

# Riveroaks, Ballina

## Environmental Assessment Report

April 2008

Prepared by



On behalf of

Rayshield Pty Ltd

# RIVER OAKS, BALLINA

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# INTRODUCTION

## 1.1. Executive Summary

Conics Sydney has been commissioned by Rayshield Pty Ltd to prepare a Development Application to subdivide land known as Riveroaks, Pacific Highway, Ballina, for residential development.

Further to a declaration made by the Minister for Planning on 30 November 2007 that the subdivision of Lots 1, 2, 3 and 5 in DP 1074242 and part Lot 269 DP 755689 is a Major Project, Director General's Environmental Assessment Requirements were issued on 2nd January 2008 in accordance with 75F of the *Environmental Planning and Assessment Act 1979*.

The following report provides an overview of the site and context, constraints and an assessment of potential environmental impacts. In addition, we have identified and summarised the relevant planning instruments that apply to this site at State, Regional and Local levels. We have also identified a number of strategic planning policies that inform and will influence future development outcomes in the Ballina Shire. This report also includes a number of environmental management measures to minimise environmental impacts. These measures form part of the draft statement of commitments.

Significant issues associated with the future development of this site include:

- Traffic and access;
- Flood considerations;
- Flora and Fauna Impacts;
- Urban Design and Town Planning Provisions.

It is important to note that proposed alterations to the ground surface on Lot 2 are limited to minor recontouring of the site in order to facilitate storm water drainage/flood management. The works are in accordance with Council's requirements.

Our application does not involve filling. Filling of the site is being undertaken in accordance with previous Ballina Shire's Council consent DA 2002/566. The application does not seek consent for the development of dwelling houses or other buildings.

### Traffic and Access

The main access to the site is from the Pacific Highway via the proposed access way known as the Link

Road. The Link Road forms the eastern boundary of the development site. Traffic will enter the residential subdivision through an intersection positioned at the south eastern corner of Lot 1. Future lots and residences will not directly access the Link Road or the Pacific Highway. The Pacific Highway and Link Road intersection does not form part of this application. The intersection was approved by Ballina Shire Council under consent 2002/566.

### Flood Considerations

Currently the site is being filled in accordance with conditions of consent associated with Ballina Shire's consent DA 2002/566. Further, the recently exhibited Ballina Shire Council Flood Management Study model has been calibrated to adopt a 2.1 metre level for the site.

To ensure future residential development is not affected from flooding events, a drainage channel/floodway, through lot 2 is proposed in accordance with Council's requirements. The proposed drainage way will effectively manage both stormwater runoff and flooding events.

### Urban Design and Town Planning Provisions

The River Oaks Development Control Plan (DCP) proposes a number of public outcomes to be delivered by the development of Lots 1, 3 and 5 and adjoining properties. These include the provision of a road easement for the future construction of the West Ballina Arterial Road, the conservation of foreshore land adjacent to the North Creek Canal, the provision of land for a childcare centre, provision of landscaped sportsground and play area and the provision of a compensatory habitat area.

The proposed development varies slightly from the development anticipated by the DCP in that the subdivision application is for a portion of the DCP area. The DCP anticipated an integrated development application jointly submitted by the adjoining landholders. However, this is no longer possible. Nonetheless, the proposed subdivision does deliver on the following outcomes:

- Construction of the Link Road (part of the West Ballina Arterial Road);
- Provision for childcare centre; and
- Provision of landscaped sports ground.

## Conclusion

In conclusion, the development of a 236 lot residential subdivision, including creation of a future lot for a childcare centre, landscaped sports field and associated infrastructure is permissible under Ballina Local Environmental Plan 1987. Notwithstanding the permissibility of the proposal, we consider that future development of this site will need to demonstrate that any future development can:

- a) satisfactorily addresses flood risk, and
- b) where possible contributes to the public benefit of the Ballina community as outlined in the Ballina Shirewide Development Control Plan.

The proposed subdivision pattern has been developed to address the key issues identified. Through consultation with officers of Ballina Shire Council, the Department of Planning and the Roads and Traffic Authority, we have sought to address the identified key issues in a sustainable manner.

The merits of the proposed development seek to ensure that future residential development across the site can be undertaken in a manner that results in high quality development outcomes while respecting the constraints of the site.

The proposed development is generally consistent with Ballina Council's Planning instruments. It follows the principles of the Coastal Design Guidelines for NSW and addresses local and state government policy to propose a subdivision design that is consistent in delivering a high quality residential outcome.

