

DATE OF DETERMINATION	Thursday, 18 October 2018
PANEL MEMBERS	Garry West (Chair), Pamela Westing, Stephen Gow and Erin Fuller
APOLOGIES	Liz Campbell
DECLARATIONS OF INTEREST	None

Public meeting held at Nambucca Shire Council on 18 October 2018, opened at 12:30pm and closed at 1:18pm.

MATTER DETERMINED

2018NTH017 – Nambucca – DA 2018/115 at 81 Red Ash Road, Valla (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

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

The Panel adjourned during the meeting for Council Officers to formulate amendments to conditions.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

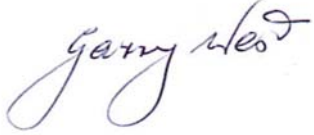

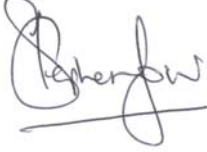

- SEPP 55 Remediation of Land: Based on a preliminary site investigation report and a site inspection, it is concluded that no significant contamination is likely to be present. However, a condition of consent was adopted to require further soil testing to be undertaken prior to any earthworks and remediation if necessary to ensure suitability for the intended use.
- SEPP 44 Koala Habitat Protection: The site is predominately cleared grazing land and is not considered to be core koala habitat.
- The proposed development is in the Valla Urban Growth area.
- The proposed development will provide a number of positive social and economic outcomes for the community including the delivery of much needed industrial land and the extension of interim water and sewer infrastructure to the urban release area.
- The site of the proposed development is not subject to constraints related to Aboriginal or European heritage.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

Condition 1 – add reference to DA documents, specifically the DA Engineering report;

- Former Condition 8 – original condition removed as duplicated in Condition now numbered as 22;
- New Condition 8 – new condition to address potential contamination as referenced under SEPP 55 above;
- New Conditions 19 and 20 – to address dust and noise issues during subdivision works;
- Renumbered Condition 23 – to add reference to water and sewerage works.

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	 Erin Fuller

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018NTH017 – Nambucca – DA 2018/115
2	PROPOSED DEVELOPMENT	Six Lot Industrial Subdivision, demolition, vegetation removal and earthworks.
3	STREET ADDRESS	81 Red Ash Road, Valla
4	APPLICANT/OWNER	Jed Civil / Nambucca Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> 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 (Coastal Management) 2018 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 Nambucca Local Environmental Plan 2010 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Nambucca Development Control Plan 2010 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 92 Coastal zone management plan: Coastal Zone Management Plan for the Nambucca Shire Coastline The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: September 2018 Written submissions during public exhibition: Nil Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – NIL Object – NIL Council assessment officer – Brad Lane, Senior Town Planner On behalf of the applicant – NIL
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 18 October 2018 at 11.10am Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Garry West (Chair), Pamela Westing, Stephen Gow and Erin Fuller <u>Council assessment staff</u>: Brad Lane, Senior Town Planner
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	As amended at the meeting and attached as Schedule 1

SCHEDULE 2

GENERAL CONDITIONS OF THIS CONSENT

Development is to be in accordance with approved plan(s) and documents

1. The development is to be implemented in accordance with the plan(s) and documents endorsed with the Council stamp, dated <<DATE>> and set out in the following table except where modified by any conditions of this consent.

Plan Title/Description	Dwg/Doc. No	Prepared by	Dated
Location Plan and Drawing List	17020-001 Rev B	Jed Civil	08/05/2018
Proposed Lot Layout	17020-010 Rev C	Jed Civil	06/08/2018
General Arrangement Plan	17020-011 Rev C	Jed Civil	06/08/2018
Earthworks Cut/ Fill Contours	17020-012 Rev C	Jed Civil	06/08/2018
Engineering Issue Report	17020-Ltr Docx	Jed Civil	08/05/2018

In the event of any inconsistency between conditions of this development consent and the plan(s) referred to above, the conditions of this development consent prevail.

Retaining Walls

2. Retaining walls within 1m of the lot boundary, greater than 600mm above existing ground level, or within 2m of another retaining wall/structural support require a Construction Certificate and Occupation Certificate. All works associated with such retaining walls eg backfill, drainage, supporting footing shall be wholly contained within the allotment boundary.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF SUBDIVISION WORKS CERTIFICATE

Engineering Construction Plans

3. Engineering construction plans and specifications must accompany the Subdivision Works Certificate application. Such plans are to provide for the works in the following table in accordance with Council's current Design and Construction Manuals and Specifications.

