation of the residue lot into the Bellinger Heads State Park is inappropriate 'due to the primary function of a State Park to provide recreational opportunities for widespread public use'. Alternatively, OEH encourages the Applicant to pursue other avenues to attain the in-perpetuity protection of the residue lot. The given options have been supplied to the Applicant and form an advisory note to the recommendation below.

RECOMMENDATION

That Development Consent be granted for the subject application, pursuant to Section 80 (1) of the EPAA, subject to the following conditions and reasons.

CONDITIONS OF DEVELOPMENT CONSENT

ADMINISTRATIVE CONDITIONS

1. The development shall be carried out in accordance with the plans and supporting documents endorsed with the Council stamp and authorised signature as set out below, except where modified by any conditions of this development consent.

PLANS AND DOCUMENTS

- Plan No. 2014/AF-156/1 to 2014/AF-156/7 inclusive, details of which are provided as follows:

Plan No.	Drawing No.	Revision	Name of Plan	Date
2014/AF-156/1	1499/12	B	Proposed Subdivision Revised Layout Plan, as prepared by GeoLINK	16 December 2015
2014/AF-156/2	1499/13	B	Proposed Subdivision Water Reticulation Plan, as prepared by GeoLINK	16 December 2015
2014/AF-156/3	1499/14	B	Proposed Subdivision Sewerage Reticulation Plan, as prepared by GeoLINK	16 December 2015
2014/AF-156/4	1499/15	B	Proposed Subdivision Stormwater Management Plan, as prepared by GeoLINK	-
2014/AF-156/5	1499/16	B	Proposed Road Classification, as prepared by GeoLINK	16 December 2015
2014/AF-156/6	1499-1073	Revised	Revised Bushfire Map, as prepared by GeoLINK	28 January 2016
2014/AF-156/7	1499-1065	Revised	Rehabilitation Areas, as prepared by GeoLINK	31 August 2015

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail to the extent of the inconsistency.

[To ensure the legality of the development]

2. This development consent does not approve *Stage Two – Subdivision into four large lots* as proposed in the Statement of Environmental Effects and Illustration 3.2.

[To promote the orderly development of the land]

3. The proposed public land between Lots 151 and 152 and Lots 155 and 180 shall be integrated into the residential allotments and not dedicated to Council.

Note. The proposed road will require a continuous longitudinal grade to the north for overland flow paths.

[To avoid narrow linkages between the public road network]

4. This development consent does not approve the Water Supply Reservoir identified at *Appendix E* in the addendum to the Statement of Environmental Effects, 31 August 2015, or the reserve marked 'Reservoir' on the approved plans. Land comprising the proposed 'Reservoir' shall be integrated into the residue lot and not dedicated to Council.
[To promote the orderly development of the land]

5. The applicant shall enter into a Voluntary Planning Agreement (VPA) with Council, in accordance with Part 4 Division 6 of the *Environmental Planning and Assessment Act 1979* and the terms of the offer made to the Council on 13 April 2016 by the Applicant.

The VPA shall be prepared at the sole cost of the proponent.

[To provide for public utility infrastructure]

6. Any decision with respect to the issue of a subdivision certificate for part only of the lots that may be subdivided in accordance with this development consent shall rest with Council, along with any decision on any discrepancy with, and applicability of, conditions of development consent to that certificate.
[To promote and coordinate the orderly and economic development of the land]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. No subdivision work shall commence until a construction certificate has been issued for the work and Council has been notified that a Principal Certifying Authority has been appointed.

[To ensure the legality of the development]

8. Prior to the issue of a construction certificate for Site SU1 as identified in Table 8.1 *Impact summary* of the McCardle Cultural Heritage Pty Ltd *Aboriginal Heritage Impact Assessment* comprising Appendix J of the Statement of Environmental Effects, an Aboriginal Heritage Impact Permit must be applied for and granted by the Office of Environment and Heritage under Part 6 Division 2 of the *National Parks and Wildlife Act 1974* and a copy of the permit provided to Council.

[To conserve Aboriginal objects and Aboriginal places of heritage significance]

9. A construction certificate shall not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.

[To ensure that a controlled activity approval is held before the commencement of any work or activity on waterfront land]

10. Prior to the issue of a construction certificate and prior to the commencement of site preparation works, a Site Audit Statement (SAS) completed by a NSW EPA Accredited Site Auditor in accordance with the provisions of the *Contaminated Land Management Act 1997* shall be submitted to and endorsed by Council. The SAS shall certify that the

site is suitable, or can be made suitable by implementation of conditions on the SAS, for the proposed use.

[To promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment]

11. Prior to the issue of a construction certificate, design plans certified by a suitably qualified civil engineer and accompanied by AUSPEC DQS to the relevant AUSPEC or Australian Standard shall be submitted to and endorsed by Council for all asset classes including but not limited to:

- (a) road works along the frontage of the development;
- (b) new roads within the development including a flood analysis demonstrating that all lots have road access to the Pacific Highway during flood events and conditions up to and including the 1% Annual Exceedance Probability with climate change, sea level and debris loading allowances;
- (c) sewerage reticulation in accordance with the WSAA Codes;
- (d) water and sewer supply infrastructure including hydraulic plans and associated works in accordance with Australian Standards and the Plumbing Code of Australia;

Note. Prior to the commencement of planning for water and sewer supply infrastructure, the proponent must firstly consult with Council regarding any plans for the installation of Dual Water Supply plumbing in the locality, in order to incorporate any design adjustments that may be necessary to facilitate such a program. The use of a dual water supply system of plumbing is desirable in order to reduce demand on the normal potable water supply system, maximise the use of recycled water, and minimise discharge to the ocean and estuaries.

- (e) earth retaining structures;
- (f) stormwater infrastructure;
- (g) erosion and sedimentation controls;
- (h) the location of all existing infrastructure assets including:
 - (i) conduits for electricity supply and communication services (including fibre optic cable);
 - (ii) street lighting;
 - (iii) water supply;
 - (iv) sewerage;
 - (v) stormwater;
 - (vi) roads; and
 - (vii) footpaths;
- (i) open space facilities, pathways, cycle ways and associated facilities including compliance with the recommendations of the Austroads Guide to Road Design Part 6A: Pedestrian and Cyclist Paths and the relevant Australian Standards;
- (j) landscaping, including street tree plantings;
- (k) bridges/major culverts;
- (l) the provision of indented bus bays in accordance with Council's adopted AUSPEC Design and Construction Guidelines;
- (m) the intersection layout at the junction of the Pacific Highway;
- (n) compliance with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006';
- (o) existing and proposed easements; and

- (p) earthworks, including the filling of the land for flood protection (the slope of the cut/fill batter shall be in accordance with Council's adopted AUSPEC Design and Construction Guidelines and adequate safety fencing shall be provided if the maximum batter slope is exceeded).

[To meet contemporary subdivision standards]

- 12. Design plans shall be accompanied by a certified flood study that demonstrates that subdivision works meet the relevant development controls contained at Chapter 8 of the *Bellinghen Shire Development Control Plan 2010*.

