



# Development Assessment Panel

## Business Paper

**date of meeting:** Wednesday 24 August 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**

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#### **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.

#### **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.



**PORT MACQUARIE  
HASTINGS**

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	11/05/16	25/05/16	08/06/16	22/06/16	13/07/16
Paul Drake	✓	✓	✓	✓	✓
Dan Croft	✓	✓	✓	✓	✓
Patrick Galbraith-Robertson (alternate)	✓	✓			✓
David Troemel	✓	✓	✓	✓	✓
Caroline Horan (alternate)					
Bevan Crofts (alternate)					

Member	27/07/16				
Paul Drake	✓				
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 24 August 2016

## Items of Business

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**PORT MACQUARIE  
HASTINGS**

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

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"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."

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**Item: 02****Subject: APOLOGIES**

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**RECOMMENDATION**

That the apologies received be accepted.

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

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 3 August 2016 be confirmed.



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Item: 04  
Subject: DISCLOSURES OF INTEREST

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**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

<b>By</b> <i>[insert full name of councillor]</i>	
<b>In the matter of</b> <i>[insert name of environmental planning instrument]</i>	
<b>Which is to be considered at a meeting of the</b> <i>[insert name of meeting]</i>	
<b>Held on</b> <i>[insert date of meeting]</i>	
<b>PECUNIARY INTEREST</b>	
Address of land in which councillor or an associated person, company or body has a proprietary interest ( <i>the identified land</i> ) <sup>i</sup>	
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.
<b>MATTER GIVING RISE TO PECUNIARY INTEREST</b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP ( <i>the subject land</i> ) <sup>iii</sup> [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.

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- 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<sup>iv</sup> 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.

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**Item: 05****Subject: DA2016 - 131 - STAGED MULTI DWELLING HOUSING, SECONDARY DWELLING, DUAL OCCUPANCY, TORRENS AND COMMUNITY TITLE SUBDIVISION - LOT 6, DP 538926, LOT 2 DP 825021, LOT 1 DP 1079630, 8 BUNDARRA WAY AND 1001 OCEAN DRIVE, BONNY HILLS****Report Author: Patrick Galbraith-Robertson**

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<b>Applicant:</b>	<b>Land Dynamics Pty Ltd</b>
<b>Owner:</b>	<b>Terry Rixon Investments Pty Ltd and RA &amp; DA Smallwood</b>
<b>Estimated Cost:</b>	<b>\$3.49M</b>
<b>Parcel no:</b>	<b>15405, 2888 and 46576</b>

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA 2016 - 131 for staged multi dwelling housing, secondary dwelling, dual occupancy, torrens and community title subdivision at Lot 6, DP 538926, Lot 2 DP 825021, Lot 1 DP 1079630, 8 Bundarra Way and 1001 Ocean Drive, Bonny Hills, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a development application for multi dwelling housing, secondary dwelling and torrens and community title subdivision at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

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

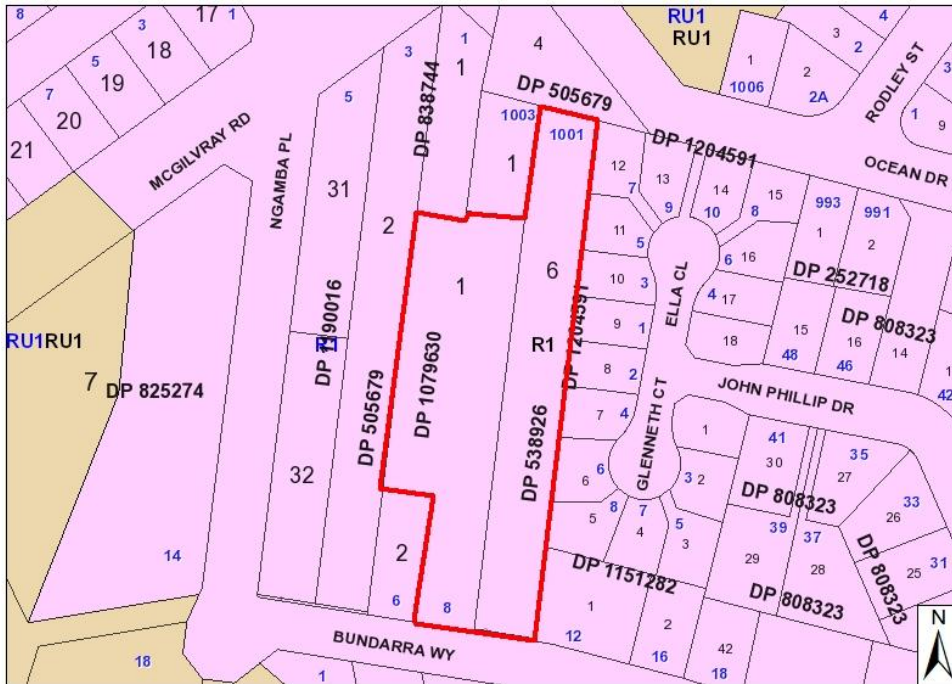
Amendments to the proposal have been made following neighbour notification of the proposal including:

- Widening of internal road to address NSW Rural Fire Service requirements;
- Amendments to koala food tree planting within the site and in the adjoining Ocean Drive Road reserve;
- Additional front fencing to Bundarra Way detail;
- Minor design changes to Lot 9 dwellings;
- Design change to turning bay to increase area at end of common driveway



## Existing sites features and Surrounding development

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

[illegible]

There is an existing approval for a dwelling on the northern section of the site which will become part of proposed Lot 101.

## **2. DESCRIPTION OF DEVELOPMENT**

Key aspects of the proposal include the following:

- Tree removal;
- Secondary dwelling to the existing dwelling on proposed Lot 104;
- Dual occupancy on proposed Lot 9;
- 14 dwellings;
- Torrens and Community title subdivision

The proposal is to be constructed/completed in stages.

Refer to attachments at the end of this report.

### **Application Chronology**

- 1 March 2016 - DA lodged
- 4 March 2016 - Referral to the NSW Rural Fire Service
- 9 to 22 March 2016 - Neighbour notification of the proposal - extension for late submissions granted
- 9 March 2016 - Revised services and staging plan received
- 8 April 2016 - Additional information requested by NSW Rural Fire Service
- 12 April 2016 - Submission issues forwarded to applicant
- 15 April 2016 - Additional information requested - clarification of front fencing on Bundarra Way, tree removal and select window design for privacy
- 18 April 2016 - Additional details received in response to submission issues
- 19 April 2016 - Clarification of a select tree to be removed received
- 20 April 2016 - Front fencing details received
- 10 May 2016 - Additional information received - response to NSW RFS concerns, fire hydrant location clarification, increased turning bay at end of common driveway, Lot 9 dwelling minor amendment to garage
- 12 May 2016 - Additional information referred to the NSW RFS
- 3 June 2016 - Concerns raised with applicant regarding placement of tree planting in Ocean Drive road reserve
- 17 June 2016 - Amended tree planting detail within Ocean Drive road and driveway long section from Bundarra Way
- 17 June 2016 - Concerns raised with applicant regarding amended placement of tree planting in Ocean Drive road reserve
- 24 June 2016 - Amended tree planting detail within Ocean Drive road
- 24 June 2016 - Concerns raised with applicant regarding amended placement of tree planting in Ocean Drive road reserve
- 30 June 2016 - Amended tree planting detail within Ocean Drive road
- 6 July 2016 - Additional concerns raised by NSW RFS forwarded to applicant for response
- 18 July 2016 - Additional information in response to NSW RFS concerns received including minor widening of internal common driveway at 6.5m wide
- 18 July 2016 - Additional information forwarded to NSW RFS
- 21 July 2016 - NSW RFS granted Bushfire Safety Authority
- 2 August 2016 - Final engineering plans to suit widened driveway and stormwater realignment to Ocean Drive received

**3. STATUTORY ASSESSMENT****Section 79C(1) Matters for Consideration**

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

**The provisions (where applicable) of:**

**(a)(i) Any environmental planning instrument****State Environmental Planning Policy No. 44 - Koala Habitat Protection**

With reference to clauses 6 and 7, the subject land is less than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP do not require consideration.

The Applicant has however submitted an ecological impact assessment to address the proposed tree removal notwithstanding that the site area is less than 1 hectare.

**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. 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.

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 noting the ecological impact assessment completed;
- 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 and 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

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



**State Environmental Planning Policy (Affordable Rental Housing) 2009**

Proposed Lot 100, which will contain the existing dwelling fronting Bundarra Way, will have an additional secondary dwelling proposed within the same proposed Lot.

Clause 20 - the site is zoned R1 General Residential and secondary dwellings are permissible with consent pursuant to the SEPP.

Clause 22(2) - the development will not result in there being a dwelling other than the primary dwelling and the secondary dwelling.

Clause 22(3) - the proposed secondary dwelling will not have a floor area exceeding 60m<sup>2</sup>.

Clause 22(4) - it is noted that consent cannot be refused on the grounds of site area or parking notwithstanding that the secondary dwelling has its own single parking space within a carport.

Clause 24 - a consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out.

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

BASIX certificates have been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

**State Environmental Planning Policy (Infrastructure) 2007**

Clause 101 - The primary access is off Bundarra Way and not off Ocean Drive which is a classified road. There are no other issues requiring consideration under this clause given the location of the proposed dwellings.

**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 proposed development for a multi dwelling housing and secondary 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 having regard to the following:

- the proposal is a permissible landuse;
- the proposal will provide for an appropriate form of alternate residential housing.

1.

- Clause 4.1 and 4.1A and – permits smaller lot sizes than 450m2 where community title and torrens title subdivisions are proposed. Individual dwellings are proposed for each lot. The remaining lots over 450m2 in area are compliant and have dwellings proposed on each of these lots.
- Clause 4.3, all proposed new dwellings are compliant with the maximum overall height of the building above ground level (existing) of 8.5m applying to the site. The dwelling to be proposed on the proposed Lot 102 is three storeys and is a maximum 8.5m in height.
- Clause 4.4, the averaged floor space ratio across the entire is compliant with the maximum 0.65:1.0 floor space ratio applying to the site.
- Clause 5.4 – the floor area of the secondary dwelling proposed is not greater than 60m2.
- Clause 5.9 - several listed trees in Development Control Plan 2013 are proposed to be removed. Refer comments later in report addressing flora and fauna.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, 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.