Required work	Specification of work
Street Name Signs	Street name signs and posts to all proposed new roads. <i>(Note: street/road names proposed for the subdivision must be submitted for Council approval 24 weeks prior to lodgement of the Subdivision Certificate application. A suitable name for any new road/s must be in accordance with Council's adopted policy).</i>
Kerb & Gutter, Road Shoulder Construction	Barrier Kerb and gutter, road shoulder and associated drainage construction, footpath formation and turfing including any necessary relocation of services across the frontage of the subdivision.
Full Width Road Construction	Full width road and drainage construction for proposed road 1 on the approved plan. 16m wide road with asphalt seal

Service Conduits	Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.
Street Lighting	LED street lighting being provided to the requirements of Essential Energy.
Stripping and Stockpiling	Stripping and stockpiling of existing topsoil on site, prior to commencement of earthworks, and the subsequent re-spreading of this material together with a sufficient quantity of imported topsoil so as to provide a minimum thickness of 80mm over the allotments and footpaths and public reserves, upon completion of the development works.
Inter-allotment Drainage	Inter-allotment drainage to an approved public drainage system for each of the proposed new allotments where it is not possible to provide a gravity connection of future roofwater to the kerb and gutter.
Culverts required across drainage channels or streams	Culvert to be designed to ensure that peak flow rates for the 1 in 100 year storm event are not affected. The applicant is to obtain any necessary approvals from the Department of Natural Resources and/or the Department of Primary Industries, Fisheries, and plans.
On-site Stormwater Detention	Stormwater must be discharged via an on-site stormwater detention system that is to be designed to ensure that peak flow rates for the 1 in 5 year storm event exiting the subdivision do not exceed that occurring in the pre-development state. The Design must be in accordance with The Institution of Engineers, Australia (1987), <i>Australian Rainfall and Runoff</i> .
Stormwater Quality	Stormwater quality must be suitable for discharge in accordance with Department of Land and Water Conservation NSW (1998) The Constructed Wetlands Manual and Landcom (March 2004), Managing Urban Stormwater, Soils and Construction.
Access to Stormwater Structures	An all-weather gravel vehicle access must be provided to detention ponds, drainage discharge points, filter controls and wetland areas for access by Council for maintenance purposes.
Tree disposal	Details of the means of tree disposal are to be submitted for Council's approval prior to the commencement of subdivision works.
Existing Electricity and communication cables	Existing Utility cables extending through the site shall be relocated to the satisfaction of the service provider
Footpath Construction	A 1.2 metre wide concrete footpath on one side of the proposed Road 1.

Section 68 Approval

4. Sewer and water mains are to be extended to service all lots. An approval under Section 68 of the *Local Government Act 1993* to connect to Council's infrastructure for water, sewer, and stormwater must be obtained from Council. Engineering plans of the proposed water, sewer and stormwater works shall be submitted for Council's approval prior to the issue of the Subdivision Works Certificate.

Advice: This application must include payment of \$155 for the installation of a water meter to each lot. This figure is subject to adjustment in accordance with Councils Schedule of Fees and Charges.

Erosion and Sedimentation Control Plan

5. Prior to the issue of a Subdivision Works Certificate, an erosion and sediment control plan for all site works, including road works and access, is to be approved by the Principal Certifying Authority. The plan is to cover all measures to control erosion and sediment transport in accordance with the NSW Landcom publication "Managing Urban Stormwater: Soils and Construction – Volume 1, Landcom 2004".

The erosion and sediment control plan is to be prepared by a qualified practising Civil Engineer. The plan must incorporate (without being limited to) information on general site management, material handling practices, soil stabilisation, water control, sediment control, wind erosion control and access measures.

Geotechnical Report

6. Prior to the issue of a Construction Certificate, certification from a professional Engineer experienced in geotechnical investigations is to be provided to the Principal Certifying Authority, certifying that:
- a The design of the civil engineering works, including retaining walls and/or cut & fill batters, has been assessed as structurally adequate;
 - b The civil engineering works will not be affected by landslip or subsidence either above or below the works;
 - c Adequate drainage has been provided in the design; and
 - d Suitable measures/methods will be implemented to ensure the stability of adjoining land and buildings will not be affected by the proposal.

Street Trees

7. A street tree planting scheme prepared in accordance with the requirements of Council's 'Street Tree Guidelines' must be submitted to and approved by Council prior to the issue of a Subdivision Works Certificate.

