



Development Assessment Panel

Business Paper

date of meeting: Wednesday 22 June 2016

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.

Development Assessment Panel

CHARTER

COMPOSITION:

Independent Chair (alternate, Director Development & Environment)

Manager Development Assessment (alternate, Director Development & Environment or Development Assessment Planner)

Development Engineering Coordinator (alternate, Development Engineer)

MISSION:

To assist in managing Council's development assessment function by providing independent and expert assessment of development applications

The Development Assessment Panel will make determinations on the basis of established criteria and practice and will not be influenced by "lobbying" and "weight of numbers" in its assessment process.

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:

1. Pursuant to Section 377 of the Local Government Act, 1993 delegation to:
2. 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.
3. Vary Modify or release restrictions as to use and/or covenants created by Section 88B instruments under the Conveyancing Act 1919 in relation to development applications for subdivisions being considered by the panel.
4. Determine Koala Plans of Management under State Environmental Planning Policy 44 - Koala Habitat Protection associated with development applications being considered by the Panel.



**PORT MACQUARIE
HASTINGS**

TIMETABLE:

The Development Assessment Panel shall generally meet on the 1st and 3rd Wednesday each month at 2.00pm.

VENUE:

The venue will be determined according to the likely number of participants.

BUSINESS PAPER AND MINUTES:

1. The Business Paper for the meeting shall be published and distributed on the Friday prior to the meeting.
2. Special Meetings of the Panel may be convened by the Director Development & Environment Services with three (3) days notice.
3. The format of the preparation and publishing of the Business Paper and Minutes of the Development Assessment Panel meetings shall be similar to the format for Ordinary Council Meetings, except that the movers and seconders shall not be recorded and only the actual decisions are shown. Minutes shall also record how each member votes for each item before the Panel.

FORMAT OF THE MEETING:

1. Panel meetings shall be carried out in accordance with Council's Code of Meeting Practice 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.

INDEPENDENT CHAIR:

The Chair of the Development Assessment Panel shall be an independent person appointed by the General Manager. The Independent Chair shall have experience and qualifications relevant to planning. The term of the Independent Chair shall be four (4) years.

QUORUM:

All members must be present at the Meeting to form a Quorum.

DECISION MAKING:

Decisions are to be made by the Development Assessment Panel by "consensus". Where "consensus" is not possible, the matter is to be referred to Council.

All development applications involving a variation to a development standard greater than 10% under Clause 4.6 of the Port Macquarie-Hastings Local Environmental Plan 2011 will be considered by the Panel and recommendation made to the Council for determination.

Staff Members shall not vote on matters before the Panel if they have been the principle author of the development assessment report.

LOBBYING:

Outside of scheduled Development Assessment Panel meetings, applicants, their representatives, Councillors, Council staff and the general public are not to lobby Panel members via meetings, telephone conversations, correspondence and the like. Adequate opportunity will be provided at Panel inspections or meetings for applicants, their representatives and the general public to make verbal submissions in relation to Business Paper items.

OBLIGATIONS OF PANEL MEMBERS:

All DAP members are required to comply with the following:

1. Members must perform their Development Assessment Panel obligations faithfully and diligently and in accordance with the DAP Code.
2. DAP members must comply with Council's Code of Conduct.
3. Except as required to properly perform their duties, DAP members must not disclose any confidential information (as advised by Council) obtained in connection with the DAP functions.
4. DAP members will have read and be familiar with the documents and information provided by Council prior to attending a DAP meeting.
5. DAP members must act in accordance with Council's Occupational Health and Safety Policies and Procedures
6. DAP members shall not speak to the media on any matter before the Panel otherwise than with the express approval of the Director Development & Environment Services.



**PORT MACQUARIE
HASTINGS**

Development Assessment Panel

ATTENDANCE REGISTER

Member	08/07/15	22/07/15	12/08/15	26/08/15	09/09/15
Paul Drake	✓	✓	✓	✓	✓
Dan Croft Patrick Galbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Troemel Caroline Horan (alternate) Bevan Crofts (alternate)	✓	✓	✓	✓	✓

Member	23/09/15	14/10/15	28/10/15	11/11/15	25/11/15
Paul Drake	✓	✓	✓	✓	✓
Dan Croft Patrick Galbraith-Robertson (alternate)	✓	✓	✓ ✓	✓	✓
David Troemel Caroline Horan (alternate) Bevan Crofts (alternate)	✓	✓	✓	✓	✓

Member	09/12/15	16/12/15	20/01/16	24/02/16	23/03/16
Paul Drake	✓	✓	✓	✓	✓
Dan Croft Patrick Galbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Troemel Caroline Horan (alternate) Bevan Crofts (alternate)	✓	✓	✓	✓	✓

Member	13/04/16	27/04/16	11/05/16	25/05/16	08/06/16
Paul Drake	✓	A	✓	✓	✓
Dan Croft Patrick Galbraith-Robertson (alternate)	✓	✓ ✓	✓ ✓	✓ ✓	✓
David Troemel Caroline Horan (alternate) Bevan Crofts (alternate)	✓	✓	✓	✓	✓

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



**PORT MACQUARIE
HASTINGS**

Development Assessment Panel Meeting

Wednesday 22 June 2016

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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 8 June 2016 be confirmed.

PRESENT

Members:

Paul Drake
Dan Croft
David Troemel

Other Attendees:

Chris Gardiner
Clinton Tink

The meeting opened at 2:00pm.

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 25 May 2016 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA2015 - 943.1 ALTERATIONS AND ADDITIONS TO MEDICAL CENTRE AT LOT 107 DP 31187, NO 40 WATONGA STREET, PORT MACQUARIE

CONSENSUS:

That DA 2015 - 0943 for alterations and additions to a medical centre at Lot 107, DP 31187, No. 40 Watonga Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Additional dot point in condition B(3) to read: *'Existing Hydrant to be relocated 1m clear of any proposed driveway or pram ramp location at no cost to Council'*.

06 DA2014 - 967.3 SECTION 96 MODIFICATION TO RESTAURANT AND TAKE AWAY FOOD AND DRINK PREMISES WITH DRIVE THROUGH FACILITY (HUNGRY JACKS) AT LOT 3 DP 1021427, NO 112 GORDON STREET, PORT MACQUARIE

Speaker:

Karen McIntosh (o)

CONSENSUS:

That DA 2014 - 967.3 for a Section 96 modification to a restaurant and take away food and drink premises with drive through facility (Hungry Jacks) at Lot 3, DP 1021427, No. 112 Gordon Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Additional condition is Section A of the consent to read: *'signage is to be provided adjoining the drive through advising customers to minimise noise and be considerate of neighbours'*.

**07 DA2015 - 910.1 - MULTI DWELLING HOUSING AND TORRENS TITLE
SUBDIVISION AT LOT 39 DP 1031793, 5 BLIGH PLACE, LAKE CATHIE**

Submissions from Mr Mclean, Mr and Mrs O'Reilly, Mrs Allum and a petition of Bligh Street Residents objecting to the proposal was tabled at the meeting.

Speakers:

Janine Roberts (o)
Robyn Bransdon (o)
Jeffery Roberts (o)
David Patton (o)
Merv McLean (o)
Michael Roberts (o)
Terrance Stafford (applicant)

CONSENSUS:

That DA 2015 - 910.1 for multi dwelling housing and torrens title subdivision at Lot 39, DP 1031793, No. 5 Bligh Place, Lake Cathie, be determined by granting consent subject to the recommended conditions.

08 GENERAL BUSINESS

Nil.

The meeting closed at 3:01pm.

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 [Tick or cross one box.]	<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 [Tick or cross one box]	<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 [Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]	
Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor [Tick or cross one box]	<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: DA2016 - 339.1 ANCILLARY BUILDING SHED - LOT 2 DP 1213832, 2
WALL STREET, NORTH HAVEN****Report Author: Anthony Crane**

Applicant: R R Clenton**Owner: R R Clenton****Estimated Cost: \$7000****Parcel no: 64872**

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2016 - 339.1 for a ancillary building shed at Lot 2, DP 1213832, No. 2 Wall Street, North Haven, be determined by granting consent subject to the recommended conditions.

Executive Summary

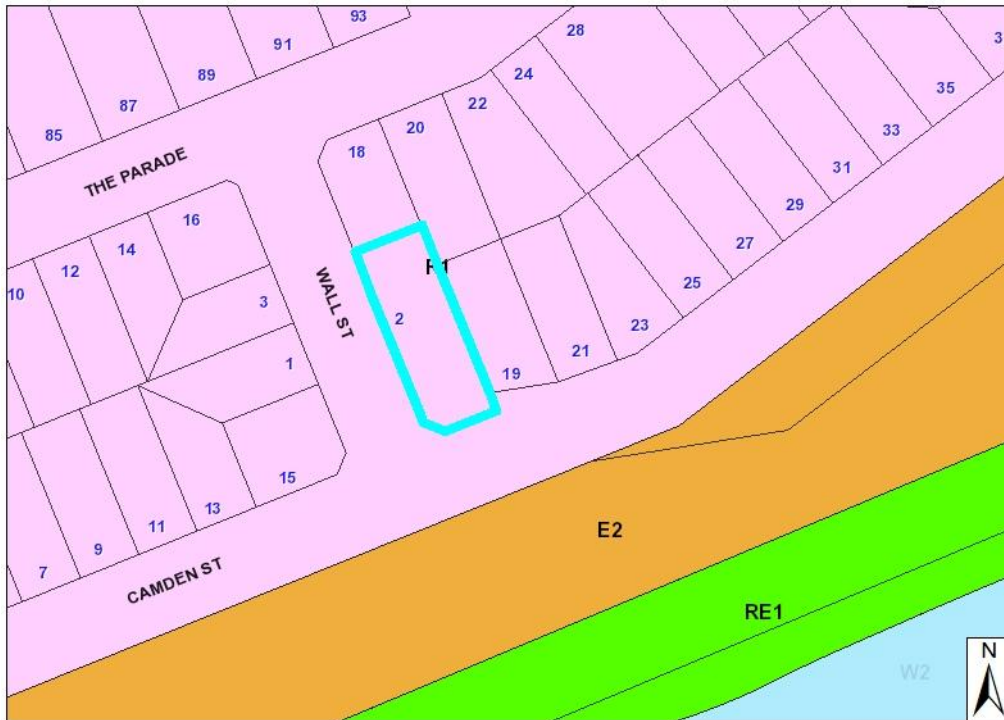
This report considers a development application for a detached garage at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, one (1) submission has been received.

1. BACKGROUND**Existing sites features and surrounding development**

The site has an area of 842m2.

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



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Erection of the shed began prior to the lodgement of the DA. The owners thought they did not need Council approval as the shed will occupy the exact same footprint as an existing shed. However, approval is required as the new building

will be 1.1m taller than the previous shed and is a new building in any case. The additional height is to allow for the accommodation the owners caravan.

- The owners were ordered to stop work, submit a Building Certificate application and a Development Application/Construction Certificate application, which has been done.
- The shed to be replaced was approved by Complying Development Certificate No. 2000/7842, determined 22 November, 2000.

Refer to attachments at the end of this report.

Application Chronology

- 9 May 2016 - DA lodged.
- 27 May 2016 - Site inspection carried out.
- 27 May 2016 - Request for further information sent.
- 2 June 2016 - Objection to proposal received
- 3 June 2016 - Follow up to further information request sent.

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. 44 - Koala Habitat Protection

There is no Koala Plan of Management on the site. Additionally, the site is less than 1ha in area therefore no further investigations are required.

State Environmental Planning Policy No.55 – Remediation of Land

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.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the Camden Haven River approximately 125m from the site.

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 5, 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);
- 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;
- g) reduce the quality of the natural water bodies in the locality.

The site is predominately cleared and located within an area zoned for residential purposes.

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

Not required.

Port Macquarie-Hastings Local Environmental Plan 2011

The proposal is consistent with the LEP having regard to the following:

- 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 dwelling (or ancillary structure to a dwelling) is a permissible landuse with consent.

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 as it is a permissible landuse (ancillary to a dwelling) and is consistent with the established residential locality,

- Clause 4.3, the maximum overall height of the building above ground level (existing) is 4.37 m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 5.9 - no listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.1, the site is mapped as potentially containing class 3 acid sulphate soils (>1m). The proposed development includes a shed, however no excavation extending below the natural surface level is proposed, therefore no adverse impacts are expected to occur to the acid sulphate soils found on site.

- Clause 7.3, the site is land within a mapped “flood planning area” (Land subject to flood discharge of 1:100 annual recurrence interval flood event (plus the applicable climate change allowance and relevant freeboard) In this regard the following comments are provided which incorporate consideration of the objectives of Clause 7.3, Council’s Flood Policy (2015); the NSW Government’s *Flood Prone Lands Policy* and the NSW Government’s *Floodplain Development Manual* (2005):
 - The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change;
 - 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 incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
 - The proposal is not likely to significantly adversely 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;

(a)(ii) Any proposed instrument that is or has been placed on exhibition

No draft instruments apply to the site.

(a)(iii) Any DCP in force

Port Macquarie-Hastings Development Control Plan 2013:

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> • 4.8m max. height • Single storey • 60m² max. area • 24 degree max. roof pitch • Not located in front setback 	4.37m Yes 54m ² 11 degs. Rear/side yard	Y Y Y Y Y
3.2.2.2	Articulation zone: <ul style="list-style-type: none"> • Min. 3m front setback • An entry feature or portico • A balcony, deck, patio, pergola, terrace or verandah • A window box treatment • A bay window or similar feature • An awning or other feature over a window • A sun shading feature 	N/A	

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development

	Requirements	Proposed	Complies
	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 	4.7m (Corner block - primary frontage) - replacing shed on same footprint.	Y
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	N/A	
	6m max. width of garage door/s and 50% max. width of building	3.1m door width & 0.07% of frontage.	Y & Y
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Existing	Y
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	2.93m (existing)	Y
3.2.2.5	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 	0.8m (existing)	N
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	>35m ²	Y

DCP 2013: General Provisions

	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination,	Refer to main body of report.	

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
	Airspace protection, Noise and Stormwater		
2.5.3.2	New accesses not permitted from arterial or distributor roads	N/A	
	Driveway crossing/s minimal in number and width including maximising street parking	Existing	Y
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Existing attached garage	Y
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	N/A	
2.5.3.14	Sealed driveway surfaces unless justified	Existing	Y

The proposal seeks to vary Development Provision 3.2.2.5 a) "Ground floors should be set back a minimum of 900mm from side boundaries."

The relevant objectives are:- "To reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy. To provide for visual and acoustic privacy between dwellings."

Having regard for the development provisions and relevant objectives, the variation is considered acceptable for the following reasons:

- The proposed shed is going on the site of a previously approved shed of the same area. There will be no increase in the floor area of the shed compared to the previously existing one.
- The variation is only 100mm and the proposed shed will adjoin a vacant rear yard area of the adjoining property and will not result in any adverse overshadowing impacts.

Based on the above assessment, the variation proposed to the provisions of the DCP is considered acceptable and the relevant objectives have been satisfied. The variation does not amount to an adverse impact or a significance that would justify refusal of the application.

(a)(iii)(a) Any planning agreement or draft planning agreement

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

(a)(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.

Demolition of buildings AS 2601 – Clause 66 (b)

Demolition of the existing building on the site is capable of compliance with this Australian Standard and is recommended to be conditioned.

(a)(v) Any Coastal Zone Management Plan

None applicable.

(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the 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 the public domain.
- The proposal is considered to be consistent with other residential development in the locality and adequately addresses planning controls for the area.
- There is no adverse impact on existing view sharing.
- There are no adverse privacy impacts.
- There are 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.

Access, transport and traffic

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic.

Stormwater

Service available – details required with S.68 application

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

This 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 subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction.