**(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:**

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

	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.1	Ancillary development: • Not located in front setback	Water tanks located appropriately	yes
3.2.2.2	Articulation zone: • 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	Lot 102 dwelling has a porch with a min. 3.68m front setback to Bundarra Way and not greater than 25% proportional width	Yes
	Front setback (Residential not R5 zone):	Lot 102 dwelling fronting Bundarra Way has a	Yes



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

	Requirements	Proposed	Complies
	• Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot	minimum front primary building line setback of 4.5m	
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Approx. 5.7m minimum setback to garage door of Lot 102 dwelling and 1m behind front facade	Yes
	6m max. width of garage door/s and 50% max. width of building	2.7m width garage doors and <50% width of the Lot 102 dwelling on the Bundarra Way frontage	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	5m wide driveway and 1/3 site frontage of proposed Lot 102 dwelling. The new common internal driveway to service the multi dwellings is 7.6m wide at the connection point to Bundarra Way splaying out.	Yes  No*
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	The northern setback for proposed Lot 9 could be considered to be rear setback. This setback is addressed as being acceptable below this table.	No - variation permitted*
3.2.2.5	Side setbacks: • 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	East side = Lot 102 dwelling has a min. 1.18m setback and will not result in any identifiable adverse overshadowing to neighbouring properties Lots 2 to 7 have a min. 1.2m setbacks West side = Secondary dwelling on Lot 100 has a min. 2.0m setback. Lots 10 to 14 have min. 5.23m setbacks. Lot 9 has a min. 1.42m setback. All dwellings have wall lengths no greater than 12m unarticulated with the	Yes  Yes
			Yes/No*

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

	Requirements	Proposed	Complies
		exception of Lots 3 and 6 on the eastern side of the building.	
3.2.2.6	35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade	All dwellings have > than 35m <sup>2</sup> with the exception Lot 3 and 6 are slightly below 4m in one direction at min. 3.8m. However, multiple areas of usable area achieved and greater than 35m <sup>2</sup>	Yes + No - minor variation to private open space minimum 4x4m dimension acceptable
3.2.2.7	Front fences: • If solid 1.2m max height and front setback 1.0m with landscaping • 3x3m min. splay for corner sites • Fences >1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings • 0.9x0.9m splays adjoining driveway entrances • Front fences and walls to have complimentary materials to context	1.8m front fence set in from front boundary with recesses and transparency. Section of return fence back along common driveway considered not a front fence technically so no transparency required	Yes
3.2.2.10	Privacy: • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level	Direct views between living areas of existing adjacent dwellings obscured/ screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings.  Privacy screens proposed to decks where appropriate. No additional screens recommended.	Yes  Yes

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

	Requirements	Proposed	Complies
	height >1m		

**DCP 2013: General Provisions**

	Requirements	Proposed	Complies
2.3.3.8	Hollow bearing trees - Assessment required & offset if appropriate	Two hollow bearing trees have been located on-site and are proposed for removal. Nesting boxes are proposed to be provided to offset the proposed removal.	Yes
2.6.3.2	Tree management Offset planting tree replacement 1:1	All trees on-site proposed to be removed. Offset planting proposed within the site	Yes
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	< 1m changes in ground level proposed	Yes
2.3.3.2	1m max. height retaining walls along road frontage	< 1m changes in ground level proposed	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.2	New accesses not permitted from arterial or distributor roads	None proposed	Yes
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing/s minimal in number and width. Minimum width for common driveway as required by the RFS	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1.5 spaces per single dwelling 3/4 bedroom dwelling (behind building line) + 1 space per 4 dwellings visitor parking	Lot 9 dual occupancy = 1 space per dwelling + stacked parking space in driveway Lots 2 to 7 & 10 to 14 & 100 all have double garages with stacked	Yes

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

	Requirements	Proposed	Complies
	1 parking space/dwelling with dual occupancy	parking in driveways + parking in each driveway except for the secondary dwelling - which has a single carport 3 spaces Lot 102 dwelling + stacked parking in driveways	
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	Landscaping plan including tree planting acceptable	Yes
2.5.3.14	Sealed driveway surfaces unless justified	Concrete	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Driveway grades capable of complying with Council standard driveway crossover requirements and grades	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Stormwater disposal arrangements acceptable as addressed later in this report	Yes
	Vehicle washing facilities – grassed area etc available.	No specific areas available - not a reason for refusal	N/A

The proposal seeks to vary the Development Provision relating to the recommended maximum 5m driveway width. The proposal includes a common driveway entrance (as amended) proposed with a width of 7.6m (which then narrows internally after the splays).

The relevant objectives are:

- *To minimise the impact of garages and driveways on the streetscape, on street parking and amenity;*
- *To minimise the visual dominance of garages in the streetscape*

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

- The driveway is narrow as possible as permitted under requirements of the NSW Rural Fire Service. The internal driveway once past the splay entrance is 5.5m wide for the pavement itself.
- The subject driveway does not lead directly to a garage and relates to an open common driveway with no adverse impact on the existing streetscape.
- The driveway is on the northern low side of the road declining from the road pavement of Bundarra Way.

The proposal seeks to vary the Development Provision relating to the recommended 4m rear setback. Unit 1 and 2 proposed on proposed Lot 9 have minimum setbacks of 1.4m to 3m for sections of the dwellings within the recommended 4m setback.

The relevant objectives are:

- *To allow natural light and ventilation between dwellings/buildings and to private open space areas.*
- *To provide useable yard areas and open space.*

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

- The subject dwellings are single storey and the floor levels are less than 1m above the existing ground level at the highest point.
- The dwellings will not shadow the northern neighbouring properties.
- A privacy screen is proposed along the Unit 1 northern elevation where within 4m of the boundary.
- The neighbouring northern dwellings are setback greater than 12m from the common boundary which assists with any potential privacy impacts.
- The private open space is compliant for both dwellings.
- There are no adverse impacts on light or ventilation to warrant recommending refusal.

The proposal seeks to vary the Development Provision relating to the recommended maximum 12m unarticulated wall length. The proposed Lot 3 and 6 dwellings have eastern wall lengths unarticulated for 13.8m.

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 variation is only for 1.8m greater than the recommended 12m length.
- The subject dwellings are single storey and have 4 windows on the elevation providing for a range of finishes.
- The dwellings are not attached to other dwellings.
- There are no adverse impacts on light or ventilation to warrant recommending refusal.

The proposal seeks to vary the Development Provision relating to the recommended minimum 4m dimension for private open space. Proposed Lots 3 and 6 dwellings have decks with a minimum dimension of approximately 3.0m.

The relevant objectives are:

- *To encourage useable private open space for dwellings to meet the occupants requirements for privacy, safety, access, outdoor activities and landscaping.*

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

- The private open space for the subject dwellings is useable.
- The area of private open space is greater than the minimum 35m<sup>2</sup>.
- The subject decks have a greater length than 4m in the opposite direction.

Based on the above assessment, the variations proposed to the provisions of the DCP are considered acceptable and the relevant objectives have been satisfied.



Cumulatively, the variations do 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. (See Clause 5.5 of LEP 2011 & Assessment Officers Assessment Table under section (b) for assessment against Coastal Policy Objectives)

**(a)(v) Any Coastal Zone Management Plan**

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 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 sufficiently compatible with other residential development in the locality and adequately addresses planning controls for the area.

The proposal does not have any impacts upon any identifiable existing view sharing.

There are no significant 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.

**Roads**

The site has road frontage to Ocean Drive to the north, an 'Urban Arterial' road in Council's AUS-SPEC system. Ocean Drive is an RMS classified 'Regional' road, and any application to Council for works within the road reserve shall be referred to the RMS for concurrence. The section of Ocean Drive fronting the site consists of a sealed two-way road approximately 8m wide, with no kerb and gutter. The road reserve width varies (minimum 27m).

The intensification in use and pedestrian traffic is considered (in accordance with Council's frontage works policy) to warrant an upgrade of the Ocean Drive frontage of the site. Specifically, the road shoulder is to be widened to continue the on-road cycleway designated in Council's bike plan, from its existing termination point on the eastern boundary of the site. The road drainage will also need to be upgraded to upright (SA type) kerb and gutter and a kerb inlet pit consistent with the road to the east, to convey stormwater runoff from upstream into Council's pit and pipe network.

To the south, the site fronts Bundarra Way, a sealed 8m wide 'Urban Local Street'. The road shoulder fronting the site has no kerb and gutter, and this will be required to be constructed in conjunction with the provision of vehicular access to the Community Title subdivision. The road reserve is approximately 17m wide in this location.

**Traffic and Transport**

The site currently has an existing dwelling, and a separate approved DA for an additional dwelling fronting Ocean Drive (DA 2015/79). This generally is expected to equate to 7 existing vehicle trips per day on Bundarra Way, and 7 trips per day on the Ocean Drive frontage of the site.

The proposal will create an additional 15 dwellings, which is expected to result in an additional 98 trips per day at 4-7 trips per dwelling, in accordance with the RMS' *Guide to Traffic Generating Developments*. All of the vehicles will have access via Bundarra Way. The existing road network has sufficient capacity to cater for the proposed increase. Council has long term plans to upgrade the intersection of McGilvray Road and Ocean Drive to a roundabout in conjunction with the future planned Bonny Hills bypass.

**Site Frontage & Access**

Vehicle access to the site (with the exception of the existing and one additional proposed dwelling) is proposed through a common driveway to Bundarra Way, to be owned by the Community Title scheme. A concept long section was provided to demonstrate that stormwater can be contained within the street while also ensuring access can comply with Council's AUSPEC and Australian Standards.

The driveway crossing to the Community Lot will need to comply with Council's ASD 202 heavy duty driveway crossing, to differentiate it from public roads.

Conditions have been imposed to reflect these requirements.

Due to the type and size of development, additional works are required to include:

- kerb and gutter along the full road frontage
- concrete footpath paving (minimum 1.2m wide) along both road frontages
- A condition is recommended requiring extension of the on-road cycleway in accordance with Council's bike plan - refer to the Roads heading above.

2.

**Parking and Manoeuvring**

Each new dwelling is proposed to have a private garage for one to two cars. A minimum total of 26 parking spaces have been provided on-site within garages with additional parking provided available adjacent to the driveway (subject to conditions imposed by the Rural Fire Service requiring clearance for truck manoeuvring and access to hydrants). Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.

The turning area at the northern end of the dead-end aisle has been shown to accommodate turnaround for the largest Category-1 (Medium Rigid) fire truck and is considered acceptable given the constrained width of the existing site.

**Water Supply Connection**

Council records indicate that Lot 1 (proposed lot 100) has an existing 20mm metered water service from the 100 AC water mains on the opposite side of Bundarra Way. A granny flat proposed for this lot may operate off the existing 20mm water service. A secondary dwelling or if the granny flat required a second water service will require headworks contributions. Proposed Torrens Title lots 101 and 102 will require individual water services. Each proposed lot within the Community Title must have an individual metered water service with the meter located at the Bundarra Way boundary unless a master meter located at the boundary with internal meters for each lot located on the lot in an easily accessible place. The plans submitted with the application are not acceptable for engineering assessment purposes and so the proposed servicing for the whole of the development site is to be included on the engineering plans.

A new metered water service will be required for each allotment as part of the 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 a 150mm sewer main traverses the development site. Each proposed lot within the Community Title (and the Torrens Titled Lot 102) must have the provision of an individual connection to sewer. A sewer extension is required at no cost to Council. The Sewer Reticulation Plan is acceptable in concept. A detailed engineering plan is to be provided.

A separate sewer connection to Council's main is required for each Torrens Title lot.

A manhole will also be required at the high end of the line as it will be more than 40m long.

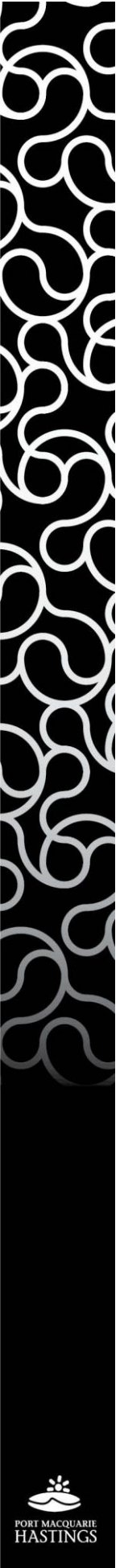
If the main is subject to future extension an end of line terminal shaft (poo pit) will be required.

As the development will exceed 2ET discharge, sewer connection is to be made from a manhole.

If the development is to be Community Title, the sewer mains are to be vested in Council and are to comply with Council Auspec D12 design standard.

The hydraulic designer is to confer with Council sewer section prior to submitting sewer design plans.

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

**Stormwater**

The site naturally grades towards Ocean Drive to the north. There is an existing inter-allotment drainage easement through the site although Council has no information about any pipes within the ground.

The legal point of discharge for the proposed development is defined as a direct piped connection to Council's stormwater pit/pipeline within Ocean Drive. Extension of the existing public pipe and pit network will be needed.

A detailed site stormwater management plan will be required to be submitted to Council for assessment with the CC for subdivision works (under s68 of the Local Government Act).

In accordance with Council's AUSPEC requirements, the following must be incorporated into the stormwater drainage plan:

- On site stormwater detention facilities so as to ensure the peak outflow post-development is not increased when compared to the existing pre-development flow. It is noted however that hydraulic modelling of the catchment may be able to demonstrate that onsite detention would have a negative impact (increase overall flows) given the proximity of the site to the downstream waters of the catchment. In this case Council's stormwater engineer may deem onsite detention not required.
- Water quality controls in accordance with AUS-SPEC D7.
- Provision of interallotment drainage to allow the proposed development to drain to the nominated point of discharge via a single suitably sized conduit.