The plan must show all services. Plants to be used in the street tree planting scheme must:

- Be a minimum size of 2 metres in height,
- Have a 50mm calliper diameter,
- Be sourced from at least a 25 litre container,
- Be protected by a suitable tree guard (eg a 750mm square tree guard made from a 3m "Acacia" panel painted "Caulfield Green"),
- Be suitably supported by two 2100mm timber picket posts,
- Provided with slow release fertiliser,
- Include the provision of 125mm flexible agricultural pipe filled with 14mm blue metal for watering of the plant, and
- Be mulched with 100mm of native tree mulch at least 1.5m from the base of the tree or to any impervious area (whichever is closer).

Additional Soil Testing and Remediation

8. (a) Prior to the commencement of any earthworks, soil testing for contamination is to be undertaken by a suitably qualified and experienced contaminated land practitioner, and if necessary;

(b) Remediation in accordance with their recommendation is to be undertaken to ensure the site is suitable for its intended use prior to the issue of a subdivision certificate.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO SUBDIVISION WORKS COMMENCING

Construction Certificate

9. Subdivision work the subject of this development consent MUST NOT be commenced until:
- (a) A subdivision works certificate for the subdivision work has been issued by council or an accredited certifier, and
 - (b) The person having the benefit of the development consent has appointed a principal certifying authority for the subdivision work, and
 - (c) The person having the benefit of the development consent has given Council written notice, at least two days prior to work commencing on site, of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

Site Construction Sign

10. A sign must be erected before the commencement of the work in a prominent position within the frontage of the subject land:
- 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 building 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.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Public Liability Insurance

11. The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$20 million. Council is to be nominated as an interested party on the policy. The public liability insurance cover is to be maintained for the duration of the period of the works and during any maintenance period.

Erosion & sediment measures

12. Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH DURING SUBDIVISION WORKS

Inspection of Public Works

13. Development works on public land/land to be dedicated to the public are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection. You must quote your development application number and property description to book your inspection.
- at completion of installation of erosion control measures

- when the sub-grade is exposed and prior to placing of pavement materials;
- when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
- at the completion of each pavement (sub base/base) layer;
- before pouring of concrete for kerb and guttering;
- prior to the pouring of concrete for sewerage works;
- on completion of road gravelling or pavement;
- during construction of sewer infrastructure;
- during construction of water infrastructure;
- prior to sealing and laying of pavement surface course.

All works at each hold point are to be certified as compliant, in accordance with Council's current Design and Construction Manuals and Specifications, prior to proceeding to the next hold point. Council will undertake random audit of work sites to verify compliance of public works as required.

Approved Plans to remain on site

14. A copy of the approved Subdivision Works Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

Demolition Works

15. All demolition works are to be undertaken in accordance with the provisions of Australian Standard AS 2601-2001 *"The Demolition of Structures"*. Prior to the commencement of any demolition works, all services are to be disconnected and capped off.

Construction times

16. Any works involving the generation of noise which extends beyond the boundary of the land, 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 Saturday inclusive. No works shall occur on public holidays.

The builder/site manager is responsible to instruct and control sub-contractors regarding the hours of work.

Maintenance of Sediment and Erosion Control Measures

17. Erosion and sediment control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface. The measures must ensure that only clean stormwater leaves the site.

Discovery of a Relic

18. The development is to proceed with caution. If any Aboriginal objects are found, works are to stop immediately and the NSW Office of Environment and Heritage (OEH) notified. If human remains are found work is to stop immediately, the site is to be secured and the NSW Police and OEH are to be notified.

Construction Dust Suppression

19. All works are to be undertaken to control dust pollution from the site.

Control measures must include, but are not limited to:

- Restricting topsoil removal;
- Regularly and lightly watering dust prone areas;
- Alter or cease construction work during periods of high wind.

Construction Noise

20. Construction noise is to be limited as follows:

- For construction periods of four (4) weeks and under, the Leq₁₀ noise level measured over the period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the Leq₁₀ noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO THE RELEASE OF THE SUBDIVISION CERTIFICATE

Plan of Subdivision

21. An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application. Two (2) copies of the plan of subdivision are to be submitted with the application for a Subdivision Certificate.

Plan of Subdivision and Section 88B Instrument requirements

22. A Section 88B Instrument and 1 copy are to be submitted with the application for a Subdivision Certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Dedicated Public Road Access	Dedication of suitable public road accesses to all proposed allotments.
Dedicated Corner Splays	Dedication of 7.5m corner splays at all street junctions and intersections.
Inter-allotment Drainage Easements	The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments.
Drainage Easements	The creation of easements for drainage of water over all drainage pipelines and structures located within the proposed allotments in accordance with Council's policy.
Drainage Reserve	The dedication of a drainage reserve over the drainage treatment devices and constructed access.