Air and microclimate

The construction and/or 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 and fauna

Construction of the proposed development will 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 and vibration

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

Bushfire

The site is not identified as being bushfire prone.

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 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 have been adequately addressed and appropriate conditions of consent recommended.

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

Exhibition in accordance with DCP 2013, was not required.

One (1) written submission has been received, although public exhibition of the application was not required.

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

Submission Issue/Summary	Planning Comment/Response
Real possibility that precedent will be set for 'factory-sized' sheds to overtake local landscape.	The shed is consistent with planning controls and will not result in an adverse cumulative impact. The shed is for domestic use and is ancillary to the residential use of the land.
Alleged that tourists from nearby caravan park use street as access to Wall reserve and riverside walkway and outward opening access gates to shed would entail use by large vehicles thus posing danger to tourists & locals.	Proposed shed will be used to house caravan currently parked on street. Traffic and pedestrian safety is not considered to be compromised by the proposal.
Question as to use of shed and possibility of generation of disturbing noise levels.	Shed to be used solely for garaging of caravan.
Size of shed will impact entire local community and have definite, profound negative impact on amenity of area.	Shed complies with DCP & BCA limits. Amenity impacts are considered to be minimal and consistent with the residential locality.
Amenity under EP&A Act refers to: increased dominance of built environment, which alters streetscape with loss of privacy, views and sunlight.	Streetscape not significantly altered; there will be no effect on privacy, views or sunlight.
The local residents are extremely upset at this illegal development.	The impacts arising from the shed are not considered to be of such significance that refusal could be justified.

(e) The Public Interest:

The proposed development satisfies relevant planning controls and is not expected to impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Nil

5. CONCLUSION

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

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

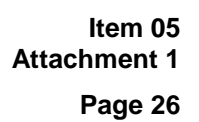
The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment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

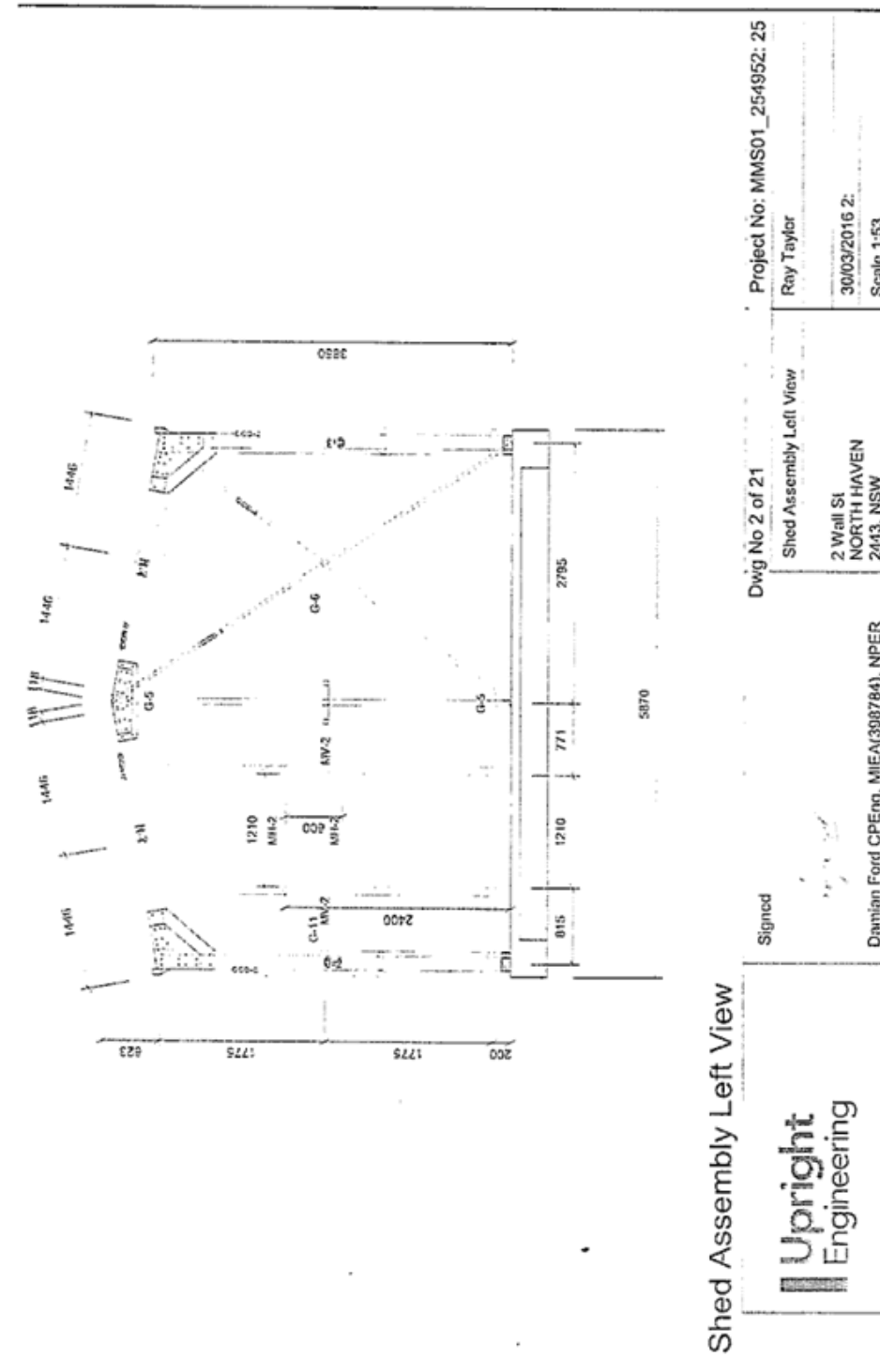
Attachments

1[View](#). DA2016 - 0339 Plans

2[View](#). DA2016 - 0339 Recommended DA Conditions

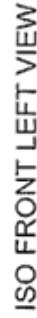
3[View](#). DA2016 - 0339 Submission











PLAN VIEW

RIGHT VIEW

Shed Assembly Multiview

Upright
Engineering

Signed

Dwg No 5 of 21

Shed Assembly Multiview

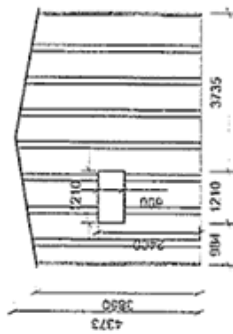
Project No: MMS01_254952: 25

Ray Taylor

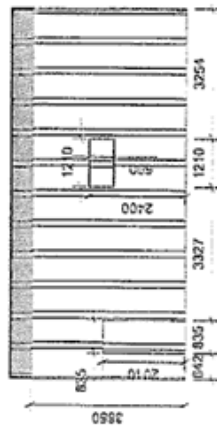
2 Wall St
NORTH HAVEN
2143, NSW

30/03/2016 2:
Scale NA

Damian Ford CPeng, MIEA(398784), NPER



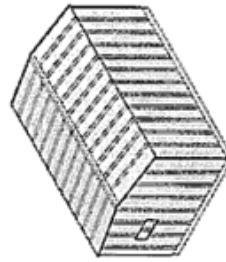
LEFT VIEW



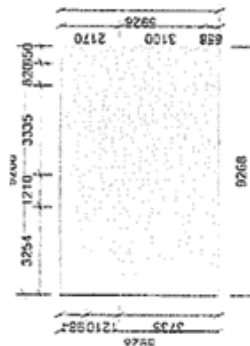
BACK VIEW



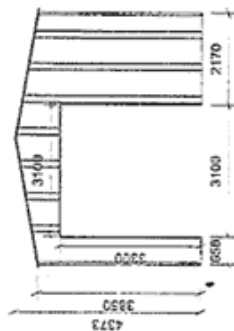
FRONT VIEW



ISO FRONT LEFT VIEW



PLAN VIEW



RIGHT VIEW

Elevation Multiview

Signed

Damian Ford CP&Eng, MIEA(398784), NPER

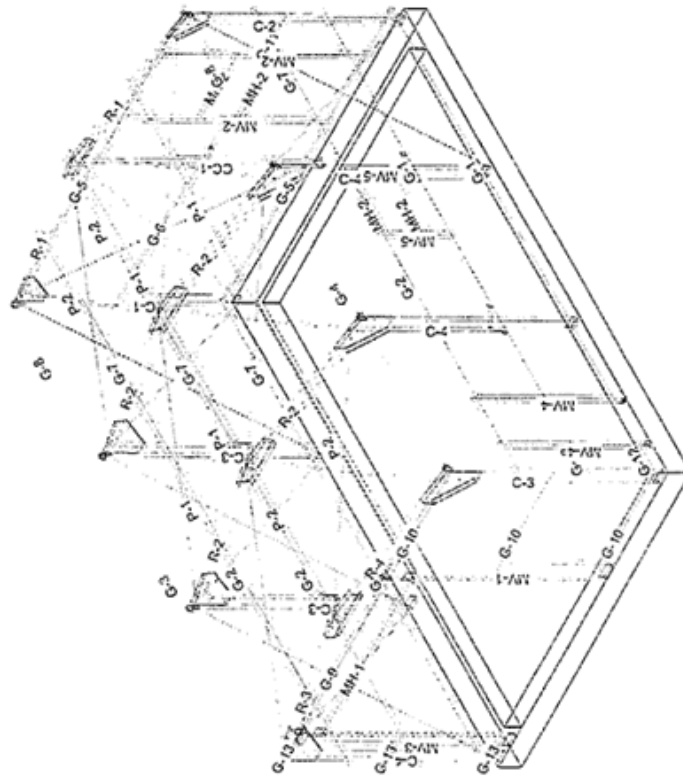
2 Wall St
NORTH HAVEN
2443, NSW

Elevation Multiview

Ray Taylor

Project No: MMS01_254952: 25

30/03/2016 2:
Scale NA



Shed ISO Back Right View (Unclad)

Signed



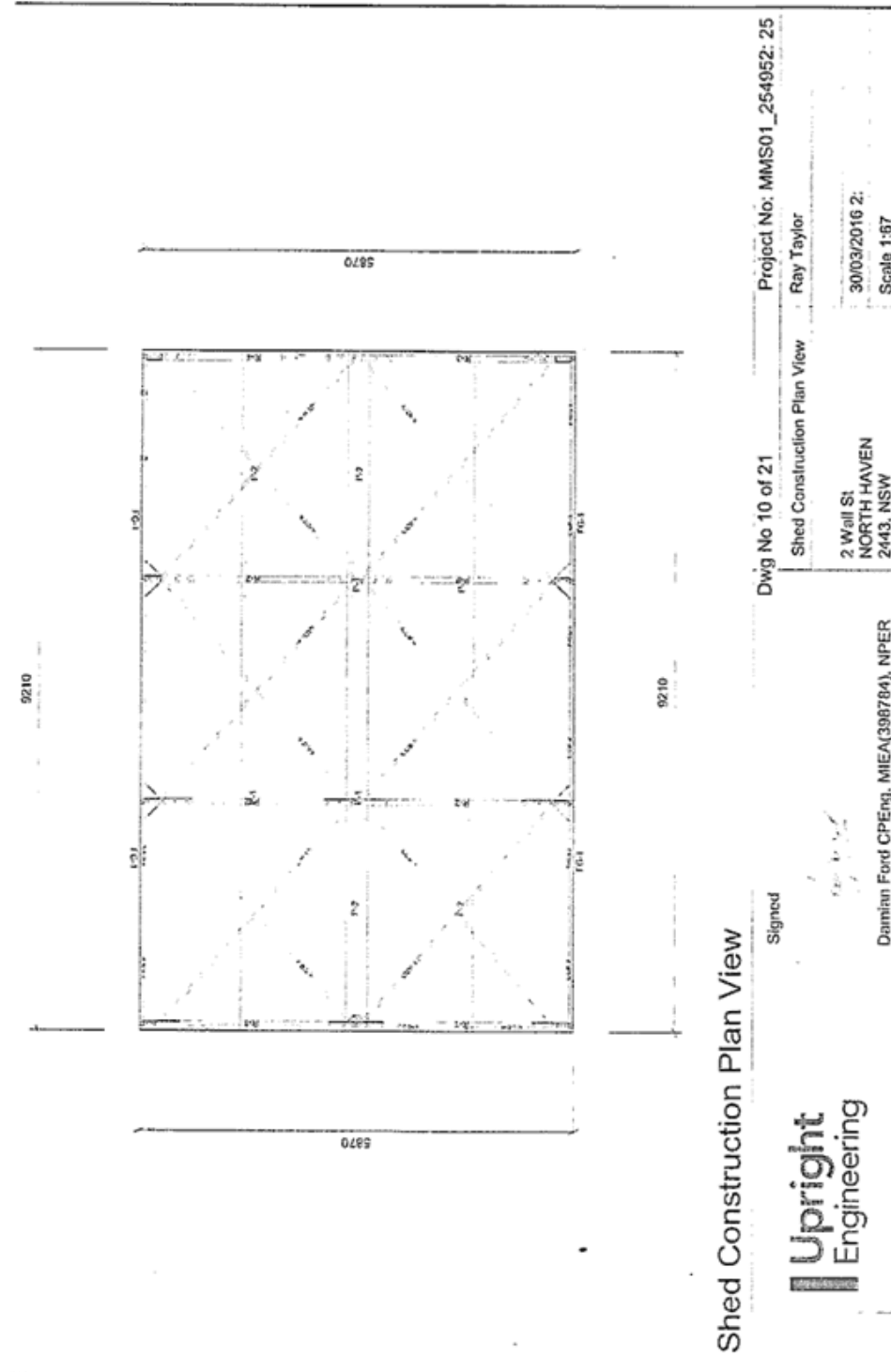
Damian Ford CPEng, MIEA(398784), NPER

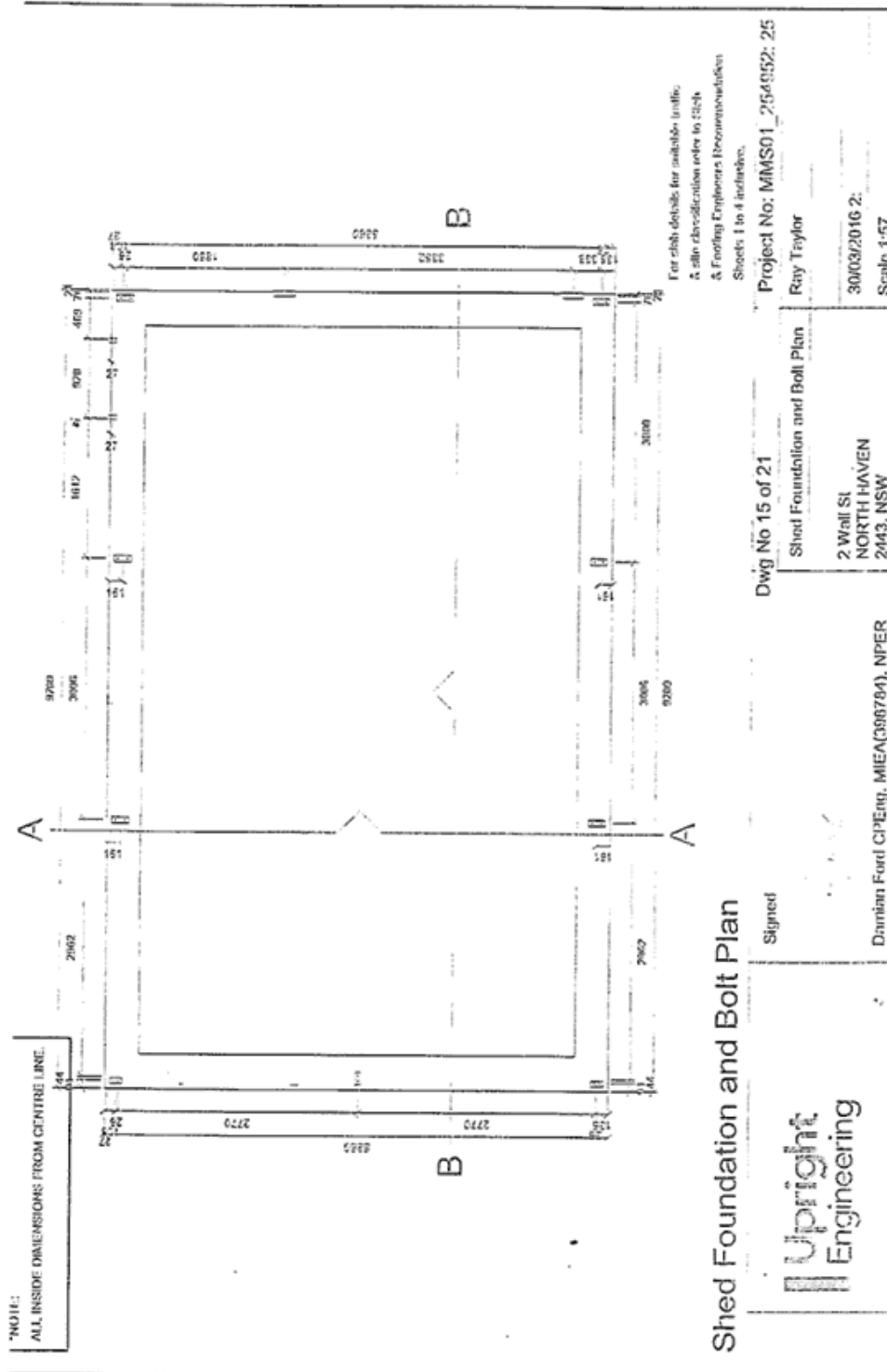
Dwg No 7 of 21

Project No: MMS01_254952: 25

Shed ISO Back Right View (Unclad) Ray Taylor

2 Wall St
NORTH HAVEN
2443, NSW30/03/2016 2:
Scale 1:74





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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2016/339

DATE: 16/06/2016

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
Site Plan	No Ref	Applicant	Undated
Floor Plan, Elevations	Project No MMS01_254952:25	Upright Engineering	30/03/2016
SoEE	No Ref	Applicant	04/05/2016

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:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - 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. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
 - Building waste is to be managed via an appropriate receptacle;
 - Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

6. 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.