Table 1.2.1 : Director-General's Environmental Assessment Requirements

Requirement	Location of response to items within the Environmental Assessment Report (EAR)
<b>General Requirements</b>	
1. An executive summary;	Chapter 1
2. An outline of the scope of the project including: <ul style="list-style-type: none"> <li>Any development options;</li> <li>Justification for the proposal taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest;</li> <li>Outline of the staged implementation of the project if applicable;</li> </ul>	Chapter 5
3. A thorough site analysis including constraints mapping and description of the existing environment;	Chapter 4
4. Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans.	Chapter 2 and 3
5. Consideration of impacts, if any, on matters of national environmental significance under the Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> ;	Chapter 4 and Chapter 7
6. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project;	Chapter 7 and Chapter 8
7. The plans and documents outlined in <b>Attachment 2</b> ;	At scale plans provided in Appendix 18
8. A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading;	Chapter 1
9. A Quantity Surveyor's Certificate of Cost to verify the capital investment value of the project; and	Appendix 17
10. An assessment of the key issues specified below and a table outlining how these key issues have been addressed.	
<b>Key Issues</b>	
<b>1. Strategic Planning</b>	
1.1 Justify the proposal with reference to relevant local, regional and State planning strategies. Provide justification for any inconsistencies with these planning strategies.	Chapter 2
1.2 Demonstrate consistency with the Sustainability Criteria set out in the relevant Regional Strategy (including draft Regional Strategies).	Chapter 2
<b>2. Subdivision Design, Layout and Desired Future Character</b>	
2.1 Demonstrate the consistency of the proposal with the character of existing development in terms of the locality, street frontage, scale, building envelopes and future built form controls, aesthetics, energy and water efficiency and safety.	Chapter 3
2.2 Demonstrate the consistency of the proposed subdivision design and layout with the Coastal Design Guidelines for NSW, NSW Coastal Policy 1997 and SEPP 71 – Coastal Protection.	Chapter 3
2.3 Identify the type of subdivision proposed across the site ie. Community, Torrens, strata.	Chapter 5
2.4 Provide details of potential building envelope, built form and design quality controls and the means for implementing them.	Chapter 5
2.5 Provide details of any staging that demonstrates the lots will be released in an orderly and coordinated manner.	Chapter 5

Requirement	Location of response to items within the Environmental Assessment Report (EAR)
2.6 Outline the long-term management and maintenance of any areas of open space or conservation (particularly the proposed playing fields) including ownership and control, management and maintenance funding, public access, revegetation and rehabilitation works and bushfire management.	Chapter 5
<b>3. Visual Impact</b>	
3.1 Address the visual impact of the proposal in the context of surrounding development and relevant mitigation measures. In particular, address loss of views from public places and cumulative impacts.	Chapter 7
<b>4. Infrastructure Provision</b>	
4.1 Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.	Chapter 7
4.2 Address and provide the likely scope of any planning agreement and/or developer contributions with Council/Government agencies.	Chapter 3
<b>5. Traffic and Access</b>	
5.1 Prepare a traffic impact study in accordance with Table 2.1 of the RTA's Guide to Traffic Generating Developments which addresses, but is not limited to the following matters: <ul style="list-style-type: none"> <li>• The capacity of the road network to safely and efficiently cater for the additional traffic generated (in particular address the adequacy of the approved intersection of the Pacific Highway and North Creek Road);</li> <li>• Access to and within the site;</li> <li>• Servicing and parking arrangements;</li> <li>• Intersection site distances;</li> <li>• Connectivity to existing developments;</li> <li>• Impact on public transport (including bus routes);</li> <li>• Provision of access for pedestrians and cyclists to, through and within the site; and</li> <li>• Identify suitable mitigation measures, if required to ensure the efficient functioning of the road network.</li> </ul>	Chapter 5 and Chapter 7
5.2 Identify any impacts on North Creek Canal and, where relevant, measure to maintain or enhance access.	Chapter 4.
<b>6. Hazard Management and Mitigation</b>	
<i>Contamination</i>	
6.1 Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.	Chapter 7
<i>Acid Sulfate Soils</i>	
6.2 Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures.	Chapter 7
<i>Bushfire</i>	
6.3 Address the requirements of Planning for Bush Fire Protection 2006 (RFS).	Chapter 7
<i>Flooding</i>	
6.4 Provide an assessment of any flood risk on site in consideration of any relevant provisions of the NSW Floodplain Development Manual (2005) and the Ballina Floodplain Management Study. Include consideration of climate change and future sea level rise. Specifically consider the impacts of the proposal on the existing floodway on the southern boundary of the site.	Chapter 7



Requirement	Location of response to items within the Environmental Assessment Report (EAR)
6.5 Outline measures for the management of any identified flood risk including the provision of detailed information regarding the proposed drainage swale. Consider how the proposed measure address the flood risk on the site.	Chapter 7
6.6 Identify the areas and quantity of fill proposed on site and document the potential impacts of this proposed filling on the flood regime of the site and adjacent lands.	Chapter 7
<i>Mosquito Management</i>	
6.7 Address the potential impacts of nearby known and suspected mosquito breeding areas for future residents of the development. Include consideration of Chapter 11 of Council's combined DCP.	Chapter 7
<b>7. Water Cycle Management</b>	
7.1 Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles which addresses impacts on the surrounding environment, drainage and water quality controls for the catchment, and erosion and sedimentation controls at construction and operational stages. Include consideration of Chapter 13 of Ballina Combined DCP (Stormwater Management).	Chapter 7
7.2 Assess the impacts of the proposal on surface and groundwater hydrology and quality during both construction and occupation of the site. In particular, address any impacts of the proposal on North Creek Canal and the Richmond River.	Chapter 7
<b>8. Heritage and Archaeology</b>	
8.1 Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance (refer to draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation and Interim Community Consultation Requirements for Applicants).	Chapter 7
8.2 Identify any terms of European heritage significance and, where relevant, provide measures for the conservation of such items.	Chapter 7
<b>9. Flora and Fauna</b>	
9.1 Outline potential impacts on aquatic and terrestrial flora and fauna and their habitats (within the meaning of the Threatened Species Conservation Act 1995 and the Fisheries Management Act 1994). Provide measures for their conservation, where relevant.	Chapter 7
9.2 Outline measures for the conservation of existing wildlife corridor values and/or connective importance of any vegetation on the subject land.	Chapter 7
9.3 Address measures to protect and manage existing vegetation both on the site and adjacent to it, including riparian vegetation and adjacent aquatic habitats. Note: Council state that if mangroves are proposed for removal, compensatory plantings should be identified.	Chapter 7
9.4 Outline the potential impacts of the drainage swale on the North Creek Canal aquatic habitat and measures proposed to protect this habitat.	Chapter 7
<b>10. Noise</b>	
10.1 Address potential noise impacts, in particular road traffic noise, for future residents and appropriate mitigation measures.	Chapter 7
<b>11. Existing Consent (DA 2002/566)</b>	
11.1 Provide advice regarding the current status of development consent 2002/566. Outline the impacts on the existing consent holders should this proposal proceed.	Chapter 6
<b>Consultation</b>	
You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment:	Chapter 6



