

JOINT REGIONAL PLANNING PANEL (Northern)

JRPP No	2015NTH019
DA Number	DA2015/135
Local Government Area	Nambucca Shire
Proposed Development	Water Treatment Facility
Street Address	20 Gumma Road, Macksville - Lot 2 DP 538542
Applicant/Owner	Applicant: Tony Gordon Septic Tank & Grease Trap Cleaning Owner: Nambucca Shire Council
Number of Submissions	Nil
Regional Development Criteria (Schedule 4A of the Act)	Under clause 21 of the State Environmental Planning Policy (State and Regional Development) 2011, the JRPP is the consent authority for the determination of this development application because its class is included in Schedule 4A(8)(c) of the Environmental Planning and Assessment Act 1979 (waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i>).
List of All Relevant s79C(1)(a) Matters	• Nambucca Local Environmental Plan 2010 • State Environmental Planning Policy No 33- Hazardous and Offensive Development • State Environmental Planning Policy No 44 - Koala Habitat Protection • State Environmental Planning Policy No 55 - Remediation of Land • State Environmental Planning Policy No 62 - Sustainable Aquaculture • State Environmental Planning Policy No 71 – Coastal Protection • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Rural Lands) 2008 • State Environmental Planning Policy (State and Regional Development) 2011 • Nambucca Development Control Plan 2010 • Clause 92(1) (a) of the Environmental Planning and Assessment Regulation 2000 • Coastal Zone Management Plan for the Nambucca Shire Coastline
List all documents submitted with this report for the panel's consideration	Attachment 1 - Environmental Impact Statement Attachment 2- Schedule of Conditions Attachment 3 –EPA general terms of approval Attachment 4 – DPI Water general terms of approval Attachment 5 – DPI Water concurrence Attachment 6 – NSW Health referral response Attachment 7 – DPI Fisheries referral response Attachment 8 – Roads and Maritime Service referral response Attachment 9 – Councils additional information letter Attachment 10 – Applicants response letter Attachment 11 – Amended odour report Attachment 12 – Similar facility performance information
Recommendation	Approval subject to conditions
Report by	Daniel Walsh – Nambucca Shire Council



Nambucca Shire Council Development Application Assessment Report Designated Development

SUMMARY

The proposed development includes the establishment of a water treatment facility adjacent to the western side of the existing sewage treatment plant at Lot 2 DP 538542 - 20 Gumma Road, Macksville. The development is to be located on land previously cleared and filled as part of the construction of the sewage treatment plant and will treat grease trap waste collected from businesses within the shire and surrounding areas prior to discharge into the existing Council sewage treatment plant.

The proposal is classified as designated development under section 77A of the *Environmental Planning and Assessment Act 1979* (the act). A copy of the environmental impact statement has been included within **attachment 1**. The application is also classified as integrated development under section 91 of the act as it requires approval under section 43 of the Protection of the Environment Operations Act 1997 and section 91 of the Water Management Act 2000.

The application was referred to the NSW Environment Protection Authority and the NSW Department of Primary Industries - Water, with general terms of approval granted and incorporated into the recommended conditions of consent contained within **attachment 2**.

The application has been notified and assessed in accordance with the act and subject to the recommended conditions of consent, is considered to be consistent with all of the relevant matters for consideration.

The Northern Joint Regional Planning Panel is the consent authority for the determination of this development application because its class is included in Schedule 4A of the Act.