Refer to relevant conditions of consent.

### **Other Utilities**

Telecommunication and electricity services are available to the site.

Evidence of satisfactory arrangements with the relevant utility authorities for provision to each proposed lot will be required prior to Subdivision Certificate approval (**E068**).

### **Heritage**

Following a site inspection (and 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 require removal/clearing of all vegetation/trees on-site.

The applicant has submitted a flora and fauna impact assessment report prepared by FloraFauna Consulting which details the following impact that the proposal is likely to have:

1. Removal of all existing trees from the site including koala food trees and hollow bearing trees.

The report addresses the requirements of the '7 part test' under Section 5A of the Act.

The Ecological report concludes that the proposal is unlikely to have any significant adverse impacts on flora and fauna subject to recommended conditions for offset planting, installation of nesting boxes off-site and an ecologist being on-site at pre-clearing stage which are recommended to form part of the consent.

**Waste**

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables subject to a private garbage collection service being provided for the community title lots. No adverse impacts anticipated subject to recommended conditions.

**Energy**

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX. No adverse impacts anticipated.

**Noise and vibration**

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

**Bushfire**

The site is identified as being bushfire prone.

The applicant has submitted a bushfire report prepared by a Certified Consultant which has been referred to the NSW Rural Fire Service. Following assessment and provision of additional information, the RFS have assessed the development and has



issued a Bushfire Safety Authority subject to conditions which are to form part of the consent.

**Safety, security and crime prevention**

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.

**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.

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

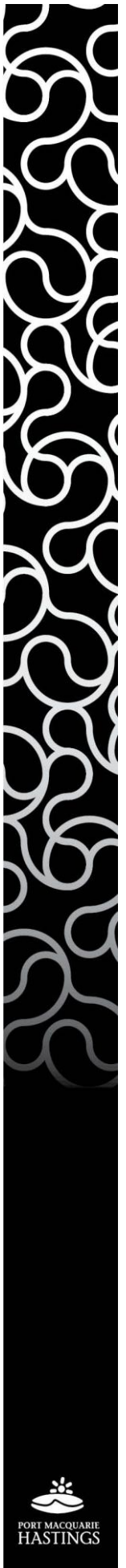
The proposal will fit into the locality and the site attributes are conducive to the proposed development.

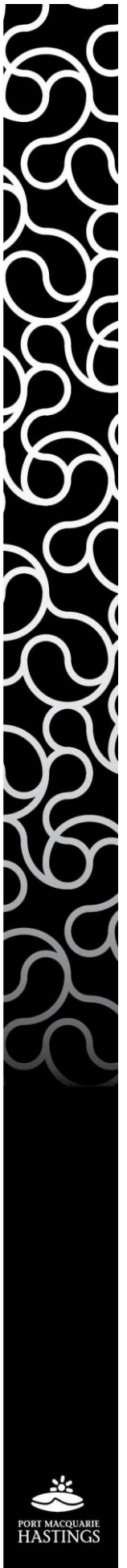
Site constraints of bushfire risk have been adequately addressed and appropriate conditions of consent recommended.

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

One (1) written submission has been received following neighbour notification 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
Complete clearing of site not adequately compensated with offset planting.	Ecological assessment submitted has been carefully assessed by Council's Natural Resources staff. The Assessment is considered satisfactory and there is insufficient grounds to recommend refusal on ecological impact grounds. The visual amenity loss of the existing trees is not considered to be of a significance that would warrant refusal of the application. The site is zoned residential and within an urban context. Offset planting is proposed - 12 trees in total within the site and within the Ocean Drive road reserve. Vegetative backdrop still exists when site viewed from Ocean Dr.
Validity of Ecologist Assessment questioned.	
Existing vegetation has significant value with providing connectivity from larger tracts of vegetation on neighbouring sites.	
Loss of landscape and scenic values in locality with vegetation removal.	
Recommend designing development around trees.	
Placement of smaller lot sizes than 450m2 with the existing terrain does not provide a good outcome.	Only Lots 2 to 7, 9 (dual occupancy) and the secondary dwelling have lot sizes below 450m2. Each dwelling has been satisfactorily designed to the each lot's characteristics. Each lot has limited cut to the high side of the each building site with bearer and joist flooring construction likely. Each dwelling provides adequate car parking open space and building separation.
DCP compliance with regard to subdivision requirements not addressed.	The proposal has been assessed under the integrated housing provisions of the DCP (refer to DCP assessment above) as vacant residential lots are not proposed. The layout satisfactorily responds to the existing topography and site constraints including addressing bushfire risk requirements for fire fighting vehicles to be able to enter the site.
Subdivision design does not respond to topography with significant excavation and high subfloor heights.	It is more preferable for high subfloor heights on sloping ground if adverse solar or privacy impacts do not result to neighbouring properties. Each dwelling has its own floor level set relating the existing topography.
180m long gun barrel straight driveway down steep slope with uninteresting repetitive development.	There is a mixture of lot sizes and dwelling house size, height and form proposed. The Applicant has stated that the curvature of the driveway is not considered necessary. Trees will be planted at the entrance driveway from Bundarra Way. The development will offer a diversity of housing choice

	in the locality.
Question suitability of long driveway in community title ownership as not a good or safe outcome for residents in the locality who may wish to use it for through block access.	The Applicant has stated that the development is a private development, being under Community Title, including the access driveway. No access by surrounding residents through the site to Ocean Drive will be available. There will a security gate at the Ocean Drive end of the access footpath. A safe environment is provided for the residents of the development and it is unusual to provide footpaths on internal private driveways where the residents are known to each other and part of a community association.
Common turning area into Lot 9 substandard.	A suitable design has been achieved on Lot 9 which allows both dwellings and turning areas to function independently.
1.8m setbacks for Lots 2 to 7 unsuitable. Boundary opposite the entry to the dwellings should be a rear setback.	As the development is a community title development with no public road proposed, the southern boundary to Bundarra Way is the front street setback requiring assessment only. The common driveway internally is a private road only and no subject to development control requirements. Notwithstanding driveway lengths in front of the garage doors will accommodate for casual visitor parking and visual separation and amenity within the site.
All boundaries for lot should not be side boundaries.	The only rear boundary has been considered earlier in this report on the northern side of Lot 9. All other boundaries other than front boundaries are considered to be side setbacks.

**(e) The Public Interest:**

The proposed development will be in the wider public interest with provision of appropriate additional housing.

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

**Ecologically Sustainable Development and Precautionary Principle**

Ecologically sustainable development requires the effective integration of economic and environmental considerations in decision-making processes.

The four principles of ecologically sustainable development are:

- the precautionary principle,
- intergenerational equity,

- conservation of biological diversity and ecological integrity,
- improved valuation, pricing and incentive mechanisms.

The principles of ESD require that a balance needs to be struck between the man-made development and the need to retain the natural vegetation. Based on the assessment provided in the report and with recommended conditions of consent, it is considered an appropriate balance has been struck.

#### **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 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

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

#### **5. CONCLUSION**

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

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

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

#### **Attachments**

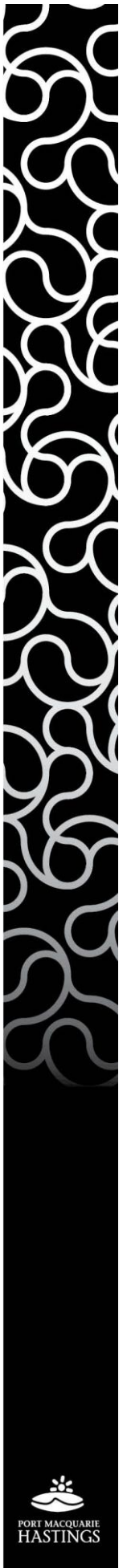
- 1 [View](#). DA2016 - 131.1 Plan - LOT 2
- 2 [View](#). DA2016 - 131.1 Plan - LOT 3
- 3 [View](#). DA2016 - 131.1 Plan - LOT 4
- 4 [View](#). DA2016 - 131.1 Plan - LOT 5
- 5 [View](#). DA2016 - 131.1 Plan - LOT 6
- 6 [View](#). DA2016 - 131.1 Plan - LOT 7
- 7 [View](#). DA2016 - 131.1 Plan - LOT 9
- 8 [View](#). DA2016 - 131.1 Plan - LOT 10
- 9 [View](#). DA2016 - 131.1 Plan - LOT 11
- 10 [View](#). DA2016 - 131.1 Plan - LOT 12
- 11 [View](#). DA2016 - 131.1 Plan - LOT 13
- 12 [View](#). DA2016 - 131.1 Plan - LOT 14
- 13 [View](#). DA2016 - 131.1 Plan - LOT 102
- 14 [View](#). DA2016 - 131.1 Plan - Secondary Dwelling
- 15 [View](#). DA2016 - 131.1 Site and Building Location Plan
- 16 [View](#). DA2016 - 131.1 DRIVEWAY LONG SECTION
- 17 [View](#). DA2016 - 131.1 Fencing Detail
- 18 [View](#). DA2016 - 131.1 REPLANTING PLAN
- 19 [View](#). DA2016 - 131.1 SERVICES PLAN



## AGENDA

## DEVELOPMENT ASSESSMENT PANEL 24/08/2016

- 20 [View.](#) DA2016 - 131.1 STAGE 2 PLAN
- 21 [View.](#) DA2016 - 131.1 STAGE 1A 1B PLAN
- 22 [View.](#) DA2016 - 131.1 Bushfire Letter
- 23 [View.](#) DA2016 - 131.1 Recommended Conditions
- 24 [View.](#) DA2016 - 131.1 Submission - Julie Condon & Robert Hutchinson



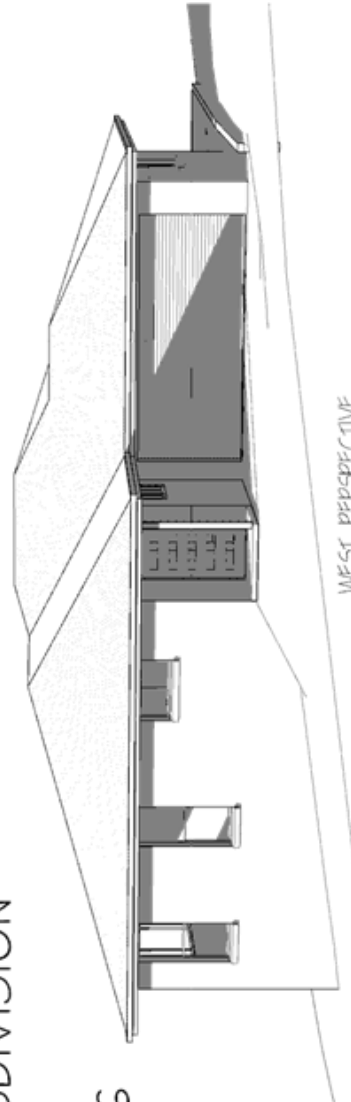
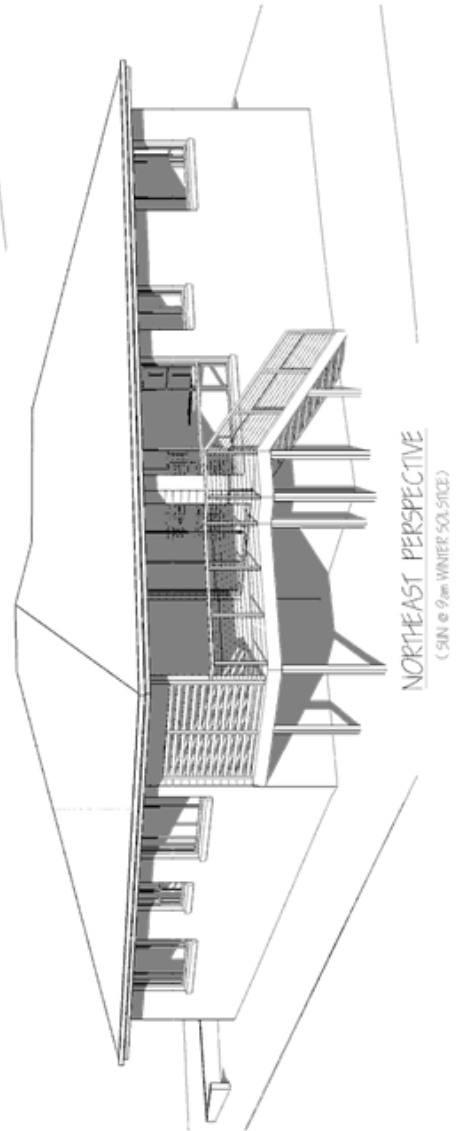
## PROPOSED RESIDENCE