Requirement	Location of response to items within the Environmental Assessment Report (EAR)
<p>(a) agencies or other authorities:</p> <ul style="list-style-type: none"> <li>• Ballina Shire Council;</li> <li>• Department of Environment and Conservation;</li> <li>• Department of Primary Industries;</li> <li>• NSW Rural Fire Service;</li> <li>• Department of Natural Resources;</li> <li>• Roads and Traffic Authority;</li> <li>• State Emergency Service;</li> <li>• Jali Local Aboriginal Land Council and other relevant Aboriginal community groups; and</li> <li>• Country Energy.</li> </ul>	Chapter 6
<p>(b) Public:</p> <p>Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.</p>	Chapter 6

### 1.3 Proposal Overview

Rayshield Pty Ltd have commissioned Conics Sydney Pty Ltd to prepare a project application to subdivide land described as Lots 1, 2, 3 and 5 on DP 1074242 and part Lot 269 on DP 755684 for the purpose of residential subdivision and associated works.

The project seeks the Minister of Planning's approval to subdivide land known as Riveroaks, Pacific Highway, Ballina into 236 residential lots (Torrens title freehold) that will potentially provide for up to 269 future dwellings. The application is seeking the creation of freehold lots. The development does not include strata or community title. In addition to the subdivision of land, the application seeks approval for:

- the provision of roads (including the Link Road),
- open space and recreational areas,
- allocated land for a childcare centre,
- infrastructure, including minor land recontouring for drainage purposes.

The proposal does not include filling nor consent for the development of dwelling houses or other buildings.

The proposed subdivision will facilitate future low density residential development of the site and it is envisaged that the construction of dwellings on the site will be the subject of future development application(s) to Council.

The proposed minor land recontouring on Lot 2 DP 107424 is necessary to facilitate stormwater drainage and flood management. While filling the site is the subject of the previous Council consent DA 2002/566, the proposed drainage infrastructure will address the requirements of Council following finalisation of the Ballina Flood Study 2007. The proposed land recontouring will result in a 30-50 metre wide drainage swale that will divert storm and flood waters south of the proposed residential subdivision directly into North Creek Canal.

The subdivision will provide for the future development of a range of housing products, including Detached Homes, Duplexes, Courtyard Housing and Attached Villas. Lots will range in size from between 420 and 800 square meters. Residential lots will have direct access from the street or from access lanes as shown in the proposed plan of subdivision 20097-13N. Future buildings will

be subject to separate building approval, however, to ensure a high quality architectural/built form, each proposed residential lot will include a covenant that will require future homes to be constructed in accordance with design guidelines.

The subdivision site will be accessed from the Pacific Highway via the proposed Link Road which is located partially Lot 2 DP 1074242 and Lot 269 DP 755684. The proposed intersection to the Highway is not included in this development application and is subject to a previous consent DA 2002/566 (see Appendix 19) issued by Ballina Shire Council. DA 2002/566 approved a road corridor for the proposed Link Road. This application will only deal with the construction of that portion of the Link Road that exists within the aforementioned approved corridor within the development site. The details of DA 2002/566 are identified in section '1.4 Site Development History' and included in Appendix 19.

Subsequent to DA 2002/566, a further application was approved by Ballina Shire Council to create Lots 1, 2, 3 and 5 on DP 1074242 and Lot 269 on DP 755684. As part of this subdivision, land adjacent to the Pacific Highway was dedicated to the State for the construction of noise attenuation measures. The construction of the noise attenuation measures will not be included within this development application; however, details of the approved noise attenuation measures are included to demonstrate that noise impacts from the Highway have been addressed. In addition the Link Road corridor also incorporates noise attenuation measures to be constructed and those measures are subject to the Part 3A proposal. Table 5.1 details the extent of this application.

The proposal will seek the dedication of all roads, access lanes, open space, drainage infrastructure and public recreation areas to Ballina Shire Council. The application has sought to address Council's requirements with regard to landscaping, footpaths and road and drainage construction.

It should be considered that this application represents an amendment to the approved plan of subdivision. Consent DA 2002/566 approves 211 Lots on Lots 1, 3 and 5. The current application seeks to approve 236, an increase of approximately 10%. The amendment could not be facilitated through a section 96 application due to the subsequent amendments to the Act and the introduction of State Environmental Planning Policy No.71 Coastal Protection and State Environment Planning Policy (Major Projects) 2005.

The project falls within the Coastal Zone of New South Wales and is required to respond to a range of environmental planning instruments and government policies that seek to protect, enhance and conserve the unique values and features associated with the New South Wales Coast.

