



Development Assessment Panel

Business Paper

date of meeting: Wednesday, 25 September 2013

location: Function Room,
Port Macquarie-Hastings Council,
17 Burrawan Street,
Port Macquarie

time: 2.00pm

Note: Council is distributing this agenda on the strict understanding that the publication and/or announcement of any material from the Paper before the meeting not be such as to presume the outcome of consideration of the matters thereon.



**PORT MACQUARIE
HASTINGS**

Development Assessment Panel

CHARTER

Functions:

1. To review development application reports and conditions.
2. To determine development applications outside of staff delegations.
3. To refer development applications to Council for determination where necessary.
4. To provide a forum for objectors and applicants to make submissions on applications before DAP.
5. To maintain transparency for the determination of development applications.

Delegated Authority:

Pursuant to Section 377 of the Local Government Act, 1993 delegation to determine development applications under Part 4 of the Environmental Planning and Assessment Act 1979 having regard to the relevant environmental planning instruments, development control plans and Council policies.

Format Of The Meeting:

1. Panel meetings shall be carried out in accordance with Council's Code of Meeting Practise for Council Sub-Committees, except where varied by this Charter.
2. Meetings shall be "Open" to the public.
3. The Panel will hear from applicants and objectors or their representatives. Where considered necessary, the Panel will conduct site inspections which will be open to the public.

Development Assessment Panel

ATTENDANCE REGISTER

Member	23/01/13	13/02/13	27/02/13	13/03/13	27/03/13
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Fletcher	✓	✓	✓	✓	✓
Cliff Toms David Troemel (alternate)	✓	✓	A ✓	✓	✓

Member	10/04/13	24/04/13	08/05/13	12/06/13	26/06/13
Paul Drake	A	✓	✓	✓	✓
Matt Rogers	✓				✓
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	A
David Fletcher Paul Biron (alternate)	A ✓	✓	✓	✓	✓
Cliff Toms David Troemel (alternate)	✓	✓	A ✓	✓	✓

Member	10/07/13	24/07/13	14/08/13	28/08/13	11/09/13
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Fletcher Paul Biron (alternate)	✓	✓	✓	✓	✓
David Troemel	✓	✓	✓	✓	✓

Key: ✓ = Present
A = Absent With Apology
X = Absent Without Apology



**PORT MACQUARIE
HASTINGS**

Development Assessment Panel Meeting

Wednesday, 25 September 2013

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**PORT MACQUARIE
HASTINGS**

Item: 01**Subject: ACKNOWLEDGEMENT OF COUNTRY**

"I acknowledge that we are gathered on Birpai Land. I pay respect to the Birpai Elders both past and present. I also extend that respect to all other Aboriginal and Torres Strait Islander people present."

Item: 02**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

Item: 03**Subject: CONFIRMATION OF PREVIOUS MINUTES**

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 11 September 2013 be confirmed.

PRESENT

Members:

Paul Drake
Dan Croft
David Fletcher
David Troemel

Other Attendees:

Jesse Dick
Fiona Tierney
Patrick Galbraith-Robertson
Clinton Tink
Ben Roberts

The meeting opened at 2.02pm

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 28 August 2013 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA 2013 - 0313 - ALTERATIONS AND ADDITIONS TO EXISTING MEDICAL CENTRE - LOT 9 DP 262236, 11 HIGHFIELDS CIRCUIT, PORT MACQUARIE

The Chair tabled a submission from Brian Weelands objecting to the proposal.

Speakers:

Margaret O'Connor (o)

Robert Smallwood (applicant)

Jeff Malineack (applicant)

CONSENSUS:

That DA 2013/0313 for Alterations and Additions to Existing Medical Centre at Lot 9, DP 262236, No. 11 Highfields Circuit, Port Macquarie, be determined by granting consent subject to the recommended conditions.

06 DA 2012 - 0349 - STAGES ALTERATIONS AND ADDITIONS TO EXISTING PUB (BAGO TAVERN) - LOT 40 DP 23418 & LOT 2 DP 1027504, 235-237 HIGHT STREET, WAUCHOPE

Speaker:

Peter Bugden (applicant)

CONSENSUS:

That DA 2012 - 349 for staged extensions to a pub (Bago Tavern) at Lot 40 DP 23418 & Lot 2 DP 1027504, No. 235-237 High Street, Wauchope, be determined by granting consent subject to the recommended conditions.

07 DA 2013 - 0119 - SINGLE DWELLING INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.2A OF THE PORT MACQUARIE HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - LOT 6 DP 1046995, 3459 OXLEY HIGHWAY, HYNDMANS CREEK

CONSENSUS:

That it be a recommendation to Council that DA 2013 - 0119 for a Single Dwelling including Clause 4.6 Variation to Clause 4.2A of the PMH LEP 2011 at Lot 6, DP 1046995, No. 3459 Oxley Highway, be determined by granting consent subject to the recommended conditions.

**08 DA2013 - 0204 - BOAT SHED, BOAT RAMP, PONTOON & RETAINING WALL -
LOT 37 DP 215926 & LOT DP 43937, 73 RIVERSIDE DRIVE, PORT
MACQUARIE**

Speakers:

Tony Blue (o)

Chris Holland (applicant)

CONSENSUS:

That the application be deferred and the applicant be invited to submit amended plans for the proposed boat shed so as to retain views enjoyed by 71 Riverside Drive, Port Macquarie.

**09 DA 2013 - 0342 - ATTACHED DUAL OCCUPANCY & STRATA SUBDIVISION -
LOT 4 DP 1158516, 21 INVESTIGATOR WAY, LAURIETON**

Speakers:

Mathew Model (o)

Derek Collins (applicant)

CONSENSUS:

That DA 2013/0342 for an attached dual occupancy and strata subdivision at Lot 4, DP 1158516, No. 21 Investigator Way, Laurieton, be determined by granting consent subject to the recommended conditions and as amended below:

- New condition in Section E of the consent to read: 'Prior to release of the subdivision certificate, the strata management statement is to include provision for a private domestic waste collection service for both dwellings. A private domestic waste collection arrangement shall be in place prior to release of any occupation certificate'.

10 DA 2013 - 0366 - CHANGE OF USE - DWELLING TO MEDICAL CENTRE - LOT 15 DP 251216, 4 WYANDRA CRESCENT, PORT MACQUARIE

Speaker:
Derek Collins (applicant)

CONSENSUS:

That DA 2013/0366 for Change of Use from Dwelling to Medical Centre at Lot 15, DP 251216, No. 4 Wyandra Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Amend condition B(9) to read: 'The stormwater on the site needs be managed through Council's piped stormwater system. Currently Council's piped system runs adjacent to the front property boundary. Stormwater discharge shall either be discharged to a new Kerb Inlet Pit is constructed on Councils system or via a direct pipe-to-pipe connection to Council's main into which the stormwater run-off is to be directed via a new piped system from the proposed Medical Centre. Plans depicting the stormwater drainage to be submitted to Council as part of the s138 application.'
- Amend condition F(5) to read; 'Not more than 1 health care professional and 2 administrative staff are to work at the premises at any one time'.
- Additional condition in Section B of the consent to read: 'Prior to release of the Construction Certificate, amended plans are to be provided deleting car space number 4 so as to comply with AS2890.1 and provide for the remaining area between the car park and the front property boundary to be landscaped.'

11 GENERAL BUSINESS

Nil.

The meeting closed at 3.20pm.

Item: 04
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

Name of Meeting:
Meeting Date:
Item Number:
Subject:
.....

I, declare the following interest:

Pecuniary:
Take no part in the consideration and voting and be out of sight of the meeting.

Non-Pecuniary - Significant Interest:
Take no part in the consideration and voting and be out of sight of the meeting.

Non-Pecuniary - Less than Significant Interest:
May participate in consideration and voting.

For the reason that:
.....

Signed: Date:

(Further explanation is provided on the next page)



Further Explanation

(Local Government Act and Code of Conduct)

A conflict of interest exists where a reasonable and informed person would perceive that a Council official could be influenced by a private interest when carrying out their public duty. Interests can be of two types: pecuniary or non-pecuniary.

All interests, whether pecuniary or non-pecuniary are required to be fully disclosed and in writing.

Pecuniary Interest

A pecuniary interest is an interest that a Council official has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the Council official. (section 442)

A Council official will also be taken to have a pecuniary interest in a matter if that Council official's spouse or de facto partner or a relative of the Council official or a partner or employer of the Council official, or a company or other body of which the Council official, or a nominee, partner or employer of the Council official is a member, has a pecuniary interest in the matter. (section 443)

The Council official must not take part in the consideration or voting on the matter and leave and be out of sight of the meeting. (section 451)

Non-Pecuniary

A non-pecuniary interest is an interest that is private or personal that the Council official has that does not amount to a pecuniary interest as defined in the Act.

Non-pecuniary interests commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

The political views of a Councillor do not constitute a private interest.

The management of a non-pecuniary interest will depend on whether or not it is significant.

Non Pecuniary – Significant Interest

As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest, but it involves:

- (a) A relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the Council official or of the Council official's spouse, current or former spouse or partner, de facto or other person living in the same household.
- (b) Other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
- (c) An affiliation between a Council official an organisation, sporting body, club, corporation or association that is particularly strong.

If a Council official declares a non-pecuniary significant interest it must be managed in one of two ways:

1. Remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.
2. Have no involvement in the matter, by taking no part in the consideration or voting on the matter and leave and be out of sight of the meeting, as if the provisions in section 451(2) apply.

Non Pecuniary – Less than Significant Interest

If a Council official has declared a non-pecuniary less than significant interest and it does not require further action, they must provide an explanation of why they consider that the conflict does not require further action in the circumstances.



SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

By <i>[insert full name of councillor]</i>	
In the matter of <i>[insert name of environmental planning instrument]</i>	
Which is to be considered at a meeting of the <i>[insert name of meeting]</i>	
Held on <i>[insert date of meeting]</i>	
PECUNIARY INTEREST	
Address of land in which councillor or an associated person, company or body has a proprietary interest (<i>the identified land</i>) ⁱ	
Relationship of identified land to councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease trust, option or contract, or otherwise). <input type="checkbox"/> Associated person of councillor has interest in the land. <input type="checkbox"/> Associated company or body of councillor has interest in the land.
MATTER GIVING RISE TO PECUNIARY INTEREST	
Nature of land that is subject to a change in zone/planning control by proposed LEP (<i>the subject land</i>) ⁱⁱⁱ <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor <i>[Tick or cross one box]</i>	<input type="checkbox"/> Appreciable financial gain. <input type="checkbox"/> Appreciable financial loss.

Councillor's Signature: **Date:**



Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

-
- i. Section 443 (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative^{iv} or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.
 - ii. Section 442 of the *Local Government Act 1993* provides that a **pecuniary interest** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448 of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).
 - iii. A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section 443 (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section 448 (g) (ii) of the *Local Government Act 1993*.
 - iv. **Relative** is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

Item: 05

Subject: DA 2013 - 0414 - CONTINUED USE OF A SHED FOR ANCILLARY STORAGE AND WORKSHOP SPACE ASSOCIATED WITH THE EXISTING LANDSCAPING MATERIAL SUPPLIES/PLANT NURSERY AT LOT 2 DP 834401, 2 LINDFIELD PARK ROAD, PORT MACQUARIE

Report Author: Clint Tink

Property: Lot 2 DP 834401, 2 Lindfield Park Road, Port Macquarie
Applicant: Land Dynamics Australia
Owner: W Betts
Application Date: 30 July 2013
Estimated Cost: \$7000
Location: Port Macquarie
File no: DA 2013/0414
Parcel no: 12463

Alignment with Delivery Program

4.9.2 Undertake transparent and efficient development assessment in accordance with relevant legislation.

RECOMMENDATION

That DA 2013/0414 for continued use of a shed for ancillary storage and workshop space associated with the existing landscaping material supplies/plant nursery at Lot 2 DP 834401, 2 Lindfield Park Road, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a Development Application for continued use of a shed for ancillary storage and workshop associated with the existing landscaping material supplies/plant nursery at the subject site.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

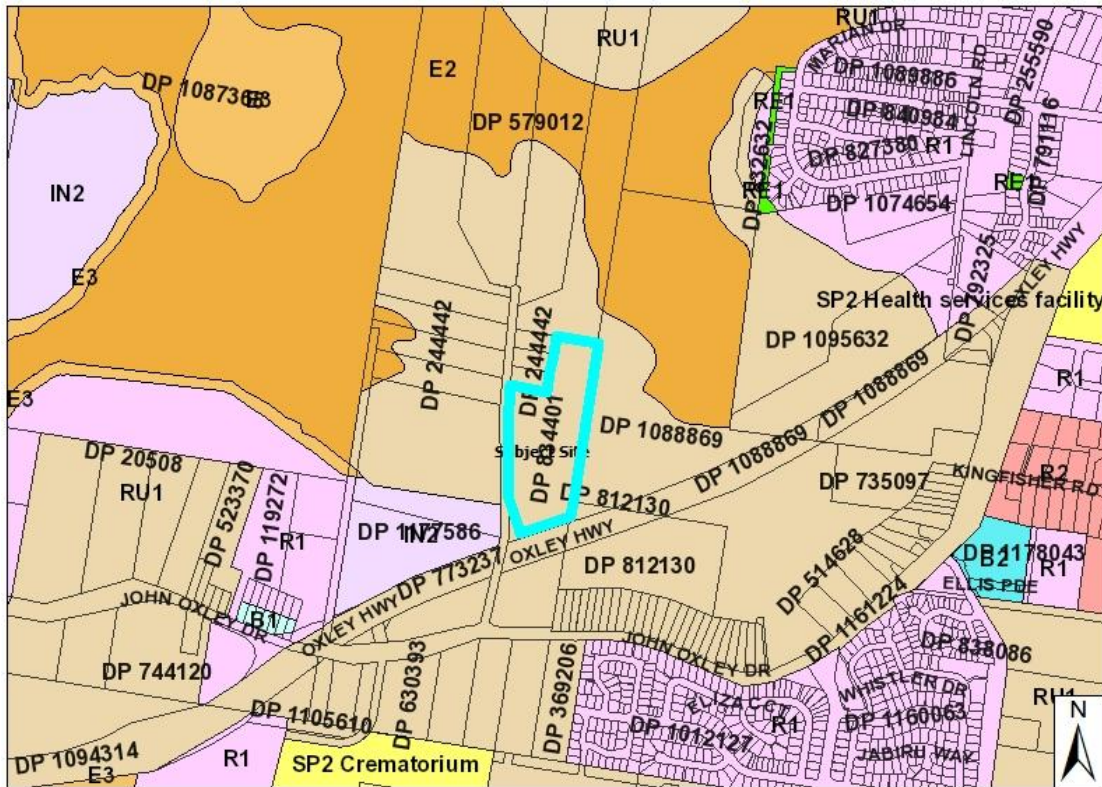
Subsequent to exhibition of the application, one (1) submission was received.