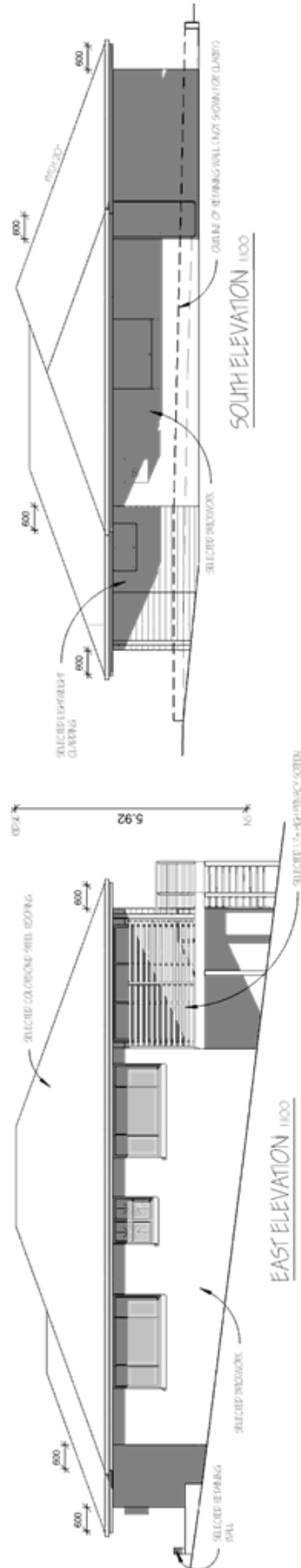
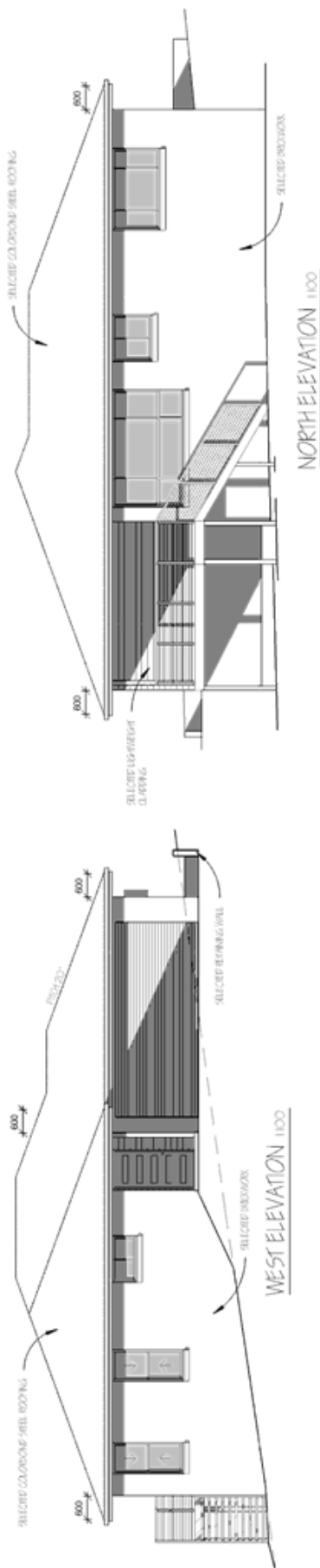
AT: LOT 2 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

DATE: FEBRUARY 2016

**D.A. ONLY**WEST PERSPECTIVE  
(SUN @ 2pm WINTER SOLstice)NORTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOLstice)



## SUMMARY OF MINIMUM BASIC COMMITMENTS

THIS INFORMATION IS A SUMMARY OF THE BASIC COMMITMENTS FOR THIS PROJECT. REFER TO THE CLIENT GUIDE FOR FULL DEFINITIONS AND DETAILS.

LANDSCAPING		ENERGY		THERMAL PERFORMANCE	
TOTAL AREA OF GREEN AND PARKS (m <sup>2</sup> )	90	COOLING TO LIVING AREAS	NO ACUTE SYSTEM	INSULATION	APPROVAL NOT REQUIRED
AREA OF PERVIOUS PAVING (m <sup>2</sup> )	0	COOLING TO BEDROOMS	NO ACUTE SYSTEM	CONSTRUCTION	APPROVAL NOT REQUIRED
DATE OF BASE FORMAL LANDSCAPE PLAN OF LOCAL PLACES		HEATING TO LIVING AREAS	NO ACUTE SYSTEM	SUPPLY: SUPPLEMENTARY ROOF INSULATION (REQUIRED)	ROOF COVERING INCLUDING CONVENTIONAL (TYPICAL)
WATER	PERVIOUS PAVING CAPACITY (LITRES)	HEATING TO BEDROOMS	NO ACUTE SYSTEM	EXTERNAL WALL - BRICK, FINISH	IT 26 (ON 10-20 INCLUDING CONVENTIONAL)
	AREA OF ROOF TO BE CONNECTED TO DRAIN (m <sup>2</sup> )	HEATING TO KITCHEN	NO ACUTE SYSTEM	EXTERNAL WALL - FORMER (LIGHTWEIGHT CLAD)	IT 26 (ON 10-20 INCLUDING CONVENTIONAL)
	CONNECT DRAIN TO AT LEAST ONE GROUND FLOOR DRAIN	HEATING TO BATHROOM	NO ACUTE SYSTEM	CEILING INSULATION	CEILING INSULATION (TYPICAL)
	CONNECT DRAIN TO GROUND WATER OR TO DRAINAGE MAIN	HEATING TO HALLWAYS	NO ACUTE SYSTEM	ROOF INSULATION	ROOF INSULATION (TYPICAL)
DRIVING OF POWER LINES INSTALLED		HEATING TO KITCHEN	NO ACUTE SYSTEM	ROOF COLOUR	REFLECTIVE WHITE (TYPICAL)
DRIVING OF ALL EXISTING CABLES INSTALLED		HEATING TO BEDROOMS	NO ACUTE SYSTEM	WINDING: REFER TO SHED OFFSHORE FOR MATERIALS AND DETAILS	WINDING: REFER TO SHED OFFSHORE FOR MATERIALS AND DETAILS
DRIVING OF POWER LINES		HEATING TO BATHROOM	NO ACUTE SYSTEM	GLAZING	GLAZING
DRIVING OF CABLES		HEATING TO KITCHEN	NO ACUTE SYSTEM	FRAMING	FRAMING

**D.A. ONLY**  
**ROBERT SMALLWOOD**  
**BUILDING PLANS**  
DESIGNER OF BUILDINGS AND LANDSCAPE ARCHITECTS

LOT 2  
SHEET 1 OF 2

## PROPOSED RESIDENCE

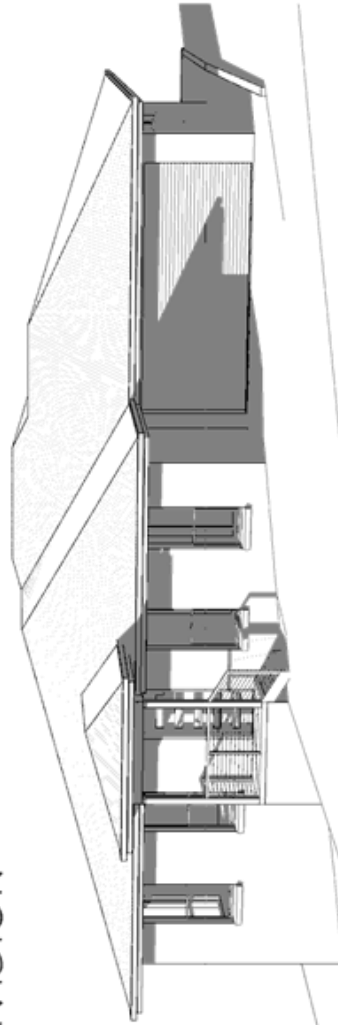
AT: LOT 3 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

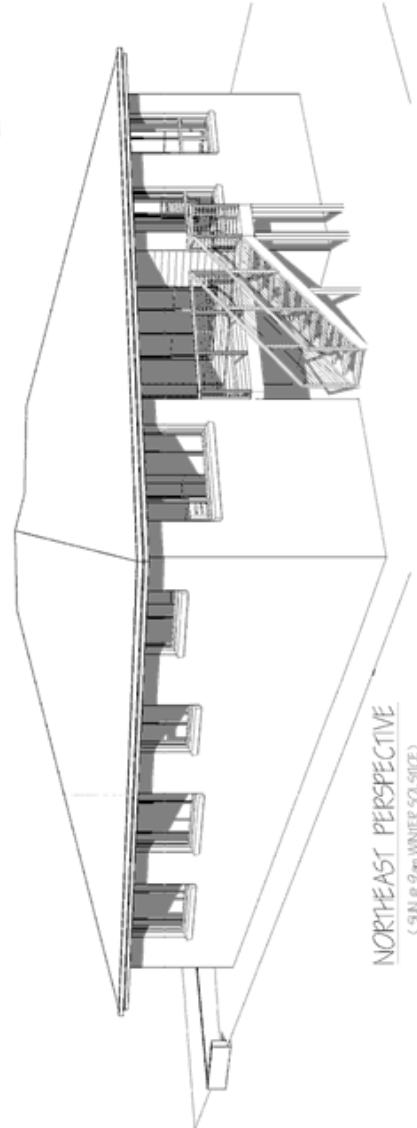
REF: 16-1200

DATE: FEBRUARY 2016

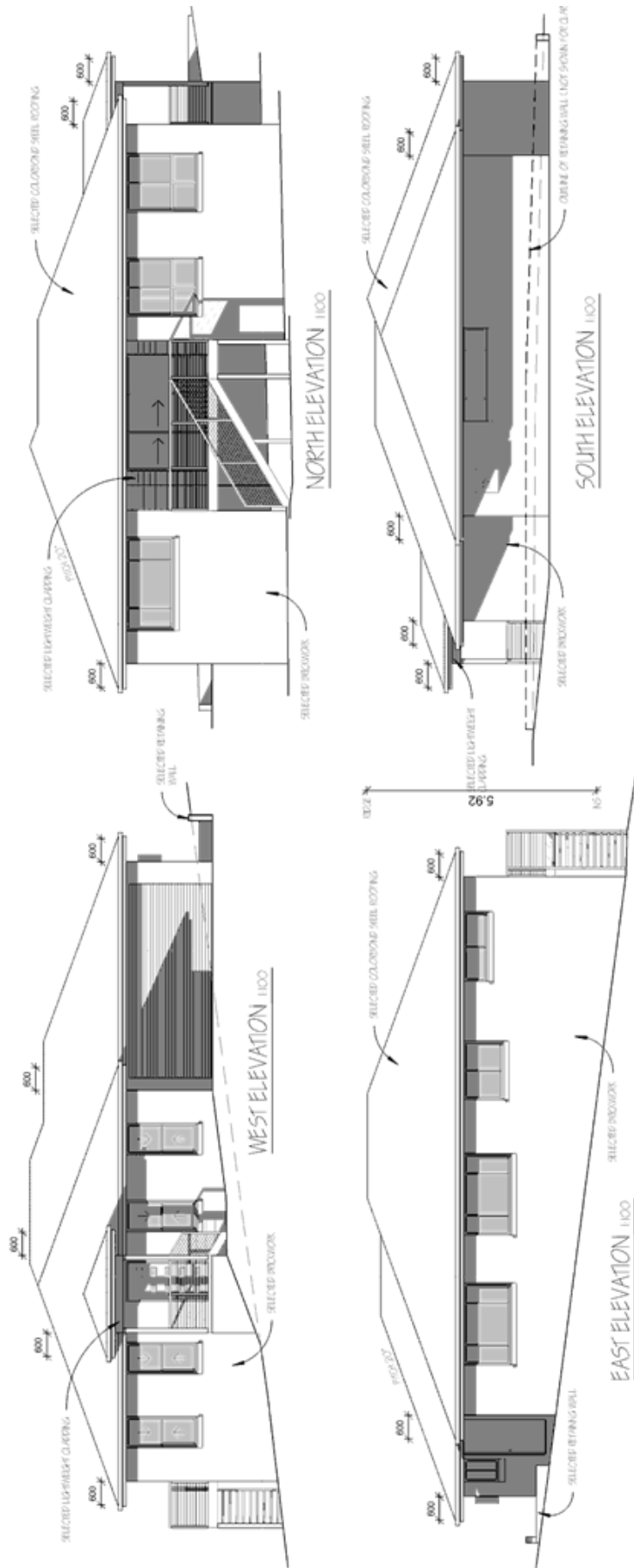
**D.A. ONLY**



WEST PERSPECTIVE  
(SUN @ 2pm WINTER SOLstice)



NORTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOLstice)



## SUMMARY OF MINIMUM BASIC COMMITMENTS

THIS INFORMATION IS A SUMMARY OF THE BASIC COMMITMENTS FOR THIS PROJECT. REFER TO THE CERTIFICATE FOR FULL DEFINITIONS AND DETAILS.