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. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:

- Position and depth of the sewer (including junction)
- Stormwater drainage termination point
- Easements
- Water main
- Proposed water meter location

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

- (1) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

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.

F – OCCUPATION OF THE SITE

nil

3rd May 2016

The General Manager

Port Macquarie Hastings Council

PO Box 84

Port Macquarie NSW 2444

Dear Sir

Re – Building Work 2 Wall St North Haven – Your Ref CRM 10071-2016 refers to PN64872

On 2nd May 2016 I advised Council by phone of a suspected illegal development at 2 Wall Street North Haven. Council issued CRM 10071-2016.

This building work appears to be the frame for a large industrial-size shed. After discussion with the local council office, I was advised that as long as the shed does not exceed 4.8m in height, and is setback the required distance from the street, it will be most likely approved as a matter of process.

I find this advice most disturbing, as it totally ignores the impact a shed of this size will have on the community. A shed of this size would be better located in the Laurieton Bays industrial area, not in the beachside & riverside area of North Haven. It will set a terrible precedent for other property owners in North Haven, with the prospect of other 'factory-size' sheds overtaking the local landscape, becoming a real possibility, if development approval is granted.

The shed fronts Wall Street, which is the access route by which tourists from the Jacaranda Caravan Park access the Wall Reserve and riverside Wall Pathway – in fact Council installed a new ramp in recent years to facilitate this access for tourists and residents. The shed has large fence-gates that open onto the street. Therefore, one would question whether large vehicles will access the shed and pose a danger to passing tourists & locals. Also, what would a shed of this size be used for & will it generate noise levels to disturb local residents.

A shed of this size impacts the entire local community, and has a definite and profound negative impact on the amenity of the area. Under the EPA Act, amenity refers to : **increased dominance of the built environment, which alters streetscape with a loss of privacy, views and sunlight** . The shed looks totally out of place in our North Haven area, and should not be approved.

North Haven is a beautiful beachside suburb, and does not need 'factory sheds'. The local residents are extremely upset at this illegal development, which was commenced without approval or consultation.

Please ensure that Council fully considers all the impacts of this development before granting approval.

Also, would you please advise, under a scenario where approval was granted, whether residents (by way of a class action) could challenge the approval under the EPA Act in the Land & Environment Court?

Yours faithfully,

[REDACTED]

Resident & Ratepayer.

Ratepayers

[REDACTED]

[REDACTED]

Item: 06

Subject: DA2016 - 0293 ALTERATIONS AND ADDITIONS TO REGISTERED CLUB - LOT 1 DP 854932, 1 WOODFORD ROAD, NORTH HAVEN

Report Author: Fiona Tierney

Applicant: Cityscape planning+projects

Owner: North Haven Bowling Club

Estimated Cost: \$1,879,359

Parcel no: 28595

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2016 - 0293 for alterations and additions to existing registered club at Lot 1, DP 854932, No. 1 Woodford Rd, North Haven, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for alterations and additions to an existing registered club at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

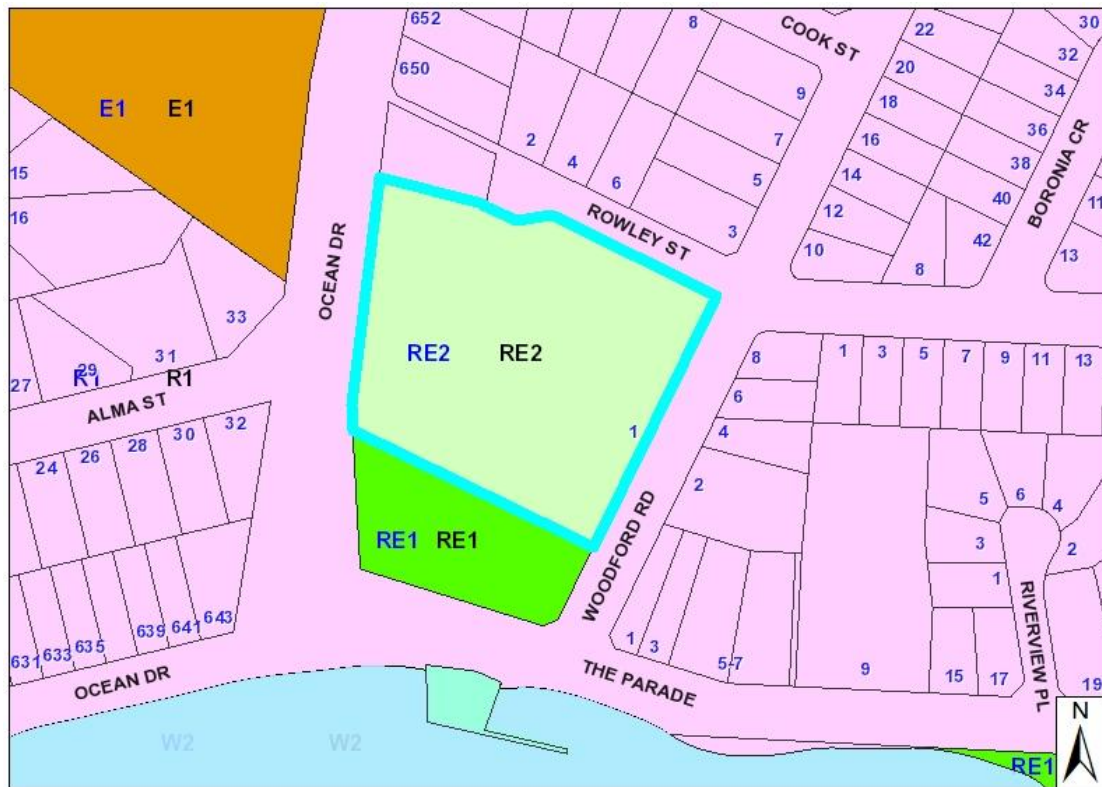
Following exhibition of the application, 1 submission was received.

1. BACKGROUND

Existing sites features and surrounding development

The site has an area of 12060m2.

The site is zoned RE2- Private Recreation in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Staged alterations and additions to existing bowling club
- Stage 1-New entry, reception and offices, indoor and outdoor gaming, toilet and locker facilities, bar, multi- purpose rooms and modified bar and lounge.
- Stage 2- Internal wall relocation, servicing and refurbishment of dining room area.

Refer to attachments at the end of this report.

Application Chronology

- 21 April 2016-Application lodged with Council
- 3 May- 17 May 2016- Notification period to adjoining owners
- 17 May 2016- Additional information noise assessment

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- (Infrastructure)2007

(1) The objectives of this clause are:

- (a) ***to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and***

The subject site currently adjoins Ocean Drive which is a classified road. The development provides a modest increase in Gross Floor Area and vehicle access is currently provided to the site via Ocean Drive. No new vehicle access is required and the small increase in traffic that will be generated by the development is not expected to adversely affect the operating efficiency of Ocean Drive and its nearby intersections. Further, the existing vehicular access to Ocean Drive provides excellent sight lines along that roadway, therefore affording a continued safe traffic environment.

- (b) ***to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.***

The development is not a type that is sensitive to traffic noise or emissions from Ocean Drive. Accordingly, no further measures are required to occur to the development to prevent or reduce impacts of traffic noise on the development.

104 Traffic-generating development

The proposed development is not identified at Schedule 3 to the SEPP. Accordingly, the development is not required to be referred to RMS.

State Environmental Planning Policy No.55 – Remediation of Land

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.

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the Camden Haven River.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed development does not include any additional advertising signage in the form of business/building identification and/or general advertising.

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 noting clause 4 of the SEPP.

The site is further identified as being within a sensitive coastal location in accordance with clause 18 of the SEPP (land within 100m of mean high water mark of sea, bay, estuary, mapped SEPP 14 Wetlands, mapped SEPP 26 Littoral Rainforest - refer to Dekho Mapping).

In accordance with clause 5, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard for clauses 2, 8 and 12 to 16 of the SEPP and clause 5.5 of the PMH LEP 2011, the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the foreshore
- b) any adverse amenity impacts along the foreshore and on the scenic qualities of the coast;
- c) any adverse impacts on flora and fauna;
- d) the development being subject to any adverse coastal processes or hazards;
- e) any significant conflict between water and land based users of the area;
- f) any adverse impacts on any items of archaeological/heritage;
- g) reduction in the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, landuse conflicts);
- h) adverse cumulative impacts on the environment;
- i) a form of development that is unsustainable in water and energy demands;
- j) development relying on flexible zone provisions. (refer to clause 5.3 of LEP 2011 - Development near zone boundaries unable to be undertaken when SEPP 71 applies).

The site is predominately cleared and located within an area zoned and currently utilised for recreational purposes.

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

Nil

(iii) any Development Control Plan in force:

Port Macquarie-Hastings Development Control Plan 2013

DCP 2013: Business & Commercial Development			
DCP Objective	Development Provisions	Proposed	Complies
3.4.3.8	Active Frontages: Ground floor levels shall not be used for residential purposes in B1, B2, B3 and B4 zones.	Active frontage to Woodford and Rowley Street would be retained.	Yes
3.4.3.22	The development complies with AS1428—Design for Access and Mobility.	New building work will be required to comply with BCA and Access to Premises Standard.	Yes
3.4.3.25	Separate storage bins for collection for organic waste and recyclable waste are provided in the development.	Waste bins for proposed use identified on submitted plans.	Yes

DCP 2013: General Provisions			
DCP Objective	Development Provisions	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline: <ul style="list-style-type: none"> Casual surveillance and sightlines Land use mix and activity generators Definition of use and ownership Lighting Way finding Predictable routes and entrapment locations 	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. Addition will increase surveillance opportunities.	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.3	Off-street parking in accordance with Table 2.5.1. (Provision to consider reduced parking where supported by parking demand study)	The proposed development is considered to be registered club. 1 space per 6m2 serviced floor area (including beer garden)private recreation premises. 21 spaces are also required per green under the DCP. The site currently has 109 spaces and a bus service.	No- however traffic study considered acceptable.

		A proposed increase of 15% floor area is proposed with no increase in gaming machines. The applicant has submitted a traffic and parking study that has identified that sufficient capacity exists on the site to absorb anticipated increased demand as a result of the additional floor area. The report has concluded that the development would not require any additional off street parking.	
2.5.3.4	Parking credits to be calculated for redevelopment or change of use	No change of use is proposed	
2.5.3.11	Section 94 contributions	Refer to main body of report.	

- (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:

Nil

- iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy:

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

Demolition of buildings AS 2601:

Demolition of part of the existing building on the site is capable of compliance with this Australian Standard and is recommended to be conditioned.

- 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:

- No Coastal Zone Management Plan applies to the subject site.

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

The site has street frontages to Ocean Drive, Woodford Road and Rowley Street. A reserve is located to the south of the site.

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

The proposal is considered to be consistent with other development in the locality and adequately addresses planning controls for the area.

The proposal does not have a significant adverse impact on existing view sharing.

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts. Adequate building separation and tenancy is proposed/existing.

There are 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.

Roads

The site has road frontage to Woodford Road and Ocean Drive.

Adjacent to the site, Woodford Road is a sealed public road under the care and control of Council. Woodford Road is a local road with a 10m road formation within a 20 m road reserve. Ocean Drive is a sealed public road under the care and control of Council with RMS funding. Ocean Drive is an arterial road with an 11m road formation within a 30 m road reserve.

Traffic and Transport

The application includes a Traffic Impact Assessment from ML Traffic Engineers dated February 2016. Findings of the study determined:

Existing parking is in excess of the requirements for this application and no increase in parking is required.

The proposed development will have no adverse effect on the surrounding road network.

Site Frontage & Access

Vehicle access to the site is proposed through one access driveway to Rowley Street. All accesses shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements.

Parking and Manoeuvring

A total of 109 parking spaces have been provided on-site. Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.

Water Supply Connection

Council records indicate that the development site has an existing 50mm metered water service from the 200 PVC water main on the same side of Ocean Drive.

No Water Supply conditions other than S68 and contributions if applicable.

A new metered water service will be required for each allotment as part of the Torrens Title Subdivision.

Final water service sizing will need to be determined by a hydraulic consultant to suit the development as well as addressing fire service coverage to AS 2419 and backflow protection.

Detailed plans will be required to be submitted for assessment with the S.68 application.

Sewer Connection

Council records indicate that the development site is currently connected to sewer via a junction to the 225mm sewer main that traverses the development site.

Engineering plans are required to detail how the proposed extensions will avoid placing additional loads on the existing sewerage infrastructure.

Detailed plans will be required to be submitted for assessment with the S.68 application.

Stormwater

The site naturally grades towards the south western corner of the site and has a direct connection to the public piped drainage system.

In accordance with Councils AUSPEC requirements, the following is required to be incorporated into the stormwater drainage plan:

- On site stormwater detention facilities
-

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

Following a site inspection no known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated.

Other land resources

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 subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction. The site is mapped as containing class 4 acid sulphate soils- an acid sulphate soils management plan is to be submitted with the applications for the construction certificate.

Air and microclimate

The construction and/or operations of the proposed development will be unlikely to result in any adverse impacts on the existing air quality or result in any pollution. Standard precautionary site management condition recommended.

Flora and fauna

Construction of the proposed development will 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. Standard precautionary site management condition recommended.

Energy

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX or Section J of the Building Code of Australia. No adverse impacts anticipated.

Noise and vibration

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

Outdoor gaming area is currently located in the same position as the proposed works. Approximately 70m separation exists between the proposed works and a mixture of commercial and residential uses and a solid wall encloses most of this elevation which will improved potential noise impacts from what currently exists on site. No additional gaming machines are proposed and applicant advises machines are volume controlled. Doors between the outdoor and indoor gaming are to remain closed when not in use and no amplified music is permitted in this area. Conditions of consent to be applied.