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 6.576ha.

The site is zoned RU1 Primary Production in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:

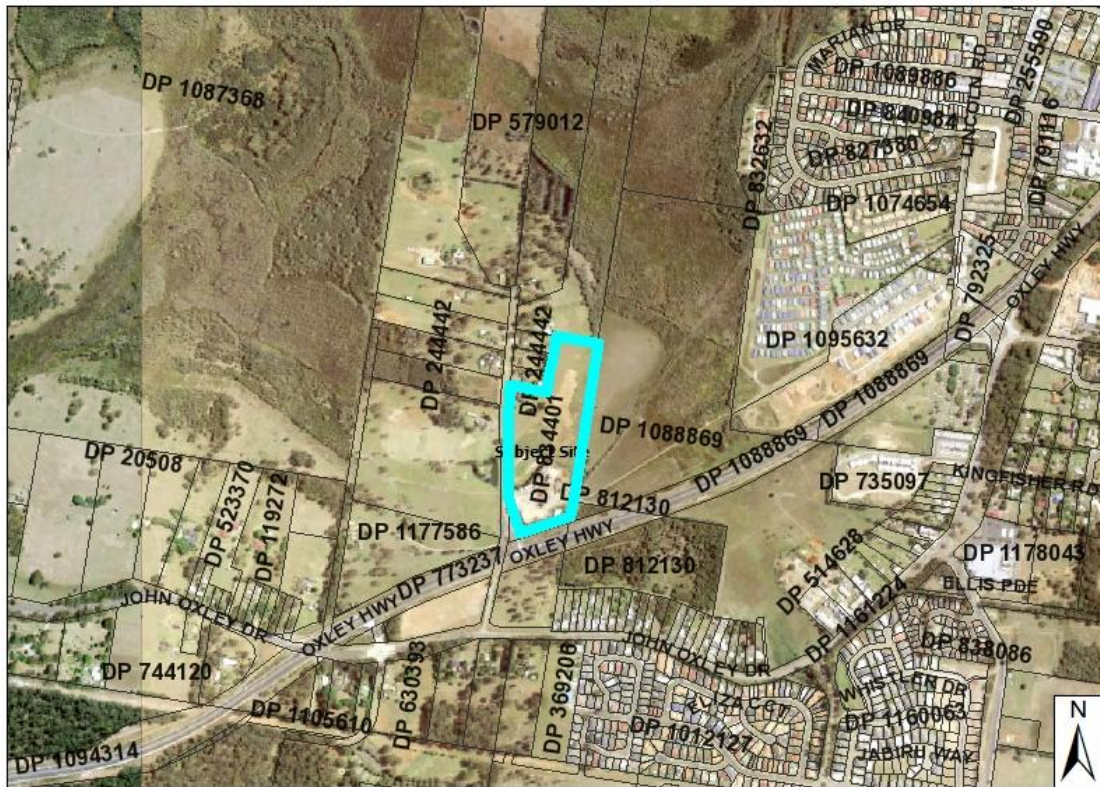


The development is located off Lindfield Park Road, which connects to the newly constructed Oxley Highway to the south.

Adjoining the property to the north and north west are rural residential style allotments. To the west is the Lindfield Park golf driving range, while to the east is undeveloped rural and environmental protection land.

The existing subdivision pattern and location of existing development within the immediate locality is shown in the following aerial photograph:





2. DESCRIPTION OF DEVELOPMENT

Key aspects of the application proposal include the following:

- The shed has been built without approval. This application seeks to allow the continued use of the shed as ancillary storage and workshop space associated with the existing landscaping supplies/plant nursery.
- DA 2004/429 approved the existing landscaping supplies/plant nursery.
- The development relies on existing use rights under Clause 107 of the Environmental Planning and Assessment Act 1979. Clause 108 of the Act and Clause 42/43 of the Environmental Planning and Assessment Regulation 2000 allow for an existing use to be altered, enlarged etc.
- The shed is 54m² in size.
- One (1) submission was received during notification period.

Refer to attachments at the end of this report.

Application Chronology

- 27/7/2004 - Council's Development Assessment Panel approved the use of the site for landscape supplies and nursery.
- 30/7/2013 - DA 2013/414 lodged with Council.
- 1/8/2013 - Council staff requested neighbour notification fee and site plan drawn to scale.
- 7/8/2013 - Council staff requested detail on the finished floor level of the shed.
- 13/8/2013 - Notification fee was paid by the applicant.
- 4/9/2013 - Site plan and finished floor level supplied by the applicant.

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

- (a) **The provisions (where applicable) of:**
(i) **any Environmental Planning Instrument:**

State Environmental Planning Policy 33 - Hazardous and Offensive Development

The inclusion of a 54m² storage shed and workshop ancillary to the existing landscape supplies and nursery does not create any new hazardous or offensive use that can occur onsite at present. The shed will allow previous storage and workshop aspects of the development to now occur undercover.

State Environmental Planning Policy 44 - Koala Habitat Protection

In accordance with clauses 6 and 7, the subject land has an area of more than one (1) hectare in size and therefore the provisions of SEPP must be considered.

The Department of Planning and Infrastructure's Circular No. B35, Section 1.5 states that "In relation to affected DAs it is the intention of the policy that investigations for 'potential' and 'core' koala habitats be limited to those areas in which it is proposed to disturb habitat".

The application has demonstrated that no habitat will be removed or modified and therefore, no further investigations are required. Aerial photos also suggested that no vegetation was removed to allow the shed.

The requirements of this SEPP are therefore satisfied.

State Environmental Planning Policy 55 – Remediation of Land

In accordance with clause 7, following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

The requirements of this SEPP are therefore satisfied.

State Environmental Planning Policy 62 - Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries. The shed is existing and will be used for storage and workshop purposes ancillary to the existing landscape supplies and nursery. The shed will reduce the amount of undeveloped runoff by creating a more controlled system.

State Environmental Planning Policy (Infrastructure) 2007

The development/shed will have no impact on the adjoining classified road and vice versa. In particular, the development is setback over 100m from the Oxley Highway and not clearly visible from the road to passing traffic.

The scale of the development does not trigger any of the thresholds in the SEPP in terms of referral to the Roads and Maritime Services.

State Environmental Planning Policy (Rural Lands) 2008

Given the landscaping supplies and nursery are existing, the inclusion of an ancillary storage shed and workshop area will create no new impacts on the adjoining rural land. It should also be noted that the adjoining rural zoned land is not used for any major agriculture use and is more confined to rural residential style development. Based on the above, the proposed development will create no impact on rural land, loss of rural land or any conflict between the proposal and rural activities.

Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2, the subject site is zoned RU1 Primary Production.

In accordance with clause 2.3(1) and the RU1 zone landuse table, the proposed development for a landscape material supplies is prohibited development. The use of the site for landscape supplies and nursery/sale of turf was approved by Council's Development Assessment Panel in 2004. This application will not change any aspect of the 2004 approval other than the inclusion of a shed for ancillary storage and workshop purposes associated with the landscape supplies business. The applicant is relying on existing use rights to allow the alterations. Conditions will be imposed to ensure the shed is used ancillary to the landscaping supplies/nursery business.

The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

In accordance with clause 2.3(2), the proposal is consistent with the zone objectives having regard to the following:

- the proposal is an existing use;
- the shed is minor in scale and will be used for purposes ancillary to the landscape supplies use;
- there will be no new conflict or impact on any adjoining rural use;

In accordance with clause 4.3 and 4.4, there is no height limit or FSR applicable to the site. It should be noted that the size of the shed is consistent with other similar buildings that occur on rural properties.

In accordance with clause 5.9, no listed trees in Development Control Plan 2011 are proposed to be removed or were removed to erect the shed.

In accordance with clause 5.10, the site does not contain or adjoin any known heritage items or sites of significance. The site has been previously disturbed by past landscape supplies activities.

In accordance with clause 7.1, the site contains potential acid sulfate soils. The proposed development does not include any significant excavation that would unearth acid sulphate soils and therefore no adverse impacts are expected to occur.

In accordance with clause 7.3, the site is land within a mapped "flood planning area". The application was referred to Council's Flood Engineer who has accepted the application on the basis that the required 1:20 year flood level is 2.6m AHD and the finished Floor Level of the shed is 3.2m. In this regard, the following comments are provided which incorporate consideration of Council's Interim Flood Policy:

- The proposal is compatible with the flood hazard of the land

- The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties.
- The proposal is not likely to affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses
- The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.
- The floor level of the development meets the required 1:20 year flood event.

In accordance with clause 7.9, the site is within an acoustic controls area. However, the development and use of the site for landscape supplies and nursery is already existing and does not propose any new residential or tourist purposes. In this regard, there will be no new impact or any requirement for acoustic protection.

In accordance with clause 7.13, satisfactory arrangements are in place for provision of essential public utility infrastructure including stormwater, water and sewerage infrastructure to service the development.

(ii) Any draft instruments that apply to the site or are on exhibition:

None relevant.

(iii) any Development Control Plan in:

Port Macquarie Hastings Development Control Plan 2011

DCP 2011 Requirement	Proposed	Complies
Signage		
DP1.1 Signage complies with SEPP 64	No signage proposed.	N/A
Notification/Advertising		
Development has been notified in accordance with DCP 2011	Adjoining property owners were notified of the application in accordance with the DCP.	Yes
Crime Prevention		
DP 1.1 CPTED principles considered.	The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area.	Yes
Environmental Management		
DP 1.1-3.1 Heritage considerations	Refer to comments on heritage in the LEP 2011 section of this report.	Yes
DP6.1 – Development to comply with Planning for Bushfire Protection Guidelines 2006	The development sits on the edge of the bushfire prone mapping. However, given the threat is over 100m away and the shed is constructed of non combustible materials; the development is unlikely to be affected by bushfire.	Yes
DP 7.1 APZ's outside	APZ's are not located within	Yes



environmental zones and contained within private property.	environmental zones.	
DP 10.1 Development complies with LEP flood clauses and Floodplain Management Plan.	Refer to comments on flooding in the LEP 2011 section of this report.	Yes
DP 12.1 Stormwater complies with Auspec	Stormwater to be managed onsite via detention. Overall hard stand areas are not changing.	Yes
Transport, Traffic Management, Access and Car Parking		
DP 3.1-3.3 Off street parking is provided in accordance with Table 2. Where a use does not fall within a listed definition a parking demand study will be required. Credit can be provided as per DP 4.1 and 5.1.	The ancillary shed is not located within a previously approved parking area and will house works that would have previously occurred outside in a similar footprint size. In this regard, there is no increase in useable landscape/nursery space and no further parking is required. Worst case scenario, landscape and garden supplies require 1 space per 70m ² . This results in one additional space being required. The site contains sufficient informal car parking to accommodate the additional space.	Yes
DP 7.1-9.3 Visitor parking must be: <ul style="list-style-type: none"> • Identifiable from the street. • Line marked. • Behind the building line unless stacked in driveway (or as per DP 7.5), results in improved open space or screened by minimum 3m landscape. • Designed in accordance with AS 2890 1&2 and AS 1428 (disabled) • Include bicycle & motorcycle parking. 	No new roads, driveways or parking proposed or required.	N/A
DP 17.2 Vehicle washing facilities are provided on permeable or grassed areas. Where there is risk of runoff/pollution a roofed and bunded wash bay will be required.	Area exists onsite for vehicle washing should the need arise.	Yes
DP 19.2-20.3 Loading bays: <ul style="list-style-type: none"> • Min 3.5m wide x 6m long & 5m high. • Separate from visitor parking. • Limited number of employee parking may be 	The development does not affect existing loading areas onsite or require any additional loading area.	Yes



