

Appendix 19

Consent DA 2002/566



ballina

Mr Paul Snellgrove

DA: 2002/566 (bma)

Ardill Payne & Associates
PO Box 320
BALLINA 2478

**NOTICE TO APPLICANT OF DETERMINATION OF A
DEVELOPMENT APPLICATION**
(Issued under Section 81(1)(a) of the Environmental Planning and Assessment Act 1979)

Development Application No: 2002/566

Applicant: Ardill Payne & Partners

Subject Land: Lot 1 DP 799238, Lot 268, 269, 271, 422 DP 755684, Lot 6 DP 243060, Lot 1 & 2 DP 1033657, Lot 1 & 2 DP 527161, Lot 1 DP 241779 & Lot 1 DP 133628 Pacific Highway, Ballina

Development Proposal: To grant consent to Development Application No. 2002/566 to carry out an urban subdivision creating a residential estate including associated open space areas.

Building Classification under the Building Code of Australia: N/A

Determination: The development application has been determined by Ballina Shire Council on 16th June, 2003 by way of the grant of consent subject to the conditions specified below:

DEFERRED COMMENCEMENT CONDITIONS

1. That the intersection design between the subdivisional estate and the Pacific Highway be undertaken on the current basis of it being a two laned roundabout sized and configured to meet the contemporary engineering practices for designed traffic flows generated by the proposed subdivision with the intersection of North Creek Road and the Pacific Highway. The roundabout shall be designed in accordance with the Austroads and the

(initial)
Assessment Officer

cnr lamar & cherry streets,
o. box 450, ballina nsw 2478
dx 27789, ballina

ph • 02 6686 4444

fax • 02 6686 7035

ail • council@balshire.org.au

www.ballinacouncil.com.au

abn 53 929 887 369

approvals are granted only to the applicant and do not attach to or run with the subject land.

1.3 Notify Council of environmental incident

In the event of an incident on the site that has caused, is causing, or is likely to cause harm to the environment, the proponent and/or operator shall report the event to Council immediately it becomes known to the proponent or any person acting on the proponent's behalf.

1.4 Waste disposal

All demolition, construction or the like waste is to be transported and disposed of to an EPA approved waste treatment facility, or if alternative disposal methods are proposed, the written approval for such is to be granted by Council.

1.5 Noise generation

Any noise generated during the construction of the development shall not exceed the limits specified in the Noise Control Manual.

1.6 Hours of construction/civil works

Any building work involving the use of noisy mechanical plant or noisy equipment must only be carried out within the following hours:

- (a) Monday to Friday - 7.00am to 6.00pm
- (b) Saturday - 7.00am to 5.00pm
- (c) Sunday - No noisy work at all

Saturday work is permitted up until 5.00pm in each of the two segments of the site (as defined by the Link Road) until such time as the first dwelling house is occupied in either segment.

Upon occupation of the first dwelling house in any segment, Saturday work is to be carried out only between the hours of 7.00am to 1.00pm in that segment.

1.7 Developer contributions for subdivision

The payment to Council of a non-refundable monetary contribution towards the provision of public services and amenities which are required as a result of the development. The contribution equivalent to the allotment yield for each stage of construction shall be paid to Council prior to the issue of a Subdivision Certificate for that stage.

The current amounts required are:

- \$941.00 per additional serviced allotment for the provision of community facilities.

Prior to the issue of a Subdivision Certificate, the applicant will have obtained, or at least be eligible to obtain, a Certificate of Compliance under Section 27 of the Water Supply Authorities Act, 1987. To be eligible, all necessary water supply, sewerage and stormwater infrastructure would be completed and the developer will have paid the following:

- \$1395.00 per additional serviced allotment for the augmentation of water supply mains and storage within Ballina Shire;

(initial)
Assessment Officer

Ballina Sewage Treatment Plant shall be created benefiting Council with the first Subdivision Certificate. The alignment of this right-of-carriageway, easement or equivalent legal instrument shall be consistent with the alignment shown on Ardill Payne & Partners Drawing No. 5035-sl.02a, Dated 1 June 2003.

1.12 Service Easement

Any electricity easement (benefiting Country Energy) over the residue rural property to the south of the subdivision shall also benefit Ballina Shire Council to enable the co-provision of services and vehicular access.

1.13 Access restrictions

A 0.5m wide access restriction strip (or similar) preventing vehicular access to the access road (Link Road) and the Pacific Highway shall be recorded on the land titles affected in a covenant of those lots that have frontage to these roads.

1.14 Roundabout construction

The roundabout proposed for the Pacific Highway/access road (Link Road) intersection shall be a concrete pavement to the satisfaction of Council's Engineer. Flexible pavement is permissible for roundabouts elsewhere within the development subject to the specific design requirements of Council's Engineer.

1.15 Road Contribution

In accordance with the Ballina Road Contribution Plan (October, 2002) the proponent is to pay Council a non-refundable monetary contribution towards the provision of Road Infrastructure Services that are required as a result of the proposed development. The contribution amount is **\$1456.00** per residential allotment.