Bushfire

The site is identified as being bushfire prone.

The site does not contain any residential component and the new works are located in the opposite elevation to the hazard. No anticipated increase in risk.

Safety, security and crime prevention

The proposed development does not change access areas and with a minor increase in the width of the existing building. It will be unlikely to create any additional identifiable concealment/entrapment areas or crime spots that would result in any 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. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as expenditure in the area.

Site design and internal design

The proposed development design 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.

Natural Hazards

The site is identified as flood prone and is located in a bushfire buffer zone. Floor levels will comply with the flood levels applicable to the site and conditions of consent have been applied. No additional bushfire hazard anticipated as a result of the proposed additions.

(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.

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

One written submission has been received following 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
Noise from use of double doors on the Western side of Club. Long history of complaints to club.	No changes are proposed to the doors on the western side of the club. The issue has been discussed with Council's Environmental Health Officer who advised that several solutions had been proposed but as the doors are required fire exit doors, they can't be blocked or sealed. The recommended solution was that the club implement a management strategy to prevent use for general entry and on- going issues should be referred to OLGR. The applicant has advised that they have implemented various measures to try and improve this situation; however, as it is the main access for the back stage area it is difficult to control all noise. The proposed works are located on the opposite side of the club and noise level restrictions will be applied as a condition of approval. An existing outdoor area exists and no changes are proposed that will impact on noise levels.

(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 and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required under Section 94A of the Environmental Planning and Assessment Act 1979.

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. 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](#). DA2016 - 0293 Plans
- 2 [View](#). DA2016 - 0293 Recommended DA Conditions
- 3 [View](#). DA2016 - 0293 Submission

Proposed Alterations
for



North Haven Bowling Club
1 Woodford Road , North Haven NSW 2443

Schedule of Drawings (Development Application Set)

01_01	Existing Basement Floor Plan
02_01	Existing Ground Floor Plan
03_01	Existing Elevations
04_01	Existing Roof Plan
05_02	Proposed Ground Floor Plan
06_01	Proposed Roof Plan
07_01	Proposed Elevations
08_01	Proposed Sections
09_02	Proposed Demolition Plan
10_01	Proposed Ground Floor Finishes Plan
11_01	Existing & Proposed Areas



Documents Prepared by

NETWORK REFURBISHMENTS & CONSTRUCTION

A DIVISION OF CHAIN & ASSOCIATES PTY LTD.

ABN 89 065 437 ACN 065 824 437

1/873 Victoria Rd, Ryde, 2112.

Phone: (02)9808-5673

Fax: (02)9807-7196

E-mail: mjchain@networkinteriors.com.au

















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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2016/293

DATE: 15/06/2016

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
Architectural Plans and Specifications	NHBRC-01 Sheets 01_01 - 11_01	Network Refurbishments and Construction	
Statement of environmental effects		Cityscape planning + projects	April 2016
Traffic and Parking Assessment	A161563A (Version 1b)	ML Traffic Engineers	February 2016

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:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - 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. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;

4. Building waste is to be managed via an appropriate receptacle;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. 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 holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (4) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (5) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (6) (A024) The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.
- (7) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (8) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
 - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
 - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

Such security is to be provided to Council prior to the issue of the Subdivision Certificate/Construction Certificate or Section 138 of the Roads Act, 1993.

The security is to be for such reasonable amount as is determined by the consent authority, being an amount that is 10% of the contracted works for Torrens Title subdivision development/the estimated cost plus 30% for building development of public works or \$5000, whichever is the greater of carrying out the development by way of:

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred to above and on application being made to the Council by the person who provided the security any balance remaining is to be refunded to, or at the direction of, that person. Should Council have to call up the bond and the repair costs exceed the bond amount, a separate invoice will be issued. If no application is made to the Council for a refund of any balance remaining of the security within 6 years after the work to which the security relates has been completed the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

- (9) (A063) The disposal of wastewater from a commercial or industrial business to Port Macquarie-Hastings Council's sewage system requires specific approval under Section 68 of the Local Government Regulation, 1999.

In this regard, whilst you have indicated that trade waste will not be discharged from the subject development, should you wish to discharge liquid trade wastes to Council's sewer in the future, a further application under Section 68 of the Local Government Regulation, 1999 will be required.

- (10) (A065) The development shall allow flood waters up to the 1 in 100 including applicable climate change allowance year event to pass beneath or through the building. The building may be enclosed for security purposes with slats or lattice material provided the porosity of each wall/side is no less than 50%.
- (11) (A090) All plumbing fixtures shall comply with the current version of the Plumbing Code of Australia and Australian Standard 3500. For the purpose of the code and standard the declared flood level is the 1 in 100 year flood level (including Climate Change allowance). Details demonstrating compliance shall be clearly illustrated on plans accompanying the section 68 application.
- (12) (A091) All parts of the structure below the applicable Flood Planning Level (1 in 100 flood level including climate change plus the relevant freeboard) shall be constructed from flood compatible materials compliant with the ABCB Standard for construction of Buildings in Flood Hazard Areas. Consideration should also be given to the relevant provisions contained with the Hawkesbury-Nepean Floodplain Management Steering Committee document *Reducing Vulnerability of Buildings to Flood Damage (2007)*.
- (13) (A007) The development must only proceed in accordance with the approved stages as set out below:
- Stage 1 -New entry, reception and offices, indoor and outdoor gaming, toilet and locker facilities, bar, multi- purpose rooms and modified bar and lounge.
 - Stage 2- Internal wall relocation, servicing and refurbishment of dining room area.

Unless specified, the conditions of this consent will apply to all stages, with any decision on any discrepancy with conditions and associated staging resting with Council. Any decision to allow a change to staging will rest with Council along with applicable conditions and any contributions payable.

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. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
- Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:

1. Sewerage reticulation.
 2. Stormwater systems.
- (3) (B010) Payment to Council, prior to the issue of the Construction Certificate of the Section 94A contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
- Port Macquarie-Hastings Section 94A Levy Contributions Plan 2007
- The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.
- The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.
- (4) (B011) 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 the issue of a Construction Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. 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
 - augmentation of the town sewerage system headworks
- (5) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (6) (B045) A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (7) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
- a) The design shall incorporate on-site stormwater detention facilities to limit site stormwater discharge to pre development flow rates for all storm events up to and including the 100 year ARI event. Note that pre development discharge shall be calculated assuming that the site is a 'greenfield' development site as per AUSPEC requirements.

- (8) (B057) The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate.
- (9) (B069) Prior to release of the Construction Certificate a practising chartered professional structural engineer is to provide certification to the PCA that the building is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur for a range of floods up to and including the 1 in 100 year flood including climate change and the relevant freeboard level of 500mm. For the purpose of this requirement, the 1 in 100 year flood levelling including climate change may be assumed to be 3.60m AHD. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1 in 100 year flood including climate change plus freeboard. For the purpose of this requirement, the velocity for the 1 in 100 flood may be assumed to be 0.35m/s.
- (10) (B071) Prior to the issue of any Construction Certificate, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (11) (B074) The floor level of all commercial areas is to be at or above the 1 in 100 year flood level including the applicable climate change allowance. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.60m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (12) (B197) Council records indicate that the development site is currently connected to sewer via a junction to the 225mm sewer main that traverses the development site. Engineering plans are required to detail how the proposed extensions will avoid placing additional loads on the existing sewerage infrastructure.
- (13) (B012) To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of Australian Standard 4674-2004 – "Design, Construction and Fit-Out of Food Premises", Food Act 2003, the provisions of the Food Safety Standards Code (Australia) and the conditions of development consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
- (14) An acid sulphate soils management plan is to be submitted with the application for the construction certificate.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C008) No access through the reserve shall be allowed without first obtaining written approval from Council's Parks and Gardens Manager. No clearing or damage to any vegetation on the reserve is permitted. No spoil, fill, waste liquids or solid materials shall be stockpiled on or allowed to move beyond the fence line for any period on the adjoining reserve during or after the development. In the event of accidental damage, the site must be revegetated to the satisfaction of Council. Such approval would need to be undertaken in accordance with Council Policy.

D – DURING WORK

- (1) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (2) (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*.

For further information on asbestos handling and safe removal practices refer to the following links:

[Safely disposing of asbestos waste from your home](#)

[Fibro & Asbestos - A Renovator and Homeowner's Guide](#)

[Asbestos Awareness](#)

- (3) (D037) Noise from construction activities (measure as the L_{AeqT} noise level) shall not exceed the background noise level (measured as the L_{A90} noise level in the absence of the source), for periods of construction between 4 and 26 weeks by 10 dB(A), and for periods of construction exceeding 26 weeks by 5 dB(A), in any Octave Band Centre Frequency, when measured at any affected residence, or premises.

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) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (3) (E016) Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (4) (E044) The applicant will be required to submit prior to occupation or the issue of the Occupation Certificate, certification by a Registered Surveyor that the development has met the necessary flood planning levels specified in this consent.
- (5) (E046) Prior to the issue of an Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the

owner(s) with the requirement to maintain the on-site stormwater detention facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a. The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities ("OSD").
- b. The Proprietor shall have the OSD inspected annually by a competent person.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.
- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor or successor must bear all costs associated in the preparation of the subject 88E instrument. Evidence of registration with the Lands and Property Information NSW shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- (6) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (7) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation or subdivision certificate.

F – OCCUPATION OF THE SITE

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons. A total of spaces are to be provided onsite.
- (2) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (3) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (4) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.

- (5) (F011) Each required fire-isolated exit shall have displayed in a conspicuous position adjacent to each access doorway, a notice in accordance with the Environmental Planning and Assessment Regulation 2000.
- (6) (F012) The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.
- (7) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (8) (F195) No amplified or live music is permitted in the gaming rooms or on the smoking deck. Gaming machine tones/ volumes are to be maintained at a level that will not create a nuisance to any occupied premises in the nearby vicinity. Doors between the inside and outside gaming rooms and multi purpose rooms are to be kept closed when not in use.
- (9) (F196) General access/egress is not permitted via fire doors and patrons should be directed to access the club via the main entry doors.
- (10) (F197) Use of the outdoor gaming and smoking area are to be appropriately managed to ensure noise levels are kept within acceptable limits and do not create a nuisance to neighbouring occupied premises. Curfews may be imposed should a validated nuisance occur.
- (11) (F198) No additional gaming machines are permitted under this consent.
- (12) (F199) Hours of operation are restricted to the original approved hours of operation for the club.



16th May 2016

Port Macquarie Hastings Council
PO Box 84
Port Macquarie NSW 2444

Dear Sir/Madam

Re: **APPLICATION NO.: 2016/293**
Alterations & Additions to Registered Club – North Haven Bowling Club

Further to your notification of the above mentioned development proposal I do not object to the Club having extensions and alterations “**IF**” alterations do not create ongoing noise to the surrounding residents.

I also believe the Club should fix the double doors on the western side of the Club before more extensions are allowed.

The double doors I am referring to are intended to be fire doors which unfortunately are used for many other uses which usually come with a high level of noise being emitted. The doors are open continually including during functions.

As you would be aware previously in 1996 at the time when the Club was undergoing extensions the majority of the noise was created by motors and the Emergency Exit Doors. The noise from motors was eventually fixed in late 1999 with the assistance of Lawyers and the involvement of Gaming & Racing.

Noise from the Exit Emergency Doors does still exist. The doors are used for several purposes being:

- Comings and goings by artists with their equipment at all hours of the night and early mornings banging down the steps with their equipment etc;
- Staff and patrons coming outside to smoke and argue;
- Noise from the entertainment (*even when doors are closed*);
- Used as entry for Meat Raffles;
- Used as entry for Weddings etc. etc.

The doors are used as entry and exit doors for many things which do not relate to an “Emergency”. They are not controlled at all.

See letters enclosed 1,2,3,4,5 & 6.

Previously, prior to his death in 2009, my husband [REDACTED] attended to these matters. I again plead with Council and The North Haven Bowling Club to resolve the ongoing problem with the Emergency Doors as suggested by Council in 2008.



I refer to "noise complaint" 19/1/2009 (*letter encl. 3*) from Liquor Gaming & Racing which makes interesting reading. It appears the Club does not understand the issue by their letter (*encl. 6*).

I do believe that Council should insist to the Bowling Club to resolve the problem with these doors prior to commencing their extensions and not allow any forthcoming extensions until this matter is resolved.

Please find enclosed the following letters in support of my submission:

- (1) 28/2/2008 – North Haven Bowling Club;
- (2) 04/9/2008 – Port Macquarie Hastings Council;
- (3) 19/1/2009 – Gaming & Racing;
- (4) 13/9/1999 – Gaming & Racing;
- (5) 11/2/2015 – Letter from myself (J Hardy);
- (6) 01/3/2015 – North Haven Bowling Club.

Please Note: The Bowling Clubs words (*letter encl. 6*) "**try to keep noise levels to acceptable level**".

This is not acceptable to my way of thinking. Control over patrons leaving the Club does fall into their responsibility (*letter encl 3*).

Yours faithfully



C.C. Searson Shannon & Co Pty Ltd, Solicitors.

**North Haven Bowling & Recreation Club Limited**

ABN 20 001 045 969

Bowling Club
1 Woodford Rd
NORTH HAVEN NSW 2443
Telephone: 02 6559 9150
Facsimile: 02 6559 7286

Motel
9 The Parade
NORTH HAVEN NSW 2443
Bookings: 02 6559 9303
Facsimile: 02 6559 9835



100m from Club

Fully owned & Operated by
North Haven Bowling Club

Chairman: Gary W McLoughlin
Secretary: Peter L Negus

Mrs. Judith Hardy,
3 Alma Street,
NORTH HAVEN NSW 2443

28th February 2008

Dear Judith,

I have spoken to John Laurie (Licensing Sergeant) and also to Mrs. McLennan from Port Macquarie Hastings Council. The club is awaiting a ruling from council's fire investigator Tim Meecham on whether the club can build a second set of double doors outside the existing set of double doors on the western fire exit. If the club is allowed to build these doors the board and management will go ahead with the project.

The club has two entertainment shows coming up on Saturday 9th March and Saturday 22nd March. On both these nights I will be at the club and will control the fire doors so that no-one can open them while the entertainment is on.

Yours sincerely,

Peter Negus,
Secretary Manager.

PORT MACQUARIE-
HASTINGS COUNCILPO Box 84
Port Macquarie
NSW Australia 2444
DX 7415council@pmhc.nsw.gov.au
www.pmhc.nsw.gov.au

ABN 11 236 901 601

4 September 2008

PORT MACQUARIE
HASTINGS

Parcel No. : 28595

Mrs. J. Hardy
33 Alma Street
NORTH HAVEN NSW 2443

(2)

Dear Mrs Hardy,

Re: Noise complaints from the North Haven Bowling Club.

Please be advised that the Manager of the club, Mr Peter Negus has again failed to submit the proposal for the purchase and installation of the new set of doors before the Board at its most recent meeting of last week contrary to advice since April this year that he would do so.

It was hoped that a successful resolution to this ongoing issue could be negotiated on your behalf but it would appear from the advice received today that this is unfortunately not the case. As council has no legal authority to require the club to take any action, I can no longer intercede on your behalf in this matter.

Any future noise complaints should be directed to the Licensing Sergeant, Mr John Laurie at Port Macquarie Police, as the Licensing Police is the appropriate regulatory authority for noise issues at licensed premises in NSW.

Should you require further information please do not hesitate to contact Michelle McLennan on telephone number 6581 8111 or by e-mail on Michelle.McLennan@pmhc.nsw.gov.au.