<p>utilised.</p> <ul style="list-style-type: none"> • Must allow vehicles to stand onsite and not impact on surrounding area. • Must ultimately be designed to suit the vehicles intended to use them. • External bays require 1 bay for 500m² floor space or 1 bay for 1000m² site area. • Commercial <500m² do not require bay. • Commercial 1 bay for first 1000m² floor space and 1 bay for every 2000m² after. • Integrate into the design and be setback/screened. 		
<p>DP 21.1-21.3 Detailed plans of turning areas are to be provided to show that the site can accommodate the vehicles that use it</p>	<p>The development does not affect turning areas as the shed is located off the main turning loop onsite.</p>	<p>Yes</p>
<p>Industrial Provisions <i>(Note: While not specifically industrial or located in an industrial zoned area it is considered that the Industrial Provisions in the DCP have more relevance in terms of guiding this type of development)</i></p>		
<p>DP 2.1 Front setbacks</p> <ul style="list-style-type: none"> • 10m classified road • 7.6m other roads • 3m secondary road 	<p>The shed is located behind existing buildings onsite some 70m from Lindfield Park Road.</p>	<p>Yes</p>
<p>DP 3.1 Front façade where visible require appropriate finish.</p>	<p>The shed is located behind existing buildings and structures onsite. The design is also consistent with the other buildings onsite. Based on the above, the façade is quite plain but is not readily visible and remains consistent with the current buildings onsite.</p>	<p>Yes</p>
<p>DP 3.2 Large expanse of wall need to be articulated.</p>	<p>Refer to above point.</p>	<p>Yes</p>
<p>DP 5.1 Details to be provided of outside storage areas and work areas. Where approved, these should be in the rear and screened (2m min height screen).</p>	<p>Remainder of the site and outside storage remains unchanged.</p>	<p>Yes</p>
<p>DP 6.1-6.2 Detailed landscape plan to be submitted outlining trees to be removed/planted. Landscape must be:</p> <ul style="list-style-type: none"> • 3m wide and cover 2/3 of each frontage. • Vegetation tiered with trees 	<p>No landscaping proposed or required. The building is setback behind existing buildings and structures onsite.</p>	<p>Yes</p>



>10m, shrubs 5m at 1 per 3m2 density.		
DP 6.3 Fencing shall not be erected between building line and front boundary unless the front setback will store vulnerable items. In such a case, diplomat (or similar) fencing and landscaping is used.		
DP 7.1 Onsite recreation area provided for staff.	Area exists onsite for staff recreation facilities.	Yes
DP 9.1 Industrial development must comply with Industrial Noise Policy	Conditions will be imposed to control noise. It is envisaged that the development will create no new noise to that which can occur onsite at present.	Yes
DP 9.2 Windows, doors etc arranged to minimise noise impacts on residences within 400m.	The doors of the building are orientated to the south away from residential receivers. The shed will help enclose noise sources that could have occurred previously outside.	Yes
DP 9.3 External plant should be enclosed and located away from residential receivers.	Refer to above comment.	Yes

(iiia) any planning agreement that has been entered into under Section 93f or any draft planning agreement that a developer has offered to enter into under Section 93f:

None relevant.

iv) any matters prescribed by the Regulations:

None relevant.

v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates:

None relevant.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, social and economic impacts in the locality:

Context & Setting

The site has a general street frontage to both Lindfield Park Road and the Oxley Highway.

Adjoining the site to the north is rural residential style development.

Adjoining the site to the east is vacant rural/undeveloped land.

Adjoining the site to the south is the Oxley Highway .

Adjoining the site to the west is a golf driving range.



The proposal will be unlikely to have any adverse impacts to existing adjoining properties or the public domain.

The proposal is considered to be consistent with the existing use of the site and adequately addresses planning controls for the area.

Access, Transport & Traffic

The proposal will be unlikely to have any adverse impacts within the immediate locality in terms access, transport and traffic. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

Utilities, Stormwater, Water, Sewer

Except for stormwater, there will be no change to services. Stormwater will need to be directed to an approved discharge point with detail to be provided with the construction certificate.

Air & Micro-climate

The operations of the proposed development will be unlikely to result in any adverse impacts on the existing air quality or result in any pollution.

Flora & Fauna

The proposed development did not require any removal/clearing of any significant vegetation and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Section 5A of the Act is considered to be satisfied.

Waste

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated.

Noise & Vibration

The shed will contain works that would have occurred previously outdoors. It is considered that the shed will help improve noise retention, especially with the doors/openings being directed to the south away from residential receivers.

The Oxley Highway also provides significant background noise during operating hours.

Natural Hazards

Refer to comments on flooding and bushfire in the LEP 2011 and DCP 2011 sections of this report.

Safety, Security & Crime Prevention

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area.

Social Impact in the Locality

Given the nature of the proposed development, the existing use of the site and its' location the proposal is unlikely to result in any adverse social impacts.



Economic Impact in the Locality

No adverse impacts. Likely positive impacts can be attributed to the initial construction of the development and continued overall operation of the landscape nursery business.

Site Design and Internal Design

The proposed development design is satisfactorily responds to the site attributes and will fit into the locality. No adverse impacts likely.

Cumulative Impacts

The proposed development is not expected to have any adverse cumulative impacts on the natural or built environment or the social and economic attributes of the locality.

(c) The suitability of the site for the development:

The proposal will fit into the locality and the site attributes are conducive to the proposed development. Site constraints have been adequately addressed and appropriate conditions of consent recommended.

(d) Any submissions made in accordance with this Act or the Regulations:

One (1) written submission has been received following completion of the required public exhibition of the application.

Key issues raised in the submissions received and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
<p>The existing development creates noise and dust issues associated with trucks entering and exiting the site and loaders in operation. The business should be relocated to the industrial area as it is a gravel/topsoil quarry business and not green plants as originally submitted.</p>	<p>The use of the site remains consistent with the original approval DA 2004/429 being landscape supplies and nursery. The 2004 approval and plan depicted the use of the site for landscape supplies as is occurring onsite at present and also sale of plants, most notably turf. The inclusion of an ancillary storage and workshop shed will not change any of the existing aspects although it will assist in retaining noise associated with workshop operations that would have previously occurred informally outside. The site has also been subject to previous compliance audits in the past and found to be compliant; including the equipment used and associated noise levels.</p>

(e) The Public Interest:

The proposed development satisfies relevant planning controls and is unlikely to impact on the wider public interest.



4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply system head works under Section 64 of the Local Government Act 1993.

Refer to draft contribution schedule attached to this report and recommended conditions.

5. CONCLUSION

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. Consequently, it is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

Attachments

1 [View](#). DA2013 - 0414 Plans

2 [View](#). DA2013 - 0414 Recommended Conditions

3 [View](#). DA2013 - 0414 Development Contributions Calculation Sheet



This drawing, and details shown on these drawings are not to be used for any other purpose without the written permission of FEHNS. FEHNS shall not be held responsible for any errors or omissions in this drawing and any agreement with the customer in its use shall not be an agreement with FEHNS.

FOUNDATION PLAN AND MEMBER LAYOUT
DATE: 13/10

DO NOT SCALE THIS DRAWING. USE FIGURED DIMENSIONS ONLY. ALL DIMENSIONS TO BE VERIFIED ON SITE.

STEEL BUILDING BY HASTINGS VALLEY SHEDS & GARAGES FOR ANDREW LICKLEY AT PORT MACQUARIE	(CONTACT) 02 6586 1622 PO BOX 5891 PORT MACQUARIE	Chit & Shuckley Engineers 50 Parrot Street Canning, Qld 4812 Australia Email: chit@cses.com.au Telephone: 07 4713 3333 Fax: 07 4713 3334 Registered Professional Engineer Registered on the NPER in the areas of practice of Civil & Structural National Professional Engineers Register	Mr Timothy Roy Messer BE MIEAust RPEQ Registered Professional Engineer 255660 Signature: <i>[Signature]</i> Date: 13/10/13 Registered on the NPER in the areas of practice of Civil & Structural National Professional Engineers Register
DRAWN FDHS	CHECKED TM	DATE 8/4/2013	JOB NO. PORT11950
SHEET 1 OF 5			



FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011

NOTE: THESE ARE DRAFT ONLY

DA NO: 2013/414

DATE: 19/09/2013

PRESCRIBED CONDITIONS

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the *Environmental Planning & Assessment Regulations 2000*.

A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects		Land Dynamics Australia	June 2013
Site Plan	Project ref No 5028	Land Dynamics Australia	4/9/2013
Shed Plans	Job No Port11950 Sheets 1 & 2 of 5	Fairdinkum Sheds	8/4/2013

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- (2) (A006) Approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

nil

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

nil

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E009) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000,

the payment of a cash contribution, prior to occupation, the issue of an Occupation Certificate or within 90 days of the issue of this consent (whichever occurs first), of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent is required. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:

- augmentation of the town water supply headworks
- (3) (E195) Unauthorised works that would have been checked as part of the construction certificate for this approval will require the submission and approval of a Building Certificate by Council prior to occupation

F – OCCUPATION OF THE SITE

- (1) (F020) Liquid materials are to be stored in roofed and imperviously bund area. The bund shall be capable of containing 110% of the capacity of the largest container stored, or 25% of the total storage volume, whichever is greatest.
- (2) (F022) Greasy mechanical parts should only be cleaned in an appropriate parts washing facility.
- (3) (F023) Spills and contaminated runoff from the site, where necessary, should be prevented from entering the stormwater system. In this regard, adequate spill containment equipment should be maintained on site at all times.
- (4) (F195) The shed is only to be used for ancillary storage and workshop space associated with the landscape supplies/nursery business. The workshop is not to be used as a separate business associated with repairing equipment etc not related to the subject site.
- (5) (F196) This development does not change the hours of operation of the existing landscape supplies/nursery business. The ancillary storage and workshop must only be used within the landscape/nursery approved hours of operation.

18/09/2013

Development Contributions Calculation Sheet - Final Consent Issue									
Development Details				Contributions Plans Applicable					
DA No.	2013	0414	General S94 Plans		Applies	ET Chargeable	RatePer ET	Contribution Amount	
Address:	2 Lindfield Park Road, Port Macquarie		Major Roads		No				
Dev Description:	Ancillary Storage Shed and Workshop		Open Space		No				
Lot Number(s):	2		Community Cultural & Emergency Services		No				
DP Number(s):	B34401		Admin Building		No				
Stage No:	Total		Bushfire - Specific		No				
Applicant:	Land Dynamics Australia		Kings Creek		No				
Contribution Area:	<input type="checkbox"/> Camden Haven <input type="checkbox"/> Innes Peninsula <input type="checkbox"/> Kings Creek <input type="checkbox"/> Lake Cathie/Bonny Hills <input type="checkbox"/> Port Macquarie <input type="checkbox"/> Rural <input checked="" type="checkbox"/> Sancroix/Thrumster <input type="checkbox"/> Wauchope		Admin Levy		No				
(Planner must Select Contribution Area. Click Once with Mouse)			Specific Contribution Plans and DSPs (Planner Must Select if Plans are Applicable)						
DA Lodged Date:	30.07.2013		SB4A Levy Development Cost	\$7,000	No				
Prepared By:	Clinton Tink				<input type="checkbox"/> Applies				
DA Consent Date:					<input type="checkbox"/> Applies				
Issue No.	1				<input type="checkbox"/> Applies				
Calc Sheet Date:	18-Sep-2013		Water 1.6% Levy:	\$21.00	<input checked="" type="checkbox"/> Applies	0.135	\$9,740.00	\$1,314.90	
FINAL CONSENT CALCULATION	<input checked="" type="checkbox"/> Tick for FINAL Consent Calculation		Sewer		<input type="checkbox"/> Applies				
			Car Parking CP		Contribution Total: \$1,335.90				
			No. of Spaces Short		Notice of Payment Re-Issue Fee: <input type="checkbox"/> Applies				
ET Calculator for New Development (Proposed)									
Commercial & Industrial New Development			Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m ²
INDUSTRIAL MEDIUM SERVICE LOADING	m2	54	0.0025	0.0005	0.135	0.027			
N/A	m2	0	0	0	0	0			
N/A	m2	0	0	0	0	0			
N/A	m2	0	0	0	0	0			
Total Commercial ETs:							0.135	0.027	0
New Residential Development			Units	Sec 94 ET	Water ET	Sewer ET			
Number of new residential lots greater than 450m ² (excluding Dual Occ & Int Housing)			0	0	0	0			
Number of new residential lots greater than 2000m ² (excluding Dual Occ & Int Housing)			0	0	0	0			
1 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
2 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
3 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
4 Bedroom Units (LowDensity - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)			0	0	0	0			
1 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
2 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
3 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
4 Bedroom Units (High Density - 3 or more storeys)			0	0	0	0			
Motel Unit - Partially Self Contained (Own ensuite but shared facilities for cooking & laundry)			0	0	0	0			
Motel Unit - Self Contained (Own ensuite and kitchen)			0	0	0	0			
Caravan Park - Not Self Contained Site (permanent or transient)			0	0	0	0			
Caravan Park - Partially Self Contained Site (permanent or transient)			0	0	0	0			
Nursing Homes High Dependency/Residential Care Facility (per bed)			0	N/A	0	0			
Nursing Homes LowDependency/Hostel (per bed)			0	0	0	0			
Aged Unit - Self Contained 1 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Aged Unit - Self Contained 2 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Aged Unit - Self Contained 3 bedroom with ensuite & kitchen (SEPP - Seniors Living)			0	0	0	0			
Boarding House per 1 Occupancy Bedroom. Not Self Contained (shared facilities for cooking, laundry & bathroom)			0	0	0	0			
Boarding House per 1 Occupancy Bedroom Partially Self Contained (Own ensuite - shared cooking & laundry facilities)			0	0	0	0			
Boarding House - Not Self Contained Per Bed (for dormitories/bunkrooms, shared cooking, laundry and bathroom)			0	0	0	0			
Boarding House - Self Contained Per Bed (for dormitories/bunkrooms, Own ensuite per bedroom/dorm/bunkroom with shared cooking and laundry)			0	0	0	0			
New Residential Unit Total:			0	0	0	0			