The subdivision results in a high quality residential subdivision that maximises sustainable development outcomes through promoting walkability and connectivity to existing surrounding residential development, protects open space and encourages the future development of a range of housing types to enhance the development of distinct and vibrant coastal community.

The following Environmental Assessment Report, prepared in accordance with Part 3A of the *Environmental Planning and Assessment Act 1979*, identifies and analyses the proposed key environmental issues associated with this project and recommends a range of environmental management measures to ensure any potential impacts are effectively and sustainably managed.

## 1.4 Site Development History

On 24 December 1997, an application requesting a Local Environmental Study (LES) was made to Ballina Shire Council. The application was made pursuant to an approach to Council to subdivide the land from 1(a) Rural to a land use zone where residential development was permissible.

On 16 February 2001, the LEP amendment was gazetted and the land was rezoned to 2(a) Living Area, 1(a) Rural and 7(a) Environmental Protection (Wetlands) Zone. The rezoning followed extensive negotiations between Council, the landholders and various State Government Agencies to ensure the conservation of significant wetland value, the provision of urban support facilities such as public open space, public access to the foreshore of North Creek Canal, and provision of a future road reserve for the proposed West Ballina Arterial Road. Subsequent to the gazettal of the LEP amendment, Ballina Shire Council adopted the River Oaks DCP (which was later included in the consolidated Ballina DCP adopted by Council on 1 October 2006).

On 16 June 2003 Ballina Shire Council consented to DA 2002/566. This application was lodged over Lot 1 in DP 799238, Lot 268, 269, 422 in DP 755684, Lot 6 in DP 243060, Lot 1 & 2 in DP 1033657, Lot 1 & 2 in DP

527161, Lot 1 in DP 241779 and Lot 1 in DP 133628. These allotments have since been amalgamated to comprise Lots 1 & 2 in DP 1074242, Lot 268 & 269 in DP 755684 and Lot 1 in DP 799236.

DA 2002/566 was for a 299 lot residential subdivision. The approved layout has since been adopted by Council as part of a Development Control Plan (DCP) over the River Oaks land. This DCP sought to provide an integrated outcome for the entire development site, providing access, open space and an approved residential layout over the site.

The proposal was to be undertaken over 7 stages. Stages 1 to 5 included the construction of the Link Road and subdivision of Lots 1,3 and 5 while stages 6-7 represented the development of Lot 269 and 269 and the provision of the cycle path along North Creek Canal.

In addition to this consent, minor applications to consolidate land holdings and undertake vegetation clearing have also been determined by Council.

In accordance with consent DA 2002/566, Ballina Shire Council issued Construction Certificates on 19 December 2007 and 22 January 2008, to allowing filling to occur on Stages 1 to 5 and for the Link Road. Currently Stages 1 and 2 are being filled.

To that extent, Chapter 4 provides an overview of the site's natural and physical details having regard to the condition of the site prior to filling, as this was the condition of the site at the time of the investigations.

The Minister for Planning originally declared the residential subdivision of this site a Major Project on the 17th May 2006 and Director General Environmental Assessment Requirements were issued on 30 April 2007. The original application did not include the Link Road nor the proposed drainage swale/flood way on Lot 2. However, further to discussions with the Department of Planning and the adjoining owners of Lot 268, the application was amended to the current proposal.

## 1.5 Statutory Relationship

Section 75ZA of the *Environmental Planning and Assessment Act 1979* and clause 8M of the *Environmental Planning and Assessment Regulation 2000* provide the statutory framework by which to

determine the relationship between approvals granted under Part 4 and Part 3A.

On 4 December 2007 we provided advice to the Department of Planning demonstrating the Act and Regulation provided clear guidance on the relationship, that is, until the Minister for Planning determines a Part 3A application the previous consents have effect, assuming that the previous consent have not lapsed. Once the Minister has approved a Part 3A application, previous consents continue in force, but cease to have effect.

To this extent, our Part 3A application relates to only part of the land to which consent DA 2002/566 applies. We understand that the owners of the remaining portion of Lot 268 and Lot 269 will pursue development of the land in accordance with DA 2002/566. Any development of this area will be subject to Council's assessment of any future section 96 application.

## 1.6 Structure of Report

Fundamentally, the Environmental Assessment Report (EAR) addresses the Director General's Environmental Assessment Requirements. These requirements identify the key environmental issues relevant to the development of the subdivision. Key environmental issues are discussed within a contextual planning framework that examines the environmental risks associated with the project and discusses the implementation of management measures to reduce the risk of significant environmental impacts.

In summary the EAR:

- Identifies the Strategic need and objectives of the development;
- Discusses the applicable statutory planning framework;
- Provides an overview of the site's features and the proposed development;
- Identifies the issues raised through consultation with the relevant government agencies;
- Identifies and discusses key environmental issues, environmental risks and other environmental issues; and

- Proposes a series of statements of commitments that will result in a high quality sustainable development outcome.

The conclusions drawn from our analysis of environmental risk and associated environmental impacts demonstrates the proposed residential subdivision addresses the relevant statutory planning requirements that are applicable to development within the New South Wales Coastal Zone.