[To ensure that subdivision works do not have an adverse impact on drainage or surface runoff or the stability of banks, or have a measurable impact on flood behaviour beyond the property boundary]

- 13. All design input from the findings of the Rudy Van Drie *Flood Level Assessment for Lot 1 DP 792596 Urunga South*, 16 November 2011, as contained at Appendix E of the Statement of Environmental Effects, must be validated by site survey by a Registered Surveyor and submitted with the design plans.

[To ensure that the data used is truly representative of the site]

- 14. Design plans for stormwater systems shall be detailed in a Stormwater Management Plan and Stormwater Device Maintenance and Management Plan prepared in accordance with Chapter 12 of the *Bellinghen Shire Development Control Plan 2010*. The catchment area which drains to:

- (a) SEPP 14 Wetland No. 356A shall be designed to meet the greatest level of treatment considering Option A and Option B of clause 12.6.1 of the *Bellinghen Shire Development Control Plan 2010*; and
- (b) the catchment area which drains to SEPP 14 Wetland No. 354 shall be designed to meet option B of clause 12.6.1 of the *Bellinghen Shire Development Control Plan 2010* at a minimum.

[To prevent impact external to the development]

- 15. Inter-allotment drainage shall be piped and centrally located within an inter-allotment drainage easement in accordance with Council's current AUSPEC standards (i.e. a minimum 225mm pipe diameter within a minimum 1.5m easement). Details shall accompany the design plans.

[To manage internal allotment stormwater flows]

- 16. Design plans for the provision of street lighting to all new roads shall be in accordance with AUSPEC and accompanied by certification from the electricity provider. Street light lamps shall be LED type fittings in accordance with AS 1158.

[To provide adequate safety and lighting with an aim to reduce energy cost through lamp efficiency]

- 17. The design for the intersection of the Pacific Highway and the subdivision access road shall be as described in the Traffic Impact Assessment prepared by GeoLINK and dated 17 June 2013. The intersection design is dependent on scheduling and shall be as follows:

- (a) prior to the Nambucca Heads to Urunga Pacific Highway Upgrade Project being open to operational traffic the intersection of the subdivision access road shall be constructed to an Austroads 'Seagull' type intersection; or
- (b) subsequent to the completion and opening of the Nambucca Heads to Urunga Pacific Highway Upgrade Project, the intersection of the subdivision access road shall be constructed to provide Austroads channelized right-turn (CHR) and auxiliary left-turn (AUL) treatments.

Alternatively, a roundabout may be developed where this intersection treatment is supported on technical grounds.

[To meet traffic safety and intersection level of service together with RMS requirements, and to provide opportunities for a gateway entrance statement]

18. All works on the Pacific Highway shall be designed in accordance with the current Austroads Guidelines, Australian Standards and RMS Supplements.

[To meet current road design standards]

19. The road network within the subdivision shall be categorised with the road reserve and carriageway widths described in the following table. Prior to the release of the construction certificate, such details shall be illustrated on the submitted design plans.

Road Type	Road Reserve Width	Carriageway Width
Collector	23m	9m with indented bus bays at 500m intervals or closer if intersection separation and bus circulation requirements dictate
Local	15m	7m serving up to 100 allotments
Access	13.5m	5.5m serving up to 30 allotments

[To provide for suitable road networks]

20. Prior to the issue of a construction certificate, an Environmental Management Plan (EMP) for the construction and operation phase of the development shall be submitted to and endorsed by Council. The EMP shall:

- (a) be prepared by a suitably qualified and experienced expert in accordance with industry-standard measures, site specific measures and relevant policy documentation and guidelines;
- (b) include a Vegetation Management Plan that includes but is not limited to:
 - (i) measures for delineating and protecting exclusion zones around native vegetation adjacent to the development site prior to the commencement of site preparation works;
 - (ii) communication with construction personnel of the conservation value of surrounding habitats and their responsibilities with regards to protecting these habitats during construction; and
 - (iii) hygiene procedures to prevent the introduction and spread of pathogens such as Phytophthora and Myrtle Rust in areas of native vegetation, including exclusion zones around retained areas of native vegetation and provision of machine and footwear wash-down stations for all equipment and personnel working in areas of native vegetation;

- (c) include a Weed Management Plan that includes but is not limited to:
 - (i) the type and location of weeds of concern (including noxious weeds) within the subject site;
 - (ii) sensitive receivers (such as native vegetation and waterways) within or adjacent to the subject site;
 - (iii) measures to prevent the spread of weeds, including hygiene procedures for equipment, footwear and clothing;
 - (iv) proposed weed control methods and target areas for control; and
 - (v) weed disposal protocols;
- (d) include a Fauna Management Plan that includes but is not limited to:
 - (i) a fauna management and pre-clearing protocol, including:
 - pre-clearing surveys for nests or sheltering terrestrial fauna;
 - clearly marking/erection of exclusion fencing around 'no-go' areas, such as retained vegetated areas and watercourses;
 - inspections of native vegetation for resident fauna and/or nests or other signs of fauna occupancy;
 - capture and relocation or captive rearing of less mobile fauna (such as roosting microbats, nesting birds or any injured fauna) by a trained and experienced wildlife handler;
 - inspection and identification/marketing of hollow-bearing trees adjacent to construction footprints to prevent accidental impacts; and
 - pre-clearing surveys to be undertaken by a suitably qualified ecologist;
 - (ii) the provision that wildlife shall not be handled, unless absolutely necessary, and only by construction staff in an emergency situation, and that injured wildlife shall be taken to a local wildlife carer or veterinarian for treatment and care whenever necessary;
 - (iii) a habitat feature protocol, including pre-clearing surveys for habitat features such as fallen hollow logs or hollow-bearing trees that can be retained or salvaged and placed in adjoining retained vegetation, and protocols for the safe clearing of hollow-bearing trees to ensure no resident fauna are injured;
 - (iv) protocols to prevent the introduction or spread of chytrid fungus shall be implemented in accordance with the Office of Environment and Heritage's *Hygiene Protocol for the Control of Diseases in Frogs* (DECCW, 2008)
- (e) provide for all equipment to be refuelled at least twenty (20) metres away from drainage lines, vegetation or wetlands and all fuel and chemical storages to be bunded.

[To minimise the impacts of construction and operation works on the environment]

21. Prior to the issue of a construction certificate, a Cultural Heritage Management Plan (CHMP) for the construction and operation phase of the development shall be submitted to and endorsed by Council. The CHMP shall:

- (a) be prepared by a suitably qualified and experienced expert in conjunction with the Registered Aboriginal Stakeholders (RAS) identified in the McCardle Cultural

Heritage Pty Ltd *Aboriginal Heritage Impact Assessment*, April 2013, as contained at Appendix J of the Statement of Environmental Effects;

- (b) require all earthmoving employees, contractors and sub-contractors to undertake an Aboriginal cultural awareness program including artefact recognition and legislative requirements as part of a construction site induction program;
- (c) establish protocols which specify the required actions in the event of the discovery of previously unrecorded Aboriginal objects;
- (d) include provision for further Potential Archaeological Deposit investigations and protocols if considered necessary by the RAS;
- (e) ensure that the RAS would continue to be consulted regarding ongoing management of Indigenous cultural heritage; and
- (f) provide the opportunity for the RAS to undertake a walk-over inspection of the site immediately after vegetation clearance.