18/09/2013

ET Calculation for Existing Development (Credits)							
Commercial & Industrial Existing Development	Rate	Units	Water Rate	Sewer Rate	ET Water	ET Sewer	Traffic Facilities m ²
N/A	m2	0	0	0	0	0	
N/A	m2	0	0	0	0	0	
N/A	m2	0	0	0	0	0	
N/A	m2	0	0	0	0	0	
Total Commercial ETs:					0	0	0
Existing Residential Development		Units	Sec 94 ET	Water ET	Sewer ET		
Number of existing residential lots greater than 450m ² (excluding Dual Occ & Int Housing)		0	0	0	0		
Number of existing residential lots greater than 2000m ² (excluding Dual Occ & Int Housing)		0	0	0	0		
1 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)		0	0	0	0		
2 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)		0	0	0	0		
3 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)		0	0	0	0		
4 Bedroom Units (Low Density - Flats, town houses, villas, dual occs, Int housing & Permanent Self Contained Caravan Park Sites)		0	0	0	0		
1 Bedroom Units (High Density - 3 or more storeys)		0	0	0	0		
2 Bedroom Units (High Density - 3 or more storeys)		0	0	0	0		
3 Bedroom Units (High Density - 3 or more storeys)		0	0	0	0		
4 Bedroom Units (High Density - 3 or more storeys)		0	0	0	0		
Motel Unit - Partially Self Contained (Own ensuite but shared facilities for cooking & laundry)		0	0	0	0		
Motel Unit - Self Contained (Own ensuite and kitchen)		0	0	0	0		
Caravan Park - Not Self Contained Site (permanent or transient)		0	0	0	0		
Caravan Park - Partially Self Contained Site (permanent or transient)		0	0	0	0		
Nursing Homes High Dependency/Residential Care Facility (per bed)		0	N/A	0	0		
Nursing Homes Low Dependency/Hostel (per bed)		0	0	0	0		
Aged Unit - Self Contained 1 bedroom with ensuite & kitchen (SEPP - Seniors Living)		0	0	0	0		
Aged Unit - Self Contained 2 bedroom with ensuite & kitchen (SEPP - Seniors Living)		0	0	0	0		
Aged Unit - Self Contained 3 bedroom with ensuite & kitchen (SEPP - Seniors Living)		0	0	0	0		
Boarding House per 1 Occupancy Bedroom Not Self Contained (shared facilities for cooking, laundry & bathrooms)		0	0	0	0		
Boarding House per 1 Occupancy Bedroom Partially Self Contained (Own ensuite - shared cooking & laundry facilities)		0	0	0	0		
Boarding House - Not Self Contained Per Bed (for dormitories/bunkrooms, shared cooking, laundry and bathroom)		0	0	0	0		
Boarding House - Self Contained Per Bed (for dormitories/bunkrooms, Own ensuite per bedroom/dorm/bunkroom with shared cooking and laundry)		0	0	0	0		
Existing Residential Unit Total:		0	0	0	0		

S:\Dev\Env\DEV AND BUILDING CONTROLS\DA2013\A2013-0414\Development Contributions Calculation Sheet, DA 2013-0414, Stage No. Total, Issue No.1



Item: 06

Subject: DA 2013 - 349 - ALTERATIONS AND ADDITIONS TO 3 STOREY DWELLING-HOUSE INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - LOT 3 DP 236279, 105 MATTHEW FLINDERS DRIVE, PORT MACQUARIE

Report Author: Patrick Galbraith-Robertson

Property: Lot 3 DP 236279, 105 Matthew Flinders Drive, Port Macquarie
Applicant: BJ & BJ Kemmett CARE King and Campbell
Owner: BJ & BJ Kemmett
Application Date: 27 June 2013
Estimated Cost: \$185,000
Location: Port Macquarie
File no: DA 2013 - 349
Parcel no: 13336

Alignment with Delivery Program

4.9.2 Undertake transparent and efficient development assessment in accordance with relevant legislation.

RECOMMENDATION

That it be recommended to Council that DA 2013 - 349 for alterations and additions to a 3 storey dwelling-house ,including clause 4.6 variation to clause 4.3 (height of buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011, at Lot 3, DP 236279, No. 105 Matthew Flinders Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a Development Application for alterations and additions to a 3 storey dwelling-house including a clause 4.6 variation to Clause 4.3 (height of building) of the Port Macquarie-Hastings Local Environmental Plan 2011 at the subject site.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

The proposal has been amended during the assessment of the application. The amendment includes reducing the extent of additions to the top level of the dwelling in response to initial assessment concerns.

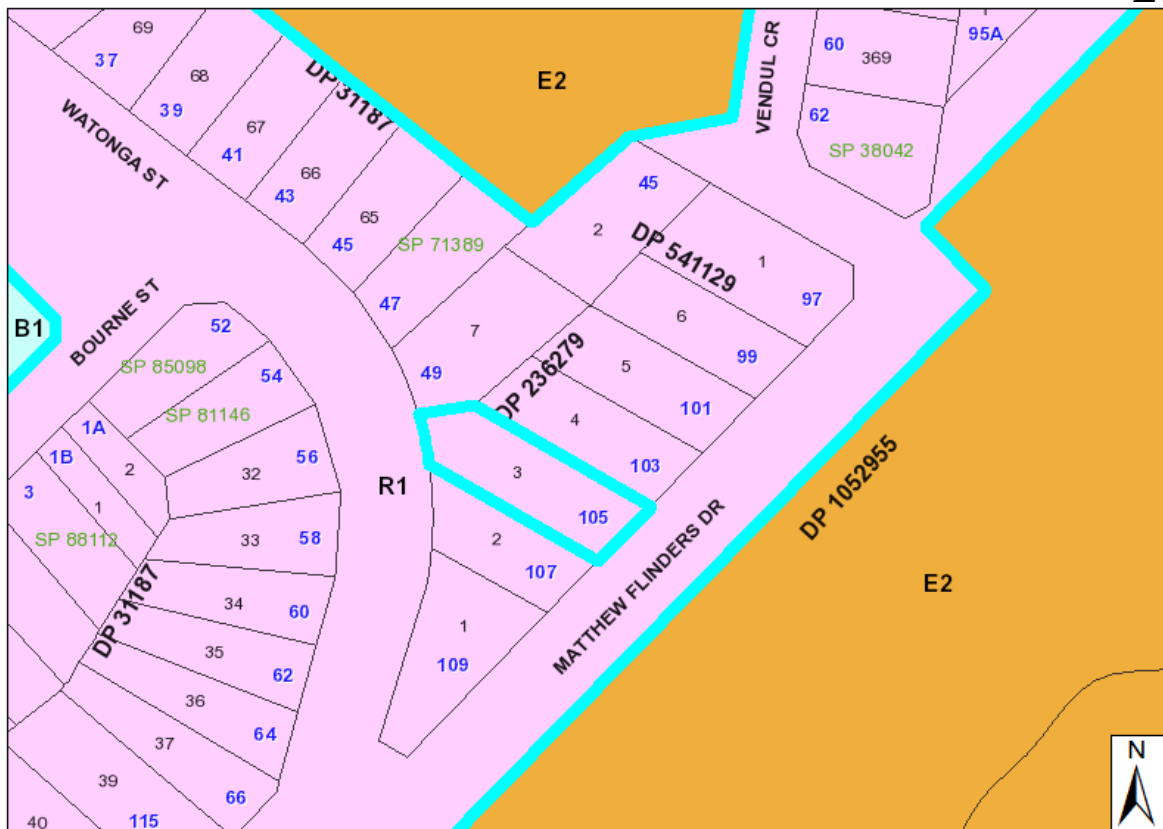
Subsequent to exhibition of the application on two (2) occasions, 3 submissions have been received (1 submission on the amended proposal).

1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 809.4m².

The site is zoned R1 General Residential in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The site is currently occupied by an existing 3 storey dwelling-house with the top floor level setback from the front and eastern sides of the building.

The site has a primary frontage to Matthew Flinders Drive and secondary rear frontage to Watonga Street.

The site has a moderate fall from west to east towards Matthew Flinders Drive.

The existing subdivision pattern and location of existing development within the immediate locality is shown in the following aerial photograph:



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the application proposal include the following:

Ground floor (garage level)

- Extension of the southern garage's eastern walls to provide an additional 10m² of garage area.
- Inclusion of columns adjacent the existing entry door to accommodate alterations on upper floors.

First floor

- Conversion of the existing kitchen to a wet bar.
- Inclusion of a new wall opening.

Second floor

- Expansion of the gross floor area to include relocation of the living/dining area to this level and expand the floor space including addition of a multipurpose room.
- New bedroom and sitting area within north-western corner, new master bedroom and expansion of outdoor terrace area.

Refer to attachments at the end of this report.

Application Chronology

- 10 to 24 July 2013 - Neighbour notification (original proposal)
- 26 July 2013 - Additional information requested - initial concerns with building height

- 1 August 2013 - Meeting with applicant and follow up additional information requested to address submission issues and clarified assessment concerns.
- 13 August 2013 - Additional information received.
- 23 August to 6 September 2013 - Neighbour notification of amended plans.
- 9 September 2013 - Summary of submission issues forwarded to Applicant.
- 11 September 2013 - Additional information received.

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

(a) The provisions (where applicable) of:

(i) any Environmental Planning Instrument:

State Environmental Planning Policy No. 55 – Remediation of Land

In accordance with clause 7, following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

The requirements of this SEPP are therefore satisfied.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, and its' location; the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries within the Hastings River approximately 6 kilometres from the site.

The requirements of this SEPP are therefore satisfied.

State Environmental Planning Policy No. 71 – Coastal Protection and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011

The site is located within a coastal zone as defined in accordance with clause 4 of SEPP 71.

In accordance with clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard to clauses 8 and 12 to 16 of SEPP 71 and clause 5.5 of Hastings LEP 2011 inclusive, the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the coastal foreshore;
- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast;
- c) any identifiable adverse impacts on any known flora and fauna (or their natural environment) noting that several existing trees are necessary to be removed to enabled construction of the dwelling;
- d) subject to any identifiable adverse coastal processes or hazards;
- e) any identifiable conflict between water and land based users of the area;
- f) any identifiable adverse impacts on any items of archaeological/heritage; and
- g) reduce the quality of the natural water bodies in the locality.



In particular, the site is located within an area zoned for residential purposes.

The requirements of this SEPP are therefore satisfied.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

In accordance with clause 6, a BASIX (certificate number A165117) has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

The requirements of this SEPP are satisfied.

Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2, the subject site is zoned R1 General Residential.

In accordance with clause 2.3(1) and the R1 zone landuse table, the proposed development for alterations to the existing single dwelling house is a permissible landuse with consent.