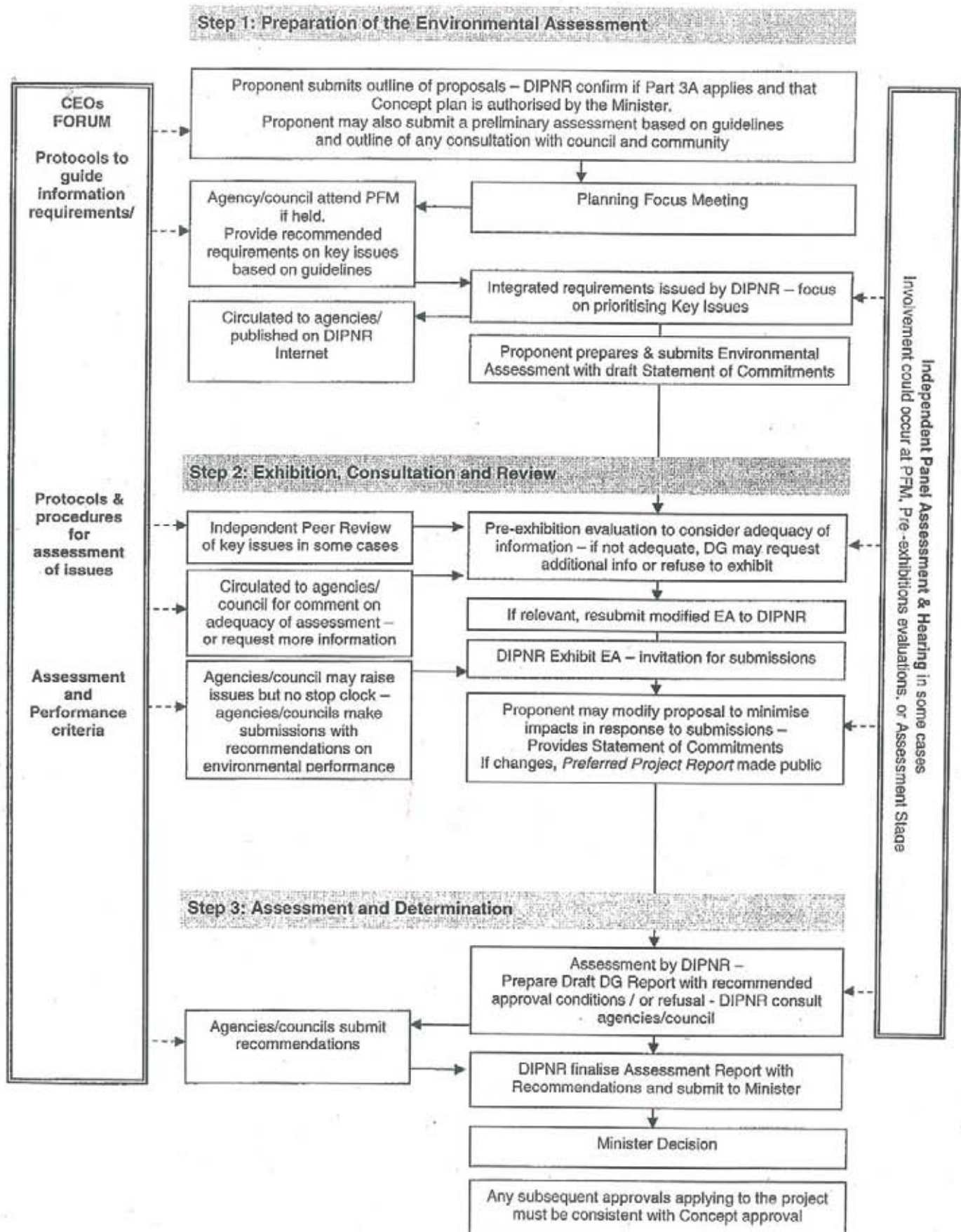
## 1.7. Part 3A Process

On the 26 July 2005 the *Environmental Planning and Assessment Act 1979* was amended to include provisions that apply to the assessment of developments listed in State Environmental Planning Policy (Major Projects) 2005 (Major Project SEPP). Briefly, the Major Project SEPP identified a range of developments considered to be of regional and state significance that required determination by the Minister of Planning.

The assessment of Major Projects is a statutory process outlined in Part 3A of the EP & A Act. The process seeks to identify the key environmental issues and associated environmental risks with a proposed development and assesses those issues against the criteria nominated by the Director General, the assessment criteria being the synthesis of existing environment planning instruments and government policy that are applicable to the development. The process is unique and differs from the previous Part 4 and Part 5 assessment procedures in that it significantly increases transparency of the assessment process and requires a collaborative and consultative approach to development assessment.

The Department of Planning have issued a number of draft guidelines to inform and explain the Part 3A process. These guidelines are available upon request from the Department of Planning. However, for the purposes of this EAR the Part 3A process is described below.





### **Stage 1 – Preparation of Preliminary Environmental Assessment Report**

Major Projects requires that a preliminary environmental assessment report be submitted to the Director General of the Department of Planning to determine:

- a) if the proposed development is a major project; and
- b) the criteria by which the project is to be assessed against.

The Preliminary Environmental Assessment should provide sufficient information to allow the Minister of Planning to determine if the project is of regional and state significance and overview of the relevant statutory planning requirements. A Preliminary Environmental Assessment Report was submitted to the Department of Planning on 20 February 2007.

### **Stage 2 – Preparation of Environmental Assessment Report**

Pursuant to the review of the Preliminary Environmental Assessment Report, the Director General of the Department of Planning issued Director General Environmental Assessment Requirements (DGRs). The DGRs identify the key environmental issues associated with the proposed development, details the public exhibition period and deemed refusal period, details the criteria by which key environmental issues will be assessed against, and outlines the framework for an Environmental Assessment Report.