[To conserve Aboriginal objects and Aboriginal places of heritage significance]

22. Prior to the issue of a construction certificate, a Vegetation Management Plan (VMP) for the rehabilitation and replanting of the areas shown in approved Plan No. 2014/AF-156/7 shall be submitted to and endorsed by Council. The VMP shall:

- (a) be prepared by a suitably qualified and experienced expert;
- (b) rehabilitate at least 1.405 hectares of the endangered ecological community Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast Bioregion;
- (c) establish through replanting at least 0.263 hectares of the appropriate endangered ecological communities Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast Bioregion and/or Subtropical Coastal Floodplains Forest of the NSW North Coast Bioregion;
- (d) establish through replanting at least 0.250 hectares of appropriate fauna habitat and 3.814 hectares of Buffer;
- (e) detail the targets and criteria for evaluating the effectiveness of the rehabilitation and replanting;
- (f) detail a program to monitor the effectiveness of the rehabilitation and replanting, including a proposed timeframe for monitoring and on-going management;
- (g) detail any remedial actions necessary to ensure the success of the rehabilitation and replanting; and
- (h) include a weed management plan.

Where monitoring indicates that the biodiversity outcomes are not being achieved, remedial actions as approved by Council shall be undertaken to ensure that the objectives of the VMP are achieved.

[To ensure that biodiversity offsets are adequately planned and implemented]

23. A detailed Landscaping Plan prepared by an appropriately qualified person in accordance with the requirements of clauses 9.6.1 and 9.6.5 of the *Bellingen Shire Development Control Plan 2010* shall be submitted to and endorsed by Council prior to the issue of a construction certificate. The landscaping plan shall:

- (a) address all land to be dedicated to Council;
- (b) include the construction of a fence along the common boundary of proposed Lots 1 to 6 to the Pacific Highway which has regard to the aesthetics of the

- streetscape, private open spaces and, to the extent practicable, sound mitigation;
- (c) avoid the removal of hollow bearing trees where possible and where they do not pose a risk to life or property;
 - (d) ensure that any fencing required for infrastructure incorporates koala friendly fencing and urban design principles;
 - (e) ensure that roads are provisioned with asset protection zones in accordance with the Bush Fire Safety Authority issued for the development under section 100B of the *Rural Fires Act 1997*; and
 - (f) include a landscape maintenance schedule and a regular landscape maintenance program to ensure that landscaping becomes well established.

Note. This development consent includes the right to remove vegetation from residential lots 1 to 238 inclusive.

[To preserve and encourage landscaped settings]

24. A road name application shall be submitted to Council prior to the issue of a construction certificate.

Note 1. "*Guidelines for the Naming of Roads*" produced by the Geographical Names Board is available from http://www.gnb.nsw.gov.au/data/assets/pdf_file/0004/58846/Guidelines_Naming_of_Roads.pdf.

Note 2. If the names proposed are not accepted by Council then Council will determine names for the roads and advise the proponent accordingly.

[In the public interest]

PRIOR TO COMMENCEMENT OF WORK

25. The proponent shall give at least two (2) days' written notice to Council of the date work is intended to commence and the details of the appointed principal certifying authority (PCA). Where the PCA is not Council, the proponent shall also give a minimum two (2) days' notice to the PCA of the intention to commence work.

[To inform the relevant authorities and facilitate auditing]

26. Prior to the commencement of work, a Site Waste Minimisation and Management Plan (SWMMP) pursuant to Chapter 16 and Appendix 16.1 of the *Bellingen Shire Development Control Plan 2010* shall be submitted to and endorsed by the principal certifying authority.

[To facilitate sustainable waste management]

27. No work shall occur within the road reserve until consent for the work has been issued in pursuance to the *Roads Act 1993*.

[To ensure the legality of the development]

28. The proponent shall enter into a 'Works Authorisation Deed' (WAD) with Roads and Maritime and shall submit documentation to Council as evidence of execution prior to the commencement of works on the classified road.

[To comply with RMS requirements to facilitate works on the State Highway]

29. A Traffic Management Plan for the development shall be submitted to and endorsed by Council prior to the commencement of subdivision works. The plan must:
- (a) be prepared by a suitably qualified and experienced person, in consultation with Council and Roads and Maritime Services;
 - (b) detail the measures that would be implemented to ensure road safety and network efficiency during subdivision works;
 - (c) detail heavy vehicle routes, access and parking arrangements;
 - (d) recommend load limits for haulage vehicles;
 - (e) include a Driver Code of Conduct to:
 - (i) minimise the impacts of subdivision works on the local and regional road network;
 - (ii) minimise conflicts with other road users;
 - (iii) ensure truck drivers use specified routes;
 - (f) include a program to monitor the effectiveness of these measures; and
 - (g) if necessary, detail procedures for notifying residents and the community (including local schools), of any potential disruptions to routes.

[To ensure community safety and amenity is observed during the construction period]

30. Prior to the commencement of works and prior to the commencement of each stage of the development works, the proponent shall prepare a dilapidation report of the public infrastructure in the vicinity of the site (including roads, kerbs, footpaths, nature strip and street trees) and of the pavement condition of nominated heavy vehicle routes (excluding collector, sub-arterial and arterial roads) and submit a copy of this report to Council. The condition report shall include photographs of the existing pavement and pavement deflection test results taken in the travel lanes and a procedure for monitoring the condition of the pavement during haulage. The proponent will be responsible for the repair or payment of the full costs associated with repairing, any public infrastructure that is damaged during works.

[To ensure that works do not degrade public infrastructure]

31. Prior to carrying out any water supply, sewerage or stormwater drainage work or work to alter a waste treatment device, an approval pursuant to section 68 of the *Local Government Act 1993* must be obtained for those activities.

[To ensure the legality of the development]

32. A durable and weatherproof site notice must be erected in a prominent position on any site on which subdivision work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any subdivision work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.

Any such notice shall be maintained while the subdivision work is being carried out, but must be removed when the work has been completed.

[To inform the public of project details]

33. A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

[To maintain public safety]

34. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every twenty (20) persons employed at the site. Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer; or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*; or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

[To prevent risks to public health and to protect waters and land resources from adverse impacts related to effluent treatment and disposal]

35. A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

[To prevent risks to public health and to protect waters and land resources from adverse impacts related to garbage disposal]

36. All trees on site that are to be retained shall be protected from works in accordance with the approved Vegetation Management Plan and Australian Standard AS 4970-2009 'Protection of trees on development sites' by way of tree guards, barriers or other measures as necessary to protect the root system, trunk and branches.

[To prevent damage to vegetation to be retained]

37. Prior to the commencement of demolition works, work plans required by AS 2601—2001, *The Demolition of Structures* shall be submitted to the principal certifying authority. The work plans required by AS 2601-2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard.

[To guide the demolition of structures]

38. Before commencing demolition of any building requiring asbestos removal works within the meaning of the *Work Health and Safety Regulation 2011*, the proponent shall submit to the principal certifying authority a copy of a valid contract for the work with the licensed asbestos removalist who is licensed to carry out the asbestos removal works. The contract shall identify the volumes and type of asbestos to be removed and the receiving landfill site.