RECOMMENDATION:

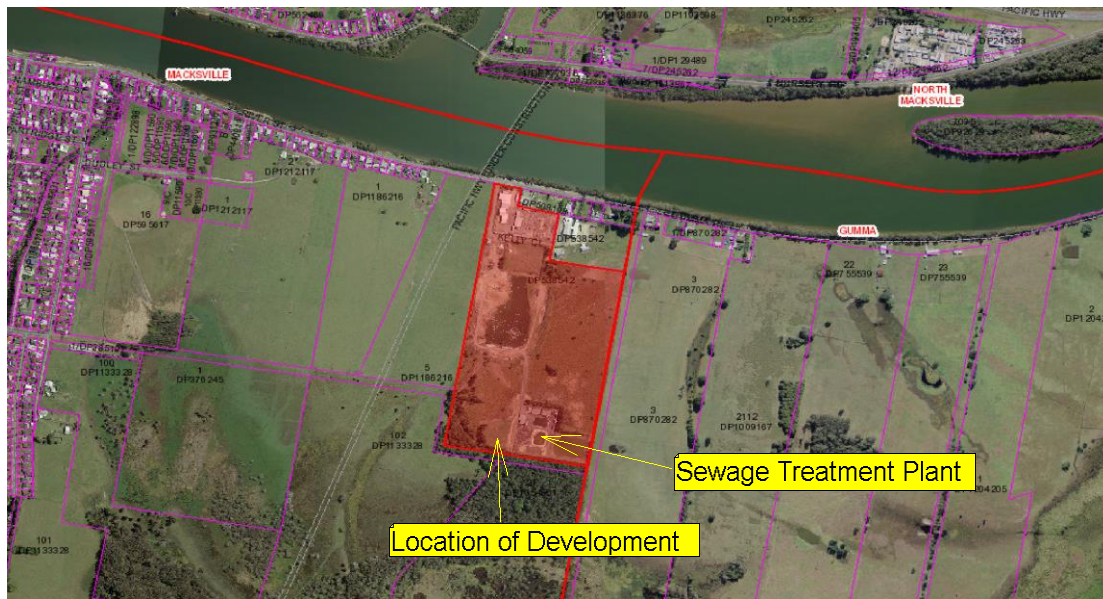
That the Northern Joint Regional Planning Panel as the consent authority, pursuant Section 80 of the *Environmental Planning and Assessment Act 1979*, grant consent for development application 2015/135 for a water treatment facility at Lot 2 DP 538542 - 20 Gumma Road, Macksville, subject to the schedule of conditions outlined in attachment 2 of this report.

Site Description

The development site is located at 20 Gumma Road, Macksville and is legally known as Lot 2 DP 538542 (the land). It has an area of 18.49ha, is relatively flat, and contains a number of different land uses including Councils sewage treatment plant, works depot, and animal shelter.

The land is located within the RU1 Primary Production Zone on the outskirts of the Macksville urban area, with surrounding land comprising a mixture of agricultural and residential land uses as well as environmentally protected land (SEPP 14 wetland) and the Pacific Highway bypass which is currently being constructed adjacent to the lands western boundary.

Locality Plan



Description of Proposal

The proposed development is for the establishment of a water treatment facility adjacent to the western side of the existing sewage treatment plant on land previously cleared and filled as part of the construction of the sewage treatment plant. The purpose of the development is to transport grease trap wastewater collected from businesses within the shire and surrounding areas to the site, treat the wastewater within an above ground treatment facility to a standard suitable for discharge into the adjoining Council sewerage treatment plant. Specifics of the proposal include:

- Installation of a treatment system on a bunded hardstand area consisting of five 40,000 litre tanks (2.8m high with 4.5m diameter) including two holding tanks.
- Construction of a wastewater discharge pipe into Councils sewage treatment plant.
- Installation of a staff toilet.
- Extension of the existing vehicular access road to the development foot print and the provision of truck turning and parking areas.
- Operation of the facility Monday to Friday during daylight hours.
- An expected daily processing rate of 2200 litres.

It is to be noted that the proposed facility is fully enclosed and the provision of holding tanks with the combined volume of 80,000 litres provides the ability for waste water to be tested prior to discharge into the sewage treatment plant under Council supervision. All sludge material will be removed from the site and disposed of at a lawful premise.

A copy of the environmental impact statement (EIS) has been included within **attachment 1**, with plans of the proposal included within appendix 2 of the EIS.