Following the provision of the above mentioned Preliminary Environmental Assessment Report, Director General Environmental Assessment Requirements were issued on 30 April 2007.

### **Stage 3 – Consultation and Exhibition**

Upon completion, the Environmental Assessment Report (EAR) is forwarded to the Department of Planning for review. Once accepted the EAR is then placed on exhibition for a period of 30 days. Submissions are then solicited from the public, stakeholders and other government agencies. Following cessation of the exhibition period public submissions are reviewed and forwarded to the proponent.

### **Stage 4 – Preferred Project Report**

The proponent reviews the submissions. It is in this stage

that the project can be amended to address the issues raised by the submissions. The proponent may also decide to respond to the issues raised in the submission by clarifying aspects of the project or by providing further information. Amendments to the project and or further information are then complied within a Preferred Project Report which is then forwarded to the Department of Planning.

### **Stage 5 – Assessment and Determination**

The Department of Planning assess the Preferred Project Report. While the Preferred Project Report is exhibited, submissions are not sought. The Director General prepares his report and recommends to the Minister of Planning to approve, approve with conditions or refuse the application. The Minister after considering the Director General's report may determine the project application. The Minister informs the applicant of his decision. The applicant may then decide to appeal.

The Part 3A process is a statutory process with statutory timeframes such as exhibition of the proposal occurs for 30 days, the deemed refusal period can be 30, 60 or 120 days depending on the scope of issues and Director General Environmental Assessment Requirements have 28 days to be issued. In addition the Part 3A process allows for contentious technical issues to be examined by an Independent Hearing and Assessment Panel. The stages and processes are presented on the preceding page.

## **1.8 Consultant Team**

This Environmental Assessment Report has been prepared following contributions from:

- Conics Sydney;
- LandPartners Built Environment Consultants
- CRG Traffic & Acoustics Pty Ltd
- Everick Heritage Consultants Pty Ltd
- Mosquito Consulting Services Pty Ltd
- BMT WBM Engineering and Environmental Consultants Pty Ltd.

## **1.9 Acknowledgement**

The following report has been based on the information provided by the client, consultant team and in consultation

with various statutory stakeholders, including Ballina Shire Council and the Department of Planning. The information detailed in this report is neither false nor misleading, notwithstanding, the conclusions drawn from our investigations to date are subject to the findings of any future investigations.

### 1.10 Statement

I, Pradesh Ramiah, as the author of this Environmental Assessment Report, certify that the information contained in this report is neither false nor misleading.



PRADESH RAMIAH

Senior Planner

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CONICS SYDNEY PTY LTD



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## STRATEGIC CONTEXT, NEED AND OBJECTIVES

## 2.1. Introduction

The following section details the strategic land use policy relevant to the site and North Coast region. From the analysis of strategic land use objectives, development context and site objectives can be formulated to guide future development on this site. In this regard we reviewed the State, Regional and Local strategic land use and coastal management policy frameworks in order to synthesise development principles. Figure 2.1 identifies the site and context.

## 2.2. Strategic State Policy

### 2.2.1 New South Wales Coastal Policy 1997

The New South Wales Coastal Policy 1997 'A Sustainable Future for the New South Wales Coast' (1997 Coastal Policy) was prepared and released by the New South Wales Government in October 1997. The 1997 Coastal Policy fulfilled a commitment of the New South Wales Government to manage the coast in an ecologically sustainable manner. The objective of the policy is to protect and conserve the coast for future generations.<sup>i</sup>

The 1997 Coastal Policy superseded the 1990 Coastal Policy, which provided a statement of direction for government agencies and authorities responsible for coastal management. The 1990 Coastal Policy pre-empted the preparation of coastal urban planning strategies for New South Wales Coastal areas.<sup>ii</sup>

Key policy actions of the 1997 Coastal Policy include:

- The banning of canal estates and sand mining in national parks;
- Development of an adequate, comprehensive and representative land, marine and intertidal conservation reserve system;
- Development by local councils of new local environmental plans consistent with the policy, and adoption of its specified planning and development controls; and
- Requirements that development proposals conform

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<sup>i</sup> NSW Government, 1997, 'NSW Coastal Policy 1997'

<sup>ii</sup> Environmental Protection Authority NSW, 'New South Wales State of the Environment Report 1997'



Figure 2.1 Site Context

with specified design and planning standards to control height, setback and scale to ensure public access and ensure that beaches and foreshore open spaces are not overshadowed<sup>iii</sup>.

The 1997 Coastal Policy applies to land that falls within the coastal zone. The coastal zone is described by the New South Wales Coastal Protection Act 1979 as being;

- (a) the area within the coastal waters of the State (including any land within those waters), that is waters that extend three nautical miles seaward of the coastline, and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, an area of land described as one kilometre landward of the high tide mark and tidal waters; and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).<sup>iv</sup>

The subject site falls within the coastal zone and consent authorities will be required to assess any future development proposals against the policy. The Coastal Policy does not prohibit development on this site and is given statutory effect through State Environmental Planning Policy No 71 – ‘Coastal Protection.’

In this regard, strategic actions proposed by the 1997 Coastal Policy that are relevant to this site include:

- To protect, rehabilitate and improve the natural environment;
- To recognise and accommodate natural process and climate change;
- To protect and enhance the aesthetic qualities of the coastal zone; and
- To protect and conserve the cultural heritage of the coastal zone;
- To provide for ecologically sustainable development

and use of resources;

- To provide for ecologically sustainable human settlement.