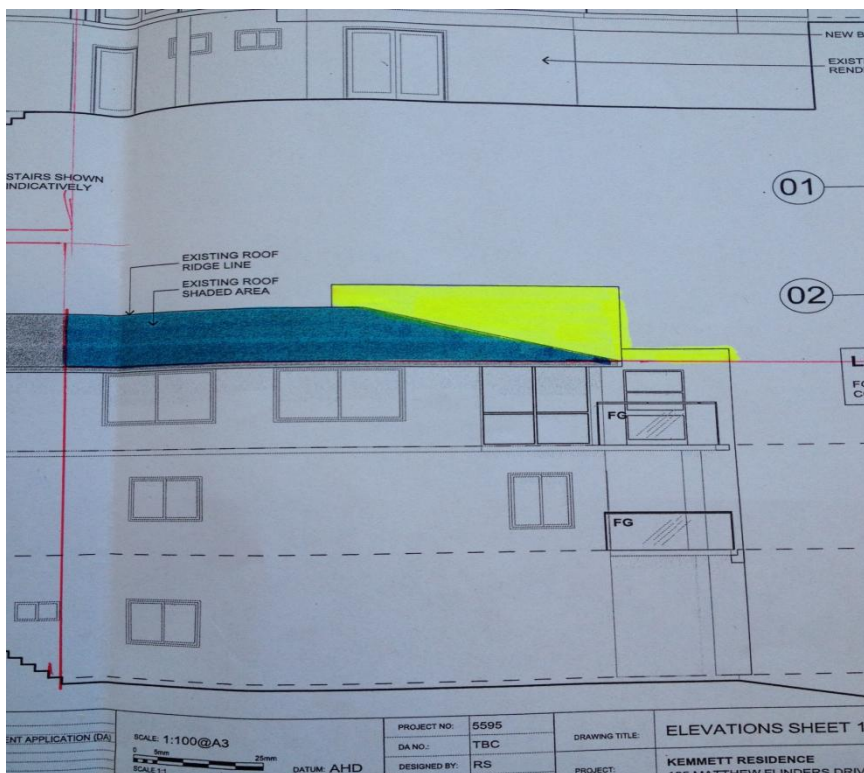
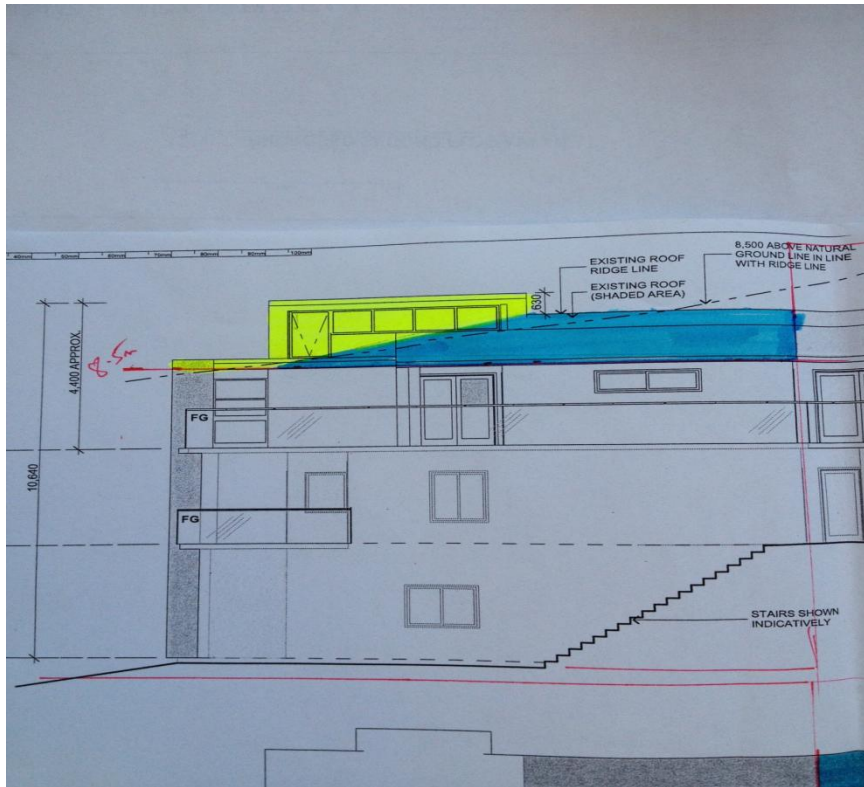
The proposal also includes relocation of the main kitchen area up to the top level of the dwelling and it is noted on the plans that the existing kitchen is to become a 'wet bar'. To ensure that the dwelling is continued to be used as only 1 dwelling and reduce the potential for confusion as of the use as a dual occupancy, the existing kitchen is recommended to be physically altered to become more genuinely a small bar. Condition recommended with options to be satisfied prior to Occupation Certificate.

The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

In accordance with clause 2.3(2), the proposal is consistent with the zone objectives. The proposal is a permissible landuse and contributes the range of housing types and densities available in Port Macquarie.

In accordance with clause 4.3, the maximum overall height of the dwelling at the highest point of the roof from ground level (existing garage floor level) is 10.64m which exceeds the 8.5m maximum standard height limit applying to the site by 2.14m. The below images illustrate the proposed height variation (shaded in yellow) and the existing portion of the building currently over 8.5m (shaded blue). The current height of the building is approximately 10.01m which is 1.51m above the standard height limit.



The applicant has lodged a clause 4.6 objection under the LEP to the building height standard of 8.5m applying to the site on the following grounds:

- The existing dwelling currently exceeds the height limit by 1.51m to 10.01m and the proposal seeks to expand this variation by 0.63m to 10.64m.
- The additional height is minor and is considered a result of undulating topography to which the site occurs as well as the desire to provide northern solar access to a southern facing and indoor living/dining area, via a raked and open ceiling.



- The site and adjoining land is undulating with a steep rise to the rear (north-west) of the property. This rise means that the front (eastern) portion of the property including the existing dwelling is set down from those properties behind (within Watonga Street).
- The increase in building height is unlikely to impact vistas to the Pacific Ocean to any properties to the rear. The properties to the western side of Watonga Street are elevated above the height of the proposed roof and are also considered unlikely to be affected by manner of loss of views.
- The sloped nature of the proposed roof feature which is to extend above the 8.5m height plane is not considered likely to impact the adjoining land to the south-west by manner of overshadowing particularly given it is vacant. The pitch of the roof and orientation of the dwelling (east-west) shall ensure that minimal impact on the adjoining property by manner of overshadowing is anticipated.
- The proposed alterations and additions are considered compatible with the height, bulk and scale of the dwellings existing in the locality.

During the assessment of the application, initial concern was raised with the top floor extension adding too much scale and bulk to the existing building, particularly given that there are no 3 storey dwellings within the immediate context between Vendul Crescent and Watonga Street along Matthew Flinders Drive. The applicant subsequently amended the proposal to reduce the extent of top level extension (setting in the top level) to significantly reduce the perceived scale and bulk of the building. The applicant submits that the adjoining dwelling to the north is sited closer to the kerb and has a higher ground floor level than the proposal, resulting in the neighbouring dwelling having the appearance of greater bulk and scale from the street level.

Having regard for the amended plans and the applicant's justification, it is recommended that the variation be supported. The additional building height is considered to be relatively minor in the context of the existing building's scale. The raked ceiling will additionally improve the northerly aspect of the dwelling whilst not detrimentally impact on privacy, overshadowing or view loss of neighbouring properties (refer to discussion under context and setting).

It is noted that the Department of Planning Circular PS08-003 provides Council with the assumed concurrence of the Director General with respect to the Clause 4.6 variation.

In accordance with clause 4.4, the floor space ratio of the proposal is approximately 0.84:1.0 which complies with the maximum 1:1 floor space ratio applying to the site.

In accordance with clause 5.9, no trees are proposed to be removed.

In accordance with clause 7.13, satisfactory arrangements are in place for provision of essential public utility infrastructure.

The requirements of this LEP are therefore satisfied.

(ii) Any draft instruments that apply to the site or are on exhibition:

No draft instruments apply to the site.

(iii) any Development Control Plan in:

Port Macquarie Hastings Development Control Plan 2011

DCP 2011: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development

	Requirements	Proposed	Complies
DP2.2 DP3.1	Front setback (Residential not R5 zone): <ul style="list-style-type: none"> • Min. 6.0m classified road • Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot • Min. 3.0m secondary road • Min. 2.0m Laneway • Garage 5.5m min. and 1m behind front façade 	Min. 7.0m to primary building and min. 7.6m to garage. 15m approx. secondary setback to Watonga Street frontage	Yes/No - Garage door technically not 1m behind façade. Minor variation acceptable given generous 7.6m setback and located under building. Yes
DP3.1	Garage door recessed behind building line or eaves/overhangs provided	Garage door recessed	Yes
DP3.2	6m max. width of garage door/s and 50% max. width of building	No change to width of garage doors	N/A
DP3.3	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	No change to existing driveway crossings	N/A
DP4.1 DP4.2	4m min. rear setback. Variation subject to DP 4.2.	No rear setback	N/A
DP5.1 DP5.2 DP5.3	Side setbacks: <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	North side setback = Only change in close proximity is to top floor level with addition of multipurpose room to a min. setback of 2.69m: no adverse overshadowing to dwelling to the north. South side setback = Additional dining area extension will continue min. 1.2m setback: no adverse overshadowing to property to the south which is vacant. Building wall length on north side articulated. Additions to south side not articulated. Given	Yes Yes Yes No. Minor variation acceptable as



DCP 2011: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
		minor additions, vacant allotment to south and greater than 1.5m this minor variation acceptable.	justified.
DP6.1	35m2 min. private open space area including a useable 4x4m min. area which has 5% max. grade	>35m2 min. private open space areas and useable 4x4m min. area which has 5% max. grade	Yes
DP10.1 DP10.2 DP10.3 DP10.4	<p>Privacy:</p> <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m 	<p>No direct views between main living areas of adjacent dwellings when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings - no adverse impact identified.</p> <p>Noted that on the southern side of the dwelling to the north is a drying yard, laundry and stairwell on the ground floor level and bedroom window, bathroom window and walk in wardrobe window.</p>	Yes
DP11.1	Roof terraces to be screened if within 9m radius of other decks or windows of adjacent dwellings	<p>The upper top floor terrace is existing. A frosted glass balustrade is proposed on the northern edge of the existing terrace. A multipurpose room is proposed to occupy some of the existing terrace area.</p> <p>A sedum landscape bed is proposed on the northern side of the terrace to prevent people standing directly against</p>	<p>Given that the terrace is existing screening is not recommended. N/A</p>



DCP 2011: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development

	Requirements	Proposed	Complies
		the edge of the existing terrace area.	

DCP 2011: General Provisions

	Requirements	Proposed	Complies
DP1.1	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes
DP8.1	Parking in accordance with AS 2890.1	Parking complies AS2890.1	Yes
DP14.1	Sealed driveway surfaces unless justified	Sealed driveway	Yes
DP17.2	Vehicle washing facilities – grassed area etc available.	No change to existing garage except for enlargement	Yes
DP3.1	Off-street Parking spaces: • 1 space = single dwelling (behind building line)	4 spaces capable within garages	Yes

(iia) any planning agreement that has been entered into under Section 93f or any draft planning agreement that a developer has offered to enter into under Section 93f:

No planning agreement has been offered or entered into relating to the site.

iv) any matters prescribed by the Regulations:

NSW Coastal Policy 1997

The proposed development is consistent with the objectives and strategic actions of this policy.

v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates:

None applicable.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, social and economic impacts in the locality:

Context and setting

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses Matthew Flinders Drive.

The proposal is considered to not be incompatible with other residential development in the locality and adequately addresses planning controls for the area - as justified through this report.



There is no identifiable adverse privacy impacts.

There is no adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June. There is a vacant residential allotment to the south.

View sharing

During neighbour consultation, concern was raised by a neighbouring resident of No. 49 Watonga Street with regard to the view sharing impacts of the proposal.

The applicant was requested during the assessment of the DA to provide additional information. The applicant has provided the following additional information together with photomontage images to support the suitability of their proposal within the existing context:

- There is a significant height difference between those properties located along Matthew Flinders Drive and those within Watonga Street.
- The lower ground level of 49 Watonga Street is approximately at the same height as the eaves of the subject site and the second level (the level accessible off Watonga Street) is considered to be above the ridge line of the subject site.
- 49 Watonga Street enjoys easterly views across three properties located within Matthew Flinders Drive. The horizon views primarily occur from the dwelling's second level and are unlikely to be significantly affected by the proposed works.
- The extent of additional roof area to be extended has been reduced as part of the amended proposal.

The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.)

Using the principles of NSW Land and Environment Court caselaw - *Tenacity Consulting v Waringah 2004 NSW LEC 140*, the following comments are provided in regards to the view impacts to particularly 49 Watonga Street using the 4 step process to establish whether the view sharing is acceptable. Note that for the purposes of the assessment a site visit within 49 Watonga Street was not undertaken only from viewing from Watonga Street and using GIS technology was the following assessment made from:

Step 1

Assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The horizon ocean views from 49 Watonga Street which are likely to be affected by the proposed works are from the eastern side elevation (or side elevation) of the existing dwelling. Lighthouse Beach itself is not visible from 49 Watonga Street as a result of the dwellings fronting Matthew Flinders Drive and as well as existing vegetation along the fore dune.

The value of the horizon views of the Pacific Ocean to the east are considered to be significant although not iconic when viewed from the main living spaces. The assumed view towards the Tacking Point Lighthouse which is iconic will be not be affected by the proposal.

Step 2

Consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The views from 49 Watonga Street across the subject site occur across a side boundary. Given the elevated position of the 49 Watonga Street, the property will still retain broad views of the Pacific Ocean.

Step 3

Assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The extent of impact on views is considered minor. 49 Watonga Street enjoys easterly views across its side boundary over three properties. The subject site is considered to be small portion of the easterly view over a side boundary.

