

Pacific Pines Modification Report

An application under Section 75W of the
Environmental Planning and Assessment Act 1979
to modify Ministers Approval MP 07_0026



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Environmental Planning and Assessment Act 1979
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Prepared for: Petrac Lennox Head Pty Ltd - Receivers and Managers Appointed

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Introduction

1.1 Background

GeoLINK is engaged by Petrac Lennox Head Pty Ltd (Receivers and Managers Appointed) in relation to this application seeking minor modification of the Minister's approval for the Pacific Pines development at Lennox Head.

The modification as described herein will enable the proponent to appropriately address various requirements of the approvals, ensure that appropriate environmental mitigation is provided, and provide a neighbourhood centre that will act as a strong community hub for the development.

1.2 Approved Development

1.2.1 Original Approval

Major Project application 07_0026 was approved by the Minister for Planning on 12 November 2008. The approval includes both a Concept and Project Plan for Pacific Pines Estate at Lennox Head. **Table 1.1** provides the description of both the Concept and Project Plan developments.

Table 1.1 **Approved Development**

<i>Concept Approval</i>	<i>Project Approval</i>
<p>A residential subdivision comprising subdivision for single dwellings, duplexes and medium density, a neighbourhood centre comprising commercial and retail space, a community centre, tavern and retirement village. The project includes:</p> <ol style="list-style-type: none"> Residential subdivision comprising: <ol style="list-style-type: none"> Large lots on steeper parts of the site (> 1,200m²); 'Traditional' lots of around 800m²; 'Traditional' lots with areas between 600m² and 800m²; Duplex lots (900m²); 'Small affordable' lots (450m² to 600m²); Rear lane lots (450m² to 600m²); and 'Park court' lots (450m² to 600m²). Neighbourhood centre with maximum retail space of 3,000m² gross leasable area and maximum commercial space of 800m² gross leasable area; Multi-purpose community hall with a floor space of 300m²; Retirement community; 	<p>A 63-lot residential subdivision comprising:</p> <ol style="list-style-type: none"> 54 residential lots ranging in size from 632m² to 907m²; 6 super lots for future development as follows: <ol style="list-style-type: none"> Super lot 1 (1.43 ha); Super lot 2 (5,730m²); Super lot 3 (2,050m²); Super lot 4 (1,649m²); Super lot 5 (8.18 ha); Super lot 6 (2,380m²). Two open space lots of 910m² and 641m²; Earthworks; Associated roads and civil works; and Landscaping.

Concept Approval	Project Approval
5. Medium density housing; 6. A green space network of 25.1 ha comprising: a) Open space 2.1 ha; b) Water quality control pond and associated open space 3.6 ha; c) Revegetation in buffer around SEPP 26 Littoral Rainforest 0.9 ha; d) Hairy Joint Grass establishment (brook and south of lake) 3.4 ha; e) Revegetation around littoral rainforest EEC 6.3 ha; and f) Rehabilitation works adjacent to Ballina Nature Reserve 5.9 ha. 7. Road network; and 8. Other associated infrastructure.	

1.2.2 Previous Modification

The Project Approval was modified on 22 December 2008 by amending the wording of Condition H6 to omit the words *"and then surrender the consent"*.

That modification relates to a requirement that works associated with approval for the adjoining playing fields (i.e. DA 2004/1113) be completed prior to nominated stages of the Project Approval, and that the development then be surrendered. The modification corrected a procedural anomaly so that the playing field consent can be surrendered at the appropriate time.

1.2.3 Proposed Modification

The current application seeks approval to modify a number of aspects of the approvals, as specified in **Section 2** of this report. The intent of the minor modification is to provide a practical and appropriate approach to meeting the intent and requirements of the approval, particularly in relation to ecological matters.

1.3 Further Information

Should additional information be required in relation to any aspects of this application for modification, please contact **Rob van Iersel** of GeoLINK on 66877 666, 0419 237 988 or rvi@geolink.net.au

Proposed Modification

2.1 Overview

There are three key changes proposed for the approved development:

1. An increase the area of on-site conservation area, to maximise the retention of Freshwater Wetland EEC, Hairy joint grass and Square-stemmed spike rush;
2. Creation of two additional super lots within Stage 1 to bring forward the development and release residential lots in the north of site; and
3. An increase in the maximum allowable retail floor space within the neighbourhood centre and bringing forward the construction of the maximum allowable retail floor space.

2.1.1 Additional Conservation Area

The approved development layout includes Super Lot No. 5, with a total area of 8.18 ha, located immediately east of the existing water quality control pond. As approved, this super lot is in two parts, around 1.6 ha between the pond and the extension of Montwood Drive, and approximately 6.6 ha located to the east of Montwood Drive extension.

The 1.65 ha area between the pond and Montwood Drive was proposed to contain two retirement community buildings, each with a height of three stories, containing approximately 100 assisted living units and associated community facilities.

As shown in **2**, it is now proposed that this area be retained as part of the on-site conservation zone. It is also proposed that the Montwood Drive extension be moved slightly to the east, to provide an overall area of 1.65 ha for this additional conservation area.

When added to the previously approved 'brook' area, this will result in a total area of wetland conservation reserve of 6.5ha.

Further detail of this proposal is outlined in the *Environmental Impact Assessment and Mitigation Strategy* prepared by Cardno (see **Appendix A**).

The proposed additional conservation area currently contains Freshwater wetlands on coastal floodplain - an Ecologically Endangered Community (EEC). It also contains Hairy joint grass (*Arthraxon hispidus*) and Square-stemmed spike rush (*Eleocharis tetraquetra*); which are both threatened species. Approval was originally given for the removal of this vegetation based on the on-site conservation originally proposed and the fact that an existing valid approval is in place for the filling of this part of the site.

The requirement for additional ecological compensation was also imposed because of the approved loss of this area (DoP Assessment Report, Oct 08, p.35).

In addition to the retention of this area and the subsequent reduction in super lot 5, it is now proposed that the extension of Montwood Drive be moved slightly to the east (see **2**) to further maximise on-site retention of the ecological values.

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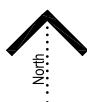
Approved Conservation Area

LEGEND

Residential	Community use	100 m SEPP 26 buffer
Retirement community	Park / open space	SEPP 14 wetland
Low-medium density housing	Private open space	10 m boundary buffer
Neighbourhood centre	Remnant vegetation	Site boundary



Proposed Conservation Area



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Condition B2 of the Concept Approval requires the preparation of “a *Compensation Plan for the loss of all endangered ecological communities and threatened flora species onsite*”; with the “*provision of land (at a minimum rate of 2:1, or as otherwise agreed by the Department) that offsets the loss of endangered ecological communities and threatened flora species on the site*”.

As detailed in the Environmental Impact Assessment and Mitigation Strategy contained in **Appendix A**, the modified on-site conservation area has been designed to achieve the requirements of this condition.