[To minimise the risk of asbestos exposure through handling, transportation and disposal]

DURING WORKS

39. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times during development work and shall be readily available for perusal by any officer of Council or the principal certifying authority.

[To ensure the development is carried out in accordance with the plans and specifications to which the development consent relates]

40. All works shall comply with the terms of the approved plans under this development consent:

- (a) Site Audit Statement and addendum;
- (b) Design Plans;
- (c) Stormwater Management Plan;
- (d) Stormwater Device Maintenance and Management Plan;
- (e) Environmental Management Plan;
- (f) Cultural Heritage Management Plan;
- (g) Vegetation Management Plan;
- (h) Landscaping Plan;
- (i) Site Waste Minimisation and Management Plan; and
- (j) Traffic Management Plan.

[To ensure that works are undertaken in accordance with approved plans]

41. All remediation works for contaminated land shall be carried out using suitably qualified and experienced contractor(s) and overseen by an environmental officer. The environmental officer shall:

- (a) be a suitably qualified and experienced environmental professional;
- (b) oversee the remediation works to determine whether the development is complying with the relevant standards, performance measures and statutory requirements;
- (c) review the adequacy of the site audit statement for the development, compliance with the requirements of this consent, and any other licences and consents; and, if necessary,
- (d) recommend measures or actions to improve the environmental performance of the development.

[To promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment]

42. Development works shall not proceed past the demolition of the shed and removal of the shed slab without:

- (a) additional sampling of the site for contaminants being undertaken in accordance with the NSW EPA *Contaminated Sites-Sampling Design Guidelines*; and

- (b) an addendum to the site audit statement (SAS) being submitted to and endorsed by Council following the sampling of the site certifying that the site is suitable, or can be made suitable by implementation of conditions on the SAS, for the proposed use.

[To promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment]

- 43. All demolition work must be carried out in accordance with AS 2601—2001, *The Demolition of Structures* and the Site Audit Statement. Where any hazardous substances not recorded in accordance with clause 1.6.1 of AS 2601—2001, *The Demolition of Structures* are subsequently uncovered, the proponent shall notify Council as soon as practicable. No demolition shall proceed unless it is deemed safe by Council to do so.

[To guide the demolition of structures]

- 44. Upon completion of any asbestos removal work, the proponent shall submit to the principal certifying authority a copy of the receipt(s) from the operator of the receiving landfill site demonstrating that all the asbestos material referred to in the contract has been received by the operator.

[To ensure the lawful disposal of waste]

- 45. Volumes of lawful waste disposal shall generally reconcile with the relevant estimated volumes of waste documented in the Site Waste Minimisation and Management Plan and written records demonstrating lawful disposal of waste shall be retained for possible inspection by relevant regulatory authorities.

[To facilitate sustainable waste management]

- 46. Excavation works carried out on site shall be closely monitored to ensure that no signs of Potential Acid Sulphate Soil (PASS) or Actual Acid Sulphate Soil (AASS) are observed. If any indicators are observed, excavation of the site shall cease immediately, Council shall be notified and a suitably qualified environmental scientist shall be contracted to further assess the site.

The proponent shall prepare and implement an Acid Sulfate Soils Management Plan for the development in accordance with the NSW State Government's *Acid Sulphate Soils Manual 1998* where identified as necessary by the suitably qualified environmental scientist. The plan shall describe the management procedures for any PASS or AASS encountered during development works and shall be implemented in full.

[To ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage]

- 47. All works on the Pacific Highway shall be constructed in accordance with the current Austroads Guidelines, Australian Standards and RMS Supplements.

[To ensure contemporary practice is followed]

- 48. The construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.

[To ensure works are constructed in accordance with adopted specifications]

49. The development shall not:

- (a) encroach upon Crown land/road;
- (b) remove any vegetation from Crown land/road;
- (c) stockpile materials, equipment or machinery on Crown land/road;
- (d) direct stormwater discharges onto Crown land/road; or
- (e) use Crown land/road as an Asset Protection Zone.

[To ensure that the development does not encroach upon Crown land/road or direct stormwater discharges to Crown land/road]

50. All works shall be in accordance with the current Council Flood Planning Policy and:

- (a) the development shall provide overland flow paths, bypass facilities and the drainage of entrapped waters for all events up to the 100 year ARI from all adjoining property;
- (b) the development shall have a vehicular access route from all proposed residential lots which is constructed so that the lowest point of the route is at or above the 100 year ARI flood level estimated from Council's approved flood study;
- (c) the alternative vehicular access route shall be constructed at or above the 20 year ARI flood level estimated from Council's approved flood study;
- (d) all allotments, excluding the residue allotment, shall be constructed so that the lowest point of any allotment is at or above the general flood planning level in accordance with clause 8.9.8 of the *Bellingen Shire Council Development Control Plan 2010*. General flood planning levels shall be in accordance with the levels identified in Appendix E of the Statement of Environmental Effects submitted in support of the development application, as adjusted by site survey and validation.

[To minimise flood risk and safe evacuation in accordance with current flood planning policy requirements]

51. Development works on public property or works to be accepted by Council as an infrastructure asset shall not proceed past the following hold points without inspection and approval by Council:

- (a) prior to commencement of site clearing and installation of erosion control facilities;
- (b) at completion of installation of erosion control measures;
- (c) prior to installing traffic management works;
- (d) at completion of installation of traffic management works;
- (e) at the commencement of earthworks;
- (f) before commencement of any filling works;
- (g) when the sub-grade is exposed and prior to placing of pavement materials;
- (h) when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
- (i) at the completion of each pavement (sub base/base) layer;
- (j) before pouring of kerb and gutter;
- (k) prior to the pouring of concrete for sewerage works and/or works on public property;
- (l) on completion of road gravelling or pavement;
- (m) during construction of sewer infrastructure;
- (n) during construction of water infrastructure;
- (o) prior to sealing and laying of pavement surface course.

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

Notice of required inspection must be given twenty four (24) hours prior to inspection, by contacting Council's Customer and Business Services on 02 6655 7300. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed.

[To ensure the standard of works is compliant with Council's standards and specifications]

52. Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this development consent effective. Such works shall include, but are not limited to, the following:

- (a) the relocation of underground services where required by civil works being carried out;
- (b) the relocation of above ground power and telephone services;
- (c) the matching of new infrastructure into existing or future design infrastructure.

[To ensure infrastructure relocation and connection costs associated with the development works are met by the proponent]

53. Any excavation must be carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in July 2012 by Safe Work Australia.

[To manage health and safety risks associated with excavation work]

54. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, the proponent must at their own expense:

- (a) protect and support the adjoining premises from possible damage from the excavation; and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

[To ensure structural integrity]

55. All earthworks shall be undertaken in accordance with AS 3798-2007 *Guidelines on earthworks for commercial and residential developments* and must not cause:

- (a) a danger to life or property; or
- (b) damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot.

[To ensure that earthworks meet current standards and provide stable landforms]

56. Topsoil shall be placed over the earthworks to a minimum depth of 100 mm and stabilised with suitable grass cover within seven (7) days of the completion of bulk earthworks.