The assumed view towards the Tacking Point Lighthouse which is iconic will be unlikely to be affected by the proposal.

The extent of impact is therefore considered to minor in degree of quality impact.

Step 4

Assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

The aspects of the building which exceed the height limit if removed would not significantly improve the quality of the view and if the rear section of the building was built to the maximum height limit the view would be impacted more greatly.

The design of the proposal is considered a reasonable response to the site conditions and context in regards to maintaining view sharing to the neighbouring 49 Watonga Street in particular and taking into consideration of the view over side boundaries which has less weight for the need to retain.

Access, transport and traffic

The proposal will be unlikely to have any adverse impacts in terms of access, transport and traffic. The existing surrounding road network will satisfactorily cater for any increase in traffic generation as a result of the development.

Water Supply

Service available – details required with S.68 application.

Sewer

Service available – details required with S.68 application.

Stormwater

Service available – details required with S.68 application.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

The site does not contain or adjoin any known heritage item or site of significance.

Other land resources

No adverse impacts anticipated. The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

Water cycle

The proposed development will be unlikely to have any adverse impacts on water resources and the water cycle.

Soils

The proposed development will be unlikely to have any adverse impacts on soils in terms of quality, erosion, stability and/or productivity.

Flora and fauna

Construction of the proposed development will not require any removal/clearing of vegetation.

Waste

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated.

Energy

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX.

Noise and vibration

No adverse impacts anticipated. Condition recommended restricting construction to standard construction hours.

Bushfire

The site is identified as being bushfire prone. The applicant has submitted a bushfire report prepared by a Midcoast Building and Environmental.

Midcoast have recommended that the building including additions be constructed to Bushfire Attack Level (BAL) 19 under AS3959-2009 with the exception that the western elevation be constructed to BAL 12.5 and the property maintained as an Inner Protection Asset Protection Zone in accordance with Planning for Bushfire Protection 2006.

In accordance with Section 79BA - *EP&A Act 1979* the following comments are provided to check the Midcoast report provided having regard to section 4.3.5 of Planning for Bushfire Protection 2006:



<p>Asset Protection Zones</p>	<p>APZ to be determined in accordance with Appendix 2 of PBP 2006</p> <p>Note: Slopes exceeding 18° require detailed assessment report.</p> <p>Note: Remnant vegetation: a parcel of vegetation with a size of less than 1 Ha or a shape not exceeding 50m are considered a low hazard and APZ setbacks and building construction standards for these are based on rainforest classification. The effective slope is to be determined over the length of the remnant. This also applies to Riparian areas which are no greater than 20 metres in width and are found on either bank of a river, creek or stream.</p>	<p>Effective Slope (slope over minimum of 100m from existing property boundary or building footprint) = 0 to 5° downslope to east</p> <p>0° upslope to north-west</p> <p>Vegetation (vegetation in all direction from the site for a distance of 140m) = Tall Coastal Heath/Closed Scrub (east)</p> <p>Rainforest (north-west)</p> <p>APZ to be 15m – which consists of 15m Inner Protection Area Proposed</p> <p>Condition recommended to managed entire property as IPA APZ</p>
<p>Siting and building design</p>	<p>Siting and design principles considered section 4.3.5</p>	<p>Existing building to be altered.</p>
<p>Construction standards</p>	<p>Construction in accordance with AS3959. BAL to determine</p> <p>Note: Class 10a buildings such as sheds should be located >10 metres from a building of another building class unless they also comply with the relevant bushfire construction requirement of the main building under AS 3959 - 1999 and the BCA.</p>	<p>FDI rating 80</p> <p>Effective slope (average over 100m from site) = 0 to 5° downslope to east</p> <p>0° upslope to north-west</p> <p>Vegetation (within 140m from site) = Tall Coastal Heath/Closed Scrub (east)</p> <p>Rainforest (north-west)</p> <p>Distance from threat = East 25m and north-west 65m</p> <p>= BAL 12.5 to west elevation and BAL 19 other elevations - Page 64 of PBP 2006 for how to calculate)</p> <p>Condition imposed requiring building to be constructed in accordance with AS3959 - 1999 & the BCA for</p>



		relevant BAL level.
Access requirements	4.1.3 public road access 4.2.7 for internal road access	Satisfactory access direct from Matthew Flinders Drive.
Water and utility services	4.1.3 services - water and electricity.	Existing reticulated water supply provided.
Landscaping	Appendix 5 landscaping	Capable of compliance with PBP 2006

Conditions are recommended to form part of the consent.

Safety, security and crime prevention

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area.

Social impacts in the locality

Given the nature of the proposed development and its' location the proposal is unlikely to result in any adverse social impacts.

Economic impact in the locality

No adverse impacts. Likely positive impacts can be attributed to the construction of the development and associated flow on effects (i.e. increased expenditure in the area).

Site design and internal design

The proposed development design is satisfactorily responds to the site attributes and will fit into the locality. No adverse impacts likely.

Construction

No potential adverse impacts identified to neighbouring properties with the construction of the proposal.

Cumulative impacts

The proposed development is not expected to have any adverse cumulative impacts on the natural or built environment or the social and economic attributes of the locality.

(c) The suitability of the site for the development:

The proposal will fit into the locality and the site attributes are conducive to the proposed development.

Site constraints of bushfire risk have been adequately addressed and appropriate conditions of consent recommended.

(d) Any submissions made in accordance with this Act or the Regulations:

Three (3) written submissions (2 property owners) have been received following completion of the required public exhibition of the application on two(2) occasions.

Key issues raised in the submissions received for the original proposal and comments in response to these issues are provided as follows:



Submission Issue/Summary	Planning Comment/Response
The proposal seeks to increase the height of the building by 630mm making the proposal approximately 2.1m over the current height restriction. This is a significant breach of the LEP.	The issue of height variations above the 8.5m height standard is discussed earlier in this report under the LEP section.
The proposal will significantly impact second floor balcony and bedrooms and to a lesser extent the balconies and living areas on the top floor on the eastern side of the house. Currently these areas have a view of the horizon over the existing house which will be lost under the new proposal. The increase bulk will also impact on the current view.	No adverse impact identified - refer to discussion under context and setting.
The proposed upper storey could be amended to remove the rake and rely on skylights so as the current ridge height is maintained.	The applicant has advised that skylights will not provide sufficient light into the internal areas to satisfy mandated energy efficiency requirements. It is considered that this is subjective however more importantly the raked roof will only obscure small sections of the Pacific Ocean horizon view with the rear section being well below the 8.5m height limit.
The architectural feature of the additions is excessive and will have an adverse impact on the streetscape.	The proposal has been amended to reduce the volume of the roof feature by setting it back in to the existing line of the top floor roof. Impact considered acceptable.
The proposed new terrace and multi-purpose room will have adverse privacy impacts on 103 Mathew Flinders Dr.	As part of the amendments a 1.2m high frosted glass balustrade together with a planter box is proposed to improve privacy. Refer also to other comments provided earlier in this report.
The proposal could have the intention of converting the dwelling to a dual occupancy.	As discussed earlier in this report condition recommended to convert existing kitchen. No separate accesses proposed within dwelling.
The development does not sufficiently detail the sight lines, comparative RLs, physical separation, window locations and privacy issues of the adjacent residence to the north.	The reduced levels (or finished floor levels) of the existing dwelling shall not change as a result of the proposed works. RLs are shown on the plans submitted.
The plans do not sufficiently detail the balustrade material so as to determine potential privacy impacts.	The amended plans include balustrade details of frosted glass balustrade along the north side elevation.



Key issues raised in the submissions received for the amended proposal and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
The owners have screened off their balcony which blocks a view of the beach looking south from the adjoining house to north	The applicant has advised that the structure referred to is a construction hoarding protecting the neighbour as client is jack hammering tiles off the deck area.
Original designer for house to the north advised that was required to comply with 8.5m height controls under the Development Control Plan guidelines that were in place at the time.	The LEP 2011 height controls are different to when the house to the north was approved by Council. The issue of height variations above the 8.5m height standard is discussed earlier in this report under the LEP section. Note amendments made to set top floor extension back in from front of building.
The development is beyond the height limit and will have significant impacts on the built environment.	

(e) The Public Interest:

The proposed development satisfies relevant planning controls and is unlikely to impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

No contributions applicable.

5. CONCLUSION

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. Consequently, it is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

Attachments

- 1 [View](#). DA2013 - 0349 Plans
- 2 [View](#). DA2013 - 0349 Recommended Conditions



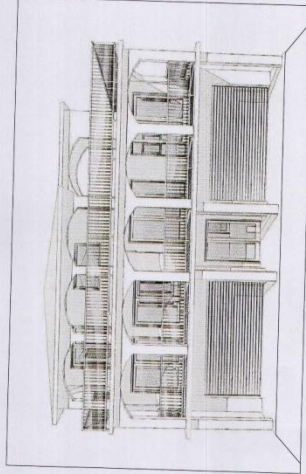
KING + CAMPBELL

DEVELOPMENT APPLICATION

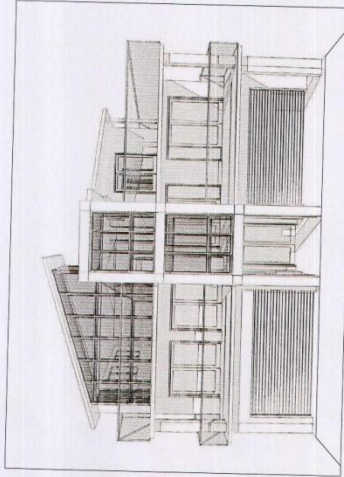
CLIENT: Brian KEMMETT

ALTERATIONS AND ADDITIONS
105 MATTHEW FLINDERS DRIVE
PORT MACQUARIE NSW 2444

AMENDED PLANS



EXISTING VIEW FROM STREET FRONTAGE



PROPOSED VIEW FROM STREET FRONTAGE

Layout No:	Layout Name	Rev	Date
	COVER SHEET		
DA1.0	AERIAL SITE PLAN PHOTOGRAPH	B	09.08.2013
DA1.1	SITE PLAN	B	09.08.2013
DA1.2	EXISTING GROUND FLOOR PLAN	B	09.08.2013
DA1.3	PROPOSED GROUND FLOOR PLAN	B	09.08.2013
DA1.4	EXISTING FIRST FLOOR PLAN	B	09.08.2013
DA1.5	PROPOSED FIRST FLOOR PLAN	B	09.08.2013
DA1.6	EXISTING SECOND FLOOR PLAN	B	09.08.2013
DA1.7	PROPOSED SECOND FLOOR PLAN	B	09.08.2013
DA1.8	PROPOSED ROOF PLAN	B	09.08.2013
DA3.1	ELEVATIONS SHEET 1	B	09.08.2013
DA3.2	ELEVATIONS SHEET 2	B	09.08.2013
DA4.0	PHOTOGRAPHS FROM WATONGA STREET	B	09.08.2013
DA4.1	PHOTOGRAPHS SHEET	B	09.08.2013
DA4.2	PHOTOGRAPHS - LOCAL EXAMPLES OF 3 STOREY BUILDINGS	B	09.08.2013
DA4.3	RENDERED IMAGES OPTIONS	B	09.08.2013

AREA SCHEDULE (APPROX)

SITE AREA	808.4m ²
EXISTING HABITABLE AREAS:	
EXISTING GROUND FLOOR	0m ²
EXISTING FIRST FLOOR	207m ²
EXISTING SECOND FLOOR	207m ²
EXISTING TOTAL FLOOR AREA (HABITABLE)	338m ²
PROPOSED HABITABLE AREAS:	
PROPOSED GROUND FLOOR	0m ²
PROPOSED FIRST FLOOR	224m ²
PROPOSED SECOND FLOOR	224m ²
PROPOSED TOTAL FLOOR AREA (HABITABLE)	448m ²
NON-HABITABLE AREAS:	
EXISTING GARAGE	163m ²
PROPOSED GARAGE	10m ²
TOTAL AREA (NON HABITABLE)	173m ²
OUTDOOR COVERED AREAS:	
EXISTING TERRACE	60m ²
PROPOSED TERRACE	31m ²
TOTAL OUTDOOR COVERED AREA	91m ²
ALLOWABLE FSR	1.1
PROPOSED FSR	0.741

DEVELOPMENT APPLICATION

BASIC COMMITMENTS
CONTRACTOR TO REFER AND COMPLY WITH ALL BASIC CERTIFICATE COMMITMENTS.