Subject to the recommended conditions of consent, the proposed development is considered to be satisfactory with regards to the relevant sections of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) as follows:

Section 5A - Significant effect on threatened species, populations or ecological communities, or their habitats

Due to the location of the development on a highly modified section of the land and the contained nature of the proposal, it is considered that sufficient information is available to be satisfied that the proposed development will not be contrary to the matters for consideration outlined in this section. As such, it is not considered that the proposal will have any significant effects on threatened species, populations, communities or their habitats.

Section 77A Designated Development

In accordance with clause 32 of schedule 3 of the *Environmental Planning and Assessment Regulation 2000*, the proposed development is considered to be designated development because it is located within 100m of a waterbody and on a floodplain.

In accordance with section 78A (8) (a) of the EP&A Act 1979 an environmental impact statement has been prepared and submitted with the application.

Public exhibition and notification of the development application was undertaken in accordance with section 79 of the EP&A Act 1979.

Section 79BA - Consultation and development consent—certain bush fire prone land

The land is mapped as bushfire prone. Conditions have been included within the recommended conditions of consent which will ensure the proposed development is consistent with *Planning for Bushfire Protection 2006*.

Section 79C(1) In determining a development application a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a)(i) The provisions of any environmental planning instrument (EPI)

NAMBUCCA LOCAL ENVIRONMENTAL PLAN 2010

The proposed development is assessed against the relevant clauses of the *Nambucca Local Environmental Plan 2010* in the following table:

Clause	Complies	Comments
2.3 - Zone objectives and land use table	Yes	The proposed water treatment facility is permissible with consent and is considered to be consistent with the relevant objectives of the RU1 Primary Production zone because: • The small footprint of the development with its location adjacent to the existing sewage treatment plant and measures to mitigate potential offsite impacts will not discourage sustainable primary industry production. • There is sufficient separation and measures which can be implemented to ensure the proposal will not result in any adverse conflict with land uses within adjoining zones.
5.5 - Development within the coastal zone	Yes	Subject to the conditions of consent, the proposed development will not result in any significant impacts on the coastal environment because: • It will not impede or diminish existing public access to and along the foreshore, with opportunities for new public access not available. • The site is considered to be suitable for the proposed development due to its consistency with the adjoining sewage treatment plant, separation from sensitive receivers, and that the built form will not be contrary to the scenic character of the area. • There is no built form proposed which would result in any overshadowing on the coastal foreshore or any loss of views from a public place to the coastal foreshore. • The sites screening from vegetation and built form ensures that future development will not impact on the visual amenity and scenic quality of the coast. • It will not result in any significant impacts on any native coastal vegetation or wildlife corridors, rock platforms, water quality of coastal water bodies (subject to conditions), or native flora or fauna or their habitats. • It will not result in any detrimental cumulative impacts on the

		coastal catchment. - Onsite effluent disposal is not proposed. - Untreated stormwater will not be discharged into the sea, beach, estuary, lake, creek, or onto a rock platform. - The subject site is not subject to coastal hazards and will not impact on coastal hazards or increase the risk of coastal hazards on any other land.
7.1 – Acid sulfate Soils	Yes	The development site is mapped as class 3 land on the Acid Sulfate Soils Map. However, given that the development site is located on 1.5-2m of fill; development consent is not required for the proposed works under this clause because the development will not result in works more than 1m below natural ground level or any works by which the water table is likely to be lowered.
7.3 – Flood Planning	Yes	The development site is elevated above 3m AHD. The site is located within a flood storage area, with the flood planning level (FPL) for the site being 3.493m AHD and the velocity of flood water modelled for the site being 0-0.5m/s. Having regard to the above, it is considered that the proposal is acceptable having regards to the matters for consideration outlined in subclause 3 because: - It will not be inconsistent with the flood hazard of the land due to the contained nature of the water being treated and subject to conditions of consent requiring the level of the development footprint (bund area) to be above the FPL and for the proposed structures to be designed to withstand flood velocities during a PMF event (0.5-1m/s). - Given the size of the development footprint and its close proximity to the downstream side of the embankment of the Pacific Highway bypass (above PMF), it is not considered that it will adversely affect flood behaviour. - Given the development site will only be used periodically for short periods with minimal traffic generated; it is considered unlikely that it will pose significant risk to human life. - Suitable measures have been included within the recommended conditions of consent to ensure the development will not result in any adverse environmental damage. - It will not result in unsustainable social or economic impacts on the community.
7.4 - Public utility infrastructure	Yes	It is proposed to extend reticulated water, sewer and power to the development site which are readily available.
7.6 - Earthworks	Yes	The proposed earthworks will not impact significantly on surface water flows, will not result in any significant impacts on the future uses on the land or redevelopment, will not impact any contaminated soil or the amenity of surrounding properties, is unlikely to disturb any relics, and appropriate erosion control measures have been included within the recommended conditions of consent.