The modification will result in an additional 1.65 ha of land in the on-site conservation reserve which includes:

- 0.33 ha of Hairy Joint Grass;
- 0.31 ha of Square-stemmed spike rush; and
- 0.86 ha of Freshwater wetland EEC.

Within the wetland conservation area therefore, there will be a total in-situ retention and protection of approximately:

- 70% of Hairy joint grass (61% for approved Concept);
- 77% of Square-stemmed spike rush (69% for approved Concept); and
- 87% of Freshwater wetland EEC (66% for approved Concept).

[Note: areas overlap]

Of key importance is the retention and protection of the majority of areas of Hairy joint grass and Square-stemmed spike rush that were recorded with a low to medium coverage during targeted surveys.

The modification also provides for on-site offsets for the loss of threatened flora species and the Freshwater wetland EEC, through translocation and extensive rehabilitation and revegetation works within the expanded conservation reserve. More specifically, the upgraded final reserve will support approximately:

- 2.47 ha of wetland habitat that does not currently support Hairy joint grass (2.4 times the area being displaced);
- 2.14 ha of wetland habitat that does not currently support Square-stemmed spike rush (2.3 times the area being displaced);
- 1.37 ha of wetland habitat that does not currently have the floristic elements of the Freshwater wetland EEC (2.5 times the area being displaced); and
- an additional 1.02 ha of degraded grazing land that can, in parts, be modified to create wetland habitat suitable for colonisation by threatened flora species and species characteristic of the Freshwater wetland EEC.

Details of these proposals, including mapping of the areas nominated above, are outlined within the Environmental Impact Assessment and Mitigation Strategy contained in **Appendix A**.

The long-term protection of the Conservation Zone is pivotal to the success of the mitigation measures that are detailed in the Environmental Impact Assessment and Mitigation Strategy contained in **Appendix A**. To ensure the security of the Conservation Zone in perpetuity, it is intended to transfer ownership of the Conservation Zone to Council, after an agreed establishment and maintenance period, for inclusion into the Environmental Protection Zone 7(a) - Wetlands pursuant to the Ballina Local Environmental Plan (E2 under draft LEP 2010). A minimum of five-years is recommended to ensure that retained populations of threatened flora and the Freshwater Wetland EEC will reach a self-sustaining state and that all population enhancement works achieve the desired performance indicators.

Further detail will be provided in the detailed Environmental Management Plan to be developed at detailed design stage, in accordance with the requirements of Condition B1 of the Concept Approval. The on-site conservation area as proposed will also satisfy the requirements of Condition B2.

The additional conservation area will improve overall environmental outcomes and assist the project to better achieve the objectives of the *Threatened Species Conservation Act 1995* and the environmental protection objectives of Council's Local Environmental Plan by maximising on-site retention of threatened species and ecologically endangered communities.

Hydrology

The vegetation existing within the proposed additional conservation area relies on existing hydrology for its structure and composition. In protecting this area, therefore, it is important that the surrounding development does not alter the hydrology to the extent that it changes the fundamentals of this area.

This will be achieved by managing the post-development hydrology to maintain groundwater / surface flows to this new conservation area, effectively mimicking the key aspects of the existing pre-development hydrology.

This can be achieved in a number of ways and will primarily utilise the following mechanisms:

- Bioretention / infiltration trenches will be provided at appropriate locations to provide treatment and infiltration of surface runoff emanating from the subdivision. A logical location for a trench is adjacent to the east / west road that runs along the bottom of the slope, as an extension of Main Street. The realigned Montwood Drive connection road could also have an adjacent trench. The open space park midway up the slope to the north is another potential location for a bioretention / infiltration system.

This will minimise impacts on groundwater by ensuring that the bulk of rainfall infiltrates where it falls.

- The majority of rainfall from frequent small-medium rain events would be conveyed to the trenches (via conventional drainage systems) where it would subsequently infiltrate. In medium-large rain events, the infiltration capacity of the trenches would be exceeded and surface discharge to the north-western sediment basin would occur.
- The existing surface flow link between the new conservation area and the original conservation area will be preserved by providing a relatively unrestricted flow path between the two areas (i.e. with a bridge). The new conservation area would therefore effectively become part of the stormwater detention area. The outlet to the stormwater detention area could remain in its original proposed location.

These stormwater measures will be detailed and modelled as part of the work required to address Condition B6 of the Concept Approval, which requires the development of a comprehensive Stormwater Management Plan to address these (and other) issues.

2.1.2 Additional Super Lots

Detailed design and planning has indicated that it will be economically feasible and expedient to develop residential lots at the north-west corner of the site earlier in the proposed staging.

This area, shown in approved plans as within Stage 2 and Stage 10, could be brought on line at the same time as the construction of the approved Hutley Drive extension (approved Stage 1C).

To achieve this in a timely and efficient manner, it is suggested that these areas could constitute two additional super lots, proposed for future residential subdivision. Because the remainder of the approved super lots are to be created in Stage 1B, it would also be efficient to have these new super lots created at the same time. As they require the construction of Hutley Drive for public road frontage, it is also proposed that Stages 1B and 1C be amalgamated.

The attached drawing set shows the proposed arrangements.

As shown, the upfront creation of these two new super lots will not alter the lot layout as approved in the Concept Plan, it merely alters the staging of this development. It is anticipated that development applications would be prepared and lodged immediately following the creation of the super lots in Stage 1B. This would allow the implementation of the development to occur at a number of points, providing greater flexibility of delivery.

Whilst this will not have any significant physical impacts, it will assist in meeting one of the key objectives of the *Environmental Planning and Assessment Act 1979*, which is to provide for the orderly and economic use and development of land.

2.1.3 Additional Retail Floor Space

The approved Stage 1B of the Project Plan includes the creation of Super Lot No. 1, to be developed as a neighbourhood retail centre. Condition B9 limits the maximum retail floor space within this centre to 3,000m².

More detailed planning for this neighbourhood centre has illustrated that it will be very difficult for to provide an economically viable centre within that restriction. It has also illustrated the strong demand for a full-line supermarket to be located in Lennox Head.

Accordingly, it is proposed to increase the maximum retail floor space within the approved super lot to 4,000m².

This proposal is supported by an economic study, *Pacific Pines Retail Centre, Economic Impact Assessment* (RPS, Aug 10), contained in full at **Appendix B**.

The economic assessment demonstrates the local demand for additional supermarket facilities. This demand was also acknowledged in Council's *Ballina Retail Strategy* (BSC, 2003) and the associated *Ballina Retail Assessment Background Report* (IBECON, 2003).

The current approval provides for a maximum of 3,000m² of retail floor space and 800m² of commercial floor space. The commercial floor space limit would not be changed. Conceptually, the 3,000m² of retail floor space would have allowed for a supermarket of around 2,500m² and 500m² of specialty retail. The proposed increase of 1,000m² will allow for a larger supermarket, of 3,200m², with 800m² of specialty shops (approx. 12 to 15 tenants).

The Economic Impact Assessment report (**Appendix B**), concludes that this increase in supermarket and convenience floor space will have a level of impact that is only marginally higher than the current approval. Further, it concludes that, based on the current level of supply and demand within the Ballina Shire, all existing supermarkets and associated retail will retain the ability to trade at viable levels.