BUSHFIRE NOTE
WESTERN ELEVATION TO BE CONSTRUCTED IN ACCORDANCE WITH AS1539.2010, AS1539.2011 AND ALL OTHER ELEVATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH BALUS AS1539.2010, AS1539.2011, AS1539.2012, AS1539.2013, AS1539.2014, AS1539.2015, AS1539.2016, AS1539.2017, AS1539.2018, AS1539.2019, AS1539.2020, AS1539.2021, AS1539.2022, AS1539.2023, AS1539.2024, AS1539.2025, AS1539.2026, AS1539.2027, AS1539.2028, AS1539.2029, AS1539.2030, AS1539.2031, AS1539.2032, AS1539.2033, AS1539.2034, AS1539.2035, AS1539.2036, AS1539.2037, AS1539.2038, AS1539.2039, AS1539.2040, AS1539.2041, AS1539.2042, AS1539.2043, AS1539.2044, AS1539.2045, AS1539.2046, AS1539.2047, AS1539.2048, AS1539.2049, AS1539.2050, AS1539.2051, AS1539.2052, AS1539.2053, AS1539.2054, AS1539.2055, AS1539.2056, AS1539.2057, AS1539.2058, AS1539.2059, AS1539.2060, AS1539.2061, AS1539.2062, AS1539.2063, AS1539.2064, AS1539.2065, AS1539.2066, AS1539.2067, AS1539.2068, AS1539.2069, AS1539.2070, AS1539.2071, AS1539.2072, AS1539.2073, AS1539.2074, AS1539.2075, AS1539.2076, AS1539.2077, AS1539.2078, AS1539.2079, AS1539.2080, AS1539.2081, AS1539.2082, AS1539.2083, AS1539.2084, AS1539.2085, AS1539.2086, AS1539.2087, AS1539.2088, AS1539.2089, AS1539.2090, AS1539.2091, AS1539.2092, AS1539.2093, AS1539.2094, AS1539.2095, AS1539.2096, AS1539.2097, AS1539.2098, AS1539.2099, AS1539.2100.

LOCATION PLAN

SITE PLAN

LOT 3 DP 236279

NEW AREA TO GROUND FLOOR: 14,980

BOUNDARY 48.727m

BOUNDARY 44.374m

BOUNDARY 16.787m

BOUNDARY 11.270m

BOUNDARY 7.000

EXISTING BUILDING LINE APPROX.

INFILL FLOOR TO SECOND FLOOR TERRACE

OUTLINE OF EXISTING FIRST FLOOR WALLS AND SECOND FLOOR BUILDING LINE TO SECOND FLOOR

OUTLINE OF EXISTING SECOND FLOOR WALL

OUTLINE OF DECK ABOVE

GARAGE

FOYER

GARAGE

EXISTING BUILDING LINE APPROX.

VACANT SITE

WATONGA STREET

MATTHEW FLINDERS DRIVE

SCALE 1:200 @ A3

DATE ISSUED: 09/13

DATE EXPIRES: 09/13

REVISIONS:

REV.	DATE	DESCRIPTION
1	09/13	ISSUE FOR DEVELOPMENT APPLICATION
2	09/13	REVISED FOR DEVELOPMENT APPLICATION

PROJECT INFORMATION:

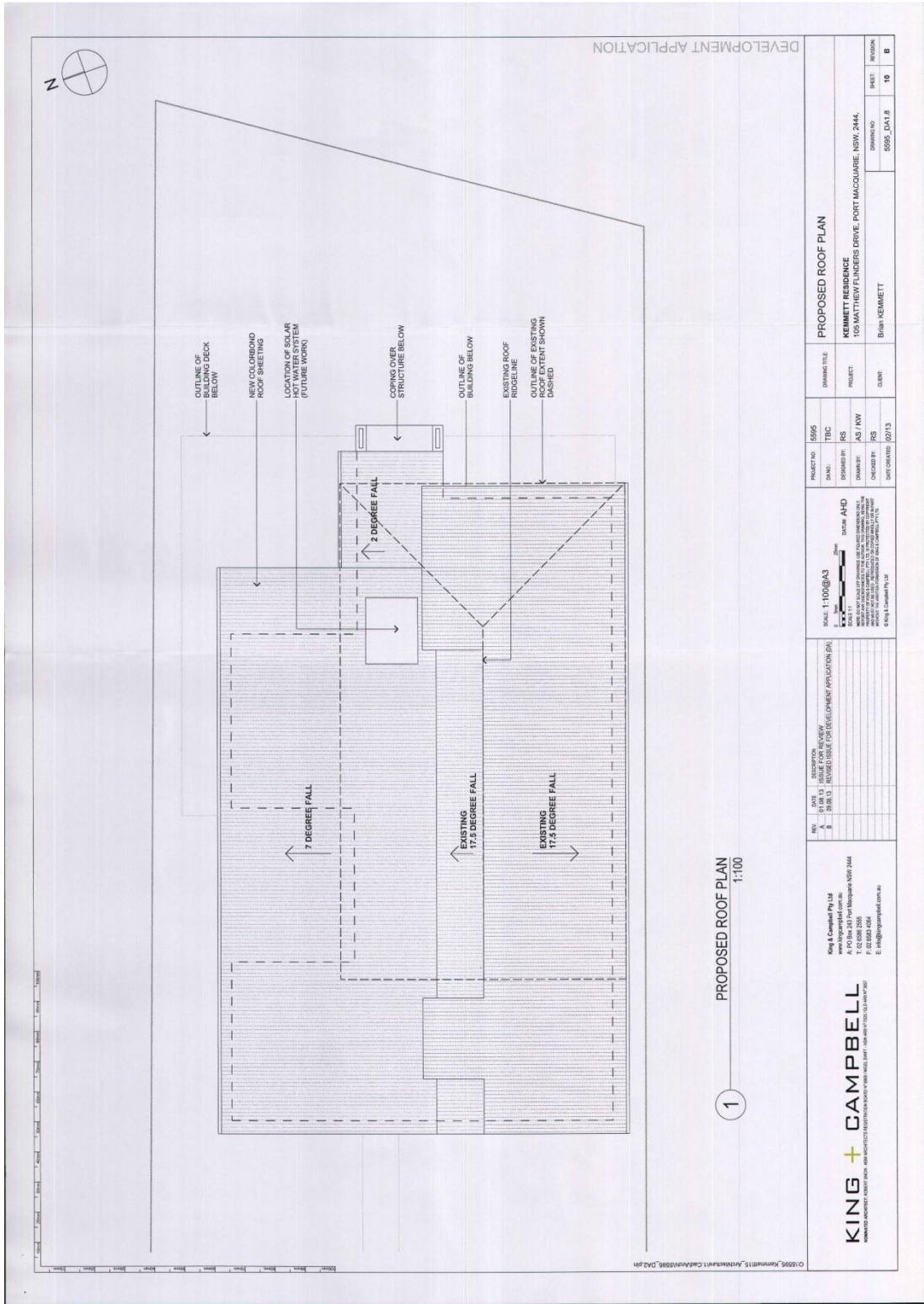
PROJECT NO.	5595
DATE ISSUED	09/13
DATE EXPIRES	09/13
PROJECT TITLE	KEMMETT RESIDENCE
CLIENT	Brain KEMMETT
PROJECT ADDRESS	105 MATTHEW FLINDERS DRIVE, PORT MACQUARIE, NSW, 2444.
DRAWING NO.	5595_DAA1.1
SHEET	3
TOTAL SHEETS	B