This rate is reviewed periodically by Council and the contribution amount will be calculated at the rate applicable at the time of payment. A copy of the plan may be inspected at Council Chambers corner of Cherry & Tamar Streets, Ballina.

An amount of **\$100,000.00** is to be off-set against the total Road Contribution calculated and payable in accordance with this condition, in acknowledgement of the material benefit of the land dedicated for the Western Arterial Road. This off-set will be affected at the time the contributions required by this condition are paid to Council.

1.16 Noise attenuation

Noise attenuation measures shall be required in accordance with the Environmental Criteria for Road Traffic Noise, and in particular:

- a. The Pacific Highway [inclusive of access road (Link Road) intersection returns] shall have noise attenuation devices installed on an earthen plantation mound of nominal one (1) metre height with a 1 in 4 batter slope and be vegetated to visually screen the noise attenuation devices.
- b. Noise attenuation fence barriers required for the access road (Link Road) as a consequence of the Link Road distributor traffic shall be the responsibility of Ballina Shire Council.

 (initial)
Assessment Officer

1.23 Traffic control during construction

All traffic control during construction shall be in accordance with the Roads and Traffic Authority – Traffic Control at Work Sites.

1.24 Submission of “works-as-executed” drawings

Prior to the release of the Subdivision Certificate, the applicant shall submit to Council a copy of a ‘Works-as-Executed’ (WAE) drawing and a computer disk copy of the WAE information. Separate drawings shall be provided for sewer and stormwater drainage. Such drawings are to be at a scale of 1:500 on transparent material. The applicant shall be deemed to have indemnified all persons using such drawings against any claim or action in respect of breach of copyright.

1.25 Maintenance period

A maintenance period of six months will apply from the date of issue of a Subdivision Certificate. A maintenance bond shall be lodged with Council for the six (6) month maintenance period. The value of the bond will be equivalent to 5% of the total cost of the civil works (and will include Goods and Services Tax) and may be used by Council to maintain, repair or rectify works that are failing.

1.26 Road names

All new road and street names shall be submitted to Council for approval prior to making application for a Subdivision Certificate.

Acid Sulfate Soils**1.27 Acid sulfate soils management plan**

A detailed acid sulfate soils management plan shall be developed for those areas of potential acid sulfate soils (PASS) that are likely to be disturbed by the development. Such plan is to identify the detailed procedures proposed to be undertaken in the treatment of any disturbed PASS before acidification occurs. Such plan is to be prepared to the requirements and satisfaction of Council prior to implementation.

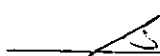
1.28 Acid sulfate soils management plan audit

The applicant is to engage a suitably qualified and independent Environmental Consultant to review and validate the management of the approved Acid Sulfate Soils Management Plan and submit a report to Council at the completion of Subdivision Certificate.

1.29 Works process strategy – stormwater

Prior to the issue of a Construction Certificate, the applicant shall submit a works process strategy (WPS) that will demonstrate that the development works are carried out in a manner that is compliant with the stormwater quality assessment plan. The WPS is to include, but not be limited to the following:

- Proposed frequency of on-site inspections.
- Proposed maintenance regime of gross pollutant traps and erosion and sedimentation controls (including any temporary works required during construction).
- Notification to Council that the above have been undertaken.

 (initial)
Assessment Officer

1.37 Cycleway standard

A minimum 3.0 metre wide cycleway being constructed of 150mm gravel pavement with 25mm asphalt surfacing (or concrete equivalent) shall be provided that links the first stage of the development to the existing constructed cycleway system at North Creek Canal bridge. The cycleway shall be designed in accordance with Austroads Cycleway Design specification.

1.38 Footpath standard

A 1.35m wide concrete footpath shall be constructed within the road verge of all roads excluding cul-de-sac roads servicing ten properties or less.

1.39 Public transport

A written undertaking from a local public transport service provider is to be provided to Council to the satisfaction of Council's Engineer such that:

- a. A public transport service shall commence at the same time as the issue of the first Occupation Certificate for a residential dwelling in the estate.
- b. Bus shelters shall be provided in accordance with Figure 13 – Bus Routes and Cycleways Plan. In addition, public transport route identification signage (hoops) shall be provided at approximately 400m intervals or as otherwise approved by Council and that three approved bus shelters be installed at appropriate locations within the estate.

1.40 Child care centre site

Provision shall be made within the subdivision for a suitably sized and located allotment that can accommodate the needs for child day care centre. In particular the lot size is to be such that permits sufficient off street car parking and suitable access points to enable vehicles to enter and leave the lot in a forward direction.

Earthworks and Access**1.41 Dwelling foundation/footing requirements**

Residential allotments that are located over soft clay areas shall be required to be constructed with foundations that are slab on ground or piered to achieve a low susceptibility to settlement in accordance with Soil Surveys Engineering report dated November 1997. These details are to be included in a Section 88B instrument and recorded on the title of the affected allotments.

1.42 Site filling

All site filling (excluding open space and sports field areas) shall be filled to a minimum fill level of RL 2.1m AHD and shall be in compliance with the requirements of Level 1 geotechnical testing for:

Australian Standard 2870 – 1996 Residential Slabs and Footings Code
Australian Standard 3798 – 1996 Guidelines on Earthworks for
Commercial and Residential Developments.