STATE ENVIRONMENTAL PLANNING POLICIES

The proposed development is assessed against the relevant State Environmental Planning Policies in the following table:

State Environmental Planning Policy	Complies	Comments
SEPP 33 - Hazardous and Offensive Development	Yes	The proposed development is considered to be a 'potentially offensive industry' because in the absence of safeguards, the proposal would emit a polluting discharge which would cause a

		significant level of offence such as odour. Furthermore, having regard to the <i>'Hazardous and Offensive Development Application Guidelines – Applying SEPP 33'</i> (the guidelines), if a proposal such as this requires a licence from the Environmental Protection Authority (EPA) then it should be considered as potentially offensive. The application was referred to the EPA in accordance with section 91 of the EP&A Act 1979, with general terms of approval (GTA) issued by the EPA. In accordance with the guidelines, the level of offence is not considered to be significant because GTA were issued by the EPA; therefore, the proposal is not considered to be an 'offensive industry'. It is considered that subject to the recommended conditions of consent, the location of the development site is appropriate due to its proximity to the existing sewage treatment plant, separation from surrounding land uses (over 540m to closest dwelling), and mitigation measures which can be implemented to ensure the development will not result in any adverse impacts. Furthermore, given the constrained nature of surrounding land, it is not considered that conflicting land uses will be developed any closer to the development site. Having regard to the above, the proposal is considered to be satisfactory having regard to the matters for consideration outlined within clause 13 of the SEPP.
SEPP 44 - Koala Habitat Protection	Yes	The site is not considered to be a potential koala habitat because specified feed trees do not constitute 15% of the total number of trees in the upper or lower strata of the tree component. It should also be noted that native vegetation will not be impacted by the proposal as the site is substantially modified.
SEPP 55 - Remediation of Land	Yes	The land is not considered to be contaminated because there are no known previous uses or activities on the site that would have resulted in any contamination of the land. Furthermore, given the nature of the proposal, it is considered that the site is suitable for the proposed use.
SEPP 62 - Sustainable Aquaculture	Yes	There are a number of priority oyster aquaculture areas mapped within the Nambucca River. The application was referred to the NSW Department of Primary Industries (DPI Fisheries) who raised concerns regarding the insufficient information provided as part of the application to determine the adequacy of the chemical composition of the water being discharged into the sewage treatment plant. The applicant was requested to address these concerns, with additional information provided. From the amended information provided by the applicant, approval has been given by DPI Water for the discharge of trade waste into Councils sewer in accordance with clause 28 of the Local Government (General) Regulation 2005 subject to conditions which include monitoring of discharged waters to be below satisfactory levels. Furthermore, Councils environmental protection licence (EPL) requires waters discharged from the sewage treatment plant to be compliant with specified levels. The NSW Environment Protection Authority (EPA) have issued general terms of approval for the proposal as it is not considered that it will result in the sewage treatment plant being non-compliant with its EPL. Having regard to the above, the approvals issued by DPI Water and the EPA, the internal assessment undertaken by Councils Manager Sewer and Water, and subject to the recommended conditions of consent; it is not considered that the proposed development will