As such, the additional retail will not affect the retail hierarchy outlined in the *Ballina Retail Strategy* (BSC, 2003). It will not alter the existing function of the Lennox Head Village Centre, nor will it detract from the District Centre status of Ballina.

The provision of specialty retail space at Pacific Pines will not result in any material impact on the Lennox Head main street, which has in the order of 64 retail and 15 commercial tenants. The supermarket will impact on the existing IGA in Lennox main street. However, the Economic Impact Assessment report indicates that the IGA is considered to be trading significantly higher than industry standards and the convenience based nature of the IGA means that it will retain the opportunity to continue to trade at or, very likely, above industry standards.

It is also considered that any minor impacts will diminish over time, as local population continues to grow.

The additional retail floor space will help to create a vital community hub, facilitating a walkable community, providing local employment and allowing residents to meet many of their day to day needs locally. This is enhanced by the approved location of the neighbourhood centre directly adjacent to the approved open space.

As well as the proposed additional floor space, this application proposes to remove the restriction imposed that limits the retail floor space to 1,200m² prior to finalisation of the local Hutley Drive road infrastructure extensions. This restriction was based on traffic capacity limitations associated with the existing road network.

This issue has been re-examined in Traffic Assessment prepared by Cardno Eppell Olsen (**Appendix C**).

For the purposes of the assessment, Cardno Eppell Olsen have assessed a scenario whereby the total allowable retail / commercial floor space would be constructed 'up front', concurrent with Stage 1A and the retirement community would be constructed concurrently with Stage 1B.

Both of these uses will require separate approvals, so they would not physically be able to be constructed concurrently with these early stages; but they have been considered in this manner for the purposes of assessing potential traffic impacts on the existing road network.

The original traffic assessment indicated that the bulk of the total development – i.e. the concept as approved together with the indicative development of the super lots – could be constructed without exceeding the capacity of the existing network, with the exception of completion of the neighbourhood centre.

For this reason, Condition B9 imposes a restriction whereby only 1,200m² of retail floor space can be built before upgrades of the network involving extensions to Hutley Drive.

The Traffic Assessment contained in **Appendix C** examines the implications of constructing all of the retail floor space in early stages. It agrees with the previous conclusion that construction of the whole of the development could not occur within the existing network capacity. Assuming the retail component is constructed early, the assessment indicates that the final two residential stages – i.e. Stages 8 and 9 – would therefore need to be restricted until the northern extension of Hutley Drive is completed.

The report, however, indicates that an interim solution for this extension could be achieved, involving a left in / left out connection to North Creek Road, that could allow the extension to be constructed within the existing road reserve. This would allow the extension to occur separately to the proposed rezoning and development of the identified urban release area located around the Hutley Drive / North Creek Road intersection location.

Accordingly, practical solutions for the extension to the Hutley Drive road infrastructure are available that would allow the development of the whole of the Pacific Pines development in a manner that would not exceed the capacity of the local road network.

2.2 Details of Modification – Concept Plan

2.2.1 Condition A1 – Project Description

Current Condition

A residential subdivision comprising subdivision for single dwellings, duplexes and medium density, a neighbourhood centre comprising commercial and retail space, a community centre, tavern and retirement village. The project includes:

1. *Residential subdivision comprising:*
 - a) *Large lots on steeper parts of the site (> 1,200m²);*
 - b) *'Traditional' lots of around 800m²;*
 - c) *'Traditional' lots with areas between 600m² and 800m²;*
 - d) *Duplex lots (900m²);*
 - e) *'Small affordable' lots (450m² to 600m²);*
 - f) *Rear lane lots (450m² to 600m²); and*

- g) 'Park court' lots (450m² to 600m²).
- 2. Neighbourhood centre with maximum retail space of 3,000m² gross leasable area and maximum commercial space of 800m² gross leasable area;
- 3. Multi-purpose community hall with a floor space of 300m²;
- 4. Retirement community;
- 5. Medium density housing;
- 6. A green space network of 25.1 ha comprising:
 - a) Open space 2.1 ha;
 - b) Water quality control pond and associated open space 3.6 ha;
 - c) Revegetation in buffer around SEPP 26 Littoral Rainforest 0.9 ha;
 - d) Hairy Joint Grass establishment (brook and south of lake) 3.4 ha;
 - e) Revegetation around littoral rainforest EEC 6.3 ha; and
 - f) Rehabilitation works adjacent to Ballina Nature reserve 5.9 ha.
- g) Road network; and
- h) Other associated infrastructure.

Proposed Modification

Based on the overview above, it is suggested that Condition A1 be modified as follows (proposed modifications in bold):

A residential subdivision comprising subdivision for single dwellings, duplexes and medium density, a neighbourhood centre comprising commercial and retail space, a community centre, tavern and retirement village. The project includes:

- 1. Residential subdivision comprising:
 - a) Large lots on steeper parts of the site (> 1,200m²);
 - b) 'Traditional' lots of around 800m²;
 - c) 'Traditional' lots with areas between 600m² and 800m²;
 - d) Duplex lots (900m²);
 - e) 'Small affordable' lots (450m² to 600m²);
 - f) Rear lane lots (**250m² to 400m²**)*; and
 - g) 'Park court' lots (450m² to 600m²).
- 2. Neighbourhood centre with maximum retail space of **4,000m²** gross leasable area and maximum commercial space of 800m² gross leasable area;
- 3. Multi-purpose community hall with a floor space of 300m²;
- 4. Retirement community;
- 5. Medium density housing;
- 6. A green space network of **25.3** ha comprising:
 - a) Open space 2.1 ha;
 - b) Water quality control pond and associated open space 3.6 ha;
 - c) Revegetation in buffer around SEPP 26 Littoral Rainforest 0.9 ha;
 - d) **Wetland conservation reserve 6.5 ha;**
 - e) Revegetation around littoral rainforest EEC 6.3 ha; and
 - f) Rehabilitation works adjacent to Ballina Nature reserve 5.9 ha.
- 7. Road network; and
- 8. Other associated infrastructure.

* NOTE: The proposed rear lane lots were shown as 250-400m² in original plans. It would appear that an error was made in the drafting of this condition, as there was no other condition specifically altering the proposed lot size.

The changes proposed are purely administrative, and have no physical implications for the development.