LANDSCAPING		ENERGY		THERMAL PERFORMANCE	
TOTAL AREA OF GARDEN (sqm)	0%	COOLING SYSTEMS	NO ACTIVE SYSTEM	INSULATION	APPROXIMATE WALL/ROOF REQUIRED
AREA OF HARDSCAPE PLANTING (sqm)	0	COOLING SYSTEMS	NO ACTIVE SYSTEM	CEILING	APPROXIMATE WALL/ROOF REQUIRED
TYPE OF HARDSCAPE PLANTING (LIST ALL SPECIES)		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
WATER		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
PERMANENT PLANTING (LIST ALL SPECIES)		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
AREA OF ROOF TO BE CONNECTED TO DRAIN (sqm)		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
CONNECT DRAIN TO EXISTING DRAIN OR NEW DRAIN		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
ROOFING OF SHEDS OR BARN		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
ROOFING OF ALL OUTBUILDINGS		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
ROOFING OF DRIVE		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED
ROOFING OF DRIVE		HEATING SYSTEMS	NO ACTIVE SYSTEM	WINDSCREEN	APPROXIMATE WALL/ROOF REQUIRED

**D.A. ONLY**  
**ROBERT SMALLWOOD**  
**BUILDING PLANS**  
DESIGNER OF BUILDINGS AND LANDSCAPE ARCHITECTS



## PROPOSED RESIDENCE

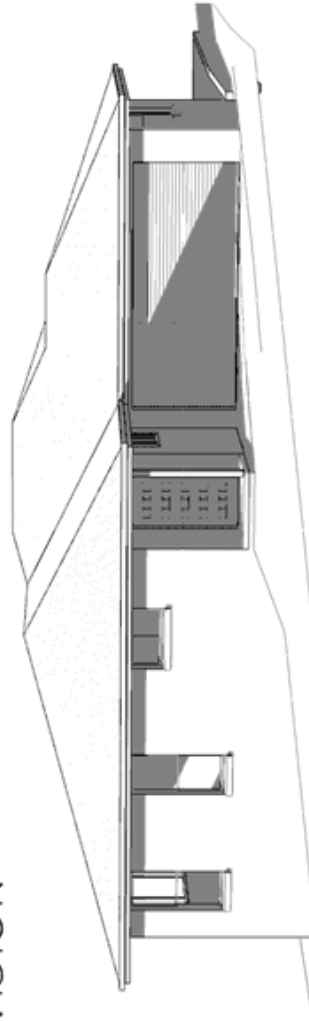
AT: LOT 4 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

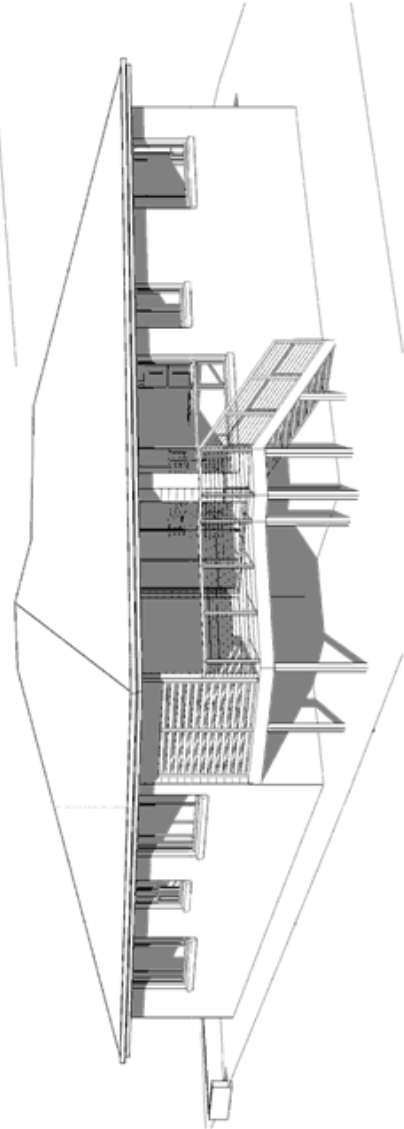
REF: 16-1200

DATE: FEBRUARY 2016

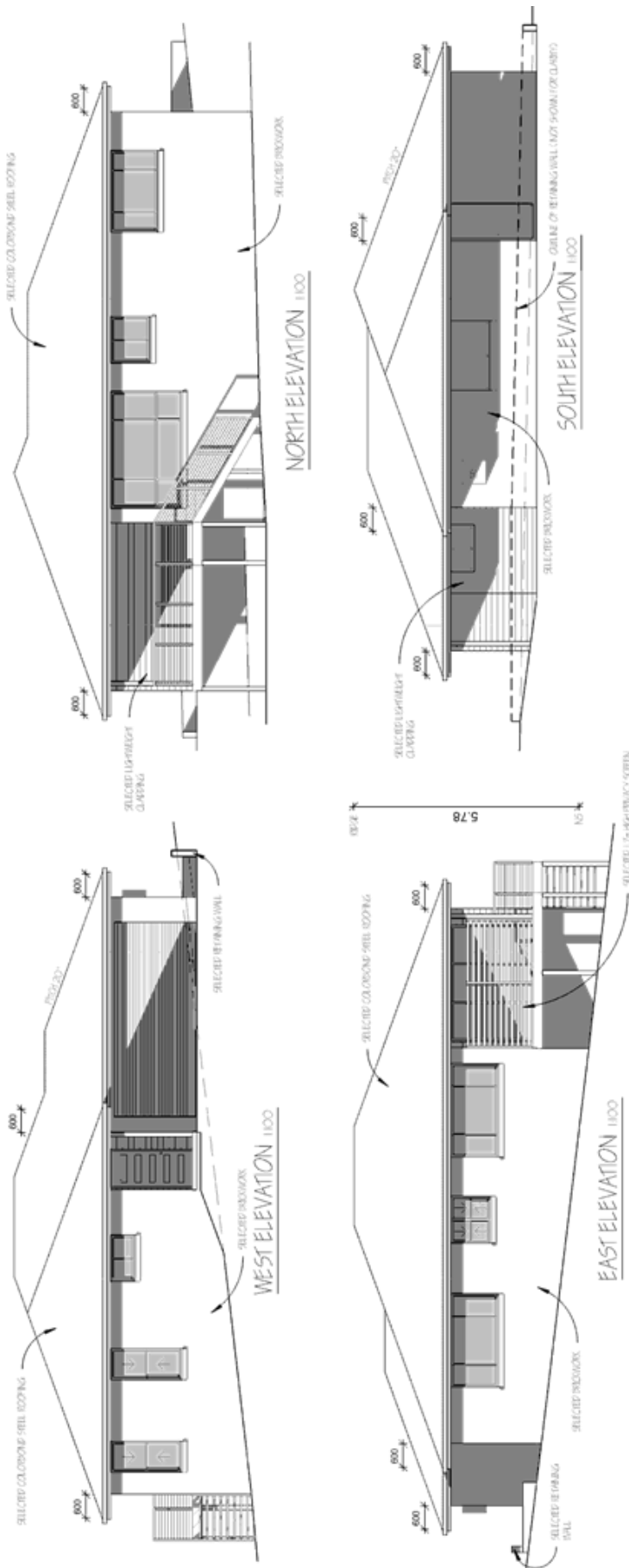
**D.A. ONLY**



WEST PERSPECTIVE  
(SUN @ 2pm WINTER SOL-ICE)



NORTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOL-ICE)



## SUMMARY OF MINIMUM BASIC COMMITMENTS

THIS INFORMATION IS A SUMMARY OF THE DASH COMMITMENTS FOR THIS PROJECT. FOR FULL DEFINITIONS AND DETAILS

[illegible]

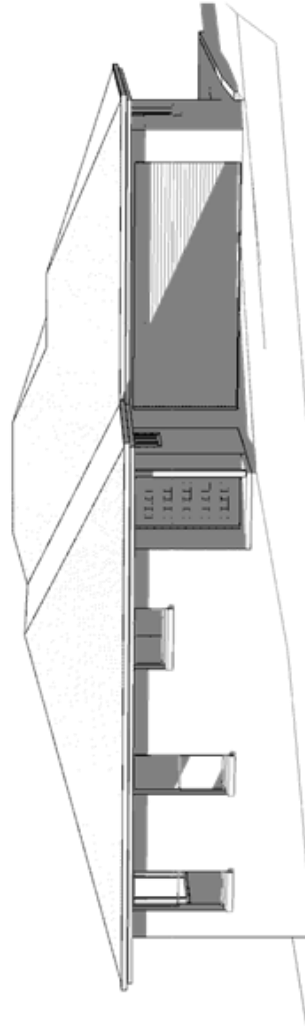
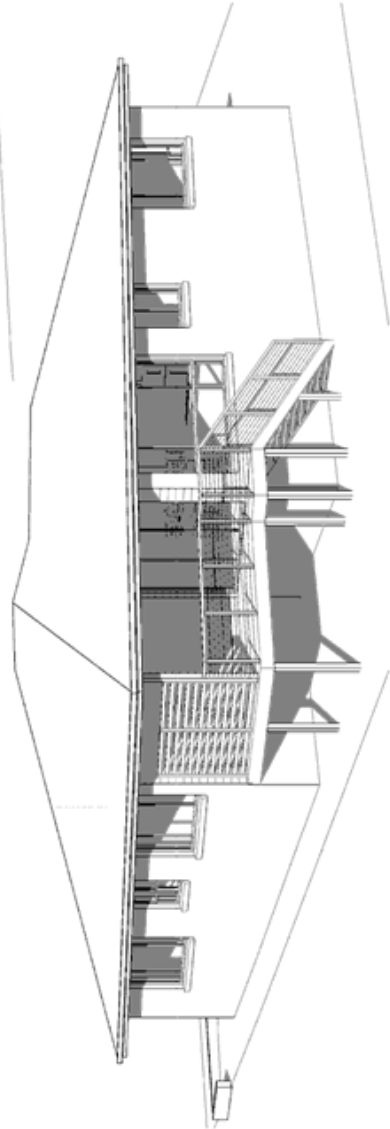
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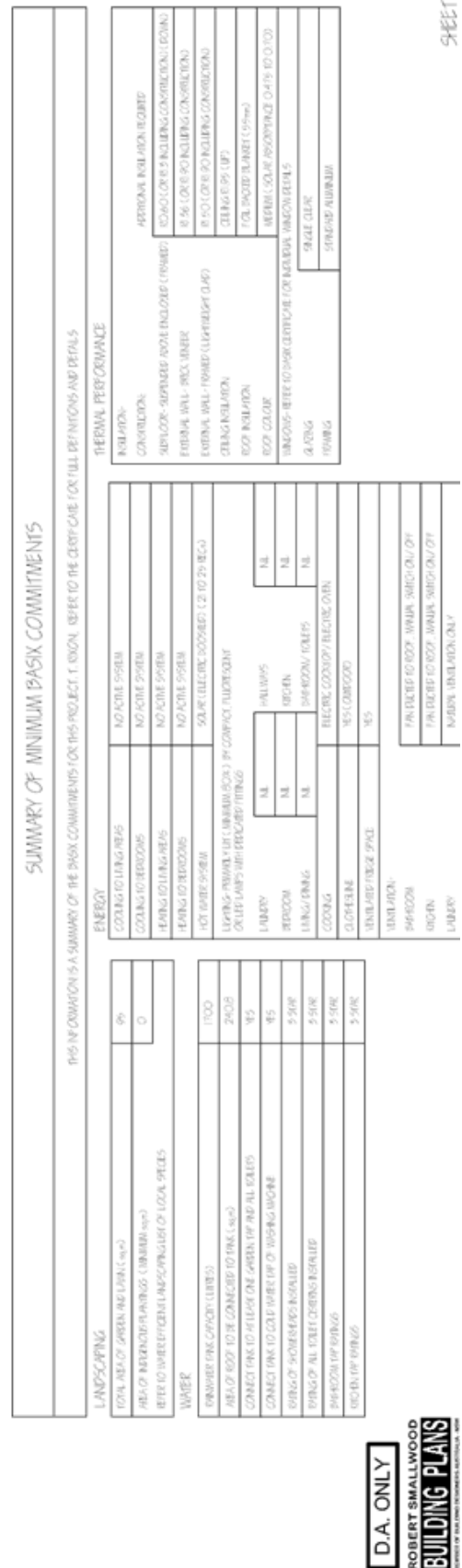
AT: LOT 5 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