These strategic actions have been fulfilled through implementing a range of measures that seek to protect sensitive coastal areas, manage flood risk in accordance with Floodplain Development Manual 2005, minimise the level of bulk earthworks, promote innovative lot design and landscaping measures and provide a range of housing types that respond to energy and water efficiency requirements. These measures are further detailed in the later sections of this report.

### 2.2.2. Coastal Design Guidelines for NSW

The Coastal Design Guidelines for NSW provides a framework for analysing the relationships between settlements and the local, urban and natural areas and between neighbouring settlements. The Guidelines develop a settlement hierarchy that recognises the difference in size, servicing, infrastructure, employment opportunities and the potential for growth.

Five key objectives are stated:

- To protect and enhance the cultural, ecological and visual characteristics of a locality;
- To limit coastal sprawl by establishing separation and greenbelts between settlements;
- To integrate new development surrounding land uses;
- To integrated land use with transport;
- To protect local character.

By analysing the site in context of its location and surrounding land uses we have determined that any future development will be defined by the relationship to the adjoining residential land and community services. The site is accessed by an arterial road (Pacific Highway). The development of this site will not establish a self sufficient community that will rely on access to its own services and community facilities. Open space areas, pedestrian and cycle links in addition to other infrastructure such as roads, water and sewerage systems will need to be part of the existing framework established by the surrounding development.

Our analysis shows that the future development of this

<sup>iii</sup> Farrier et al, 1997, ‘Planning and Land Use in New South Wales, The Environmental Law Handbook’, Redfern Legal Centre Publishing.

<sup>iv</sup> Clause 4, NSW Coastal Protection Act 1979



site will form part of the community of Ballina and the opportunities delivered by the development such as the open space areas and pedestrian networks in addition to open space will contribute greatly to the amenity of existing residents. These opportunities will be realised by the provision of access and increased connectivity facilitated by the proposed road layout and spatial distribution of open space.

### 2.2.3. Floodplain Development Manual the management of flood liable land, April 2005

The primary objective of the NSW Government's Flood Prone Land Policy is to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone property, and to reduce private and public losses resulting from floods.<sup>v</sup>

Local governments are required to address flood risk by development by implementing a Flood Risk Management Plan. This Plan is to be formulated upon the completion of a Flood Study and Flood Risk Management Study.

A fundamental principle of floodplain risk management is to assess development applications within the strategic framework of a floodplain risk management plan and not in isolation or individually.<sup>vi</sup>

However, where development is proposed in areas where Flood Risk Management Plan is yet to be adopted the onus is on the developer to provide information to the consent authority in order to demonstrate that flood risk has been effectively managed.

## 2.3. Regional Strategic Policy

### 2.3.1. Far North Coast Regional Strategy

The Far North Coast encompasses the local government areas of Ballina, Byron, Kyogle, Lismore, Richmond Valley and Tweed. It occupies 10170 square kilometres and accommodates approximately 228 000 people. It is recognised as being the most biological diverse

community with range of ecological systems that are recognised through their listing as World Heritage Areas and protection in National Parks<sup>vii</sup>.

Nonetheless, the Department of Planning estimates that within the next 25 years, the population of the Far North Coast will grow by 26% and the region will need to accommodate an extra 60 400 people and 51 000 additional dwellings. It is anticipated that the greatest level of growth will occur within the major regional centres of Tweed Heads, Lismore and Ballina.<sup>viii</sup>

On 17 January 2007, the Minister of Planning released the Far North Coast Regional Strategy. The purpose of the Strategy is to manage expected growth in a sustainable manner while protecting and conserving unique environmental assets, cultural values and natural resources. The Strategy aims to limit future urban growth and prevent the spread of coastal development by encouraging development in inland centres.

The River Oaks site is identified as an existing urban area in the Strategy and supports the developing major regional centre of Ballina. The Strategy nominates that Ballina will need to accommodate approximately 8 400 additional new dwellings by 2031. In this regard, the proposed subdivision design proposes approximately 269 dwellings either as attached or detached housing types within 2 kilometres of the Ballina CBD (approximately 3% of future housing stock). Approximately 22,570sqm of open space and recreational areas are proposed. Further improved drainage infrastructure will deliver enhanced environmental outcomes by treating runoff prior to being discharged into the existing drainage system.

The anticipated form of future development will be consistent with the surrounding developments as future dwellings will be developed to conform with Council's 6.4 metre height limit, residential blocks will vary between low and medium density development areas, will be located close to open space and community facilities and be highly accessible to public transport opportunities along the Pacific Highway.

v NSW Department of Infrastructure Natural Resources and Planning, 2005 'Floodplain Development Manual, development on flood liable land.'

vi NSW Department of Infrastructure Natural Resources and Planning, 2005 'Floodplain Development Manual, development on flood liable land'

vii NSW Department of Planning, 2007, 'Far North Coast Regional Strategy',

viii Source, 2007, <http://www.planning.nsw.gov.au/plansforaction/northcoast.asp>

### 2.5. Ballina Urban Land Release Strategy 2000

The Ballina Urban Land Release Strategy 2000 was based on providing a comprehensive strategic approach and indicative timeframes for the commencement of the rezoning processes to provide for future housing demand in Ballina. It was prepared in accordance with the requirements of the North Coast Regional Environmental Plan.