[To facilitate stable landforms and landscaping]

57. The surface levels and profiles of all infrastructure appurtenances, such as electrical and telecommunications pits or covers must be finished consistent with the designed and constructed surface levels and planes of the finished development. These installations must not create trip hazards or discontinuities with the finished land profiles.

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

58. The only fill material that may be received at the development site is:

- (a) virgin excavated natural material (VENM) within the meaning of Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*;
- (b) any other waste-derived material the subject of a resource recovery exemption under clause 51A of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material, excluding waste tyre; or
- (c) other material approved in writing by the NSW Environment Protection Authority.

Any fill material received at the development site must be accompanied by accurate records detailing the volume and type of material received. The records must be retained by the proponent and made available to the principal certifying authority on request.

[To ensure that fill is devoid of contaminants that could harm or potentially harm the receiving environment and users of the land]

59. All excavated material to leave the site shall be disposed of at an approved landfill facility.

Alternatively, where it is proposed to dispose of the excavated material at another location, no material shall leave the site until:

- (a) Council has been advised in writing of the destination site(s); and
- (b) Council has been advised of the quantity and makeup of the material; and
- (c) Council has issued written approval for disposal to the alternate location(s).

Note 1. The exportation of fill or soil from the site must be in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the Office of Environment and Heritage 'Waste Classification Guidelines' and shall comply with the terms of any approval issued by Council.

Note 2. Development consent may be required under the *Environmental Planning and Assessment Act 1979* for the receiving land.

[To ensure that excavated material is lawfully disposed]

60. Any development work involving the generation of noise, other than works required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm, shall only be carried out between 7.00 am and 6.00 pm Monday to Friday and 8:00 am to 1:00 pm Saturday. No works involving the generation of noise shall be carried out at any time on a Sunday or a public holiday.

Note. The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

[To minimise the impact of works on the locality]

61. The proponent shall ensure that all plant and equipment used for the development is maintained in a proper and efficient condition and operated in a proper and efficient manner.

[To minimise emissions from plant, equipment and facilities]

62. The proponent shall ensure that:

- (a) the development does not result in any vehicles queuing on the public road network;
- (b) all loading and unloading of materials is carried out on-site;
- (c) all trucks entering or leaving the site with loads have their loads covered;
- (d) vehicles do not track dirt, sand or other materials onto the public road network;
- (e) heavy vehicles use designated routes to minimise impacts on the local and regional road network; and
- (f) access is maintained for all adjoining properties for the duration of the works.

[To minimise the impacts of the development on the safe and efficient operation of the road network]

63. The proponent shall provide sufficient parking facilities on-site, including for heavy vehicles and for site personnel, to ensure that traffic associated with the development does not utilise public and residential streets or public parking facilities.

[To minimise the impacts of the development on the safe and efficient operation of the road network]

64. The clearing of vegetation must not exceed the minimum extent necessary to carry out the development.

[To minimise the impact of the development on vegetation]

65. All pruning shall be undertaken in accordance with AS 4373:2007 *Pruning of Amenity Trees* and the WorkCover NSW *Code of Practice for the Amenity Tree Industry*.

[To ensure an adequate standard of work]

66. Erosion and sediment control measures must be effectively implemented in accordance with the approved design plans and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbance by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

[To minimise and control erosion and sedimentation]

67. The proponent shall carry out all reasonable and feasible measures to minimise dust generated during development works. These works must include, but not are limited to:

- (a) restricting topsoil removal;
- (b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
- (c) altering or ceasing construction work during periods of high wind; and
- (d) stabilising medium to long term soil stockpiles with suitable grass cover.

[Dust minimisation]

68. Construction materials, equipment and stockpiles must be stored wholly within the subject land unless an approval to store them elsewhere is held.

[To minimise the impact of works on the locality]

69. Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a facility that may lawfully accept the waste.

[To minimise the impact of works on the environment]

70. The development site shall be left clear of waste and debris at the completion of the works and kept in a clean and tidy condition at all times.

[To minimise the impact of works on the locality]

71. No trees and associated vegetation felled during clearing operations shall be burnt on the site. Where possible, vegetation shall be mulched and reused on the site.

[To minimise the impact of works on the locality]

72. If any deposit, artefact, object or material evidence defined as a relic under the *Heritage Act 1977* is identified as having been uncovered due to development activities:

(a) all work shall cease immediately in that area; and

(b) the Office of Environment and Heritage shall be advised of the discovery.

Note. Depending on the possible significance of the relics uncovered, an archaeological assessment and an excavation permit under the *Heritage Act 1977* may be required before further work can continue in that area.

[To conserve items having interest due to age or association with the past]

73. If any Aboriginal object (including evidence of habitation or remains) is identified as being present or uncovered due to development activities:

(a) all works shall cease immediately in that area; and

(b) the Regional Operations Group of the Office of Environment and Heritage and the Coffs Harbour and District Local Aboriginal Land Council must be advised of the discovery.

Work shall resume in the area only in accordance with the requirements of the Office of Environment and Heritage and the *National Parks and Wildlife Act 1974*.

Note. If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

[To conserve Aboriginal objects and Aboriginal places of heritage significance]

74. If any human remains are suspected to have been uncovered due to development activities:

(a) all excavation or disturbance of the area must stop immediately in that area; and

(b) the NSW Police must be advised of the discovery.

Work shall resume in the area only in accordance with the requirements of the NSW Police and the Office of Environment and Heritage.

[To minimise the impact of works]

75. Pressure testing of work associated with the extension of the sewer and water mains must be undertaken by the proponent prior to backfilling. The proponent must give Council a minimum 72 hours' notice prior to backfilling any works associated with the extension of the sewer or water main to facilitate an inspection of the works and testing.

Note. If an inspection is arranged and the work is not in conformance with the approved plans and specifications, then additional inspection fees as prescribed by Council's schedule of Fees and Charges are applicable.

[To ensure that infrastructure to be vested in the Council meets Council's standards]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

76. Prior to the issue of a subdivision certificate, the proponent must submit to Council a consolidated report demonstrating compliance with all preconditions of this consent.

[To ensure the development is undertaken in accordance with the consent]

77. On completion of remedial works and prior to the issue of a subdivision certificate, the site shall be validated and a Validation Report submitted to the satisfaction of Council within sixty (60) days of the completion of the works. The Validation Report must:

- (a) be prepared by an appropriately qualified and experienced environmental professional in accordance with the requirements of the relevant NSW EPA guidelines including the *Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites* (OEH 2011);
- (b) include evidence demonstrating that the conditions of the Site Audit Statement have been achieved;
- (c) confirm that the site is suitable for the proposed use; and
- (d) be endorsed by a NSW EPA accredited site auditor.

[To promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment]

78. Prior to the issue of a subdivision certificate, the existing septic tank(s) shall be decommissioned in accordance with the NSW Health Advisory Note 3-*Destruction, Removal or Reuse of Septic Tanks, Collection Wells, Aerated Wastewater Treatment Systems and other Sewage Management Facility Vessels*.

Note. An approval pursuant to section 68 of the *Local Government Act 1993* must be obtained prior to altering a waste treatment device.