DATE: FEBRUARY 2016

**D.A. ONLY**WEST PERSPECTIVE  
(SUN @ 3pm WINTER SOL-ICE)NORTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOL-ICE)



# PROPOSED RESIDENCE

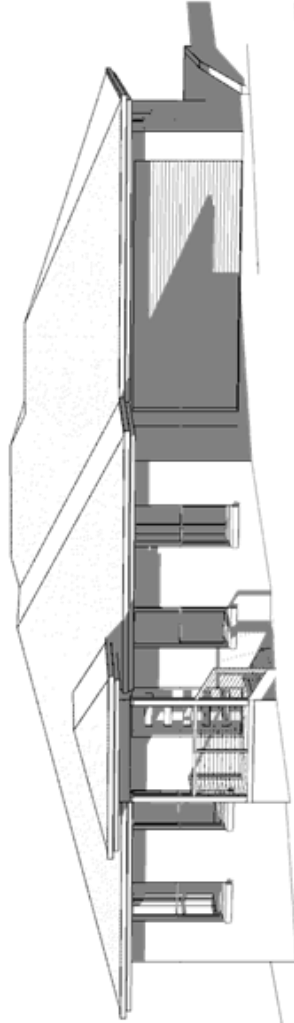
AT: LOT 6 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

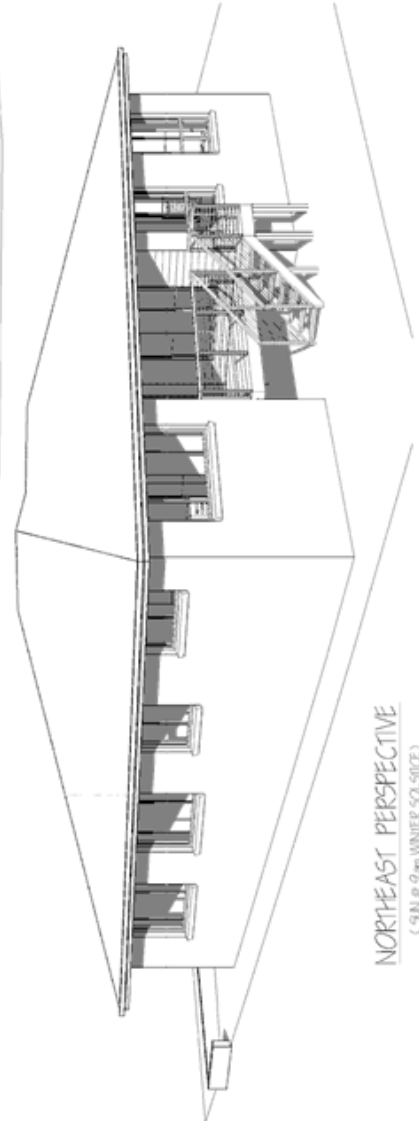
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DATE: FEBRUARY 2016

**D.A. ONLY**

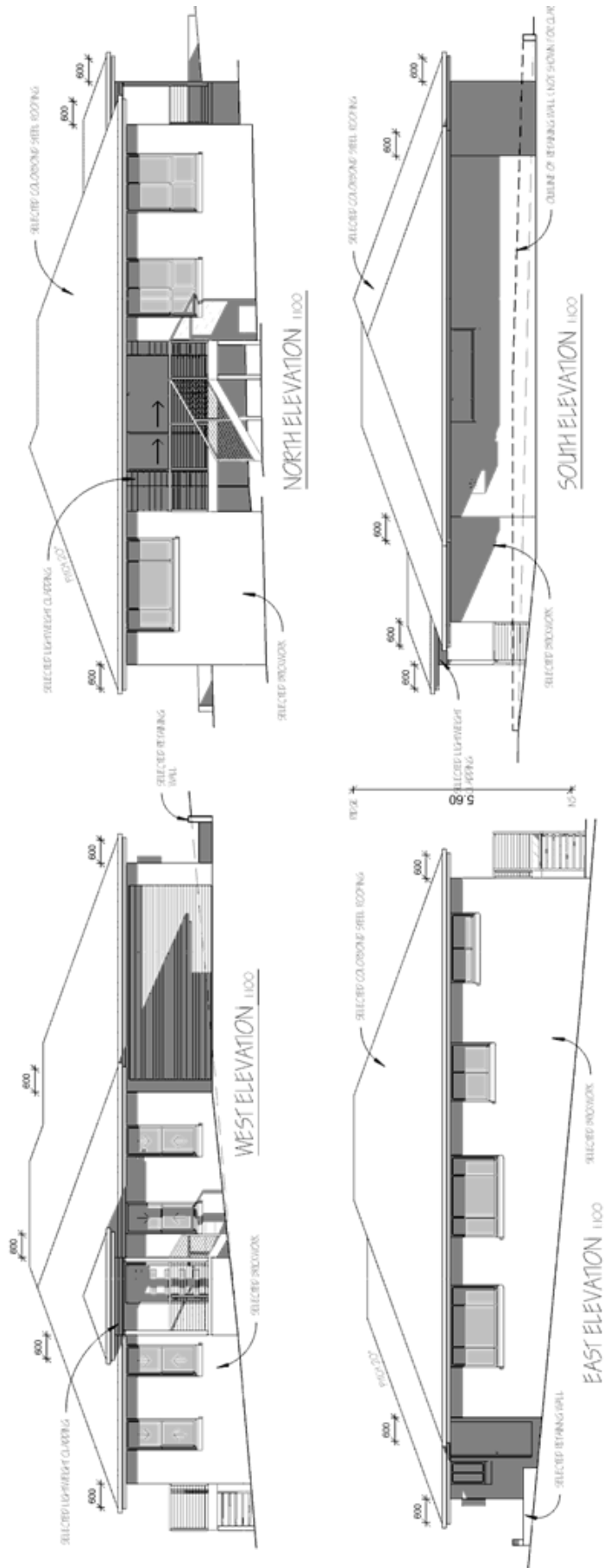


WEST PERSPECTIVE  
(SUN @ 3pm WINTER SOLSTICE)



NORTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOLSTICE)





## SUMMARY OF MINIMUM BASIC COMMITMENTS

THIS INFORMATION IS A SUMMARY OF THE DMSX COMMITMENTS FOR THIS PROJECT. FOR FULL DEFINITIONS AND DETAILS, REFER TO THE CERTIFICATE FOR FULL DEFINITIONS AND DETAILS.

[illegible]

**D.A. ONLY**

## PROPOSED RESIDENCE

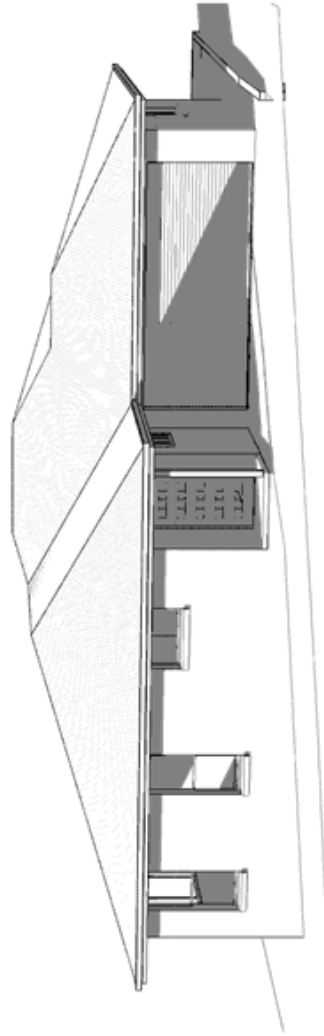
AT: LOT 7 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