(initial)
Assessment Officer

- b. An additional all weather overflow parking area for a further 35 vehicles.
- c. An automatic irrigation system.
- d. A grassed surface and topsoil profile of 150mm depth to Council's specifications.

1.63 Playground construction

The proposed playground shall be dedicated to Council free of charge, at the completion of Stage 1. The playground shall be embellished and be available for play upon occupation of the first dwelling. The playground shall include but not be limited to the following requirements to the satisfaction of Council's Group Manager, Civil Services:

- a. The playground/equipment area shall be fenced to a pool fencing standard.
- b. An approved shade structure shall be required to cover the play equipment.
- c. Soft fall to be an approved rubberised compound.
- d. Play equipment to facilitate use for a range of age groups to a value of \$30,000.00.
- e. Detailed design of the space requirement and play equipment locations to be undertaken in consultation with Council's Open Spaces and Reserves Manager.
- f. The adjoining park area is to be fitted with an electric BBQ and two sheltered picnic tables.
- g. An amenities building shall be constructed that services both the playground and the playing field.

1.64 Long service levy

In accordance with Section 109F of the EP & A Act, a Construction Certificate will not be issued with respect to the plans and specifications for construction works until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has been paid. Currently this rate is 0.2% of the cost of the construction works costing \$25,000 or more. Works less than \$25,000 are not subject to the levy.

1.65 POEO Act 1997

The discharge of sediment and waste materials (inclusive of washed down concrete driveways, cleaning of paint/plaster/concrete tools etc) that can make their way into the drainage system may constitute a breach of development approval conditions. Accordingly, Council Officers may issue Clean Up Notices and/or Prevention Notices to which fines are permissible in accordance with the Protection of the Environment Operations Act 1997.

1.66 Underground electricity supply

All power reticulation shall be provided underground inclusive of the existing main power lines that traverse the site.

Subdivision

1.67 Survey marks

Where permanent survey marks have been placed or existing survey

(initial)

- 1.73 Items of archaeological significance**
The developer shall not knowingly destroy, deface or damage any Aboriginal relic or other item of archaeological significance within the development site without the written consent of the National Parks and Wildlife Service.
- 1.74 Notify NPWS of items of archaeological significance if discovered**
Upon discovery of any Aboriginal relics within the meaning of the National Parks and Wildlife Act, 1974 within the development site, the operator/developer shall immediately notify the National Parks and Wildlife Service (NPWS) and the Jali Local Aboriginal Land Council and shall cease operations within the vicinity thereof until such time as the consent of the NPWS is obtained for the destruction, removal or protection thereof and the operator/proponent has complied with the direction of the Service in that respect/
- 1.75 Consult with Jali**
Prior to the issue of any Construction Certificate for civil works (or other works likely to disturb natural ground) the applicant is to consult with the Jali Local Aboriginal Land Council and its Cultural and Heritage Group and demonstrate to Council that the proposed works will take suitable account of any outcomes of that consultation.
- 1.76 Mosquito/Stormwater**
The provision of an integrated management plan for the stormwater treatment system, mosquito management and vegetated buffer/regeneration areas is to be provided to Council prior to the issue of a Construction Certificate for Stage 1, excluding bulk filling. The management plan should incorporate an annual reporting function to Council, which provides evidence of compliance with the intent and environmental outcomes of the management plan.

Department of Land and Water Conservation General Terms of Approval for a License under the Water Act 1912

- 1 Erosion and sediment control measures shall be employed until vegetation has stabilised the area, to minimise silts and sediments from entering the adjoining waterways.
- 2 Proposed fill material shall be clean fill and shall not present an environmental hazard.
- 3 The hydraulic performance and ecological value of the watercourse to be filled shall be accommodated in the proposed new waterway and the proposed filling shall not cause surface water flooding of any adjoining property.
- 4 NSW Fisheries concurrence to the proposal.

NSW Fisheries General Terms of Approval under Section 205 of the Fisheries Management Act

- 1 Removal of the floodgates
- 2 Establishment and management of 2.76ha compensatory wetland area habitat.

_____ (initial)

The consent shall lapse on 16th June, 2008 unless the development has commenced in accordance with the provisions of section 95 of the Act.

Signed:



on 16th June, 2003

Stuart McPherson
GENERAL MANAGER
on behalf of Ballina Shire Council

(For details concerning appeal rights relating to Council's determination, please see below.)

Right of Appeal:

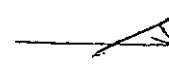
If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for local development that has been the subject of a Commission of Inquiry.

Review of Determination:

Section 82A of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to request the Council to review the determination of your application. This request must be made within 28 days after the date of determination of the application and must be accompanied by the fee prescribed by Section 104 of the EP & A Regulation 1994. Review provisions do not apply to:

- (a) a determination to issue or refuse to issue a complying development certificate, or
- (b) a determination in respect of designated development, or
- (c) a determination in respect of integrated development.

 (initial)
Assessment Officer