Yours faithfully

Michelle McLennan
Environmental Health Officer.PORT MACQUARIE OFFICE
Corner Lord & Burrawan Streets
Telephone (02) 6581 8111
Facsimile (02) 6581 8123WAUCHOPE OFFICE
High Street
Telephone (02) 6589 6500LAURIETON OFFICE
9 Laurie Street
Telephone (02) 6559 9958

CRMS: 5004551944

19 January 2009

Mrs J A Hardy
33 Alma Street
NORTH HAVEN NSW 2443

(3)

Dear Mrs Hardy,

RE: NOISE COMPLAINT – NORTH HAVEN BOWLING CLUB

We refer to the above matter and to your telephone conference with the writer of 19 January 2009. We confirm our advice that under the *Liquor Act 2007*, police, local Council and residents can make a disturbance complaint to the Director of Liquor and Gaming. The Director has a range of statutory powers and enforcement functions under the liquor laws, including the power to deal with disturbance complaints against licensed venues.

Complaints to the Director of Liquor and Gaming can relate to noise emitted from licensed premises and registered clubs from within the physical structure of the premises and to noise created by patrons especially when departing. Complaints may include other issues such as anti-social behaviour of patrons, including vandalism, methods and timing of delivery vans and disposal of refuse such as bottles, glassware and food packaging.

Generally noise created by mechanical equipment is outside the Director of Liquor and Gaming's responsibility and the local Council should be contacted.

We enclose for your information the following:-

1. Fact Sheet regarding disturbance complaints.
2. Disturbance Complaint Form. Please note this form contains a Statutory Declaration that must be sworn before a prescribed witness.

The completed Disturbance Complaint Form should be forwarded to:

Disturbance Complaints Unit
NSW Office of Liquor, Gaming & Racing
GPO Box 7060
SYDNEY NSW 2001

22/06/2016



DEPARTMENT OF GAMING AND RACING
 323 CASTLEREAGH STREET, SYDNEY
 TELEPHONE (02) 9995 0300 FACSIMILE (02) 9995 0688
 All written correspondence to GPO BOX 7060, SYDNEY NSW 2001
 E-mail Address dogar@tpgi.com.au

John O Hardy
 33 Alma Street
 North Haven 2443

Handwritten: Jami. Francis Sanderson.
 JAN - 08.
 SPARK NAME AS
 LETTER NOV 1997.

Ref IB 242056
 M. Steedman
 Ph 9995 0934

Dear Sir

I refer to your correspondence relating to excessive noise emanating from the North Haven Bowling & Recreation Club Limited.

Following enquiries made by this Department, the Clubs' Secretary Manager Ian MacIntosh advised that the club had introduced prevention measures in order to curb noise emanating from the premises.

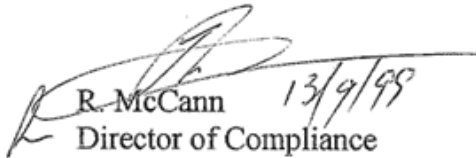
These measures are:

- Licensed security Personnel are to be employed to encourage patrons to leave quickly and quietly.
- Local police will be requested to patrol the area at the conclusion of any function.
- Music will not be played when the fire doors are open.
- Sound tests will be supervised by the staff.
- Wherever possible equipment will be loaded after 8.00am on the following morning.
- Artists are advised in advance to keep noise levels at an acceptable level.
- Staff will be monitoring noise levels during performances and will instruct bands to reduce noise if needed.

G A M I N G • R A C I N G • L I Q U O R • C H A R I T I E S

These have been put in place by the Club to avert any future problems around the club premises: If you have any enquiries please contact Maury Steedman on (02) 9995 0934. Any delays in finalising this matter is regretted.

Yours faithfully


R. McCann 13/9/99
Director of Compliance

(5)

JUDITH HARDY
33 ALMA ST

NORTH HAVEN 2443.

TO WHOM IT MAY CONCERN. 11-2-2015.
NORTH HAVEN.
BOWLING CLUB.

DEAR SIR,

I HAVE LIVED BOTH SIDES
OF MHB CLUB FOR OVER 55 YEARS NOW.SINCE THE CLUB EXTENDED AROUND 1996 THERE
HAS BEEN NOISE PROBLEMS INCLUDING MOTORS, MUSIC,
DRUMS AND PEOPLE LEAVING CLUB INCLUDING ENTERTAININGI HAVE MANY LETTERS TO PROVE THIS. THESE INCLUDE
LETTERS TO AND FROM MY HUSBAND, SEC MANAGER,
HASTING COUNCIL BUILDING INSPECTOR, ENVIRONMENTAL
HEALTH OFFICER, N.S.W POLICE LICENSING BOARD.I AM MENTOSIT SEE MAN. MHB CLUB, NEVILLE UNICOMB,
KRITH HALL, DAVID DEAN, KEVIN BYRNER SOLICITOR,
LIQUOR ADM. BOARD, S/MAN, PETER NEGUS. AND ON IT GOES.IT SEEMS LIKE THE PROBLEMS ARE FIXED
ONLY TO REOCCUR.THE MAIN NOISE COMES FROM THE SO
CALLED FIRE DOOR AND BALCONY. WHAT DO I DO AGAIN.1. LODGE A COMPLAINT WITH COUNCIL (NOISE)
2. " " " " " POLICE.3. MEDIATION THROUGH COMMUNITY JUSTICE
OR AGAIN GO BACK TO SOLICITOR. MY TENANT
ARE NOW PERMANENT AT "IAPANA" AND COMPLAIN
TO ME.THANKING YOU
Judith Hardy.



ABN 20 001 045 969
Bowling Club
1 Woodford Rd
NORTH HAVEN NSW 2443
Telephone: 02 6559 9150
Facsimile: 02 6559 7286
www.nhbrc.com.au

Motel
9 The Parade
NORTH HAVEN NSW 2443
Bookings: 02 6559 9303
Facsimile: 02 6559 9835
www.havenwaters.com.au



Fully owned & Operated by
North Haven Bowling Club

Chairman: Gary McLoughlin
Secretary: Peter L Negus

1st March 2015

(b)

Mrs Judith Hardy
33 Alma Street
North Haven 2443

Dear Mrs Hardy,

Thank you for your letter regarding the noise levels.

We have always endeavoured to try and keep noise to an acceptable level, and are continually looking at ways to improve the situation. Investigations are currently underway, to see what can be done. We shall do what we can to keep noise levels down, but unfortunately we have no control over people leaving the club.

Yours sincerely,

Handwritten signature of Peter Negus.

Peter Negus
Sec, Manager

Handwritten signature of Gary McLoughlin.

Gary McLoughlin
Chairman

Item: 07

Subject: DA2016 - 276.1 HOME BUSINESS (SWIMMING, CYCLE AND STRENGTH CLASSES) - LOT 5 DP 20579, 13 SWIFT STREET, PORT MACQUARIE

Report Author: Clint Tink

Applicant: M K Cockshutt
Owner: T A & M K Cockshutt
Estimated Cost: N/A
Parcel no: 22895

Alignment with Delivery Program

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

RECOMMENDATION

That DA2016 - 276.1 for a home business (swimming, cycle and strength classes) at Lot 5, DP 20579, No. 13 Swift Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for a home business (swimming, cycle and strength classes) at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

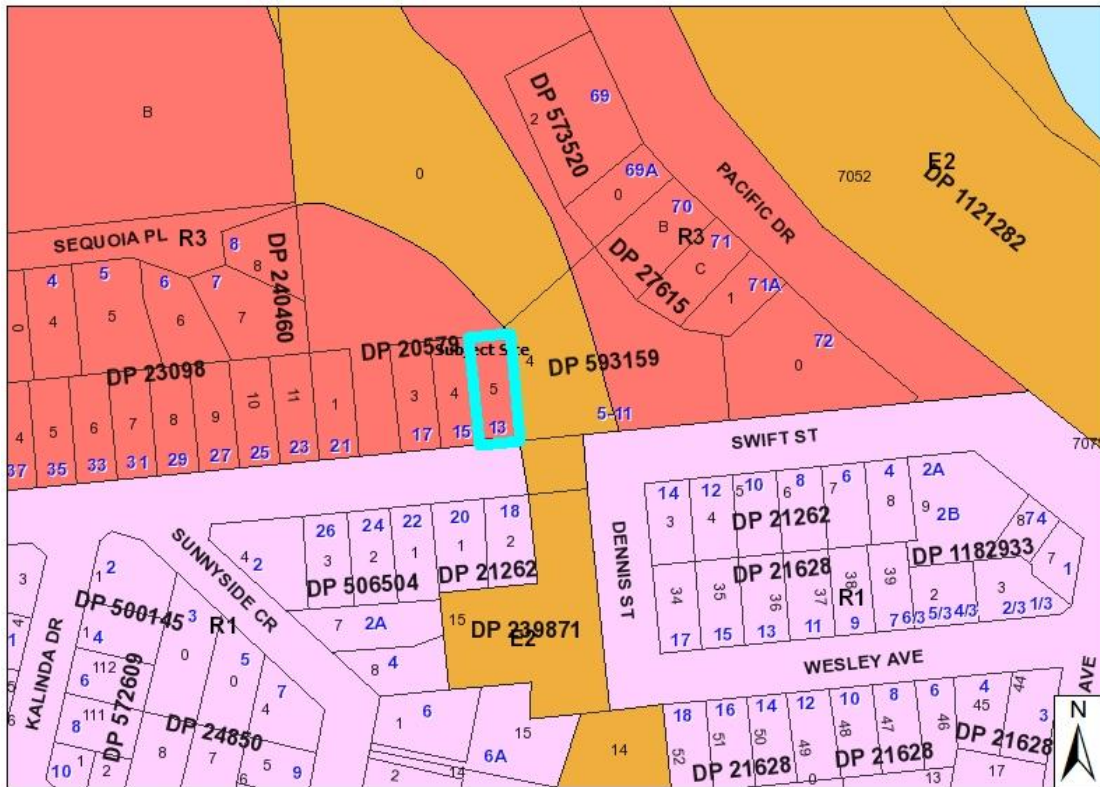
Following exhibition of the application, six (6) submissions were received.

1. BACKGROUND

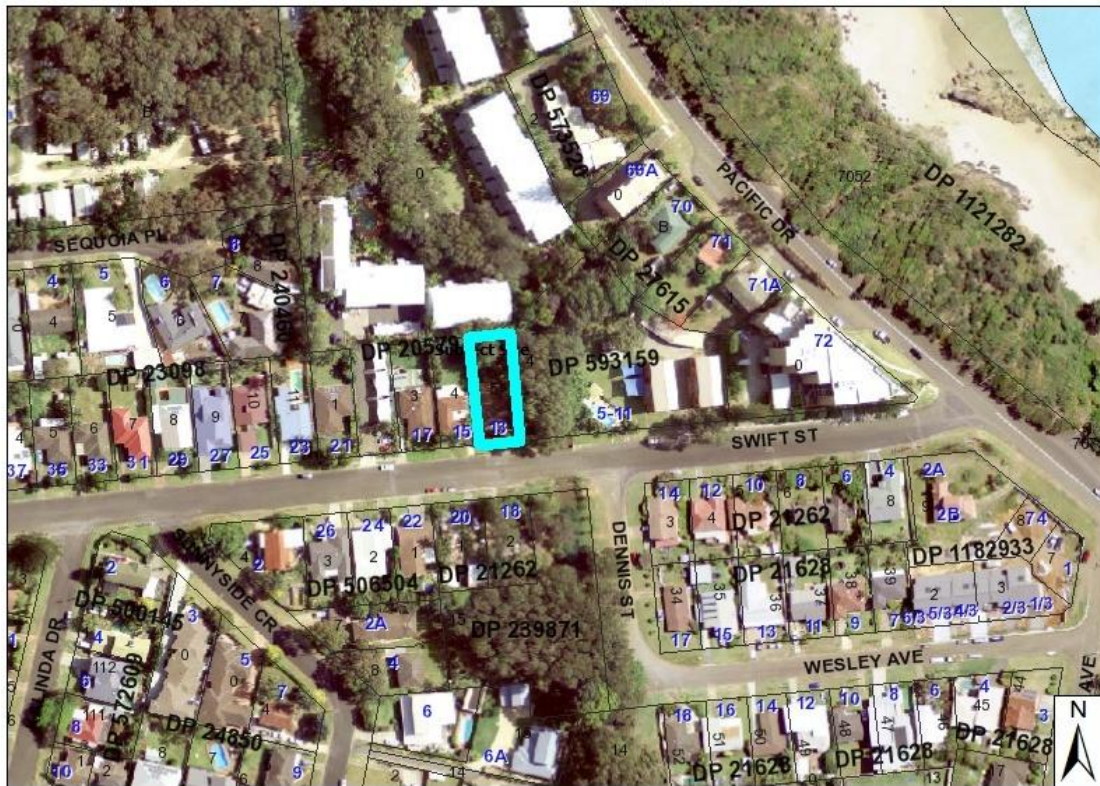
Existing sites features and surrounding development

The site has an area of 613.4m².

The site is zoned R3 Medium Density Residential in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- DA2014 - 260 - Approved additions to the existing dwelling and also the construction of a swimming pool.
- Proposal includes a home business where the occupant of the house will provide a mixture of swimming, cycle and strength training classes/lessons. Swimming lessons will occur in the pool onsite, while cycle and strength classes will occur in the rear (northern) ground floor room.
- Swimming lessons are proposed to occur in the pool three (3) days per week between the hours of 9am and 6pm.
- Swimming lessons will only occur on weekdays and not weekends.
- There will be a maximum of six (6) people per swimming lesson.
- Envisaged that swimming lessons will comprise 10-20 hours per week.
- Cycle classes will also occur over 2-3 days per week for 1 hour sessions. There will be one cycle class at 5:45am during the week, another on Tuesday 5:30pm to 6:30pm and the remaining class on Thursday 7:00pm to 8:00pm.
- Usually only one (1) person attends the 5:45am class with the rest being via a video link up. The other classes can have up to five (5) people attend.
- No music is played during the cycle classes and communication occurs via a headset.
- One (1) strength and conditioning class will occur during the week on Wednesday 4:30pm to 5:30pm. Music is played during this class but windows etc are kept closed.
- An occasional non resident employee may be required.
- All classes will be staggered with a 15min gap to reduce overlapping of attendees and parking.
- Pumps associated with the pool will not start until allowable hours under the Protection of the Environment Operations Act 1997.
- In addition, Council staff also suggest that rather than allowing the 5:45am starting time for the cycle class that it be 6am. A 12 month trial period is also suggested to enable Council to assess the applicant's ability to comply with conditions. Prior to the 12 months expiring, the applicant will have the opportunity to submit a modification to extend the consent with Council reviewing compliance with conditions. The modification would also allow the applicant the opportunity to request other changes depending on how the business operates/develops.

Refer to attachments at the end of this report.

Application Chronology

- 11/2/2015 - DA2014 - 260.1 for dwelling additions and pool approved.
- 15/4/2016 - DA2016 - 276.1 for home business lodged with Council.
- 21/4/2016 to 4/5/2016 - Exhibition period.
- 27/4/2016 - Council staff sought clarification on how the home business will operate.
- 27/4/2016 - Applicant advised that a response to Council's request for additional information would be provided.
- 3 to 4/5/2016 - Correspondence between Council staff and the applicant regarding the request for additional information,
- 11/5/2016 - Partial response to additional information provided.
- 19/5/2016 - Site inspection and emails between Council and applicant clarifying home business operation.

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 44 - Koala Habitat Protection

There is no Koala Plan of Management on the site. Additionally, the site is less than 1ha in area and does not require any koala tree removal.

Based on the above, no further investigations are required.

State Environmental Planning Policy 55 – Remediation of Land

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. In addition, no physical works are proposed with the development being a use only.

State Environmental Planning Policy 62 - Sustainable Aquaculture

Given the existing and minor nature of the development, the proposal will be unlikely to have any adverse impact on existing aquaculture industries.