Sewer Easements	The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with Council's policy.
Easement for Services	The creation of suitable easements for services for proposed Lots
Easement for Electricity	The creation of any necessary easements for electricity purposes as required by the electricity supply authority.

Completion of All Works

- 23. All roads, drainage, water & sewer connections and civil works, required by this development consent and associated Construction Certificate, are to be completed.**

Erection of Street Signs

- 24. The developer is to supply and erect street signs for the approved street names in accordance with the Construction Certificate.**

Certificates for Engineering Works

- 25. The submission of all test certificates, owner's manuals, warranties and operating instructions for civil works, mechanical and/or electrical plant, together with a certificate from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans and Council's Adopted Engineering Standard.**

Works-As-Executed Plans

- 26. Works-as-executed plans, certified by a suitably qualified engineer or a registered surveyor, are to be submitted with the application for a Subdivision Certificate. Where the design is carried out utilising computer aided design CAD, all CAD computer files are required to be provided on CD (Compact Disc) with the final drawings. The CAD files must include all lot and road boundaries, lot numbers and easements. The data is to be supplied in accordance with the requirements of Council's GIS Officer.**

Certificate for Pipes, Access Driveways, etc Within Easements

- 27. A certificate from a registered surveyor is to be submitted to Council certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements.**

Electricity Supply Certificate

- 28. Written evidence from an electricity supply authority is to be submitted with the application for a Subdivision Certificate stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the subdivision.**

Telecommunications

- 29. Written evidence from Telstra or NBN is to be submitted with the application for a Subdivision Certificate stating that satisfactory arrangements have been made for the provision of underground telecommunications supply throughout the subdivision.**

Record of Infrastructure

30. A record of infrastructure coming into Council ownership, upon registration of the final plan of subdivision, is to be submitted to Council. The format shall be provided in accordance with Council's adopted standard.

Street Lights

31. Evidence is to be submitted that LED lights have been installed in all additional street lights resulting from the development. Alternate lights are only permitted with Council approval.

Section 64 Contributions

32. Prior to the issue of a Subdivision Certificate the developer/consent holder will have to be eligible to obtain a Section 307 Certificate of Compliance under the *Water Management Act 2000*. To be eligible, the developer/consent holder will have to pay the contributions set out in the following table to Council:

Public service	No of Equivalent Tenements	Contribution Rate (Amount per ET)	Contribution Levied	Date until which Contribution rate is applicable
Water	4ET	\$13,221.00	\$52,884.00	30 June 2019
Sewer	4ET	\$9,988.00	\$39,952.00	30 June 2019
TOTAL			\$92,836.00	30 June 2019

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Section 7.11A Contributions

33. Contributions set out in the following Schedule are to be paid to Council prior to the issue of a Subdivision Certificate. The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Schedule of Contributions pursuant to Section 7.11 of the *Environmental Planning and Assessment Act 1979*

Contribution Plan	Unit type	No of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable
Section 7.11A Development Contribution Plan	Estimated cost of Development	(Est cost \$6,205,938)	1%	\$62,059.38	30 June 2019
TOTAL				\$62,059.38	30 June 2019

Works undertaken by Nambucca Shire Council are exempt from contributions under this Plan. No S7.11A contribution shall be payable in the event that the proponent is Council.

Maintenance Bond

34. A maintenance bond of 10% of the value of the works constructed is to be lodged with Council. A copy of the contract construction cost of the subdivision works is to be submitted with the bond. The maintenance period is 6 months and will commence from the date of issue of the final Compliance Certificate. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

If the development is undertaken for or on behalf of Council, no maintenance bond is required.

Bushfire Protection

35. In accordance with Section 91 of the *Environmental Planning and Assessment Act 1979* the following conditions are required to be consistent with the General Terms of Approval issued by the Rural Fire Service under section 100B of the *Rural Fires Act 1997*:
- a. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
 - b. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

REASONS FOR CONDITIONS

- To ensure that the proposed development:
 - a achieves the objectives of the *Environmental Planning and Assessment Act 1979*;
 - b complies with the provisions of all relevant Environmental Planning Instruments;
 - c is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
- To ensure that the relevant public authorities have been consulted and their requirements met, or arrangements made, for the provision of services to the satisfaction of those authorities.
- To meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the *Environmental Planning and Assessment Act 1979* and Section 64 of the *Local Government Act 1993*.
- To ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
- To minimise any potential adverse environmental, social or economic impacts of the proposed development.
- To ensure that all traffic, car parking and access requirements arising from the development are addressed.
- To ensure the development does not conflict with the public interest.