2.2.2 Condition A2 - Staging

Current Condition

The project shall be undertaken in 13 stages in accordance with Illustration C5 Development Staging and Illustration P1 Stage 1 Project Application Plan as described in correspondence from GeoLINK dated 18 August 2008 and comprises the following:

- 1) *Stage 1A – subdivision of 54 residential lots and 2 open space lots and associated roads and landscaping in the south of the site;*
- 2) *Stage 1B – subdivision of 6 super lots, the extension of Montwood Drive and the construction of Main Street; and*
- 3) *Stage 1C – construction of Hutley Drive and the western link for the playing fields adjacent to the site.*
- 4) *Stage 2 – residential subdivision and provision of open space in the north of the site;*
- 5) *Stage 3 – residential subdivision in the central and north eastern part of the site and connection to Stoneyhurst Drive;*
- 6) *Stage 4 – residential subdivision in the central and north parts of the site;*
- 7) *Stage 5 – residential subdivision and provision of open space in the central part of the site;*
- 8) *Stage 6 – residential subdivision in the east of the site;*
- 9) *Stage 7 – residential subdivision and provision of green space around Littoral Rainforest endangered ecological community in the north east of the site;*
- 10) *Stage 8 – residential subdivision and provision of green space around Littoral Rainforest endangered ecological community in the south east of the site;*
- 11) *Stage 9 – residential subdivision in the east of the site;*
- 12) *Stage 10 – residential subdivision and revegetation of the 100m buffer to littoral rainforest in the north west of the site; and*
- 13) *Stage 11 – residential subdivision in the northern part of the site.*

Stages 1A – 1C shall be undertaken first. The order of subsequent stages can be varied with the written approval of the Director-General.

Proposed Modification

Based on the overview above, it is suggested that condition A2 be amended to read:

The project shall be undertaken in 9 stages in accordance with Illustration C5 Development Staging and Illustration P1 Stage 1 Project Application Plan as described in correspondence from GeoLINK dated 18 August 2008, and updated in GeoLINK's Pacific Pines Modification report dated August 2010, and comprises the following:

- 1) *Stage 1A – subdivision of 54 residential lots and 2 open space lots and associated roads and landscaping in the south of the site;*
- 2) *Stage 1B – subdivision of 8 super lots, the extension of Montwood Drive, the construction of Main Street, and construction of Hutley Drive and the western link for the playing fields adjacent to the site;*
- 3) *Stage 2 – residential subdivision in the central and north eastern part of the site and connection to Stoneyhurst Drive;*
- 4) *Stage 3 – residential subdivision in the central and north parts of the site;*
- 5) *Stage 4 – residential subdivision and provision of open space in the central part of the site;*

- 6) Stage 5 – residential subdivision in the east of the site;
- 7) Stage 6 – residential subdivision and provision of green space around Littoral Rainforest endangered ecological community in the north east of the site;
- 8) Stage 7 – residential subdivision and provision of green space around Littoral Rainforest endangered ecological community in the south east of the site;
- 9) Stage 8 – residential subdivision in the east of the site; and
- 10) Stage 9 – residential subdivision in the northern part of the site.

Stages 1A – 1B shall be undertaken first. The order of subsequent stages can be varied with the written approval of the Director-General.

Again, this is an administrative change to reflect the current proposal.

2.2.3 Condition A3 – Approved Plans

Current Condition

The project shall be undertaken in accordance with the following drawings:

Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
06115-P3A 1J		Illustration C1 Concept Plan	12/08/08
06115-P3A 6J		Illustration C2 Green Network Plan	14/08/08
06115-P3A 29I		Illustration C3 Indicative Neighbourhood Centre Plan	14/08/08
06115-P3A 27I		Illustration C4 Indicative Retirement Centre Plan	14/08/08
06115-P3A 3J		Illustration C5 Development Staging	14/08/08
06115-P3A 14A		Illustration C6 Movement Network	14/08/08
		Illustration C7 Stormwater Concept Plan	14/08/08
06115-P3A 32G		Illustration C8 Lot Typologies	15/08/08
06115-P3A 5M		Illustration C9 Building Heights Plan	14/08/08
06115-P3A 31G		Illustration C10 Setback Plan	14/08/08
06115-P3A 46E		Illustration C11 Conservation Zone Plan	14/08/08

except for:

- 1) any modifications which are 'Exempt and Complying Development' as identified in Ballina Shire Development Control Plan – Exempt and Complying Development or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- 2) otherwise provided by the conditions of this approval.

Proposed Modification

An updated Concept Plan illustration set is attached to this application for modification.

Based on the updated plans, Condition A3 should be amended to read:

The project shall be undertaken in accordance with the following drawings:

Design, Landscape and Survey Drawings			
Drawing No.	Revision	Name of Plan	Date
100603 1E		Illustration C1 Concept Plan	16/08/10
100603 6A		Illustration C2 Green Network Plan	11/06/10
100603 29A		Illustration C3 Indicative Neighbourhood Centre Plan	11/06/10
100603 27A		Illustration C4 Indicative Retirement Centre Plan	11/06/10
100603 3E		Illustration C5 Development Staging	16/08/10
100603 14A		Illustration C6 Movement Network	11/06/10
		Illustration C7 Stormwater Concept Plan	14/08/08
100603 32A		Illustration C8 Lot Typologies	11/06/10
100603 5B		Illustration C9 Building Heights Plan	15/06/10
100603 31A		Illustration C10 Setback Plan	11/06/10
100603 46B		Illustration C11 Conservation Zone Plan	15/06/10

except for:

- 1) any modifications which are 'Exempt and Complying Development' as identified in Ballina Shire Development Control Plan – Exempt and Complying Development or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- 2) otherwise provided by the conditions of this approval.

2.2.4 Condition A4 – Approved Documents

Current Condition

The project shall be undertaken in accordance with the following documents:

Environmental Assessment Documentation:

- a) *Petrac Pacific Pines Estate Part 3A Application Environmental Assessment Report prepared by GeoLINK on behalf of Petrac Pty Ltd, dated March, 2008;*

Preferred Project Report Documentation:

b) Preferred Project Report prepared by GeoLINK and dated June 2008;

Additional Information:

c) Correspondence prepared by GeoLINK dated 18 August 2008;

d) Correspondence prepared by GeoLINK dated 29 August 2008; and

e) Correspondence prepared by GeoLINK dated 3 September 2008.

Proposed Modification

The documents listed in this condition do not change. However, this modification report and the ecological report prepared by Cardno to support the proposed modification should be added to list.

Amend the condition by:

- Adding as item f) – “Pacific Pines Modification Report prepared by GeoLINK and dated September 2010 (1439900)”; and
- Adding as item g) – “Pacific Pines Estate Environmental Impact Assessment and Mitigation Strategy prepared by Cardno and dated August 2010”.

2.2.5 Condition B2 – Compensatory Plan

Current Condition

The proponent must prepare a Compensation Plan for the loss of all endangered ecological communities and threatened flora species onsite. The extent of endangered ecological communities and threatened flora species on site is to be identified by the plan required by B1(1) of this approval. The Compensation Plan is to detail the provision of land (at a minimum rate of 2:1, or as otherwise agreed by the Department) that offsets the loss of endangered ecological communities and threatened flora species on the site. The Plan is to include a program (timeline) to achieve the implementation of the measure identified.

The Compensation Plan is to be developed in consultation with the Department of Environment and Climate Change and submitted to and approved by the Department prior to the issue of a construction certificate for Stage 1B, or as otherwise agreed by the Department.