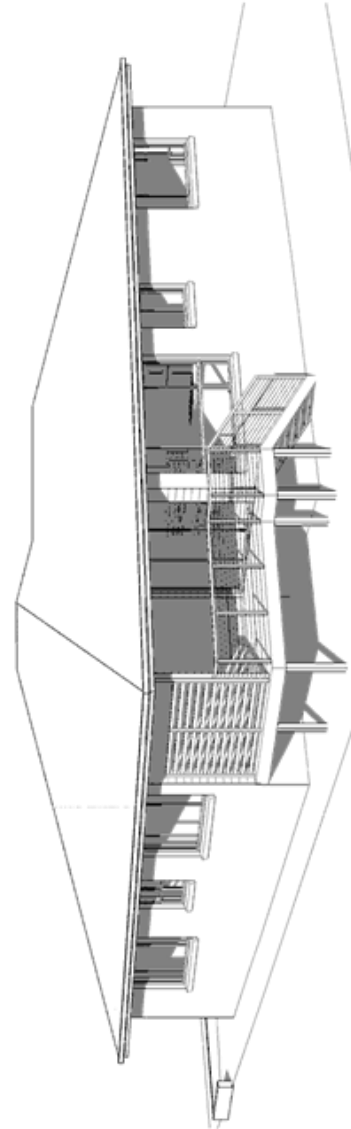
REF: 16-1200

DATE: FEBRUARY 2016

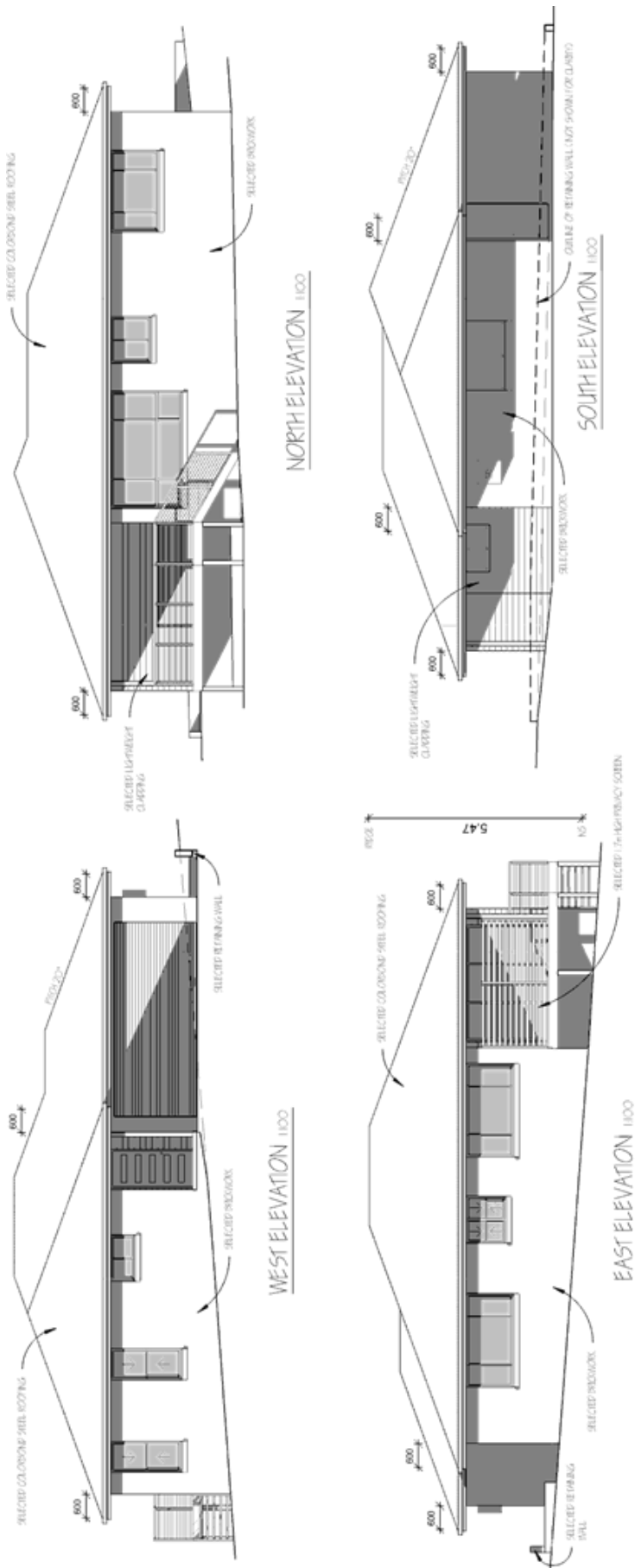
**D.A. ONLY**



WEST PERSPECTIVE  
(SUN @ 3pm WINTER SOLstice)



NORTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOLstice)



## SUMMARY OF MINIMUM BASIC COMMITMENTS

THIS INFORMATION IS A SUMMARY OF THE BSA'S COMMITMENTS FOR THIS PROJECT. IT DOES NOT CONSTITUTE A CONTRACT. REFER TO THE CERTIFICATE FOR FULL DEFINITIONS AND DETAILS.

[illegible]



ABSA Assessor # 20374	February 2016	CDA Reference: 2278
conceptdesigns@tpg.com.au	Concept Designs Australia	Ph: 0418877571
<p><b>Important Note for Development Applicants:</b></p> <p>The following specification was used to achieve the thermal performance values indicated on the Assessor Certificate. If they vary from drawings or other specifications this Specification that take precedence. If only one specification option is detailed for a building element that specifications must apply to all instances of that element for the whole project. If alternate specifications are detailed, the location and extent of the alternate specification must be detailed below and / or clearly indicated on referenced documentation.</p> <p>Once the development is approved by the consent authority, these specifications will become a condition of consent and must be included in the built works. If you do not want to include these requirements in your proposed construction varies to those detailed or need further information, please contact Concept Designs Australia.</p> <p>This assessment has assumed that the BCA provisions for building sealing will be complied with at construction.</p>		
Thermal Performance Specifications		
External Wall Construction	Insulation	Colour (Solar Absorbency)
Brick Veneer	Vapour permeable	None specified
Rendered masonry	Vapour permeable	None specified
Internal Wall Construction	Insulation	Detail
Plasterboard on studs	None	
Party Wall	None for Thermal	Between units
Ceiling Construction	Insulation	Detail
Plasterboard	R2.5	All ceilings adjacent to roof space (Except Stairwells)
Roof Construction	Insulation	Colour (Solar Absorbency)
Colorbond	55mm minicon blanket	Medium
Floor Construction	Insulation	Covering
Concrete	None	None, Tiles and Carpet
Timber	None	Carpet
Windows	Glass and frame type	U value SHGC Area m2
Single clear Aluminium	6.37	0.74
U and SHGC values are according to NRC. Alternate products may be used if the U value is lower and the SHGC is less than 15% higher or lower than the above figures.		
Fixed shading - Eaves	Width includes glazing, offset a distance above windows	
U-value	As drawn	Internal only, refer to part for detail
Fixed shading - Other	As drawn	Internal only, refer to part for detail
Shaded areas and shade devices as drawn, adjoining buildings and boundary fences		
<p><b>For construction in NSW the BCA Vol 1 or 2 must be complied with. In particular the following:</b></p> <ul style="list-style-type: none"> <li>Thermal construction in accordance with Vol 1 Section J1.2 or Vol 2 Part 3.12.1.1</li> <li>Thermal breaks in accordance with Section J1.3(d) &amp; 1.3(e) or Part 3.12.1.2(c) &amp; 3.12.1.4(c)</li> <li>Compensating for loss of ceiling insulation in accordance with Section J1.3(c) or Part 3.12.1.2(c)</li> <li>Floor insulation in accordance with Section J1.5(c) &amp; (d) or Part 3.12.1.5(a)(ii) or (c) &amp; (d)</li> <li>Building sealing in accordance with Section J3 or Part 3.12.3.1 to 3.12.3.6</li> <li>Approved non-ventilated cover or shield to be fitted to any non-ventilated downlights if selected, which allows for insulation to be closely installed to sides and top of lights. No ceiling penetration allowance needs to be made. No allowance has been made for vented downlights and these should not be included.</li> <li>All exhaust fans to be fitted with dampers as per NCC.</li> <li>External doors to be weather stopped and weathers to comply with AS 2047.</li> </ul>		

**ROBERT SMALLWOOD**  
**BUILDING PLANS**  
*'BETTER BY DESIGN'*  
 MEMBER OF BUILDING DESIGNERS AUSTRALIA - NSW  
 EMAIL: design@robertsmallwood.com.au  
 PH: (02) 6559 5222 FAX: (02) 6559 6438  
 453 OCEAN DRIVE, LAURETON NSW 2443  
 www.robertsmallwood.com.au

# PROPOSED 2 X UNITS

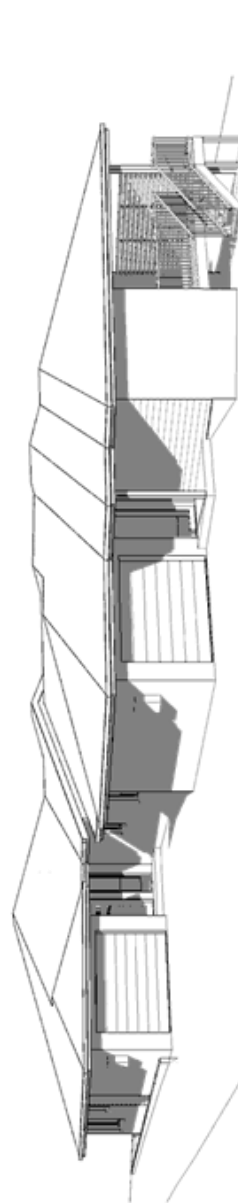
AT: LOT 9 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON-SMALLWOOD SUBDIVISION

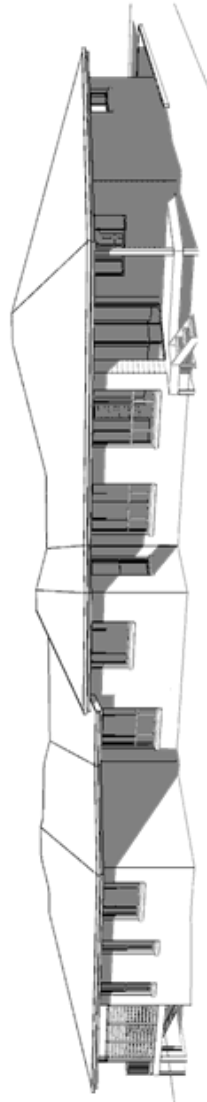
REF: 16-1200

DATE: FEBRUARY 2016

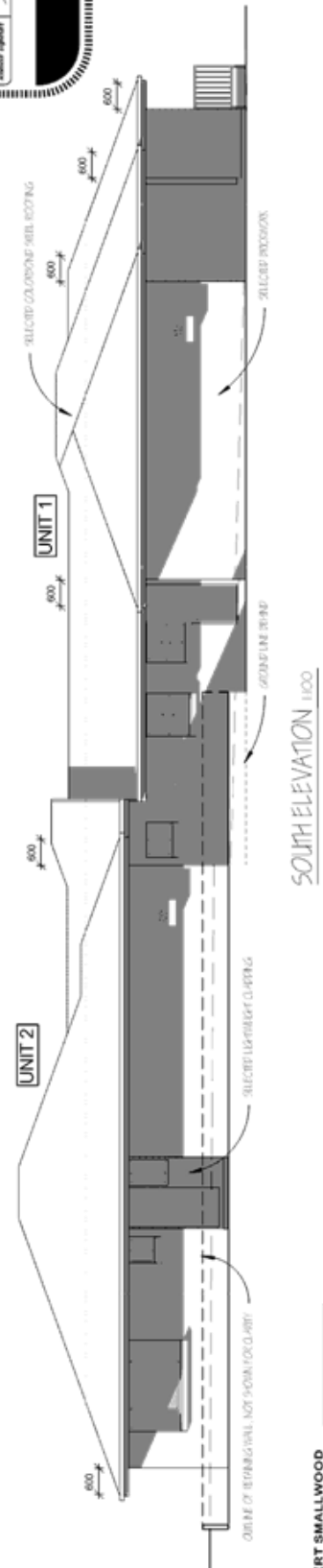
**D.A. ONLY**  
(MODIFIED 27-04-16)



SOUTHEAST PERSPECTIVE  
(SUN @ 7am SUMMER SOL-SPACE)



NORTHWEST PERSPECTIVE  
(SUN @ 12pm WINTER SOL-SPACE)



101 OF 3

**ROBERT SMALLWOOD**  
**BUILDING PLANS**  
DESIGNER OF PLAN 2001 TO 200000, BATHING, 1950-1990

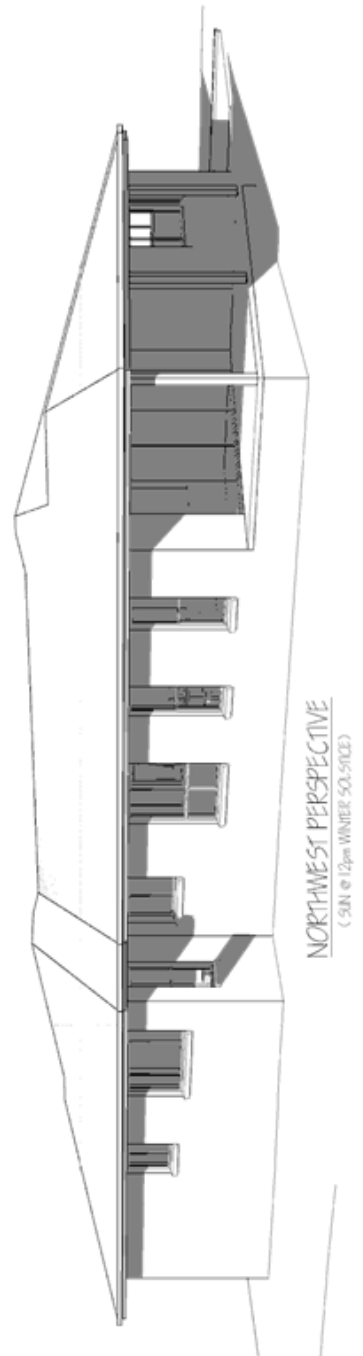
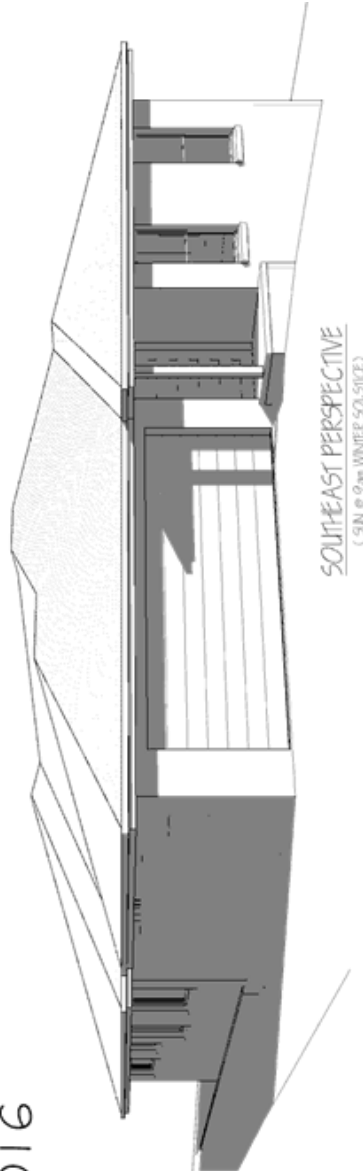
## PROPOSED RESIDENCE