		result in any adverse effects on oyster aquaculture development or a priority oyster aquaculture area as it will not result in the chemical composition of the waters discharged from the existing sewage treatment plant into the Nambucca River being any higher than what already occurs.
SEPP 71 – Coastal Protection	Yes	Subject to the recommended conditions of consent, the proposal is considered to be consistent with the matters for consideration outlined in clause 8 and the development controls within Part 4 because it will not contradict the aims of the policy or result in any significant impacts on the coastal environment having regard to scenic qualities, access, archaeological significance, ecosystems, coastal processes, wildlife corridors; water quality; or result in conflict between land-based and water-based coastal activities.
SEPP (Rural Lands) 2008	Yes	Having regard to the location, scale, and use of the proposed development; it is not considered that it will contradict any of the Rural Planning Principles outlined in clause 7 of the SEPP.
SEPP (State and Regional Development) 2011	Yes	Under clauses 20 and 21 of this SEPP, the JRPP is the consent authority for the determination of this development application because its class is included in Schedule 4A of the Act (particular designated development).

(a)(ii) The provision of any draft environmental planning instrument (EPI)

There are no draft environmental planning instruments applicable to the proposed development.

(a)(iii) The provision of any Development Control Plan

NAMBUCCA DEVELOPMENT CONTROL PLAN 2010

The proposed development is assessed against the relevant clauses of the *Nambucca Development Control Plan 2010* (DCP) in the following table:

Part	Complies	Comments
Notification and advertising (Part A)	Yes	The application was notified and advertised in accordance with Part A of the DCP. No submissions were received.
Environmental context (Part A)	Yes	Subject to the recommended conditions of consent and as assessed throughout this report, the proposed development is considered to be satisfactory having regard to the relevant matters for consideration under clause A5.0.
Car Parking (Part C)	Yes	The proposed development will have sufficient provision of parking spaces, with conditions recommended to be included within any consent requiring the provision of access roads to comply with this part.
Sediment and erosion control (Part D)	Yes	All works to be undertaken as part of any consent will be subject to a condition of consent requiring the installation of adequate erosion and sedimentation devices which are consistent with Part D of the DCP.
Rural and environmental development (Part F)	Yes	The proposed development is to be located adjacent to the existing sewage treatment plant over 540m from the closest dwelling. Having regard to this, the GTA issued by the EPA and the mitigation measures included within the recommended conditions of consent; it is not considered that the proposed development is contrary to any provision of this part aside from clause F1.3.4. Clause F1.3.4 requires a 40m buffer from a watercourse. Although the proposed development encroaches within the 40m buffer, the application was referred to DPI Water for GTA in accordance with section 91 of the act. Given the GTA have been issued for the proposed encroachment, it is considered that permitting the proposed

		variation demonstrates flexibility in the application of development standards in accordance with s79C (3A) of the <i>Environmental Planning and Assessment Act 1979</i> by allowing a reasonable alternate solution.
Waste Minimisation And Management (Part N)	Yes	Conditions have been recommended to be included within the consent regarding the management of waste during construction.

(a) (iia) Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F.

There are no planning agreements applying to the subject site.

(a)(iv) Any Matters prescribed by the Regulation

The proposed development is assessed against the relevant matters for consideration prescribed by the regulation in the following table:

	Complies	Comments
Clause 92(1) (a) - For the carrying out of development on land to which the Government Coastal Policy applies, the provisions of that Policy.	Yes	Matters for consideration to implement the NSW Coastal Policy are provided in Clause 5.5 (Development within the coastal zone) under the NLEP 2010. These are similar to Clause 8 (Matters for Consideration) under SEPP 71. It is considered that the matters for consideration under Clause 5.5 of the NLEP 2010 and Clause 8 of SEPP 71 have been satisfactorily addressed, therefore, satisfying the requirements of the NSW Coastal Policy.