Proposed Modification

As outlined in the attached *Environmental Impact Assessment and Mitigation Strategy (Appendix A)*, the amended Concept Plan now satisfies this condition through the following measures:

1. Contribution of an additional 1.65 ha of land into the Conservation Reserve, which includes:

- 0.33 ha of Hairy Joint Grass;
- 0.31 ha of Square-stemmed spike rush; and
- 0.86 ha of Freshwater wetland EEC.

resulting in the in-situ retention and protection of approximately:

- 70% of Hairy joint grass (61% for approved Concept);
- 77% of Square-stemmed spike rush (69% for approved Concept); and
- 87% of Freshwater wetland EEC (66% for approved Concept).

Of key importance is the retention and protection of the majority of areas of Hairy joint grass and Square-stemmed spike rush that were recorded with a Low to Medium coverage during targeted surveys.

2. The provision of on-site offsets for the loss of threatened flora species and the Freshwater wetland EEC through translocation and extensive rehabilitation and revegetation works within the expanded Conservation Zone. More specifically the Conservation Zone supports approximately:
 - 2.47ha of wetland habitat that does not currently support Hairy joint grass (2.4 times the area being displaced);
 - 2.14ha of wetland habitat that does not currently support Square-stemmed spike rush (2.3 times the area being displaced); and
 - 1.37ha of wetland habitat that does not currently have the floristic elements of the Freshwater wetland EEC (2.5 times the area being displaced).
3. The provision of an additional 1.02ha within the Conservation Zone that can be modified to create wetland habitat suitable for colonisation by threatened flora species and species characteristic of the Freshwater wetland EEC.

Given the above facts and circumstances, the requested 2:1 offset for the loss of threatened flora species and the Freshwater wetland EEC can generally be accommodated within the expanded Conservation Zone. Based on this, it is suggested that Condition B2 be deleted.

2.2.6 Condition B3 – Ecological Compensation

Current Condition

A monetary contribution of \$30,000 per year for a period of three years shall be paid to compensate for the loss of Hairy Joint Grass habitat and Freshwater Wetlands endangered ecological community.

The proponent shall prepare a brief for the research to be funded in consultation with the Department of Environment and Climate Change and Council and submit it to the Department for approval prior to the issue of the construction certificate for stage 1B.

The first \$30,000 shall be paid to the selected research body prior to the release of the subdivision certificate for stage 1B of the project approval. Subsequent payments are to be made on or before the anniversary of this first payment.

Proposed Modification

The EMP that will be prepared for the site will involve a comprehensive range of management actions designed to achieve the long-term sustainability of retained threatened flora species and Freshwater wetland EEC. As such, it is proposed that a more appropriate form of ecological compensation would be dedication of resources and funds into the development, implementation and monitoring of the EMP.

The EMP will include trials and monitoring that will make a significant contribution to the existing body of knowledge concerning the biology, ecology and management of the site's threatened flora species and Freshwater wetland EEC.

Condition B1 of the Concept Approval provides for criteria and requirements for this EMP, which will ensure that data and knowledge is appropriately captured and measured. Given the additional on-site protection and compensation now proposed, it is suggested that Condition B3 be deleted.

2.2.7 Condition B4 – Height

Current Condition

- 1) *The height limit for future buildings within super lot 1 is modified to comply with the height limitations in Clause 17 of the Ballina Local Environment Plan 1987 (as in force at the time of this approval).*

- 2) *The area of three storey height allowed for the future retirement community is restricted to that part of super lot 5 located west of Montwood Drive. The concept plan is modified so that no landmark feature is permitted. The maximum height limit for the future three storey buildings is RL 13m AHD. The maximum gross floor area (as defined in Clause 45 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004) of future buildings is 1:1. The future application(s) for development of the retirement community are to comply with clause 45(6) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004) in providing affordable places and on-site support services.*
- 3) *The height of future buildings across the remainder of the site is to comply with Clause 17 of the Ballina Local Environment Plan 1987 (as in force at the time of this approval).*

Proposed Modification

Part 1 of the condition relates to a proposal for a three storey height limit within super lot 1, being the main street neighbourhood centre. The restriction to a maximum of two stories is accepted and not proposed for modification.

Part 2 of the condition relates to the proposed three storey height limit over the retirement buildings to be located within super lot 5 to the west of Montwood Drive.

The modifications proposed above will replace that part of the development, with additional on-site conservation area being located in this space.

It is not proposed that the three storey limit would be 'transferred' elsewhere within the development. Part 2 of the condition is therefore no longer required.

It is suggested that the condition be amended to read:

- 1) *The height limit for future buildings within super lot 1 is modified to comply with the height limitations in Clause 17 of the Ballina Local Environment Plan 1987 (as in force at the time of this approval).*
- 2) *The height of future buildings across the remainder of the site is to comply with Clause 17 of the Ballina Local Environment Plan 1987 (as in force at the time of this approval).*

2.2.8 Condition B9 – Retail Floor Space

Current Condition

The concept plan is modified to limit the amount of retail space in the neighbourhood centre to 1200m² gross leasable area until such time as Hutley Drive is extended to the north and south of the site upon which a maximum of 3000m² gross leasable area is permitted.

Proposed Modification

As discussed in **Section 2.1.3**, it is proposed to increase the total retail floor space by 1,000m² to provide for supermarket and retail specialty stores that cater for local demand without impacting on the nature, function and viability of the existing Lennox Head village centre.

It is also proposed to delete the restriction that limits the amount of retail floor space that can be constructed before the extension of Hutley Drive.

Accordingly, it is suggested that Condition B9 be amended to read:

The concept plan is modified to limit the amount of retail space in the neighbourhood centre to 4,000m² gross leasable area.

Based on the traffic assessment summarised above and detailed in **Appendix C**, it is also suggested that a new condition be imposed, to read:

Subsequent approvals for Stages 8 and 9 of the development, as shown in Illustration C5 Development Staging, cannot be given until such time as Hutley Drive is extended to the north to connect with North Creek Road.

2.2.9 Condition B10 – Buffer to Conservation Area

Current Condition

The distance between the retained ecological corridor and the boundary of the residential or retirement lots is modified to be a minimum of 20m.

Note: the retained ecological corridor generally encompasses the Freshwater wetlands endangered ecological community.

Proposed Modification

Condition B2 of the Project Approval provides a similar requirement, containing a buffer distance of 15m. For consistency, it is suggested that the conditions should contain the same buffer requirements. It is therefore suggested that this condition be amended to read:

*The distance between the retained ecological corridor and the boundary of the residential or retirement lots is modified to be a minimum of **15m**.*

Note: the retained ecological corridor generally encompasses the Freshwater wetlands endangered ecological community.

2.2.10 Condition B14 – Retirement Community Super Lot

Current Condition

The retirement community super lot (super lot 5) is modified as follows:

- 1) The distance between the lot boundary and the eastern extent of the water quality control pond (under average operating conditions) is a minimum of 15m; and*
- 2) The southern boundary of the lot is moved north so that it does not encroach on the basin to the south of the water quality control pond.*

Proposed Modification

This condition is no longer required as the part of super lot 5 closest to the pond and basin will now be part of the on-site conservation area.