[To minimise future community health and safety risk]

79. Prior to the issue of a subdivision certificate, all demolition works shall be completed.

[To ensure that essential site preparation works have been undertaken]

80. Prior to the issue of a subdivision certificate, the intersection of the Pacific Highway and the subdivision access road shall be upgraded to the relevant Austroads 'Seagull' type intersection or Austroads channelized right-turn (CHR) and auxiliary left-turn (AUL) treatments design standard or roundabout in accordance with a 'Works Authorisation Deed' and the Council approved Design Plans.

[To ensure road safety and traffic management standards are complied with]

81. Prior to the issue of a subdivision certificate, all documentation must be submitted to Council certifying that all matters associated with a Works Authorisation Deed have been completed free of defects.

[To ensure the standard of work complies with authorisations]

82. A subdivision certificate shall not be issued for lots 78 to 238 inclusive until Council has developed the new water reticulation system identified in the Voluntary Planning Agreement.

[To ensure adequate water supply]

83. The 'Park' identified in the *Proposed Subdivision Revised Layout Plan*, Drawing Number 1499/12, Revision B, as prepared by GeoLINK, August 2015, shall be constructed in accordance with the Council approved plans prior to the issue of a subdivision certificate that would release 25% of the sum of the residential allotments approved under this development consent and dedicated to Council at no cost to Council at the time of registration of that subdivision certificate.

[To ensure that public open space is available to the development]

84. Prior to the issue of a subdivision certificate that would dedicate the 'Park' identified in the *Proposed Subdivision Revised Layout Plan*, Drawing Number 1499/12, Revision B, as prepared by GeoLINK, August 2015, to Council, a deed of agreement at no cost to Council must be prepared with Council to allow the proponent to carry out management and maintenance works on the 'Park' until 75% of the proposed lots are released.

[To ensure appropriate management and maintenance of the area's amenity during construction]

85. Prior to the issue of a subdivision certificate, a deed of agreement at no cost to Council must be prepared with Council to allow the proponent to carry out management and maintenance works of all street trees planted on public roads until 75% of the approved lots are sold.

[To ensure appropriate management and maintenance of the area's amenity during construction]

86. Prior to the issue of a subdivision certificate, all engineering and environmental works must be completed in accordance with the approved construction certificate for any land to be transferred to Council.

[To ensure compliance with all relevant standards]

87. All internal roads shall be constructed by the proponent and dedicated to Council as public roads following registration of the Plan of Subdivision. Upon dedication and at the end of a twelve (12) month maintenance period by the proponent, Council shall be responsible for the on-going maintenance of the roads.

[To ensure appropriate management and maintenance of public assets]

88. The areas identified as 'Proposed stormwater bioretention' on approved Plan No. 2014/AF-156/4, as subject to design and survey, shall be dedicated to Council for drainage purposes. Provision for this dedication shall be made in the application for the relevant subdivision certificate.

[To facilitate Council's management and maintenance of drainage infrastructure]

89. Prior to the issue of a subdivision certificate, the proponent shall submit certification by a Registered Surveyor that:

- (a) the development has met the necessary flood planning levels specified by this development consent, including any revised levels determined as a result of compliance with consent conditions; and
- (b) all services and domestic drainage lines are wholly contained within the respective lots and easements.

[To ensure the development is appropriately located and designed]

90. Where the existing road formation adjacent to the subdivision encroaches on the land to be subdivided, it must be surveyed and dedicated to Council. This must be done for the full frontage of the site and shall be at no cost to Council. Prior to the issue of a subdivision certificate, a plan prepared by a Registered Surveyor showing the location of the existing road formation relative to reserved and dedicated roads shall be submitted to Council. Any necessary road widening shall be described on the Plan of Subdivision.

[To rectify any constructed encroachment]

91. Prior to the issue of a subdivision certificate, the proponent shall obtain a certificate of compliance under section 307 of the *Water Management Act 2000* evidencing that adequate arrangements have been made for the provision of water and sewerage services to and within the development.

Note. Section 64 of the *Local Government Act 1993* authorises Council to issue certificates of compliance under section 306 of the *Water Management Act 2000*. Section 64 of the *Local Government Act 1993* also authorises Council to impose pre-conditions to the issuing of certificates of compliance.

As a precondition to the issuing of a certificate of compliance, Council requires the payment of developer charges as prescribed by Council's adopted section 64 plans.

A developer charges notice of payment is attached to this consent and outlines monetary contributions and unit rates applicable at the time of issue of this consent.

[To provide adequate services; contribution towards services and facilities]

92. Contributions described in the following Table shall be paid to Council prior to the issue of a subdivision certificate. The contributions are current at the date of this consent and shall be adjusted in accordance with the relevant contributions plan. The amount payable shall be calculated on the basis of the contribution rates that are applicable at the time of payment.

Contribution Plan	Unit Type	Contribution Per Lot	Unit Rate	Contribution Levied	Contribution Base Rate Applicable until
<i>Community Facilities and Open Space Infrastructure Section 94 Developer Contribution Plan 2014</i>	Increase in Occupancy Catchment No: 12	\$287.01	237	A\$68,021.37	30 June 2016
<i>Local Roads and Traffic Infrastructure Section 94</i>	Increase in Occupancy Catchment	\$1,577.59	237	B\$373,888.83	30 June 2016

<i>Developer Contribution Plan 2015</i>	No: 12				
<i>Section 94 Bushfire Services Contribution Plan</i>	Area: Urunga	\$475 (Shire Wide) + \$557 (Urunga)	237	C\$244,584.00	30 June 2016
<i>Bellingen Shire Council Section 94 Contribution Plan: Project Administration</i>	Administration	A + B + C	0.06	\$41,189.65	30 June 2016

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

NOTE 2. The rate is determined under Council's contribution plans which are available for inspection at Council's Administration Centre, Hyde Street, Bellingen during normal office hours.

[Contribution towards the provision of services and facilities under section 94 of the *Environmental Planning and Assessment Act 1979*]

93. Prior to the issue of a subdivision certificate, Council must be supplied with written advice from the electricity authority confirming that satisfactory arrangements have been made for the provision of:

- (a) underground reticulated electricity to each proposed lot;
- (b) conduits for future requirements or upgrades;
- (c) street lighting; and
- (d) easements for electricity purposes on the plan of subdivision over existing and proposed electricity lines pursuant to section 88B of the *Conveyancing Act 1919*.

[To ensure the provision of electricity supply]

94. Underground telephone services shall be provided to each proposed lot to the satisfaction of Telstra Australia, or any other relevant telecommunications service provider authorised to provide telecommunication services to the subdivision. Written confirmation from the relevant telecommunication authority in the form of a Telecommunications Network Infrastructure Provisioning Letter, or equivalent, shall be supplied to Council prior to the issue of a subdivision certificate.

[To ensure the provision of communication services]

95. Prior to the issue of a subdivision certificate that would culminate in the release of 75% or more of the approved lots, a 2.5 metre wide shared cycleway/walkway shall be developed across the full Pacific Highway frontage of the property and to extend along the Pacific Highway to Hillside Drive.