The subject site is identified as being part of the West Ballina locality. In 2000, the strategy projected that demand for additional residential capacity in West Ballina to accommodate the increasing population would be the equivalent of 1028 dwellings by 2026.

Since the preparation of the strategy, development consent was granted by Council for an urban subdivision creating a residential estate over the site.

### 2.6 Summary of Strategic Objectives

In summary the policies identified above recognise that the River Oaks site:

- Falls within the coastal zone of NSW and is subject to the policies that seek to ensure ecological sustainable development;
- Lies within a region that has been identified as an area with significant growth pressures over the next 30 years; and
- Must be adaptable to existing infrastructure and community facilities.

Each of these summarising statements are underlined by the sub-text of ensuring development achieves ecological sustainable development. This site is well located to provide for a range of residential uses.

### 2.7 Sustainability Criteria

The table below provides an assessment of the proposal against the Sustainable Criteria listed in Appendix A1 of the Far North Coast Regional Plan.

Table 2.1 - Sustainability Criteria

Threshold Sustainability Criteria for Any Proposed Development Site Outside of Designated Areas in Regional Strategies.	Measurable Explanation of Criteria	Response
<b>1. Infrastructure Provision</b>  Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way	Development is consistent with the outcomes of Far North Coast Regional Strategy, any subregional strategy, regional infrastructure plan and relevant section 117 direction/s.	The land is already zoned for residential purposes and is consistent with the relevant strategies, as has been discussed in Chapters 2 and 3 of this report.
	The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions.	The land is already zoned for residential purposes, therefore infrastructure provision has already been considered. The site is located on the periphery of the Ballina township and has access to necessary services.
	Preparedness to enter into development agreement	N/A
<b>2. Access</b>  Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided	Accessibility of the area by public transport and/or appropriate road access in terms of:  > Location/land use – to existing networks and related activity centres.  > Network – the area's potential to be serviced by economically efficient transport services.  > Catchment – the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/ transport patterns to make a positive contribution to achievement of travel and vehicle use goals.	There are 2 bus companies which service Ballina and the local area, providing direct links to several locations, including Byron Bay, Lismore, Lennox Head, Bangalow and Newrybar. Route 641 ("Blanch's Bus") to Byron Bay and Bangalow bypasses the subject site.  The proposed road layout has been amended in consultation with Council officers to facilitate better opportunities for future bus movements throughout the estate.
	No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.	The Traffic Report undertaken for the development has not identified any negative impacts associated with the proposal in relation to transport in the area.



Threshold Sustainability Criteria for Any Proposed Development Site Outside of Designated Areas in Regional Strategies.	Measurable Criteria	Explanation of	Response
3. Housing Diversity  Provide a range of housing choices to ensure a broad population can be housed	Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.		The proposed subdivision provides a range of lot sizes, which are able to accommodate a range of housing types. These lots provide for a good mix of housing options on the site, which is important in addressing issues associated with housing choice and affordability
4. Employment Lands  Provide regional/local employment opportunities to support the Far North Coast's expanding role in the wider regional and NSW economies	Maintain or improve the existing level of sub-regional employment selfcontainment. Meets subregional employment projections.		N/A
	Employment-related land is provided in appropriately zoned areas		N/A
5. Avoidance of Risk  Land use conflicts, and risk to human health and life, avoided	No residential development within 1:100 floodplain.		The site has already gained approval for filling and as such will not be affected by flooding. The construction of the drainage swale and minor site recontouring as proposed will address stormwater run-off and ensure compliance with Council's drainage plan.
	Avoidance of physically constrained land, e.g.  > High slope.  > Highly erodible.		There are no major physical constraints associated with the site. Flooding has been previously addressed and bushfire threat is minor.
	Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy.		Adjacent lands are zoned residential to the east, rural to the west and industrial (future investigation) to the south. The proposed development will not have any impacts on adjoining land and will not limit the capacity of their current operations.
	Where relevant available safe evacuation route (flood and bushfire).		A Flood Evacuation Plan has been prepared for the site and is included within this report.

Threshold Sustainability Criteria for Any Proposed Development Site Outside of Designated Areas in Regional Strategies.	Measurable Criteria	Explanation of	Response
6. Natural Resources  Natural resource limits not exceeded/ environmental footprint minimised	Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure on environmental flows.		The Infrastructure Provision report prepared for the proposed development has identified that all services area available to the site and have capacity to service the future development.
	Demonstrates most efficient/suitable use of land  > Avoids identified significant agricultural land  > Avoids productive resource lands – extractive industries, coal, gas and other mining, and quarrying.		The land is currently zoned for residential purposes under the Ballina LEP 1987. It will not impact on rural land in the vicinity.
	Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy-requires demonstration of efficient and sustainable supply solution.		The Infrastructure Provision report prepared for the proposed development has identified that all services area available to the site and have capacity to service the future development.
7. Environmental Protection  Protect and enhance biodiversity, air quality, heritage, and waterway health	Consistent with government-approved Regional Conservation Plan (if available).		N/A
	Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities, critical habitat, threatened species, populations, ecological communities and their habitats.		The Flora and Fauna Assessment undertaken over the subject site has not identified any major impacts associated with the development.
	Maintain or improve existing environmental condition for air quality.		The proposal will have minimal impact on air quality, given that at this stage the application is only for a residential subdivision. Future applications will be required for any dwellings associated with the development, which will need to address the requirements of SEPP (Basix).