It is therefore suggested that this condition be deleted.

2.2.11 Condition C1 – Affordable Housing and On-site Support Services

Current Condition

In accordance with clause 45(6) of the State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, the future application(s) for the retirement community shall include:

- a) 10% affordable housing; and*
- b) The provision of on-site support services for the residents.*

The affordable housing and on-site support services are to be indicated on plans submitted as part of the application for the development of super lot 5.

Proposed Modifications

The requirements of clause 45 of the SEPP relate to the 'vertical villages' and were relevant to the three storey component of the retirement development. Now that this three storey component is no longer proposed, the future development of the retirement community will not rely on the vertical villages provisions of the SEPP.

Accordingly, the affordable housing and site service requirements are no longer applicable to the retirement community development. It is therefore suggested that Condition C1 be deleted.

Notwithstanding this, it is clear that the diversity of lot size and associated housing product approved throughout the whole of the development will provide a wider range of housing affordability than exists elsewhere in Lennox Head. In particular, the smaller rear lane lots and the small affordable lots will provide a low cost entry point for the market. Similar lot size mixture will also be provided within the future development of the retirement community, again providing a mixture of housing choice and affordability.

2.3 Details of Modification – Project Approval

2.3.1 Condition A1 – Project Description

Current Condition

Project approval is granted only to carrying out the project described in detail below: A 63 lot residential subdivision comprising:

- a) 54 residential lots ranging in size from 632m² to 907m²;
- b) 6 super lots for future development as follows:
 - i. Super Lot 1 (1.43 ha)
 - ii. Super Lot 2 (5730m²)
 - iii. Super Lot 3 (2050m²)
 - iv. Super Lot 4 (1649m²)
 - v. Super Lot 5 (8.18 ha)
 - vi. Super Lot 6 (2380m²)
- c) 2 open space lots of 910m² and 641m²;
- d) Earthworks;
- e) Associated roads and civil works; and
- f) Landscaping.

Proposed Modification

Based on the overview above, it is suggested that the condition be amended to read:

*Project approval is granted only to carrying out the project described in detail below: A **65** lot residential subdivision comprising:*

- a) 54 residential lots ranging in size from 632m² to 907m²;
- b) 8 super lots for future development as follows:
 - i. Super Lot 1 (1.43 ha)
 - ii. Super Lot 2 (5730m²)
 - iii. Super Lot 3 (2050m²)
 - iv. Super Lot 4 (1649m²)
 - v. Super Lot 5 (**4.65** ha)
 - vi. Super Lot 6 (2380m²)

vii. Super Lot 7 (5.59 ha)

viii. Super Lot 8 (4.98 ha)

- c) 2 open space lots of 910m² and 641m²;
- d) Earthworks;
- e) Associated roads and civil works; and
- f) Landscaping.

2.3.2 Condition A2 – Staging

Current Condition

The project shall be undertaken in three stages:

- 1) Stage 1A – Subdivision of 54 residential lots and 2 open space lots and associated roads and landscaping in the south of the site;
- 2) Stage 1B – Subdivision of 6 super lots, the extension of Montwood Drive and the construction of Main Street; and
- 3) Stage 1C – Construction of Hutley Drive and the western link for the playing fields adjacent to the site.

Staging can be varied with the written approval of the Director-General.

Proposed Modification

Based on the above overview, it is suggested that the condition be modified to read:

The project shall be undertaken in **two** stages:

- 1) Stage 1A – Subdivision of 54 residential lots and 2 open space lots and associated roads and landscaping in the south of the site; and
- 2) Stage 1B – Subdivision of **8** super lots, the extension of Montwood Drive, the construction of Main Street, **and the construction of Hutley Drive and the western link for the playing fields adjacent to the site.**

Staging can be varied with the written approval of the Director-General.

2.3.3 Condition A3 – Approved Plans

Current Condition

The project shall be undertaken in accordance with the following drawings:

Drawing No.	Revision	Name of Plan	Date
Design, Landscape and Survey Drawings			
06115-P3A 2K		Illustration P1 Stage 1 Project Application	12/08/08
6501-DA2	1	Illustration P2 Stage 1 Subdivision Plan	26/08/08
06115-P3A 13H		Illustration P3 Stage 1 Landscape Plan	14/08/08
		Illustration P4 Stage 1 Stormwater Concept Plan	15/08/08
		Illustration P5 Stage 1 Proposed Bulk Earthworks Plan	27/08/08
		Illustration P6 Stage 1 Design Contour Plan	26/08/08
		Illustration P7 Stage 1 Erosion and Sedimentation Control Plan	15/08/08

Drawing No.	Revision	Name of Plan	Date
		<i>Illustration P8 Stage 1 Erosion and Sedimentation Control Details</i>	<i>27/11/07</i>
Servicing Drawings prepared by Ardill Payne and Partners			
<i>T01-A-S</i>		<i>Services Layout Plan Stage 1</i>	<i>02/06/08</i>
<i>T01-B-S</i>		<i>Services Layout Plan Stage 1B</i>	<i>29/05/08</i>
<i>T01-C-S</i>		<i>Services Layout Plan Stage 1C</i>	<i>02/06/08</i>
Road Long section Drawings prepared by Ardill Payne and Partners			
<i>T01-INT-01</i>		<i>Location Plan Intersection Layout</i>	<i>02/06/08</i>
<i>T01-A-R</i>		<i>Road Layout Plan Stage 1A</i>	<i>02/06/08</i>
<i>T01-A-L1</i>		<i>Road Longsection Stage 1A</i>	<i>02/06/08</i>
<i>T01-A-L2</i>		<i>Road Longsection Stage 1A</i>	<i>02/06/08</i>
<i>T01-B-R</i>		<i>Road Layout Plan Stage 1B</i>	<i>02/06/08</i>
<i>T01-B-L1</i>		<i>Road Longsection Stage 1B</i>	<i>02/06/08</i>
<i>T01-B-L2</i>		<i>Road Longsection Stage 1B</i>	<i>02/06/08</i>
<i>T01-C-R</i>		<i>Road Layout Plan Stage 1C</i>	<i>02/06/08</i>
<i>T01-C-L1</i>		<i>Road Longsection Hutley Drive Stage 1C</i>	<i>02/06/08</i>

except for:

- 1) any modifications which are 'Exempt and Complying development' as identified in Ballina Shire Development Control Plan – Exempt and Complying Development or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated into the BCA;
- 2) otherwise provided by the conditions of this approval.

