



Land and Environment Court New South Wales

Medium Neutral Citation:

GTH Resorts No 10 Pty Ltd v Ballina Shire Council (No 2) [2026] NSWLEC 1119

Hearing dates:

16-23 September 2024, 13 December 2024, 12 February 2025, 19 March 2025, Written Submissions 3 and 17 April 2025

Date of orders:

12 March 2026

Decision date:

13 February 2026

Jurisdiction:

Class 1

Before:

Gray C

Decision:

The Court orders that:

- (1) The appeal is upheld.
- (2) The development application DA2022/721 for a seniors living development to be constructed in five stages including 110 independent living units, community facilities, manager's residence, earthworks and retaining walls, vegetation clearing, and associated infrastructure works and landscaping, at 550-578 River Street, West Ballina, is determined by the grant of consent subject to the conditions in Annexure A.

Catchwords:

APPEAL – development application – seniors living – direction made in earlier decision for updated conditions of consent – direction complied with – final orders made

Cases Cited:

GTH Resorts No 10 Pty Ltd v Ballina Shire Council [2026] NSWLEC 1054

Texts Cited:

Ballina Shire Development Control Plan 2012

Category:

Principal judgment

Parties:

GTH Resorts No 10 Pty Ltd (Applicant)
Ballina Shire Council (Respondent)

Representation:

Counsel:
Galasso SC, J Smith (Applicant)
J Reid (Respondent)

Solicitors:

McCartney Young Lawyers (Applicant)

Lindsay Taylor Lawyers (Respondent)

File Number(s): 2023/228105

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JUDGMENT

- 1 **COMMISSIONER:** In a judgment given on 13 February 2026, *GTH Resorts No 10 Pty Ltd v Ballina Shire Council* [2026] NSWLEC 1054, I gave a decision on an appeal concerning a development application for a seniors living development at 550-570 River Street and 6 Burns Point Ferry Road, Ballina.
- 2 In that decision, I considered 41 contentions raised by the Council and found that none of the contentions are made out or warrant refusal of the development application. At [475] to [476] of the judgment I summarised some the reasons for so finding. The proposed development is restricted to the north-western part of the site that is most heavily modified by past agricultural use, such that the area to be cleared largely comprises weedy or poor condition vegetation. Only 0.72ha of the 10.17ha to be cleared aligns with an endangered ecological community. No development is proposed in the areas mapped as coastal wetlands, and no built form is proposed in the areas mapped as proximity to coastal wetlands.
- 3 As I outlined in that decision, the proposed development also includes a stormwater management system that ensures that existing surface water flows to the conservation area (including coastal wetlands) will be maintained, with a beneficial effect on the quality of water flowing to those areas through the reduction of pollutant loads. This means that there is no adverse impact to the coastal wetlands, and the quality of the water flowing to those wetlands is improved.
- 4 The decision also sets out my conclusions in relation to flood impacts and flood evacuation, at [227]-[245]. Both the flood impacts and the flood evacuation comply with the Ballina Shire Development Control Plan 2012. Based on the evidence before the

Court, I found that the proposed development will not unacceptably increase the flooding elsewhere, and that it provides for appropriate evacuation procedures to a safe refuge, including to the refuge provided in the on-site clubhouse.

- 5 Based on these findings, and a range of other findings with respect to the issues raised by the Council, I concluded that it was appropriate to grant development consent subject to appropriate conditions. At [477]-[491] I ruled on a number of conditions of development consent that were in dispute between the parties, and identified matters that needed to be addressed by the parties in amendments to the proposed conditions.
- 6 Accordingly, I made orders at [493] for the parties to confer on conditions of consent that reflect my findings, and for those conditions to be filed by the Council. Those orders have been complied with, and I am satisfied that the conditions of consent filed on 27 February 2026 reflect my findings with respect to the appropriate conditions to be imposed on the grant of development consent.
- 7 I am satisfied that development consent should be granted, subject to the conditions of consent that were filed on 27 February 2026.
- 8 The Court orders that:
- (1) The appeal is upheld.
 - (2) The development application DA2022/721 for a seniors living development to be constructed in five stages including 110 independent living units, community facilities, manager's residence, earthworks and retaining walls, vegetation clearing, and associated infrastructure works and landscaping, at 550-578 River Street, West Ballina, is determined by the grant of consent subject to the conditions in Annexure A.

J Gray

Commissioner of the Court

Annexure A (923 KB, pdf)

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Decision last updated: 12 March 2026