[To provide pedestrian and cycling connectivity between the proposed residential subdivision and the existing urban area of Urunga]

96. Prior to the issue of a subdivision certificate, a works as executed plan shall be submitted to the principal certifying authority certifying that all landscape works have been carried out in accordance with the approved plan.

[To preserve and encourage landscaped settings]

97. Prior to the issue of a subdivision certificate, a geotechnical report certifying that all earthworks have been constructed in accordance with AUSPEC D6 and/or indicating the suitability of all allotments for future building sites shall be submitted to Council. The geotechnical report shall be prepared by a CPEng Geotechnical Engineer and shall provide details of:

- (a) the surface levels of the allotments created and any other area filled or reshaped as part of the development;
- (b) compaction testing carried out to Level 1 of Appendix B AS 3798;
- (c) standard penetration tests and calculated N values;
- (d) bore logs; and
- (e) the site classification of each allotment in accordance with AS2870-2011 *Residential Slabs and Footings*.

[To ensure that final landforms are suitable for residential development]

98. A covenant shall be incorporated on proposed lots 1 to 6 inclusive prohibiting direct vehicular access to and from the Pacific Highway. The covenant shall be described on the plan of subdivision and section 88B instrument to the satisfaction of Council prior to the issue of a subdivision certificate. The consent of Council shall be required to amend, release or vary the covenant.

[To ensure that future development on steep land is adequately designed]

99. A covenant shall be incorporated on each proposed residential lot with grades in excess of 15% to the effect that:

Development on the lot shall not require a cut or fill of greater than one (1) metre from ground level (existing).

The covenant shall be described on the plan of subdivision and section 88B instrument to the satisfaction of Council prior to the issue of a subdivision certificate. The consent of Council shall be required to amend, release or vary the covenant.

[To ensure that future development on steep land is adequately designed]

100. A covenant shall be incorporated on each proposed residential lot effecting the site classification of each allotment under AS2870-2011 *Residential Slabs and Footings*. The covenant shall be described on the plan of subdivision and section 88B instrument to the satisfaction of Council prior to the issue of a subdivision certificate. The consent of Council shall be required to amend, release or vary the covenant.

[To ensure that future development on steep land is adequately designed]

101. The road name(s) must be accepted by Council and approved by the Geographical Names Board. Prior to the issue of a subdivision certificate, the approved name(s) must be identified on the plan of subdivision and road name plates erected where specified by

Council in accordance with Council's 'Standard Conditions for Engineering Works Associated with Developments'.

[To ensure a consistent approach to road naming and addressing that benefits emergency services, transport and goods and service delivery]

102. Prior to the issue of a subdivision certificate, separate water supply service connections must be provided for each proposed lot.

[To ensure the provision of essential utility infrastructure]

103. Prior to the issue of a subdivision certificate, arrangements satisfactory to Council shall be made for the installation of hydrants at minimum intervals of sixty (60) metres.

[To provide adequate water services for the protection of assets in the event of fire]

104. Prior to the issue of a subdivision certificate, the sewer mains shall be provided in accordance with the approved plans and each lot provisioned with an inspection shaft to the sewer connection. All inspection shafts shall be developed to the finished surface level and protected, marked and made good.

[To prevent risks to public health and the environment and facilitate maintenance]

105. The proponent, at no cost to Council, shall dedicate an easement a minimum width of two (2) metres centred over new sewer mains on private land, including manholes and inspection shafts. The easement benefitting Council shall be described on the plan of subdivision and section 88B instrument to the satisfaction of Council prior to the issue of a subdivision certificate. The consent of Council shall be required to amend, release or vary the easement.

[The likely impacts of the development in respect of utilities, hygiene and public interest]

106. The proponent, at no cost to Council, shall dedicate an easement a minimum width of three (3) metres centred over new water mains on private land. The easement benefitting Council shall be described on the plan of subdivision and section 88B instrument to the satisfaction of Council prior to the issue of a subdivision certificate. The consent of Council shall be required to amend, release or vary the easement.

[The likely impacts of the development in respect of utilities, hygiene and public interest]

107. Inter-allotment drainage shall be centrally located within an inter-allotment drainage easement dedicated on the plan of subdivision and section 88B instrument. The consent of Council shall be required to amend, release or vary the easement.

[To ensure that stormwater is delivered to a legal point of discharge]

108. All overland flow paths from on-site detention storage areas to a lawful point of discharge within the residue lot shall be subject to an easement for overland flow. The easement benefitting Council shall be described on the plan of subdivision and section 88B instrument to the satisfaction of Council prior to the issue of a subdivision certificate. The consent of Council shall be required to amend, release or vary the easement.

[To establish and preserve rights over the land]

109. Prior to the issue of a subdivision certificate:
- (a) all on-site detention storage areas shall be developed with appropriate signage; and
 - (b) all proposed new roads shall be developed with appropriate signs that warn of koalas and other wildlife in the area.
- [To inform road users]
110. Prior to the issue of a subdivision certificate, a compliance certificate must be submitted accompanying works as executed plans with detail included as required by Council's current AUSPEC Specifications. The information shall be submitted in electronic format in accordance with Council's GIS requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. The copyright for all information supplied shall be assigned to Council.
- [To enable appropriate asset management accounting of all new public infrastructure assets]
111. Provision to Council being the local roads authority certifying that all matters required by the approval issued pursuant to section 138 of the *Roads Act 1993* have been satisfactorily completed. All works shall be certified by a practicing Civil Engineer eligible for registration as a CPEng as compliant with the requirements of AUSPEC prior to issue of Subdivision Certificate.
- [To ensure the standard of work complies with authorisations]
112. Prior to the issue of a subdivision certificate, certification from a suitably qualified person that the conditions of the Bush Fire Safety Authority have been fulfilled shall be submitted to Council.
- [To ensure compliance and provide safe access to/from the public road system for fire fighters providing property protection during a bush fire]
113. Prior to the issue of a subdivision certificate, Council must be supplied with written advice from the Department of Primary Industries-Water confirming that subdivision works on waterfront land conform to the Controlled Activity Approval issued under the *Water Management Act 2000*.
- [To ensure compliance]

OPERATIONAL MATTERS

114. The proponent shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.
- [To ensure work is undertaken in accordance with the development consent]
115. The proponent shall implement a regular landscape maintenance program in accordance with the Council approved Landscaping Plan. Unless elsewhere specified in this development consent, landscaping shall be maintained for a period until 75% of the

approved lots are sold, with all necessary rehabilitation work to be undertaken to the satisfaction of Council prior to management passing to Council.

[To ensure that all landscape work, including street tree plantings, become well established]

116. The proponent shall maintain at no cost to Council all street trees planted on public roads until 75% of the approved lots are sold. All necessary rehabilitation work must be undertaken to the satisfaction of Council prior to management passing to Council. The proponent shall obtain consent under the *Roads Act 1993* to undertake this work on public roads.

[To ensure appropriate management and maintenance of the area's amenity during construction]

117. The 'Park' identified in the *Proposed Subdivision Revised Layout Plan*, Drawing Number 1499/12, Revision B, as prepared by GeoLINK, August 2015, shall be maintained by the proponent at no cost to Council until 75% of the approved lots are sold. All necessary rehabilitation work must be undertaken to the satisfaction of Council prior to management passing to Council.