Proposed Modification

The changes described in this report are supported by updated plans, attached to this modification application. The condition should therefore be amended as follows:

The project shall be undertaken in accordance with the following drawings:

Drawing No.	Revision	Name of Plan	Date
Design, Landscape and Survey Drawings			
<i>100603 2E</i>		<i>Illustration P1 Stage 1 Project Application</i>	<i>16/08/10</i>
<i>6501-DA2</i>	<i>1</i>	<i>Illustration P2 Stage 1 Subdivision Plan</i>	<i>28/06/10</i>
<i>100603 13A</i>		<i>Illustration P3 Stage 1 Landscape Plan</i>	<i>11/06/10</i>
		<i>Illustration P4 Stage 1 Stormwater Concept Plan</i>	<i>28/06/10</i>
		<i>Illustration P5 Stage 1 Proposed Bulk Earthworks Plan</i>	<i>28/06/10</i>

Drawing No.	Revision	Name of Plan	Date
		<i>Illustration P6 Stage 1 Design Contour Plan</i>	<i>28/06/10</i>
		<i>Illustration P7 Stage 1 Erosion and Sedimentation Control Plan</i>	<i>28/06/10</i>
		<i>Illustration P8 Stage 1 Erosion and Sedimentation Control Details</i>	<i>27/11/07</i>
Servicing Drawings prepared by Ardill Payne and Partners			
<i>T01-A-S</i>		<i>Services Layout Plan Stage 1</i>	<i>02/06/08</i>
<i>T01-B-S</i>		<i>Services Layout Plan Stage 1B</i>	<i>29/05/08</i>
<i>T01-C-S</i>		<i>Services Layout Plan Stage 1C</i>	<i>02/06/08</i>
Road Long section Drawings prepared by Ardill Payne and Partners			
<i>T01-INT-01</i>		<i>Location Plan Intersection Layout</i>	<i>02/06/08</i>
<i>T01-A-R</i>		<i>Road Layout Plan Stage 1A</i>	<i>02/06/08</i>
<i>T01-A-L1</i>		<i>Road Longsection Stage 1A</i>	<i>02/06/08</i>
<i>T01-A-L2</i>		<i>Road Longsection Stage 1A</i>	<i>02/06/08</i>
<i>T01-B-R</i>		<i>Road Layout Plan Stage 1B</i>	<i>02/06/08</i>
<i>T01-B-L1</i>		<i>Road Longsection Stage 1B</i>	<i>02/06/08</i>
<i>T01-B-L2</i>		<i>Road Longsection Stage 1B</i>	<i>02/06/08</i>
<i>T01-C-R</i>		<i>Road Layout Plan Stage 1C</i>	<i>02/06/08</i>
<i>T01-C-L1</i>		<i>Road Longsection Hutley Drive Stage 1C</i>	<i>02/06/08</i>

except for:

- 1) any modifications which are 'Exempt and Complying development' as identified in Ballina Shire Development Control Plan – Exempt and Complying Development or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated into the BCA;
- 2) otherwise provided by the conditions of this approval.

2.3.4 Condition A4 – Approved Documents

Current Condition

The project shall be undertaken in accordance with the following documents:

Environmental Assessment Documentation

- a) *Petrac Pacific Pines Estate Part 3A Application Environmental Assessment Report prepared by GeoLINK on behalf of Petrac Pty Ltd, dated March, 2008;*

Preferred Project Report Documentation

- b) *Preferred Project Report prepared by GeoLINK and dated June 2008;*

Additional Information

- c) *Correspondence prepared by GeoLINK dated 18 August 2008;*
- d) *Correspondence prepared by GeoLINK dated 29 August 2008; and*
Correspondence prepared by GeoLINK dated 3 September 2008.

Proposed Modification

The documents listed in this condition do not change. However, this modification report and the ecological report prepared by Cardno to support the proposed modification should be added to list.

Amend the condition by:

- Adding as item f) – “*Pacific Pines Modification Report* prepared by GeoLINK and dated September 2010 (1439900)”; and
- Adding as item g) – “*Pacific Pines Estate Environmental Impact Assessment and Mitigation Strategy* prepared by Cardno and dated August 2010”.

2.3.5 Condition B2 – Design Modifications

Current Condition

The following modifications shall be made to the subdivision:

- 1) *The distance between the retained ecological corridor and the boundary of the residential lots is modified to be a minimum of 15m;*

Note: the retained ecological corridor generally encompasses the Freshwater Wetlands endangered ecological community

- 2) *The boundary of super lot 5 is to be modified such that:*
 - a) *There is a minimum distance of 15m between the lot boundary and the eastern extent of the water quality control pond (under average operating conditions); and*
 - b) *The southern boundary does not encroach on the basin to the south of the water quality control pond.*
- 3) *The road based on road type I is to be modified so that it is consistent with the requirements for an access street’ in the Northern Rivers Local Government Development Design and Construction Manuals.*

The modified plans shall be submitted to the Department for approval prior to the issue of the construction certificate for Stage 1A.

Proposed Modification

Part 2 of the condition relates to that part of super lot 5 located between the pond and the extension of Montwood Drive. This area is now proposed as part of the conservation reserve and therefore the setback requirements are no longer relevant.

The condition should be amended to read:

The following modifications shall be made to the subdivision:

- 1) *The distance between the retained ecological corridor and the boundary of the residential lots is modified to be a minimum of 15m;*

Note: the retained ecological corridor generally encompasses the Freshwater Wetlands endangered ecological community

- 2) *The road based on road type I is to be modified so that it is consistent with the requirements for an access street’ in the Northern Rivers Local Government Development Design and Construction Manuals.*

The modified plans shall be submitted to the Department for approval prior to the issue of the construction certificate for Stage 1A.

2.3.6 Condition C2 – Ecological Compensation

Current Condition

The proponent shall prepare a brief for the research to be undertaken with the monies provided for ecological compensation (refer to condition B2 of the concept plan). The brief is to be prepared in consultation with the Department of Environment and Climate Change and Council and approved by the Department prior to the issue of a Construction Certificate for Stage 1B.

Proposed Modification

Given that it is now proposed to delete the requirement for monetary payment relating to ecological compensation, this condition is no longer relevant.

It is requested that Condition C2 be deleted.

2.3.7 Condition C6 – Earthworks

Current Condition

A detailed earthworks report shall be prepared (in accordance with Council's Subdivision Code and the Northern Rivers Local Government Development Design and Construction Manuals) including, but not limited to (where relevant):

- 1) *The methods for winning material;*
- 2) *Movement and handling of soil:*
- 3) *Mitigative works and measures*
- 4) *Haulage routes and rates*
- 5) *Equipment to be used*

The report shall include details of all earthworks to be undertaken as part of Stage 1B and 1C of this project approval and be submitted to and approved by Council prior to the issue of a Construction Certificate for Stage 1B.

Proposed Modification

Stages 1B and 1C are now proposed to be amalgamated. The condition should be modified accordingly:

A detailed earthworks report shall be prepared (in accordance with Council's Subdivision Code and the Northern Rivers Local Government Development Design and Construction Manuals) including, but not limited to (where relevant):

- 1) *The methods for winning material*
- 2) *Movement and handling of soil*
- 3) *Mitigative works and measures*
- 4) *Haulage routes and rates*
- 5) *Equipment to be used*

*The report shall include details of all earthworks to be undertaken as part of **Stage 1B** of this project approval and be submitted to and approved by Council prior to the issue of a Construction Certificate for Stage 1B.*

2.3.8 Condition C7 – Hutley Drive

Current Condition

Hutley Drive is to be constructed for its full length and ultimate width within the site. Detailed designs are to be provided to Council for approval prior to the issue of the Construction Certificate for Stage 1C.