State Environmental Planning Policy No. 64 – Advertising and Signage

No signage proposed. Applicant may look to do signage in the future but will either utilise exempt signage criteria in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or lodge a separate application.

State Environmental Planning Policy 71 – Coastal Protection

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

In accordance with clause 5, 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);
- 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;
- g) reduce the quality of the natural water bodies in the locality.

Port Macquarie-Hastings Local Environmental Plan 2011

The proposal is consistent with the LEP having regard to the following:

- Clause 2.2, the subject site is zoned R3 General Residential. In accordance with clause 2.3(1) and the R3 Medium Density Residential zone landuse table, the home business is a permissible landuse with consent.

The objectives of the R3 zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *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 as it is a permissible landuse and provides a facility/service to meet the day to day needs of residents in the locality and surrounding area.

- Clause 4.3 & 4.4, the overall height and FSR of the building remain unchanged.
- Clause 5.4, the home business does not exceed 60m² of floor area. In particular, the room used for cycle classes is less than 30m². The open pool area is not classed as floor area.
- Clause 5.9, no listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 5.10, the site does not contain or adjoin any known heritage items or sites of significance. In addition, the application is for a use only with no works proposed.
- Clause 7.3, the site is land within a mapped "flood planning area". The inclusion of a home business component with no works proposed, creates no adverse impact on flooding or vice versa.
- Clause 7.13, development requires no change to services.

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

None relevant.

(iii) any Development Control Plan in force:

Port Macquarie-Hastings Development Control Plan 2013

It should be noted that there is no specific section of DCP 2013 relevant to home businesses (where no work is involved). Therefore, the key is to ensure compliance with the General Provisions - see below.

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	As there are no changes to the built form of the site, no new concealment or entrapment areas proposed. The additional people utilising the site for lessons will help provide further surveillance of the area.	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding,	Refer to main body of report.	Noted

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
	Contamination, Airspace protection, Noise and Stormwater		
2.5.3.3	<p>Parking in accordance with Table 2.5.1.</p> <p>Home businesses require parking for dwelling (1 space) + 1 for visitors and 1 per 2 employees</p>	<p>Based on their being 1 non resident employee, at times the site requires 3 spaces.</p> <p>The site contains a single garage and a driveway capable of holding 3 cars albeit with the single garage and one other space being stacked. Conditions can be imposed to ensure the garage and stacked space are for use by the owner and employee.</p> <p>In addition to the above, the site is unique in that sections of the surrounding street do not contain houses/development and/or are not capable of containing houses/development. For example, the property to the south is owned by Council and used for infrastructure/drainage purposes, while to the east is a crossing over a drainage line. These areas are unlikely to create spill over parking into the street. This creates a situation whereby excess parking could also occur on street in front of such areas without having a detrimental impact on the street.</p>	Yes
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway to be constructed as part of DA2014 - 260 approval.	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:

New South Wales Coastal Policy:

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

Fire Safety and other considerations

Calculations suggest the home business does not occupy more than 10% floor area and trigger change of use fire safety measures. The 10% will be reinforced through conditions.

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

Surrounding the site is a mixture of single dwellings, unit development and tourist accommodation. The proposal will be unlikely to have any adverse impacts on existing adjoining properties and satisfactorily addresses the public domain. In particular, the proposal:

- does not have a significant adverse impact on existing view sharing.
- does not have significant adverse lighting impacts.
- does not impact on privacy or create adverse noise due to adequate building separation, screening afforded by existing buildings and controls on hours, attendees, music, parking etc.

Access, Transport & Traffic

The proposal will be unlikely to have any adverse impacts 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

Telecommunication and electricity services are available to the site.

Stormwater

Remains unchanged.

Water & Sewer

Remains unchanged.

Soils

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

Air & Micro-climate

The construction and/or 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

Construction of the proposed development will 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.

Noise & Vibration

No adverse impacts anticipated. Conditions recommended to restrict hours of operation, closing windows during cycle/strength training, separation of buildings, limitations on use of music and restricted occupant numbers.

In addition, the start time will be conditioned to be 6am instead of 5:45am with a 12 month trial period to enable Council to assess the applicant's ability to comply with conditions. Prior to the 12 months expiring, the applicant will have the opportunity to submit a modification to extend the consent with Council reviewing compliance with conditions.

Natural Hazards

The site is not identified as being bushfire prone. Flooding is addressed above in the LEP 2011 section of this report.

Safety, Security & Crime Prevention

Addressed in DCP 2013 section of this report.

Social Impact in the Locality

Given the nature of the proposed development and controls to be put in place regarding management/operation, the proposal is unlikely to result in any adverse social impacts.

The provision of swimming lessons and training will provide health and swim safety benefits for the community, which has social benefits.

Economic Impact in the Locality

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

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:

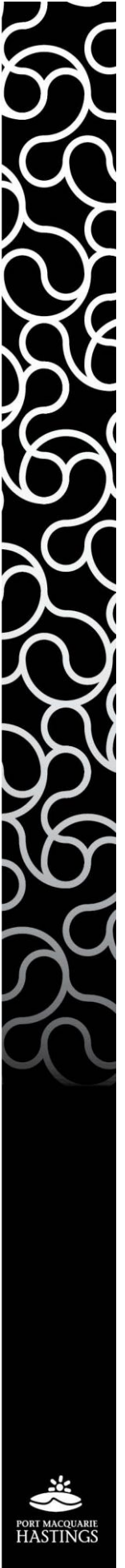
The proposal will fit into the locality and the site attributes are conducive to the proposed development. The fact that the site adjoins a drainage line and has additional on street parking opportunities, helps minimise impacts on neighbours and improve the suitability of the site.

Controls on operation and management will further ensure the development remains suitable for the site with a review to occur at 12 months via a s96 modification (ie should the applicant wish to continue the development).

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

Six (6) written submission were received following 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>Noise from the lessons/training, especially in mornings. People yelling instructions and music playing. Suggest a 7am or 8am start and 7pm or 8pm finish with no business before 10am on Sunday. Times should be similar to allowable construction work hours. Adjoining building to the north is close to the pool area with some windows overlooking. Definitive restrictions required.</p>	<p>The applicant proposes one (1) class/lesson before 9am and it is for an indoor cycle class. Openings such windows and doors will be closed during the lesson and no music will be played. The applicant advises that there will be no yelling as she will be using a headset and video link up. It should be noted that music will be played during the once a week strength class. The strength class only goes for 1 hour between 4:30pm and 5:30pm. Openings will be closed during this session. There are no classes/lessons after 8pm. Conditions will be imposed to reinforce lesson times, closure of openings and music to ensure no noise impact on neighbours.</p> <p>The pool is also over 5m from adjoining properties and faces the east (towards the drainage line). This further aids in reducing noise impacts on neighbours.</p> <p>It should be noted that this application does not cover training carried out by the owner or their family. If noise is created via their normal household operations, this is a separate noise compliance issue.</p>
<p>Applicant appears to be using the site for additional training (other than swimming). In particular, fixed cycle training in the rear room. This has created noise impacts at 5:30am in the morning.</p>	<p>Noted. The applicant has amended the application to include the other training and restricted the hours. Refer to above comment.</p>
<p>Noise associated with construction of the pool. Noise from water being pumped out of the pool during construction. Noise between the owner and the builder discussing construction.</p>	<p>This is not relevant to the subject application. However, it is noted that the majority of work associated with DA2014 - 260 has been completed.</p>
<p>Facilities will be used for expanded commercial reasons.</p>	<p>Conditions will be imposed to reinforce lesson times, number of attendees, closure of openings, music etc to ensure the development does not become a major commercial business.</p>
<p>Neighbours were not approached or did not have discussions with the applicant, contrary to the SOEE.</p>	<p>Noted. Council's notification process allows residents to voice concerns.</p>
<p>Why was the use of the pool not disclosed in the original application DA2014 - 260.</p>	<p>This is a question for the applicant and is not relevant to the assessment. Council staff are assessing the application as submitted.</p>

<p>There could be over 50 people coming and going to the site a day, which is excessive in a residential area. Increased traffic etc.</p>	<p>Conditions will be imposed that restrict the development to:</p> <ul style="list-style-type: none"> - Total 20 hours of classes/lessons a week. - Only one swim lesson, cycle class or strength training class is to occur from the site at any one time. - Minimum 15min change over gap between classes to limit doubling up of cars, people etc. - Maximum of 2 classes/lessons per hour. - Class sizes being limited to 6. <p>The above will ensure a better spread of classes to limit impacts. The applicant could choose to have two intense days but this will result in no training being allowed for the rest of the week.</p> <p>There is also adequate parking both onsite and adjoining the front of the property to ensure no impact on adjoining properties.</p> <p>Based on the above and through the use of conditions, the development will be restricted to an acceptable level.</p>
<p>Owners of Flynn's Beach Resort were not given notice of DA2014 - 260.</p>	<p>Council records indicate that owners of 68 Pacific Drive were notified of DA2014 - 260.</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

N/A

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.

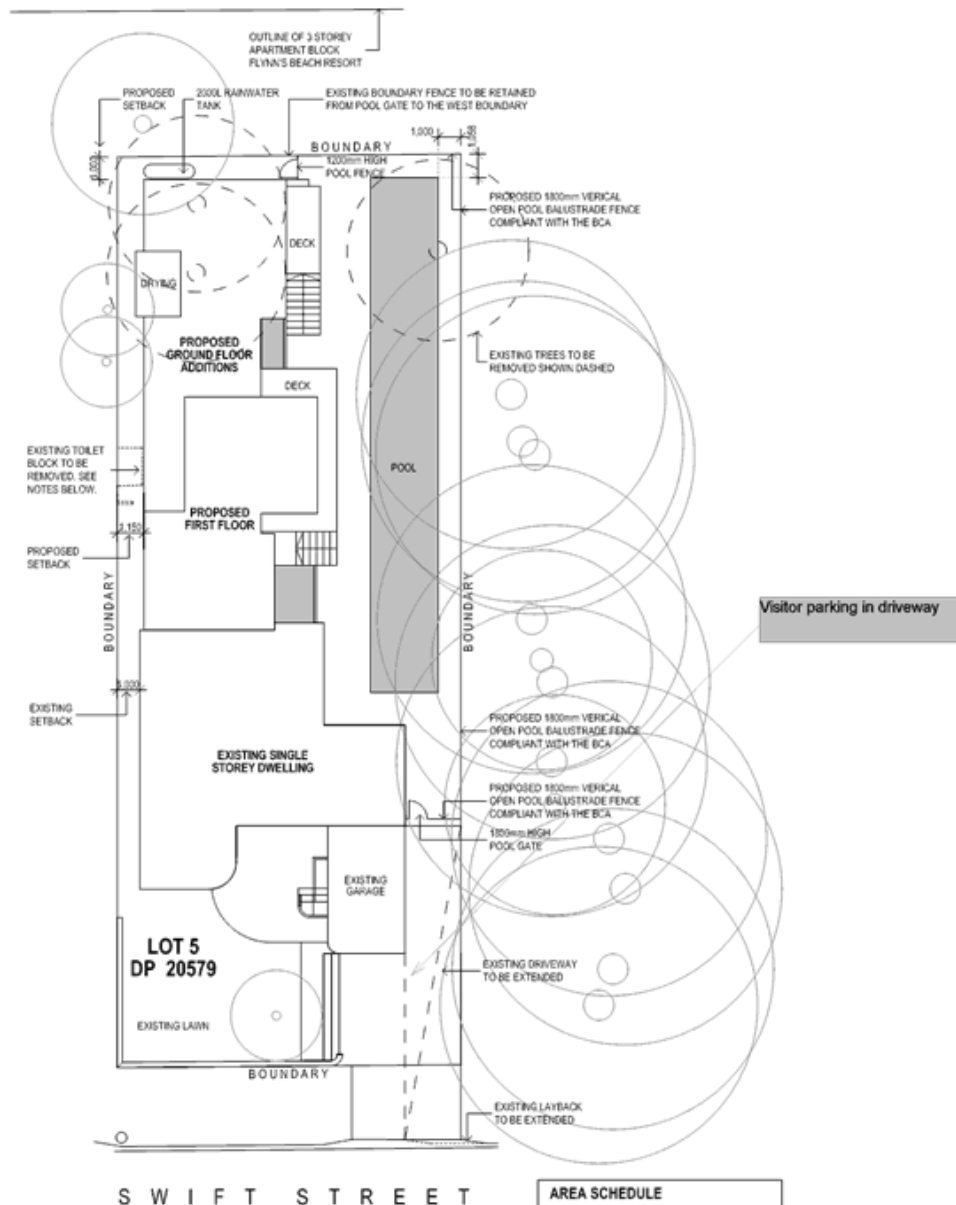
The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment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

Attachments

- 1 [View](#). DA2016 - 276 Plans
- 2 [View](#). DA2016 - Recommended Conditions.
- 3 [View](#). DA2016 - 0276 Submission Dawes
- 4 [View](#). DA2016 - 0276 Submission - Leach
- 5 [View](#). DA2016 - 0276 Submission - Miller
- 6 [View](#). DA2016 - 0276 Submission - Wilson
- 7 [View](#). DA2016 - 0276 Submission - Wilson 1
- 8 [View](#). DA2016 - 0276 Submission - Batterham
- 9 [View](#). DA2016 - 0276 Submission - Strata Professionals

These are the plans referred to in
Development Application No.:
DA2014 - 260.1
and determined as APPROVED on: 11 February
2016
PORT MACQUARIE-HASTINGS COUNCIL

DA ISSUE 14/01/2015



S W I F T S T R E E T

NOTES:
STORMWATER TO CONNECT TO EXISTING.
DOCUMENTATION TO BE READ IN CONJUNCTION WITH ARBORIST
REPORT.
DEMOLITION OF EXISTING TOILET BLOCK TO BOTH 13 SWIFT
STREET & NEIGHBOUR - UPON DEMOLITION, SEWERAGE/WATER
CONNECTIONS TO BE CAPPED OFF UNDERGROUND AT LEVEL THAT
IS REQUIRED BY PMHC. THE SITE TO BE RESTORED TO THE SAME
CONDITION OF SURROUNDING YARD. THE FENCE TO BE
RESTORED TO MATCH THE EXISTING FENCE.

SITE PLAN

Scale @ A3 Sheet 1:200

AREA SCHEDULE

SITE AREA	616.51m ²
EXISTING DWELLING AREA	118.91m ²
PROPOSED ADDITIONS AREA	141.08m ²
TOTAL EXISTING + PROPOSED	259.99m ²
FSR (FSR ALLOWABLE 1:1)	1:0.42

NOTE:

ADDITIONS BELOW THE 1 IN 100
YR FLOOD LEVEL (AHD) 17.050 39.98m²



4	14.01.15	FENCE AMENDMENT	PI
3	05.12.14	AMENDMENTS NOTED AREAS	PI
2	10.11.14	AMEND. TO DECKS + RAMPUS, EAST BOUNDARY FENCE + DELETION OF GARAGE EXT.	PI
1	03.04.14	DA ISSUE ONLY	PI
No.	Date	Description	By

Amendments**Notes**

1. Check all dimensions on site before commencing any part of the works.
2. Report all discrepancies to architect for decision before proceeding.
3. Work to figured dimensions. Do not scale drawings.
4. This drawing to be read in conjunction with all other relevant specifications and drawings.
5. This drawing is copyright and must not be retained, reproduced or used wholly or in part without authority from the architects.
6. The scale of this drawing may be affected by enlargement or reduction during transmission.