(a) (v) any coastal zone management plan

It is not considered that the nature or location of the proposed development will be contrary to any of the management actions outlined within the *Coastal Zone Management Plan for the Nambucca Shire Coastline*.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Issue	Comments
Context and Setting	It is not considered that the proposed development will result in any significant impacts on the existing character of the site or surrounding area due to its scale, height, use and location adjacent to the existing sewage treatment plant.
Access, Transport and Traffic	Subject to the recommended conditions of consent, the proposed access will be consistent with the controls outlined within the DCP and considered acceptable by Council's Development Engineer.
Public Domain	The proposal will not be visible from the public domain, with potential polluting discharges appropriately managed by conditions of consent.
Utilities	Conditions have been included within the consent to ensure that the development has access to all necessary utilities.
Heritage	In accordance with the Due Diligence Code of Practice, there are no relevant confirmed site records or other associated landscape feature information on AHIMS, no other sources of information of which a person is already aware, and the development will not impact on any landscape features that are likely to indicate the presence of Aboriginal objects.
Water	From the information provided during the assessment of the application, it is considered that the proposed development can be operated without

	resulting in any adverse water quality impacts, which has been reinforced through conditions of consent supported by state approval bodies.
Soils	Conditions requiring the installation and maintenance of erosion and sedimentation controls have been included within the consent.
Flora and Fauna	It is not considered that the proposal will have any significant impacts on threatened species, populations, communities or their habitats.
Waste	The proposal is for the establishment of a facility that will treat and then discharge trade waste into Councils sewer system. As outlined earlier in this report, it is considered that there is sufficient information available to be satisfied that the treatment and subsequent disposal of the waste can be appropriately managed.
Noise and Vibration	Conditions have been included within the recommended conditions of consent requiring operational noise to not exceed the NSW Industrial Noise Policy, with any construction noise exceeding the NSW Interim Construction Noise Guideline limit to be appropriately notified to surrounding property owners as advised by the NSW Environment Protection Authority.
Natural Hazards	As outlined earlier in this report, appropriate conditions have been included within the recommended conditions of consent requiring flood and bushfire mitigation measures to be implemented into the development.
Social Impact in the Locality	Having regard to the above and subject to the recommended conditions of consent, it is not considered that the proposed development will result in any significant social impacts on the locality.
Economic Impact in the Locality	Considering the minimal social impacts posed by the development it is not considered that it will result in any negative economic impacts on the locality.

(c) The suitability of the site for the development

The development site is considered to be suitable for the proposed development because of its separation from the closest sensitive receivers (over 500m), location adjacent to an existing sewage treatment plant, scale of the development, and ability to implement mitigation measures to minimise impacts of flooding and improper management of the development.

d) Any submissions made in accordance with this Act or the Regulations

No submissions were received during the notification of the development application.

(e) The public interest

Subject to the recommended conditions of consent, it is not considered that the proposal is contrary to the public interest because it will not result in any significant impacts on the natural, social, or economic environments.

Section 91A - Development that is integrated development

The proposed development is integrated development because it requires approval under section 43 of the Protection of the Environment Operations Act 1997 and section 91 of the Water Management Act 2000.

The application was referred to the NSW Environment Protection Authority and the NSW Department of Primary Industries - Water, with general terms of approval granted and incorporated into the recommended conditions of consent.

Section 64 – Construction of Works for Developers (Local Government Act 1993)

Section 64 of the *Local Government Act 1993* enables council to levy developer charges for water supply, sewerage and stormwater. This derives from a cross-reference in that Act to Section 306 of the *Water Management Act 2000*.

The proposed development includes the discharge of 780,000 litres of processed water into Councils sewage treatment plant per year. It also includes the connection of the development to Councils reticulated water infrastructure to service the staff amenities. However, the EPA have included a condition in their general terms of approval limiting the amount of discharge to 750,000 litres per year.