[To ensure appropriate management and maintenance of the area's amenity during construction]

118. The proponent shall maintain at no cost to Council all roads for a period of twelve (12) months after dedication to Council. All necessary rehabilitation work must be undertaken to the satisfaction of Council prior to management passing to Council. The proponent shall obtain consent under the *Roads Act 1993* to undertake this work on public roads.

[To ensure appropriate management and maintenance of new road infrastructure]

119. The proponent shall undertake maintenance at no cost to Council in accordance with the endorsed Stormwater Device Maintenance and Management Plan for a period of no less than 24 months from the date of issue of the subdivision certificate. At the completion of the maintenance period:

- (a) the proponent shall ensure that the device is functioning as intended with all landscaping in good order and take action to remedy any defects; and
- (b) submit to Council a verified maintenance costing from the preceding 24 months as well as estimated annual maintenance costs for the future maintenance of the stormwater treatment device.

[To ensure that stormwater systems are maintained and functional]

GENERAL TERMS OF APPROVAL

For work requiring a Bush Fire Safety Authority under s100B of the *Rural Fires Act 1997*

120. The development proposal is to comply with the subdivision layout identified on the drawing prepared by GeoLink: titled "APZ Options", identified as drawing number 1499/16, Rev B, and dated 16/12/15.

[To integrate the development consent with the Bush Fire Safety Authority]

121. At the issue of the subdivision certificate and then in perpetuity, the entire

development footprint, including:

- urban lots,
- neighbourhood park areas,
- road infrastructure,
- proposed stormwater bioretention areas, and
- roadside stormwater swales,

shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

[To integrate the development consent with the Bush Fire Safety Authority]

122. A restriction to the land use, pursuant to section 88B of the 'Conveyancing Act 1919', shall be placed on all lots within the subdivision requiring that future dwellings are sited behind the line noted as "Total APZ Method 2 Alternative", as identified on the drawing prepared by GeoLINK, titled "APZ Options" Revision B and dated 16/12/15.

[To integrate the development consent with the Bush Fire Safety Authority]

123. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

[To integrate the development consent with the Bush Fire Safety Authority]

124. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

[To integrate the development consent with the Bush Fire Safety Authority]

GENERAL TERMS OF APPROVAL

For work requiring a controlled activity approval under s91 of the Water Management Act 2000

Note. On 3 July 2015, DPI Water was formed, replacing the NSW Office of Water. References to the NSW Office of Water in this development consent include DPI Water.

125. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

[To integrate the development consent with a Controlled Activity Approval]

126. The consent holder must prepare or commission the preparation of:

- (i) Vegetation Management Plan
- (ii) Soil and Water Management Plan
- (iii) Works Schedule

[To integrate the development consent with a Controlled Activity Approval]

127. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx

- (i) Vegetation Management Plans

- (ii) Riparian Corridors
- (iii) In-stream works
- (iv) Outlet structures
- (v) Watercourse crossings

[To integrate the development consent with a Controlled Activity Approval]

128. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and /or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.

[To integrate the development consent with a Controlled Activity Approval]

129. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.

[To integrate the development consent with a Controlled Activity Approval]

130. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.

[To integrate the development consent with a Controlled Activity Approval]

131. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.

[To integrate the development consent with a Controlled Activity Approval]

132. The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other than in accordance with a plan approved by the NSW Office of Water.

[To integrate the development consent with a Controlled Activity Approval]

133. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

[To integrate the development consent with a Controlled Activity Approval]

134. The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.

[To integrate the development consent with a Controlled Activity Approval]

135. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.

[To integrate the development consent with a Controlled Activity Approval]

136. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
[To integrate the development consent with a Controlled Activity Approval]
137. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
[To integrate the development consent with a Controlled Activity Approval]
138. The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
[To integrate the development consent with a Controlled Activity Approval]
139. The consent holder must establish riparian corridors along the unnamed water courses in accordance with a plan approved by the NSW Office of Water.
[To integrate the development consent with a Controlled Activity Approval]

ADVISORY NOTES

STATUTORY REQUIREMENTS

The proponent shall ensure that all licences, permits and approval/consents are obtained as required by law and maintained as required throughout the life of the Development. No condition of this consent removes the obligation for the proponent to obtain, renew or comply with such licences, permits or approval/consents.

ABORIGINAL HERITAGE INFORMATION MANAGEMENT SYSTEM

The site identified as SU 1 in the McCardle Cultural Heritage Pty Ltd *Aboriginal Heritage Impact Assessment*, April 2013, is required to be registered in the Aboriginal Heritage Information Management System as per the provisions of section 89A of the *National Parks and Wildlife Act 1974*. An Aboriginal Site Recording Form for each site should be completed and submitted to the AHIMS Registrar, for registration with the Office of Environment and Heritage. Forms are available at: <http://www.environment.nsw.gov.au/licences/DECCAHiMSSiteRecordingForm.htm>. Any management outcomes for these sites must be included in the information provided to AHIMS. Please note that penalties now apply to individuals and corporations for failing to fulfil these requirements.

AHIMS contact details: Phone: (02) 9585 6513 or (02) 9585 6345, address: Level 6, 43 Bridge Street, Hurstville, NSW, 2220, and email: ahims@environment.nsw.gov.au.

WORKS AUTHORISATION DEED

It is recommended that developers familiarise themselves with the requirements of the 'Works Authorisation Deed' process and contact Roads and Maritime Services to obtain further advice where necessary. Further information on undertaking Private Developments adjacent to classified roads can be accessed at: <http://www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf>.

IMPACT MITIGATION

The proponent is encouraged to pursue the in-perpetuity protection of the residue lot for conservation purposes, given its high conservation status, E2 zoning and presence of SEPP 14 wetland. Suitable mechanisms to achieve such protection include a BioBanking agreement, dedication to the public reserve system, a Trust Agreement or a Planning Agreement. Where none of these mechanisms are able to be negotiated, a Conservation Property Vegetation Plan may be appropriate.

ELECTRICAL NETWORK

Essential Energy has an operational high voltage (energised) power line which supplies electricity south of the proposed development to Essential Energy's existing customer. The proponent will need to directly liaise with Essential Energy to any proposed route changes to this power line.

The proponent will need to lodge an application for connection through Essential Energy's connection portal for the provision of specific design information to facilitate connection to Essential Energy's distribution network.

All work to facilitate connection to Essential Energy's network will need to comply with Essential Energy's design and construction standards.

Provision will need to be made in the subdivision for electrical reticulation services including high voltage transformers / substations to facilitate the supply of electricity to individual residential housing lots.

At the time of lodging the application, the proponent is to advise Essential Energy of the total number of lots and staging of the subdivision.

SURVEY MARKS

Section 24 (1) of the *Surveying and Spatial Information Act 2002* provides that it is an offence to remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General.

NOISE CONTROL

The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

HEALTH AND SAFETY

The *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011* contain provisions to secure the health and safety of workers and workplaces.

PLANNING FOR BUSH FIRE PROTECTION

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.