**wayne
ellis
architect**

B.Arch. R.A.I.A. NSW Reg No 4415

P.O. Box 1892 Putts Point NSW 1335
Unit 003 Sandcastle 24 Willem St
Port Macquarie NSW 2444
e: wayne@wayneellisarchitects.com.au
t: 0417 664 731

Client: T. & M. COCKSHUTT

Project: COCKSHUTT ADDITION:
13 SWIFT STREET
PORT MACQUARIE

Drawing: **SITE PLAN**Proj. No **1332**Dwg No. **A01/4**Drawn **PS**Scale **1:100, 1:1, 1:200 @**

Comp. Ref. 1332 DA REVISED - COCKSHUTT



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2016/276****DATE: 14/06/2016****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		Melinda Cockshutt	14 April 2016 as amended
Plans	Project 1332 Drawing A01/4, A02/3, A03/1, A04/2, A05/2 and A06/3	Wayne Ellis Architects	14/1/2015, 3/4/2014 & 10/11/2014

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) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (3) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this consent) must be submitted to and approved by council prior to the erection or display of any such signs.
- (4) (A197) Excluding the swimming pool area/lessons, the home business is not to exceed 10% of the floor area of the dwelling.
- (5) (A198) This consent is valid to operate for twelve (12) months from the date of determination. Should the applicant wish to extend the life of the consent, it is suggested that a s96 modification be lodged approximately three (3) months before the consent ceases to operate, to enable review of compliance with conditions and determine whether an extension should be allowed.

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 business shall not operate until an Occupation Certificate or final sign off has been issued by the Principal Certifying Authority or Council.
- (2) (E195) Prior to the release of the Occupation Certificate or occupation (whichever occurs first), a sign is to be erected at the front of the property (but not within Council's road reserve) indicating that customer parking is available onsite.
- (3) (E196) Prior to occupation or use of the site for the home business, the occupation certificate for DA2014 - 260.1 must have been issued.

F – OCCUPATION OF THE SITE

- (1) (F025) Hours of operation of the development are restricted to the following:
 - 9am to 6pm – Mondays to FridaysNo work is to be carried out on weekends and Public Holidays
Exceptions to the above hours include the following:
 - One (1) cycle class is allowed to occur at 6:00am on a weekday but is restricted to one (1) onsite visitor.
 - One (1) cycle class on Tuesday between 5:30pm to 6:30pm and another on Thursday between 7:00pm and 8:00pm.
- (2) (F195) The home business is allowed one (1) non resident employee.
- (3) (F196) No music is to be played during the swimming lessons or cycle classes.
- (4) (F197) Openings to the cycle and strength/conditioning room are to be closed during any class/lesson.
- (5) (F198) No amplified equipment is to be utilised to project coaching instructions.
- (6) (F199) Pumps associated with the pool are not to start until allowable hours under the Protection of the Environment Operations Act 1997.
- (7) (F200) On site car parking is to be provided for use by both staff and patrons of the development. A minimum of three (3) spaces are required onsite as part of this consent. The vehicle spaces and driveway widths must comply with the dimensions specified in the Port Macquarie Hastings Development Control Plan 2011 or any relevant Australian Standard adopted by Council.

Stacked parking spaces are to be used by the owner and additional employee only, unless they are not onsite or do not drive a vehicle to the site. In such circumstances, the stacked spaces can be used by visitors with the operator of the home business ensuring management of the spaces.
- (8) (F201) The home business can only compromise a maximum of six (6) clients per lesson/class. There is to be no more than two (2) lessons/classes per hour with no overlapping of lessons/classes. To ensure no overlapping, lessons/classes are to be separated by a 15 minute gap.
- (9) (F202) The home business is restricted to twenty (20) hours of lessons onsite per week with a log book to be kept by the operator and made available to Council staff upon request. The twenty (20) hour restriction does not apply to

lessons or coaching conducted via the internet (ie visitors/patrons not onsite)
and occurring within the approved hours of operation.

DRAFT

Cheryl Lowe

From: [REDACTED]
Sent: Thursday, 28 April 2016 11:56 PM
To: Council
Subject: Enquiry for application (10.2016.276.1)

Categories: [REDACTED]

General Manager
Port Macquarie Hastings Council.

Attention: Clinton Tink

I am writing to you regarding the Development Proposal 2016/276 lodged by M.K. Cockshutt to run a swimming lessons business from her home at 13 Swift St Port Macquarie. My wife and I live next door on the western side at 15 Swift St.

Since late last year we have had a number of conversations with our neighbour Mel. Mel is a triathlon coach and as my wife and I are also triathletes we have a common interest in this sport. At no time has Mel ever discussed this proposal with us. In her response to question 7, Mel states that the neighbours have had dinner at each other's home. This has not been the case.

Mel already runs cycling sessions from a room at the rear of her home. These sessions start at 5.30am and the last session finishes at approximately 7.30pm. There are up to 6 people in these sessions and they arrive in their cars and must unload their bikes and take them in to be hooked up to the training machines. We have had to relocate our bedroom from the rear of our home to the front so that we are not disturbed by the morning sessions. Mel has a loud voice which can be heard giving instructions to the group during the sessions. I think that these existing activities should be considered in conjunction with the proposal to run swimming classes as it will add considerable noise and activity throughout the day.

The proposal states the hours of operation as weekdays 3 days pw between 9.00am and 6.00pm. It states that the maximum number of people could be 6 per hour. It also states that there may be 2 additional teachers involved. This means that on a busy day there could be up to 56 people coming and going each day. In the case of child learn to swim classes this number will be higher with a parent accompanying the child. I note that the proposal states that the hours of operation will be "initially" 10 hours p.w. Potentially the proposal states the numbers could be as high as 6 per hour. The volume of visitors to the business will be in conflict with a residential location.

The proposal will have a significant impact on our privacy with the coming and going of people and vehicles between 5.30am and 7.30pm. On a busy day with the cycling classes and the swim classes there could be over 60 vehicles coming and going. This will significantly increase traffic movements and volumes in what is a quiet street for most of the day.


I am aware that Mel Cockshutt will see the concerns I have raised regarding her proposal. My wife and I were willing to relocate our bedroom to the front of the house to minimise the impact of the noise from the cycling classes – as, after all, we share a love of the same sport. I am concerned however that the consultation and relationship with us as stated in the proposal has been misrepresented. The proposal for swim classes potentially takes the disruption caused by people coming and going, parking in what should be a relatively peaceful residential neighbourhood to a whole new level.

Yours Sincerely

[REDACTED]

The General Manager
Port Macquarie Hastings Council
PO Box 84
Port Macquarie NSW 2444
DX7415

22895

 PORT MACQUARIE HASTINGS	
TRIM No	CRM No
29 APR 2016	
Keyword	
Activity	
Subject	
Folder	

DA 2016.276.1

SUBMISSION FROM

Name: [REDACTED]
Address: [REDACTED]
Phone: [REDACTED]
Email: [REDACTED]
Date: 27th April 2016

RE: OBJECTION TO A DEVELOPMENT PROPOSAL

Proposal: Home Business: Swimming Lessons
Property: LOT: 5 DP: 20579, 13 Swift Street PORT MACQUARIE
Application No: 2016/276
Applicant: M K Cockshutt
Assessing Officer: Clinton Tink

Dear Sir,

We would like to register our strong objection to the granting of the above proposal, allowing Swimming Lessons to be conducted in the back yard of the residence of 13 Swift Street, on the grounds of excessive noise and disturbance to our adjoining residential unit.

We moved into our unit in January this year and were unaware of a swimming pool being constructed. Since then our access to quiet enjoyment of our home has been impacted by the constant noise and disturbance from the construction of the pool and also from the noise associated with the use of their **home** gym. The construction started four days after we moved in and to date continues, sometimes up to seven days a week.

Having recently become aware of the applicant being a Master Coach for Ironman participants and the fact that this pool has obviously been purpose built for her business, we hold concerns that the approval of this application will result in these residential facilities being utilised for further and expanded commercial reasons.

We have not been approached by the applicant with regard to this proposal and to the best of our knowledge neither have any other owners or residents of Flynn's Beach Resort.

The areas of concern are: Current behaviour associated with use of **home** gym and pool and future disturbance from the residence:

CURRENT BEHAVIOUR ASSOCIATED WITH HOME GYM & POOL

While the construction noise associated with the pool has not commenced until 7am we have been awoken as early as 4.40am with someone shouting instructions to another person or persons over the noise of the gym equipment. This shouting has also been heard over loud music being played while they exercise.

We previously contacted Council with concern about noise on 18th February after the gym incident was followed by several sleepless nights. This was caused by an electric pump left running overnight to pump water from the pool excavation pit into the adjacent creek. The noise complaint as far as we know was not address however; to our surprise Lauren, a Ranger contacted us with regard to the environmental aspect. Since then we have tolerated the ongoing disturbance without complaint with the belief there would be an end date in the near future.

In the last three months we have been awoken several times by very strident discussions between the householder and the construction workers, as well as the previous mentioned disturbance to our sleep by the noise levels from the gym. If this is an indication of what can be expected during swimming instruction, even if only during the day, then our quality of life will be greatly impacted by this commercial enterprise being set up directly outside our bedroom window.

DISTURBANCE FROM RESIDENCE

We have been concerned about the continued disturbance that the completion of the pool would bring, particularly with the proximity of our bedrooms and find it truly disturbing to now learn that it has been built for commercial use. According to the proposal put to council there will be up to three staff and six participants for between 10 - 20 hours a week **initially**. We also note that swim squads are mentioned but no numbers or activities have been indicated for this group.

It is obvious that the pool which is still under construction has been purpose built for commercial reasons and learning that the applicant is a Sports Coach one questions why a full disclosure of these purposes was not made with the original development application.

Our bedrooms lie directly adjacent to the pool and gym approximately 6 metres from the common property boundary and there is no soundproofing or anything to reduce the noise generated from this property. This also affects the units directly above and below us, as well as the other nine units in our block. .

Summary

The combination of the proximity of the pool, along with the current demonstration of the owner's lack of consideration to keep noise at acceptable levels throughout construction and the operation of what sounds like group fitness sessions in their **home** gym; gives us serious concerns as to their ongoing willingness or capability to operate a sporting enterprise in a residential area without undue disturbance to their neighbours.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Cheryl Lowe

From: [REDACTED]
Sent: Monday, 2 May 2016 8:31 PM
To: Council
Cc: [REDACTED]
Subject: Submission - Lot:5DP:20579, 13 Swift Street

Categories: [REDACTED]

Attention: General Manager

Property: Lot: 5 DP 20579, 13 Swift Street, Port Macquarie
Proposal: Home Business – Swimming Lessons
Application No: 2016/276

Please accept this email as record of our objection to the proposed Home Business – Swift Swimming at the above address.

As the owners of Unit 131/68 Pacific Drive our units bedroom windows are directly above the current renovation at the Swift Street address. Our unit is currently tenanted however the primary business is holiday resort rentals.

Our concern is the noise of the swimming lessons impacting on our current tenants or holiday makers who may rent our unit in the future.

I note that the application is for 3 days per week with a timeframe of 9.00am – 6.00pm, it would be of further concern to me if the business was operated outside of this timeframe.

If you require any further information I can be contacted on [REDACTED].

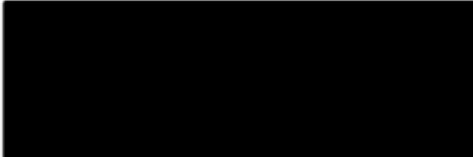
Yours sincerely

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

SUBMISSION

To: The General Manager
Port Macquarie – Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Submitted via email to: council@pmhc.nsw.gov.au



Application Number: 2016/276

I am the owner and future resident of Unit 123 / 68 Pacific Drive, Port Macquarie (Flynn's Beach Resort). My unit is on the ground floor, directly behind the proposed home business location.

My concern with the application is that, having been involved in swimming lessons many years ago, said swimming lessons were conducted at very early times in the morning – around 5 or 6 am. I do not wish to be subjected to noisy activities at this time during my retirement period.

I would ask for a restriction to be placed on the times that the proposed swimming lessons are allowed to be conducted, as the location of the swimming lessons is in a residential area. I suggest something like the time restrictions placed on tradesman starting work in the mornings – 7 or preferably 8 o'clock in the morning would be a reasonable start time, along with 7 or 8 o'clock in the evenings as a finish time.

Regards



SUBMISSION (PART 2)

To: The General Manager
Port Macquarie – Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Submitted via email to: council@pmhc.nsw.gov.au



Application Number: 2016/276

I have already made one submission regarding the development proposal mentioned above. In that submission I suggested reasonably strict limitations on the times when the business should be allowed to operate. **Further to this, I would suggest an additional hours of operation restriction to include a “no business before 10am on a Sunday” clause.**

Since that submission, it has been brought to my attention by other residents of Flynn's Beach Resort that the property seeking the development approval has also been conducting what appears to be Triathlon Cycling Training using fixed cycle exercise machines, which has also created noise issues at 5:30 in the morning.

While this issue is not specific to the current development application, it does indicate that the people making the application have a tendency towards operating a business at times of the day that are not appropriate for a residential situation.

Regards



From: [REDACTED]
Sent: Tuesday, 3 May 2016 4:03 PM
To: Council; [REDACTED]
Subject: objection to business application 2016/276

Name: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Ref: Business Application 2016/276
Swimming lessons
13 Swift Street
Port Macquarie 2444

My objection relates not so much to a business being conducted at the above property, but to the possible operating hours that maybe involved in running the business.

The lap pool at the swift Street property has been constructed within metres of one of the stage One buildings of Flynns beach resort. This building is 3 storeys in height and is occupied by both permanent residents and resort guests.

The pool in question lays at the eastern end of this stage one building.

My unit, inwhich I am a permanent resident, is at the other end of the stage one building(western end).

Several weeks ago I was awoken at approximately 5.30am on a Sunday morning. It was still dark, and the peace and quiet of the early morning was broken by the calling of instructions from a home gymnasium located next to the newly constructed lap pool.

The instructions being called by a female voice, seemed to be aimed at others in a training session, and from the sound of bicycle wheels "swishing" as they are being peddled, my guess is, it was people training on exercise bicycles.

The instuctions at my ötherend of the building where very audible and I had to close my windows (and thus cut out the natural cool breeze) to muffle the sound.

I would suggest that the noise level at the other end of the building, located very closely to the gym would have been much louder.

My concern for the proposed business application, re swimming lessons, is that of the possible hours the lessons are conducted.

I would consider that the lessons should be conducted during times considered

acceptable to the building trade i.e. after 7am Monday to Saturdays and after 10am on Sundays.

I would also suggest that if any "Gymnasium" related sessions or lessons being conducted are also restricted to these hours.

Regards

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 4 May 2016 10:58 AM
To: Clinton Tink; Patrick Galbraith-Robertson
Cc: [REDACTED]
Subject: Development Application: DA2016.276.1 Submission

Hello Clinton

Re: Flynn's Beach Resort, 68 Pacific Drive, Port Macquarie
Subject DA 2016/276: 13 Swift Street, Port Macquarie

We act on behalf of the Owners Corporation of Strata Plan 68901, Flynn's Beach resort, 68 Pacific Drive, Port Macquarie.

We have recently received the attached notification of a home business (i.e. swimming lessons) being operated out of the neighbouring property located at 13 Swift Street, Port Macquarie. As this property backs onto the Stage 1 buildings of our property there is genuine concern as to the potential detrimental effects, i.e. noise, this will have on the owners and guests to the resort staying in the units which are in the close vicinity of 13 Swift Street.

The issues, as we have identified, are listed below and require careful consideration by the consent authority;

1. The pool and rear of the house are very close to the dividing fence.
2. The windows of the adjacent bedrooms of the units in that block overlook the pool and house.
3. There have already been issues with noise (yelling of instructions) emanating from the gym in the house in the early morning hours, apparently from the provision of personal training services, disturbing the quiet enjoyment of our residents and guests.
4. There obviously needs to be definitive restrictions included in the development approval (if indeed approval is granted) based on the nominated hours of use of the pool indicated in the Development Application i.e. 9:00am to 6:00p Monday to Sunday. The use of the Gym for business purposes should also have the same restrictions or at the very least the hours of use of the Gym should be at least as restrictive as the permitted working hours for carrying out building works in a residential area.
5. Owners at FBR were not given notice of the Development Application to develop the property and construct the pool at 13 Swift Street and were therefore not given the legally required opportunity to lodge any objections to or provide comments on the original development application. It should also be noted that to the knowledge of the Owners Corporation, contrary to the comments under 7. Social and Economic Impacts of the DA, there has been no consultation at all with the nearest neighbours to the pool and gym – the Owners at Flynn's Beach Resort.