Proposed Modification

Stages 1B and 1C are now proposed to be amalgamated. The condition should be modified accordingly:

*Hutley Drive is to be constructed for its full length and ultimate width within the site. Detailed designs are to be provided to Council for approval prior to the issue of the Construction Certificate for **Stage 1B**.*

2.3.9 Condition I4 - Earthworks

Current Condition

The land is to be filled in accordance with Ballina Shire Council's development consent DA1999/248. The "Works-as-Executed" drawings are to be submitted to Council prior to the issue of the Subdivision Certificate.

Proposed Modification

The additional area of compensation reserve proposed by this modification, will not be filled. The condition should be modified accordingly:

*The land is to be filled in accordance with Ballina Shire Council's development consent DA1999/248, **with the exception of that part of the proposed conservation reserve located between the water quality control pond and the extension to Montwood Drive.** The "Works-as-Executed" drawings are to be submitted to Council prior to the issue of the Subdivision Certificate.*

2.3.10 Condition I7 – Ecological Compensation

Current Condition

The first payment of \$30,000 for ecological research (referred to in condition B2 of the concept plan) shall be paid to the selected research body prior to the issue of the subdivision certificate for stage 1B. Evidence of the payment shall be submitted to the Department.

Two additional payments shall be made on or before the anniversary of the first payment. Evidence of these subsequent payments will also be given to the Department following payment.

Proposed Modification

Given that it is now proposed to delete the requirement for monetary payment relating to ecological compensation, this condition is no longer relevant.

It is requested that Condition I7 be deleted.

2.3.11 Condition J1 – Development Consent DA2004/1113

Current Condition

Prior to the release of the subdivision certificate for Stage 1C, the proponent shall complete all the works approved by development consent DA 2004/1113 (as modified) and then surrender the consent.

Proposed Modification

Stages 1B and 1C are now proposed to be amalgamated. The condition should be modified accordingly:

*Prior to the release of the subdivision certificate for **Stage 1B**, the proponent shall complete all the works approved by development consent DA 2004/1113 (as modified) and then surrender the consent.*

2.3.12 Condition J2 – Development Consent DA1999/248

Current Condition

Prior to the release of the subdivision certificate for Stage 1C, the proponent shall complete the works approved by development consent DA 1999/248 and then surrender the consent.

Proposed Modification

Stages 1B and 1C are now proposed to be amalgamated. The condition should be modified accordingly:

*Prior to the release of the subdivision certificate for **Stage 1B**, the proponent shall complete all the works approved by development consent DA 1999/248 (as modified) and then surrender the consent.*

2.3.13 Condition J3 – Development Consent DA2002/333

Current Condition

Prior to the release of the subdivision certificate for Stage 1C, the proponent shall complete the works approved by development consent DA 2002/333 and then surrender the consent.

Proposed Modification

Stages 1B and 1C are now proposed to be amalgamated. The condition should be modified accordingly:

*Prior to the release of the subdivision certificate for **Stage 1B**, the proponent shall complete all the works approved by development consent DA 2002/333 (as modified) and then surrender the consent.*

2.4 Additional Direction

In providing the Concept Approval, the Minister has provided a number of directions relating to the approval and to the implementation of future stages.

These directions provide, in part, that approval for future stages will be subject to the provisions of Part 4 of the Act.

It is not clear, however, how any inconsistencies between the Concept Approval and any Local Environmental Plan might be addressed.

The *Environmental Planning and Assessment Act* provides that a Concept Approval becomes, in effect, a Development Control Plan. It does not, however, provide guidance in relation to Local Environmental Plans.

Clearly, in approving a Concept Plan, it is the intention of the Minister that the development therein should proceed, subject to appropriate environmental assessment. We suggest therefore, that the Minister provide an additional direction to the effect that the Concept Approval override any Environmental Planning Instrument, in the case of an inconsistency.

2.5 Statement of Commitments

Statements of Commitment form part of both the Concept Approval and the Project Approval. Based on the modifications proposed in this report, the Statements have been modified and updated. The updated Statements for both the Concept Approval and the Project Approval are contained in **Appendix D**.

One of the key changes is to delete the column relating to responsibility. Overall, the proponent will be responsible for all of the Commitments. As approved, however, the responsibility was assigned to Petrac and various firms within its consultant team.

The time since approval has demonstrated how easily the proponent can change. Petrac no longer exists and the project is being progressed at the moment by receivers. Therefore, a new proponent will be involved with implemented the approved development, and will bring together a new and potentially different consultant team.

Assessment of modification

3.1 Substantially the same development

The proposed modifications will reduce the area of an approved 'super-lot' and increase the area proposed for on-site conservation. It will not alter the number of lots approved or the proposed use of any of the lots.

While it does propose an additional two super lots, these areas were approved as future stages of residential subdivision and the effect of the modification is simply to bring the subdivision of these areas forward in sequence.

In relation to the maximum retail floor space, the additional area does not alter the shape, location or area of the approved super lot. The change merely alters a design criterion relating to future development of the super lot, which requires subsequent approval.

3.2 Consistency with approvals

As detailed in the previous section, the proposed modifications, particularly in relation to increased on-site conservation area, have been designed in response to the conditions of Concept Approval. The increased area will provide the mechanism whereby the requirements of Conditions B2 and B3 of the Concept Approval can be adequately addressed.

The proposal to include two additional super lots in Stage 1 is also consistent with the approval. As indicated above, the effect of the change is simply to bring forward the residential development of these areas.

Similarly, the additional retail floor space proposed remains consistent with the approval in that it provides for the future development of a retail centre that is consistent with the hierarchy outlined in Council's Ballina Retail Strategy.

3.3 Environmental impacts of proposed modifications

The impacts associated with the proposed ecological modifications are addressed in detail in the attached Environmental Impact Assessment and Mitigation Strategy (**Appendix A**).

That assessment concludes that the proposed modification will have a number of direct positive environmental impacts, particularly associated with increased on-site retention, protection and enhancement of threatened flora species and the freshwater wetland EEC.

It also concludes that the magnitude of potentially negative impacts can be minimised through appropriate environmental management and implementation of a stormwater management plan that takes into consideration the sensitive nature of the conservation reserve.

The impacts associated with the additional retail floor space are addressed in the attached Economic Impact Assessment (**Appendix B**). That report concludes that the additional floor space proposed will not result in any significant economic impacts for either Lennox Head or Ballina.

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Conclusion

The modifications as proposed will result in improved environmental outcomes, particularly in relation to the retention of threatened flora species and the Freshwater wetland EEC. The changes are minor in scale and consistent with the existing approvals.

The modifications do not substantially alter the nature or scale of the development as approved.



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