DESIGNER: KING + CAMPBELL

105/107 WATONGA STREET, PORT MACQUARIE NSW 2444

TEL: 02 6553 8264

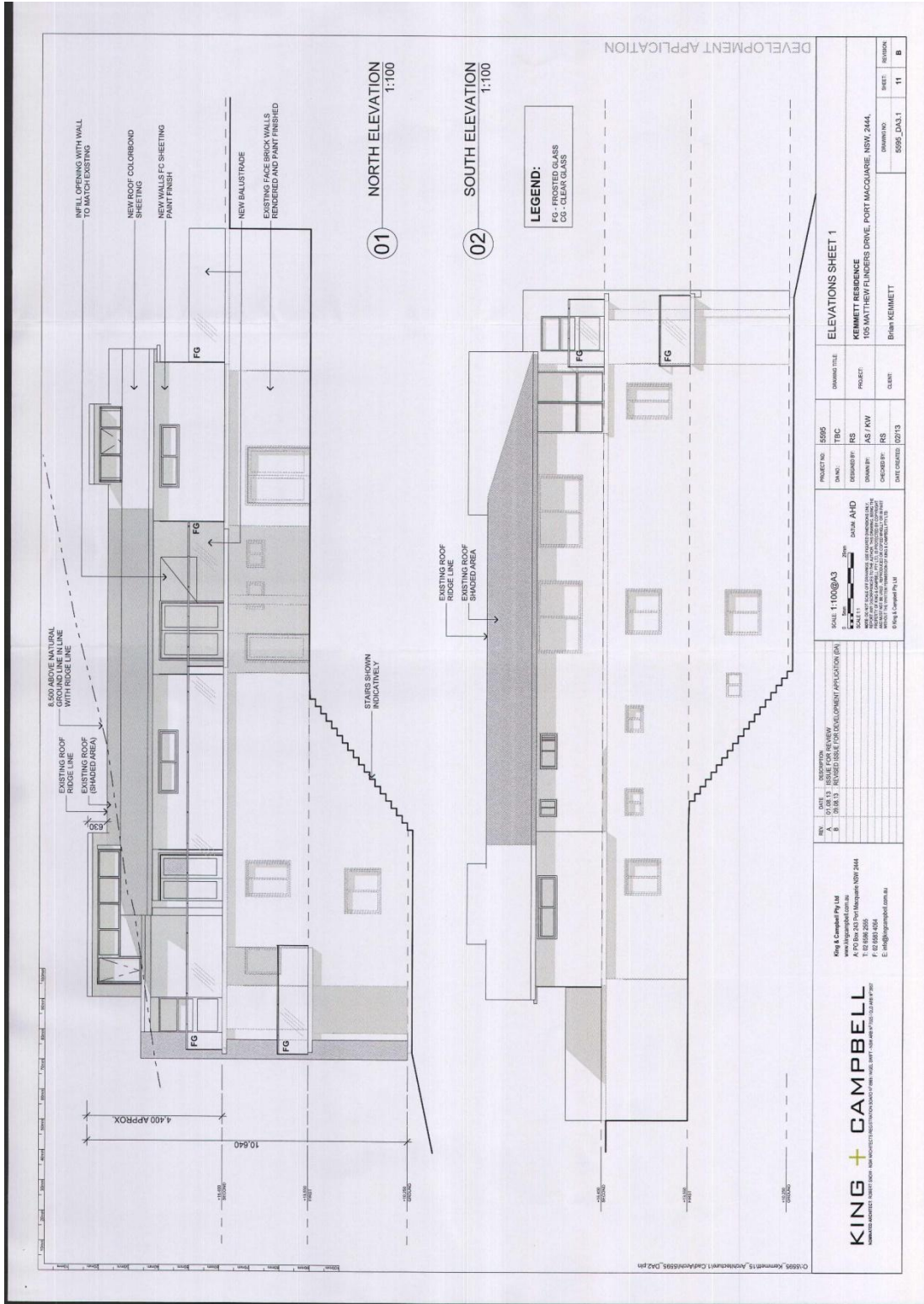
WWW.KINGCAMPBELL.COM.AU

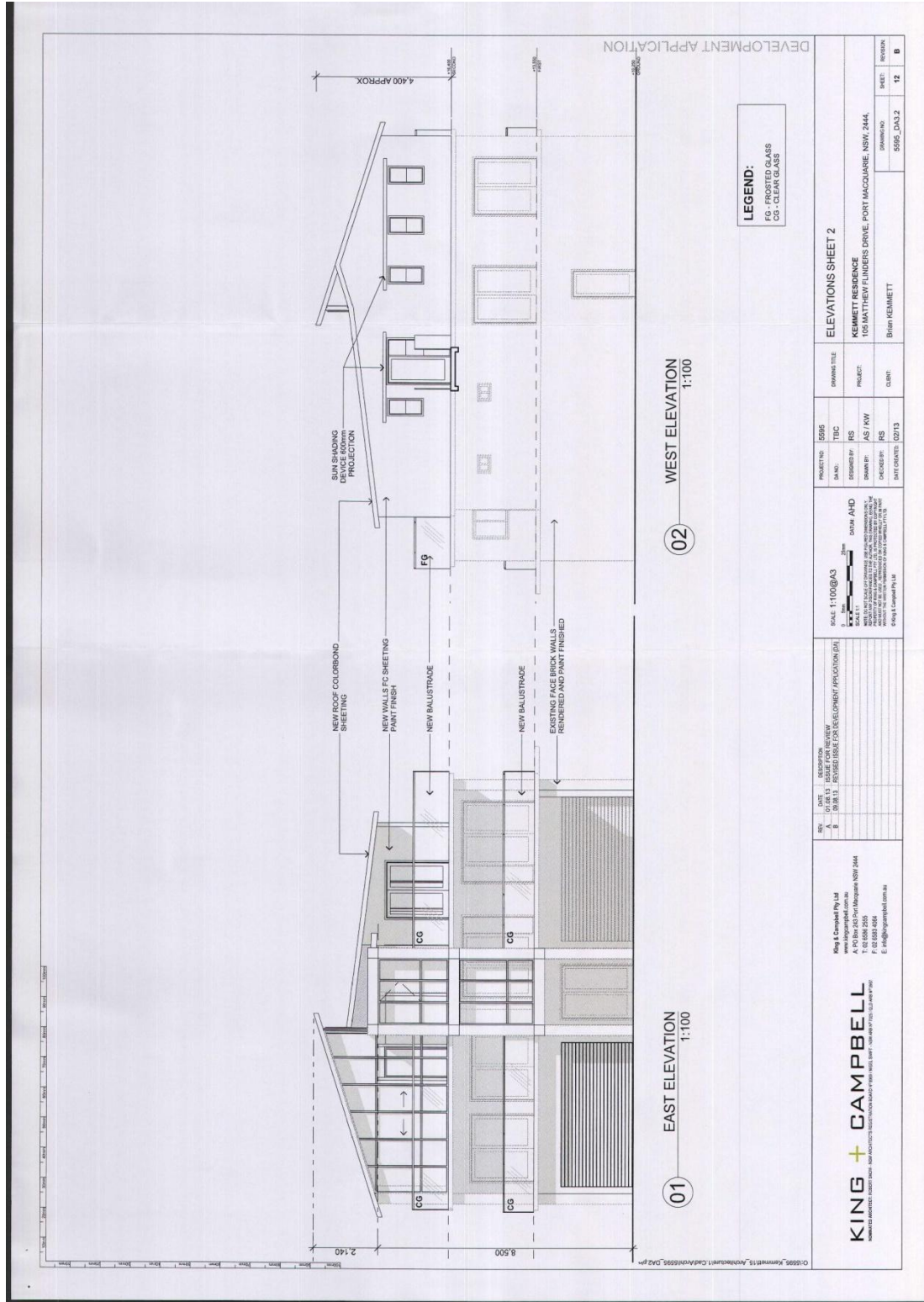


DEVELOPMENT APPLICATION

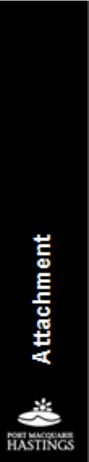
<p>KING + CAMPBELL ARCHITECTS 105 MATTHEW FLINDERS DRIVE, PORT MACQUARIE NSW 2444 T: 02 6562 2255 F: 02 6562 4264 E: info@kingandcampbell.com.au</p>		<p>DATE: 19/09/13 ISSUE FOR REVIEW: REVISIONS FOR DEVELOPMENT APPLICATION (DA)</p>		<p>SCALE: 1:100 @ A3 DATE: 19/09/13 DRAWN: AHD CHECKED BY: RS DATE CHANGED: 02/13</p>		<p>PROJECT NO: 5595 TBC DRAWN BY: RS AS / JW CHECKED BY: RS DATE CHANGED: 02/13</p>		<p>PROPOSED ROOF PLAN KEMMETT RESIDENCE 105 MATTHEW FLINDERS DRIVE, PORT MACQUARIE, NSW, 2444. DRAWING NO: 5595_DALB SHEET: 10 REVISION: B</p>	
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<p>KING + CAMPBELL 10/100, KEMNETT DRIVE, FORT MACGLARIE, NSW, 2444 P: 02 6562 4264 F: 02 6562 4264 E: info@kingandcampbell.com.au</p>		<p>DATE: 25/09/13 DESCRIPTION: REVISED BASE FOR DEVELOPMENT APPLICATION (A1)</p>		<p>SCALE: 1:100 @ A3 DATE: 25/09/13 DRAWN: AHD CHECKED BY: JAS / KW PROJECT: KEMNETT RESIDENCE CLIENT: BISH KEMMETT</p>		<p>PROJECT NO: 5595 DRAWING TITLE: ELEVATIONS SHEET 2 SHEET: 12 DRAWING NO: 5595_DAL3.2</p>	
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PROPOSED VIEW LOOKING AT SOUTH WEST CORNER OF HOUSE

2 PROPOSED VIEW FROM WATONGA STREET

ORIGINAL PROPOSAL OF ROOF (NOT FOR CONSENT)
NEWER PROPOSAL OF ROOF



CURRENT VIEW LOOKING AT SOUTH WEST CORNER OF HOUSE

1 EXISTING VIEW FROM WATONGA STREET



PROPOSED VIEW FROM 56 WATONGA STREET DRIVEWAY LOOKING EAST

4 VIEW FROM WATONGA STREET

105 MATTHEW FLINDERS DRIVE CURRENT ROOF LINE CANNOT BE SEEN
100 MATTHEW FLINDERS DRIVE
54 WATONGA STREET DRIVEWAY
54 WATONGA STREET DRIVEWAY



CURRENT VIEW FROM 54 WATONGA STREET DRIVEWAY LOOKING EAST

3 VIEW FROM WATONGA STREET

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DEVELOPMENT APPLICATION

PROJECT NO:	5895	DRAWN/TITLE:	PHOTOGRAPHS FROM WATONGA STREET
DATE:	TBC	DESIGNED BY:	KEMMETT RESIDENCE
SCALE:	AS SHOWN	CHECKED BY:	100 MATTHEW FLINDERS DRIVE, FORT MACQUARIE, NSW, 2444.
DESCRIPTION:	DUTY AHD		
DATE:	20/09/13	DATE:	09/2/13
REV:	0	DESCRIPTION:	REVISIONS TO DEVELOPMENT APPLICATION (A)
<p>KING + CAMPBELL www.kingandcampbell.com.au 111 Pitt Street, Fort Macquarie NSW 2444 T: 02 6562 2020 F: 02 6562 4264 E: info@kingandcampbell.com.au</p>			

PROJECT NO:	5895	DRAWN/TITLE:	PHOTOGRAPHS FROM WATONGA STREET
DATE:	TBC	DESIGNED BY:	KEMMETT RESIDENCE
SCALE:	AS SHOWN	CHECKED BY:	100 MATTHEW FLINDERS DRIVE, FORT MACQUARIE, NSW, 2444.
DESCRIPTION:	DUTY AHD		
DATE:	20/09/13	DATE:	09/2/13
REV:	0	DESCRIPTION:	REVISIONS TO DEVELOPMENT APPLICATION (A)
<p>KING + CAMPBELL Pty Ltd www.kingandcampbell.com.au 111 Pitt Street, Fort Macquarie NSW 2444 T: 02 6562 2020 F: 02 6562 4264 E: info@kingandcampbell.com.au</p>			

PROJECT NO:	5895	DRAWN/TITLE:	PHOTOGRAPHS FROM WATONGA STREET
DATE:	TBC	DESIGNED BY:	KEMMETT RESIDENCE
SCALE:	AS SHOWN	CHECKED BY:	100 MATTHEW FLINDERS DRIVE, FORT MACQUARIE, NSW, 2444.
DESCRIPTION:	DUTY AHD		
DATE:	20/09/13	DATE:	09/2/13
REV:	0	DESCRIPTION:	REVISIONS TO DEVELOPMENT APPLICATION (A)
<p>KING + CAMPBELL www.kingandcampbell.com.au 111 Pitt Street, Fort Macquarie NSW 2444 T: 02 6562 2020 F: 02 6562 4264 E: info@kingandcampbell.com.au</p>			

PROJECT NO:	5895	DRAWN/TITLE:	PHOTOGRAPHS FROM WATONGA STREET
DATE:	TBC	DESIGNED BY:	KEMMETT RESIDENCE
SCALE:	AS SHOWN	CHECKED BY:	100 MATTHEW FLINDERS DRIVE, FORT MACQUARIE, NSW, 2444.
DESCRIPTION:	DUTY AHD		
DATE:	20/09/13	DATE:	09/2/13
REV:	0	DESCRIPTION:	REVISIONS TO DEVELOPMENT APPLICATION (A)
<p>KING + CAMPBELL www.kingandcampbell.com.au 111 Pitt Street, Fort Macquarie NSW 2444 T: 02 6562 2020 F: 02 6562 4264 E: info@kingandcampbell.com.au</p>			

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1 CURRENT VIEW 103 & 105 MATTHEW FLINDERS DR



2 ORIGINAL PROPOSED VIEW (NOT FOR CONSENT)



3 AMENDED PROPOSED VIEW



4 105 MATTHEW FLINDERS DRIVE LOOKING NORTH



5 105 MATTHEW FLINDERS DRIVE LOOKING SOUTH



6 109 MATTHEW FLINDERS DRIVE (FROM WATONGA ST)

PHOTOGRAPHS SHEET

PROJECT NO:	5595	DRAWING TITLE:	PHOTOGRAPHS SHEET
DATE:	TEC	PROJECT:	KEMMETT RESIDENCE
DRAWN BY:	RS	CLIENT:	105 MATTHEW FLINDERS DRIVE, FORT MACQUARIE, NSW, 2444.
CHECKED BY:	RS		
DATE REVISED:	02/13		

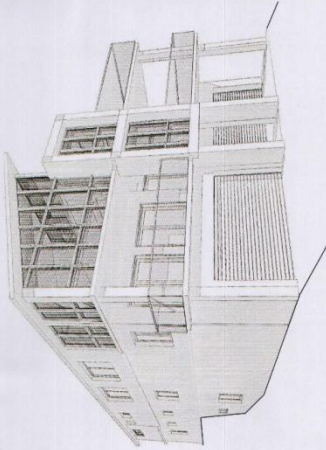
SCALE: 1:100
DATE: AHD
DRAWN BY: ACF/KW
CHECKED BY: RS
DATE REVISED: 02/13

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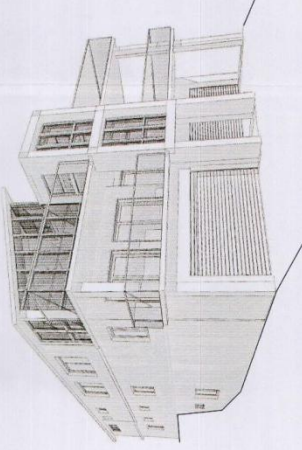
King & Campbell Pty Ltd
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T: 02 6598 2200
F: 02 6598 4264
E: info@kingandcampbell.com.au

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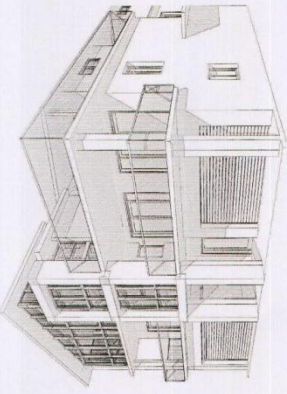




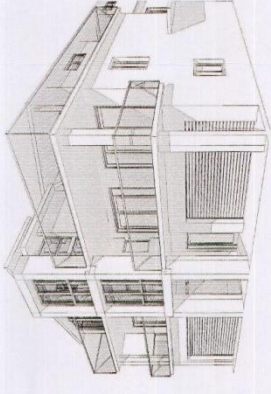
1 ORIGINAL PROPOSAL (NOT FOR CONSENT)



2 AMENDED PROPOSAL - VIEW FROM SE CORNER



3 ORIGINAL PROPOSAL (NOT FOR CONSENT)



4 AMENDED PROPOSAL - VIEW FROM NE CORNER

DEVELOPMENT APPLICATION

PROJECT NO: 5595		DRAWING TITLE: RENDERED IMAGES OPTIONS	
DATE: TBC		PROJECT: KEMMETT RESIDENCE	
DESIGNED BY: RS		PROJECT: 109 MATTHEW FLINDERS DRIVE, PORT MACQUARIE, NSW, 2444.	
DRAWN BY: AS / KW		DRAWN BY: 5595_DIA4.3	
CHECKED BY: RS		CLIENT: Brian KEMMETT	
DATE CREATED: 02/13		SHEET: 16	
		D	

FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011

NOTE: THESE ARE DRAFT ONLY

DA NO: 2013/349

DATE: 18/09/2013

PRESCRIBED CONDITIONS

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the *Environmental Planning & Assessment Regulations 2000*.

A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Plans	DA1.0 to DA.3.2 - Revision B	King and Campbell	9 August 2013
BASIX certificate	A165117		26 June 2013

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority; and
 - the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 - Building waste is to be managed via an appropriate receptacle;
 - Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (4) (A012) This consent does not provide for staging of the development. Any staging will require a separate consent or an amendment to this consent.

- (5) (A195) This approval only grants approval for the building to be used as a single dwelling and shall not be used for dual occupancy or separate residential occupancy on each level.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council.
- (2) (B046) The building shall be designed and constructed so as to comply with the Bush Fire Attack (BAL) 19 and BAL 12-5 to the west elevation requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of Planning for Bush Fire Protection 2006 to prevail in the extent of any inconsistency with the Building Code of Australia.

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

- (1) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

Should asbestos be present, its removal shall be carried out in accordance with the National OH&S Committee – *Code of Practice for Safe Removal of Asbestos* and *Code of Practice for the Management and Control of Asbestos in Workplaces*.

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) The existing kitchen shall be altered in accordance with condition A(5) prior to issue of a Construction Certificate.
- (4) (A196) The existing kitchen and cupboards shall be either:
1. fully removed
 2. fully removed and only replaced with a new single sink and bar
 3. remove all cupboards on the northern side of existing kitchen and only keep sink and bench on west side.

F – OCCUPATION OF THE SITE

- (1) (F004) The dwellings is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F195) The entire site shall be managed as an Inner Protection Area bushfire asset protection zone in accordance with NSW Rural Fire Services Planning for Bushfire Protection 2006.

DRAFT