If you have any queries or require any further information, please contact me directly.

Kind Regards,

[REDACTED]

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Item: 08**Subject: DA2016 - 227 TWO (2) LOT SUBDIVISION INCLUDING CLAUSE 4.6
OBJECTION TO CLAUSE 4.1 LOT SIZE UNDER PORT MACQUARIE-
HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - 5077 OXLEY
HIGHWAY, LONG FLAT****Report Author: Patrick Galbraith-Robertson**

Applicant: Hopkins Consultants
Owner: NSW Department of Education and Training
Estimated Cost: N/A
Parcel no: 16046

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 2016 - 227 for a 2 lot torrens title subdivision including clause 4.6 objection to clause 4.1 lot size (minimum lot size) under Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 1, DP 333531, No. 5077 Oxley Highway, Long Flat, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for a 2 lot torrens title subdivision at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

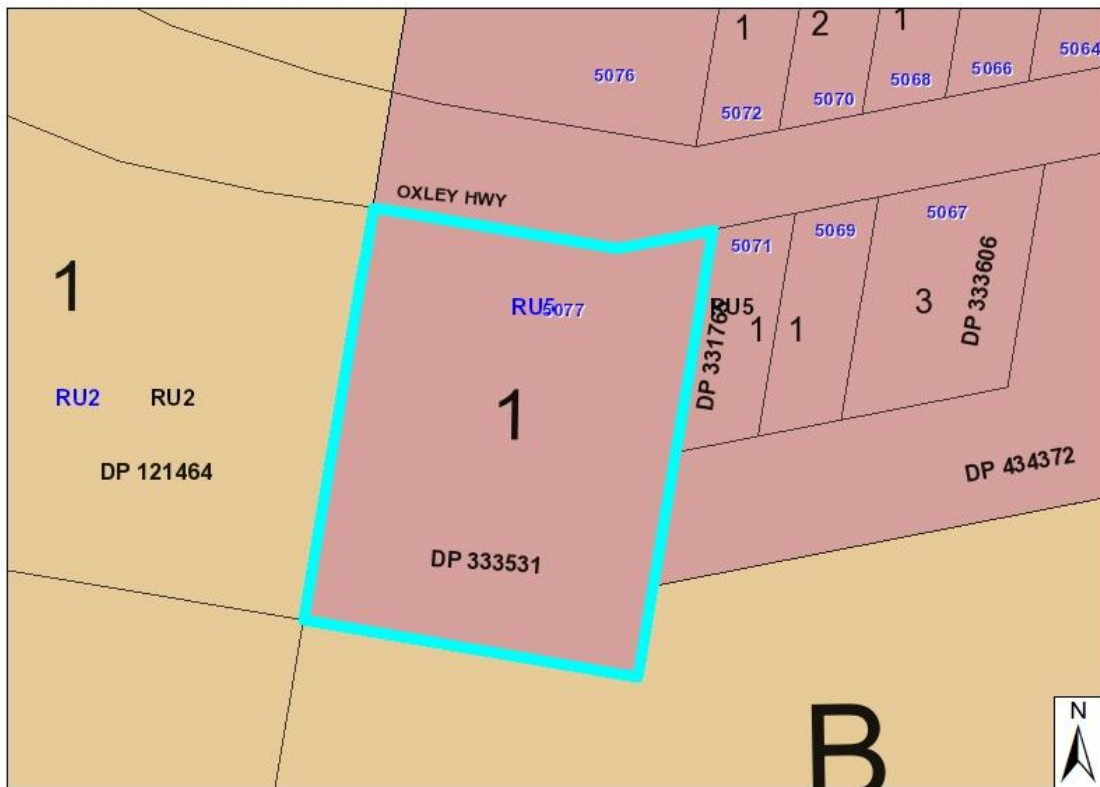
Following exhibition of the application, no submissions have been received. This DA is being report to the Development Assessment Panel due to a greater than 10% variation to the LEP lot size standard.

The DA is a Crown development proposal. In accordance with the Act, the applicant has been forwarded the proposed conditions of consent but has not yet provided agreement to those conditions.

1. BACKGROUND**Existing sites features and Surrounding development**

The site has an area of 8094m².

The site is zoned RU5 Village in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



The site is located within the Long Flat village fronting the Oxley Highway and currently contains a primary school and a single residential dwelling.

The site is adjoined by residential and rural residential land uses. Cleared land utilised for agricultural purposes surrounds the Long Flat village.

The site contains several buildings associated with the use of the site as Long Flat Public School and a single storey dwelling house separated from the school via fencing and accessed via a separate driveway parallel to the access to the school.

The site is sparsely vegetated with native and ornamental species.

2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- The proposed subdivision seeks to excise the portion of the existing lot which currently contains a single dwelling and associated garage and backyard. The remainder of the site as a separate proposed lot will remain as a functioning Primary School.

Refer to attachments at the end of this report.

Application Chronology

- 24 March 2016 - DA lodged.
- 6 to 19 April 2016 - Neighbour consultation.

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. 44 - Koala Habitat Protection

With reference to clauses 6 and 7, the subject land has is greater than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP must be considered.

The application has demonstrated that no habitat will be removed or modified therefore no further investigations are required.

State Environmental Planning Policy No.55 – Remediation of Land

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.

State Environmental Planning Policy (Infrastructure) 2007

- Clause 101 - The site has frontage to the Oxley Highway. The existing dwelling and school have existing separate driveways utilising a shared footpath crossing. Access shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements.

Port Macquarie-Hastings Local Environmental Plan 2011

The proposal is consistent with the LEP having regard to the following:

- Clause 2.2, the subject site is zoned RU5 village zone.

The objectives of the RU5 zone are as follows:

- • *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- • *To permit development that is appropriate in scale and type with the characteristics of a rural village.*
- • *To minimise conflict between land uses within the 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 for subdivision of existing landuses on the site with no landuse conflicts identified;
- Clause 4.1, the lot sizes within the proposed subdivision are 7046m² to 1048m². Both lots are unable to satisfy the minimum standard 8000m² lot size applying to the site.
- Clause 4.6 – The Applicant has lodged an objection to the standard seeking variation to the standard minimum 8000m² lot size primarily for the following reasons:
 - - The subject site already contains built structures reflecting the proposed division of the lot, and in this circumstance the deferring from the 8000m² lot size for the subject lot would not result in any difference to the physical outcome on the site.
 - - The proposed subdivision represents a rational division of land which is already physically occupied by two differing land uses. The pattern of the proposed subdivision is consistent with and sympathetic to the existing village lot pattern and will not impact negatively on the appearance of the subject site from the street.
 - The subdivision represents an efficient use of the land for residential and education establishment purposes and will allow these to be undertaken independently of one another.

- The subject site does not constitute land suitable for primary production, being not of an adequate size and already developed for educational and residential purposes. The proposed subdivision will not prevent primary production operations being undertaken on surrounding sites.

Based upon the above justification, the variation is recommended to be supported. Council has assumed concurrence under the Department of Planning and Environment's Planning Circular PS 08-003 to determine the DA however the DA is required to be determined at a meeting of full Ordinary Council in accordance with Planning Circular PS 08-014 due to the variation being greater than 10%.

- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, on-site sewage management, stormwater drainage and suitable road access to service the development. Provision of electricity will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by a condition of consent.

(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 force:

Port Macquarie-Hastings Development Control Plan 2013

The proposed allotments exceed the minimum site width and depth controls within the DCP. The proposal is consistent with the subdivision objectives contained within the DCP noting the existing buildings on site and existing services in place.

(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:

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

iv) any matters prescribed by the Regulations:

N/A

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:

- No Coastal Zone Management Plan applies to the subject site.

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

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

Roads

The site has road frontage to the Oxley Highway.

Adjacent to the site, the Oxley Highway is a sealed public road under the care and control of Roads and Maritime Services. The Oxley Highway is an arterial road with a 7m wide road formation within a 27m road reserve.

Traffic and Transport

The site is currently approved for a school and a single residence. This development will not increase the daily trips. The traffic associated with the development is unlikely to have any adverse impacts to the existing road network within the immediate locality.

Roads and Maritime Services (RMS)

The Section 138 application will be referred to RMS when submitted.

Site Frontage & Access

Vehicle access to the site is proposed through individual driveways utilising a shared footpath crossing. Access shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements.

Water Supply Connection

Council records indicate that the development site has an existing 25mm metered water service from the 100 AC water main on the same side of The Oxley Highway.

The existing water service can be adopted for proposed Lot 1. A second new metered water service is required for proposed Lot 2. Details are to be shown on the engineering plans as per the proposed conditions of consent.

Sewer Connection

There is no change to the existing arrangements for on-site sewage treatment/disposal.

Stormwater

The site naturally grades towards the street and currently drains directly to the Oxley Highway. Stormwater from the proposed development is unaffected.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

Following a search of Council records, no known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated.

Other land resources

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 subject to a standard condition

requiring erosion and sediment controls to be in place prior to and during construction.

Air and microclimate

The construction and/or operations of the proposed development will be unlikely to result in any adverse impacts on the existing air quality or result in any pollution. Standard precautionary site management condition recommended.

Flora and fauna

Construction of the proposed development will 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.

Energy

No adverse impacts anticipated.

Bushfire

The site is not identified as being bushfire prone.

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 identified.

Site design and internal design

The proposed development design 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.

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

No written submissions have been received following neighbour notification of the application.

(e) The Public Interest:

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

No contributions are required as the school and dwelling are existing on the site.

5. CONCLUSION

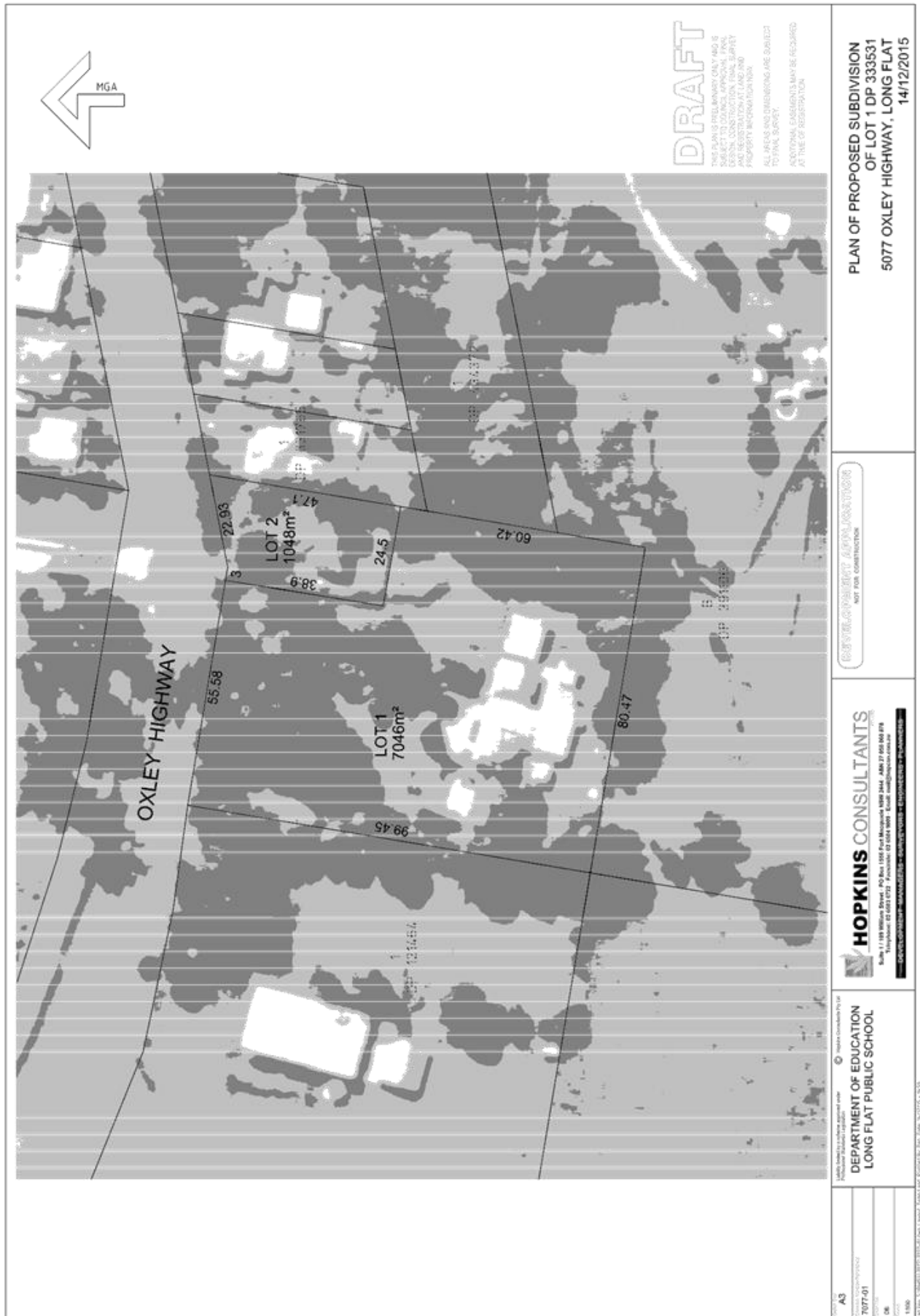
The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

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. 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](#). DA2016 - 0227 Plan

2[View](#). DA2016 - 0227 Recommended DA Conditions



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2016/227

DATE: 9/06/2016

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
Plan of proposed subdivision	Drawing Number 7077-01	Hopkins Consultants	14 December 2015

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) (A003) The proponent shall submit an application for a Subdivision Certificate for Council certification with all relevant documentation.
- (3) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (4) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (5) (A028) Construction of functional vehicular accesses to rural allotments in accordance with AUSPEC Specifications D1.31. Details of the construction of the accesses are to be provided with the application for approval pursuant to Section 138 of the Roads Act.
- (6) (A031) Approval pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be obtained from Port Macquarie-Hastings Council.

Such works include, but not be limited to:

- Civil works
- Traffic management
- Work zone areas
- Hoardings
- Concrete foot paving (width)
- Footway and gutter crossing

- Functional vehicular access
- Other

Where works are proposed on an RMS classified facility, the Road Authority shall obtain RMS concurrence prior to any approval.

- (7) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (8) (A036) Approval under Section 61 and/or an application under Section 138 of the Roads Act 1993 is to be submitted to and approved by Council for works associated with the development on or within the Public Road.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

nil

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (B001) Prior to commencement of work, 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. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to commencement of work detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
 1. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.
- (3) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to commencement of work. This application is also to include an application for the disconnection of any existing service not required.
- (4) (B195) Council records indicate that the development site has an existing 25mm metered water service from the 100 AC water main on the same side of The Oxley Highway. The existing water service can be adopted for proposed Lot 1. A second metered water service is required for proposed Lot 2. Details are to be shown on the engineering plans.

D – DURING WORK

- (1) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

E – PRIOR TO OCCUPATION OR THE ISSUE OF SUBDIVISION CERTIFICATE

- (1) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (2) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation or subdivision certificate.
- (3) (E068) Prior to the issue of a Subdivision or Occupation Certificate, evidence to the satisfaction of the Certifying Authority from the electricity and telecommunications providers that satisfactory services arrangements have been made to the lots (including street lighting and fibre optic cabling where required).

DRAFT