In accordance with clause 6.3 of the Water Directorates 'Section 64 Determinations of Equivalent Tenements Guidelines', a non-typical development equivalent tenement (ET) has been determined for the sewage discharge using the conditioned discharge rate for the calculation of the applicable contribution rate. One standard ET has been used for water supply.

Development Servicing Plan	Contribution Amount
Water Supply	1 ET = \$12,568.00
Sewerage	1 ET = 140kL/a = \$7,063.00 750kL ÷ 140kL = 5.357ET 5.357ET = \$37,836.49

Consultation

Manager of Technical Services - Council's Manager of Technical Services has no objections to the proposed development subject to the recommended conditions of consent. This includes the relocation of the facility at least 15m from the existing fence of the sewage treatment plant in order to maintain access to and from the existing gate.

Trade Waste Officer – The application was referred to Councils Trade Waste Officer who is satisfied that the proposal will not result in any adverse impacts on the existing sewage treatment plant subject to conditions to be imposed as part of an approval under section 68 of the Local Government Act 1993. Because the applicant has not yet applied for an approval under the Local Government Act 1993, a condition has been included within the recommended conditions of consent requiring the applicant to obtain an approval prior to the commencement of works.

NSW Environment Protection Authority (EPA) – The application was referred to the EPA for general terms of approval in accordance with section 91 of the *Environmental Planning and Assessment Act 1979*. General terms of approval were received from the EPA on 10 March 2016 and have been incorporated into the recommended conditions of consent. The GTA have been included within **attachment 3** of this report.

NSW Department of Primary Industries: Water (DPI Water) – The application was referred to DPI Water for general terms of approval in accordance with section 91 of the *Environmental Planning and Assessment Act 1979*. General terms of approval were received from DPI Water on 29 September 2015 and have been incorporated into the recommended conditions of consent. The GTA have been included within **attachment 4** of this report.

The application was also referred to DPI Water regarding the discharge of trade waste into Councils sewer. DPI Water indicated that concurrence would be granted subject to conditions in accordance with clause 28 of the Local Government (General) Regulation 2005. A copy of the DPI Water concurrence has been included within **attachment 5** of this report. A condition has been included within the recommended conditions of consent requiring the applicant to apply for and obtain an approval under section 68 of the Local Government Act 1993, at which time the conditions imposed by DPI water would be implemented.

NSW Health – The application was referred to NSW Health in accordance with clause 77 of the *Environmental Planning and Assessment Regulation 2000* who responded by questioning whether an

alternate site had been investigated due to the flooding constraints of the site and surrounding wetlands, whether there were any below ground components of the development, and recommended conditions relating to flood and emergency management as well as rodent and mosquito management. A copy of the NSW Health response has been included within **attachment 6** of this report.

Given the proximity to the existing sewage treatment plant, separation from surrounding land uses and ability to mitigate against the impacts of flooding; it is considered that the development site is an appropriate location for the proposal. Furthermore there are no below ground components proposed, with conditions regarding flood and pest management included within the recommended conditions of consent.

NSW Department of Primary Industries: Fisheries (DPI Fisheries) – The application was referred to DPI Fisheries in accordance with clause 77 of the *Environmental Planning and Assessment Regulation 2000* who responded with a number of concerns regarding potential impact on oyster aquaculture within the Nambucca River. A copy of the DPI Fisheries response has been included within **attachment 7**. These concerns have been addressed above within the assessment of the proposal against SEPP 62 - Sustainable Aquaculture.

NSW Roads and Maritime Service – The application was referred to the NSW Roads and Maritime Service (RMS) in accordance with clause 77 of the *Environmental Planning and Assessment Regulation 2000* who responded with no objections as the development will not result in any impacts on the safety or efficiency of a classified road. The RMS response has been included within **attachment 8**.