AT: LOT 10 BUNDARRA WAY,  
BONNY HILLS

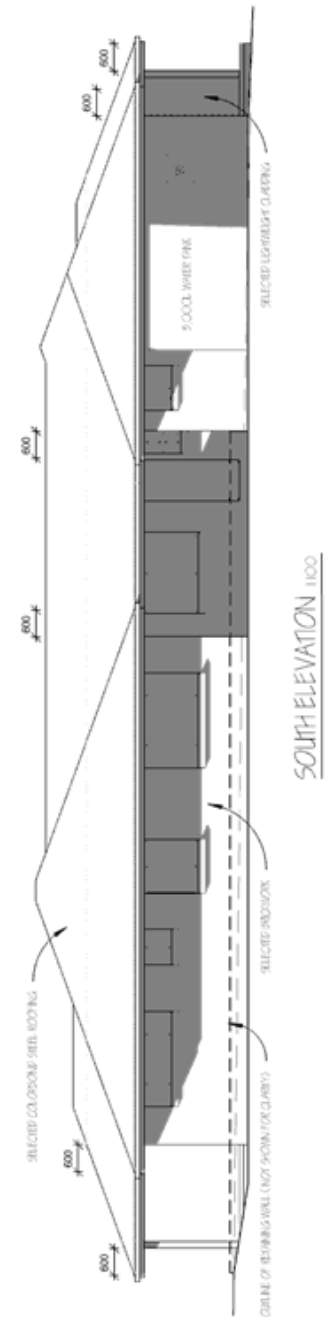
FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

DATE: JANUARY 2016







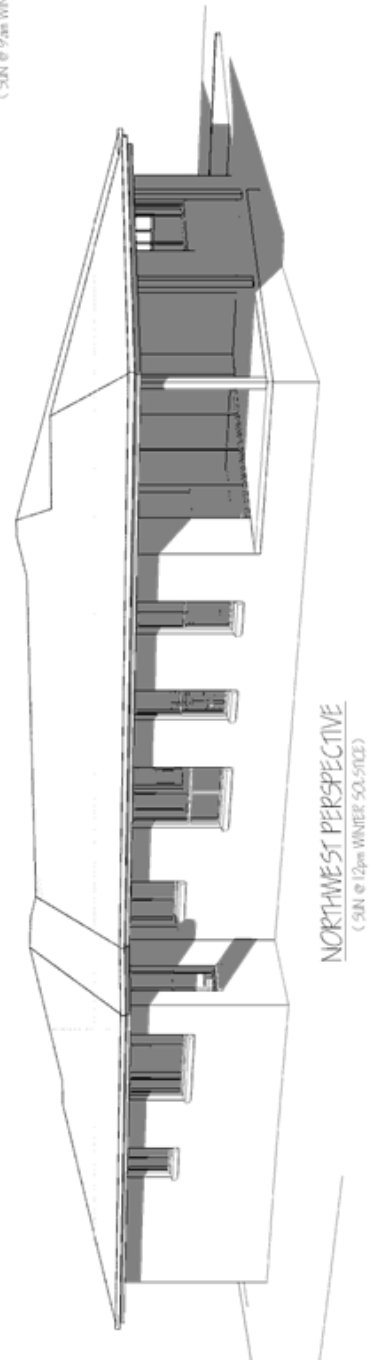
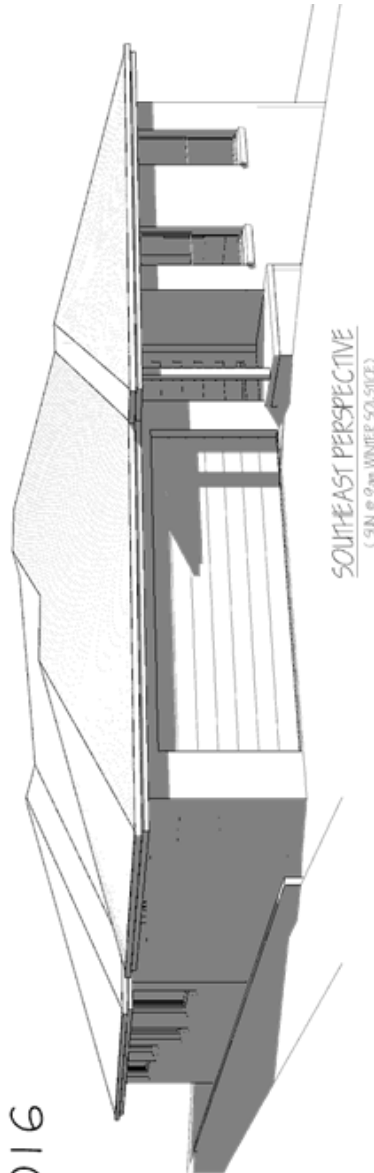
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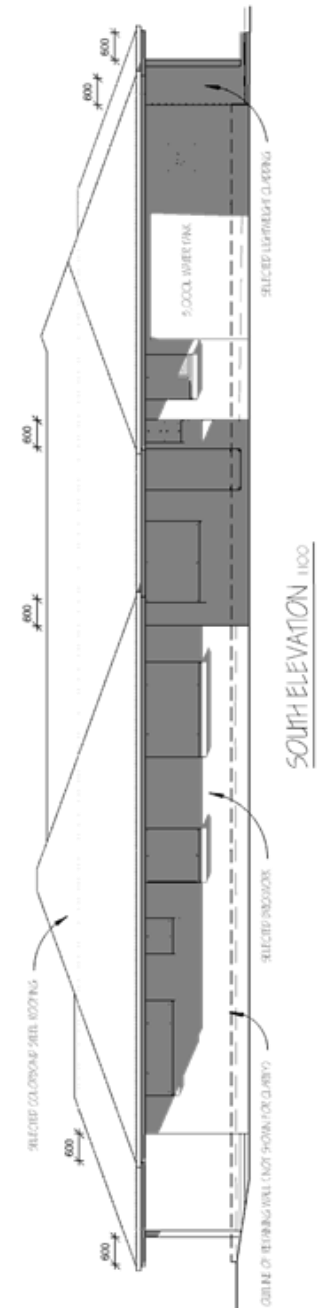
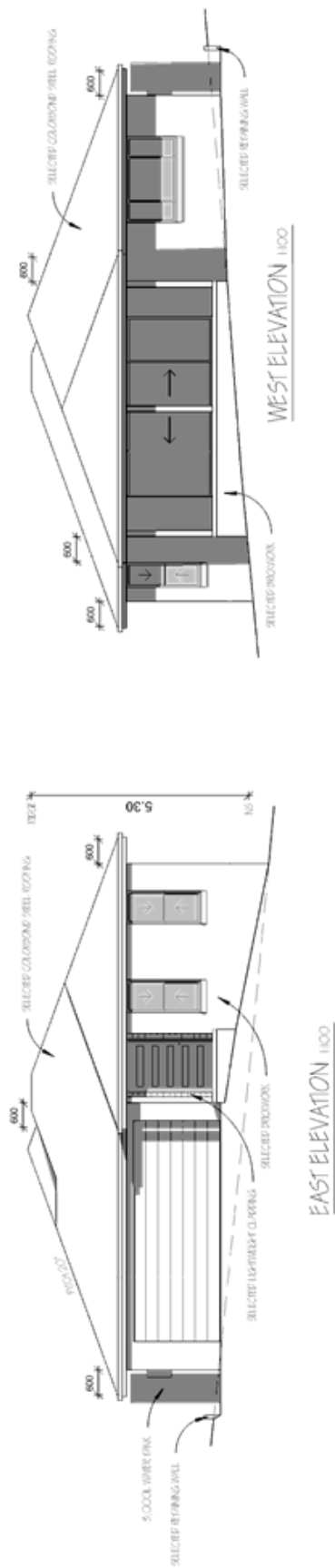
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BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

DATE: JANUARY 2016





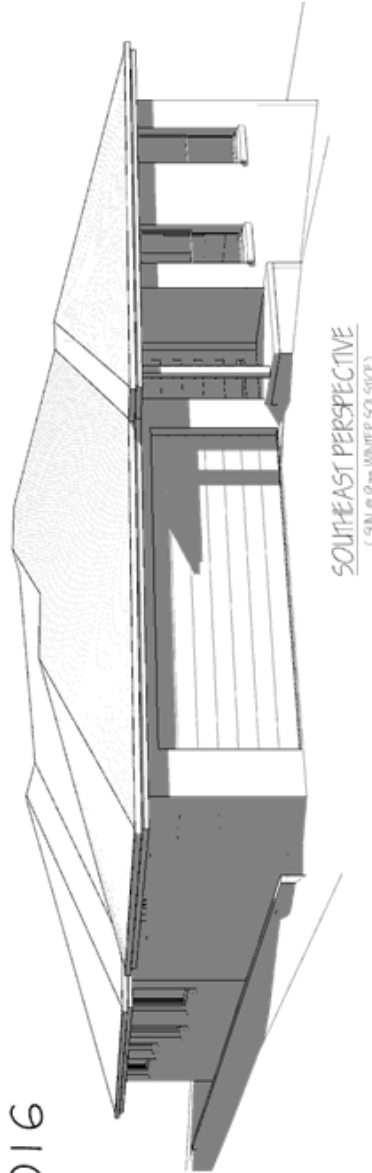
## PROPOSED RESIDENCE

AT: LOT 12 BUNDARRA WAY,  
BONNY HILLS

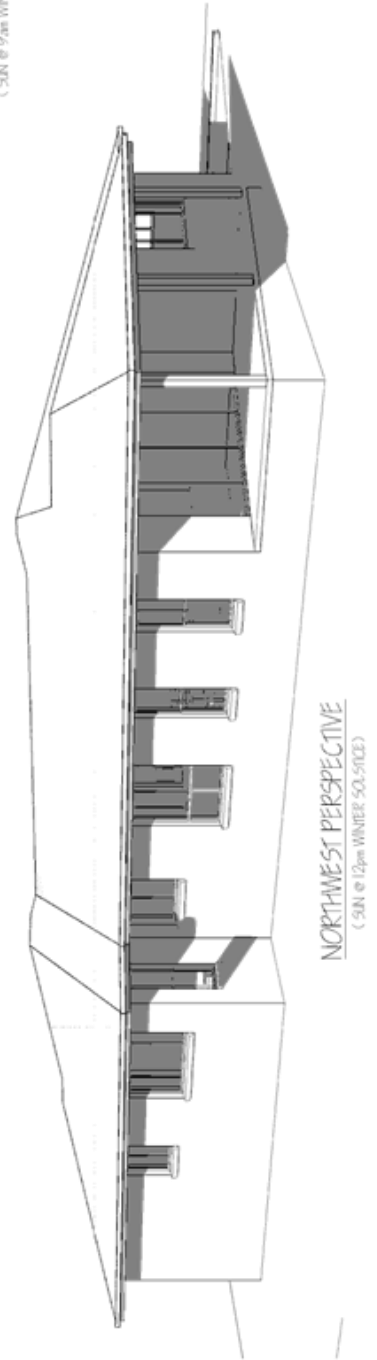
FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

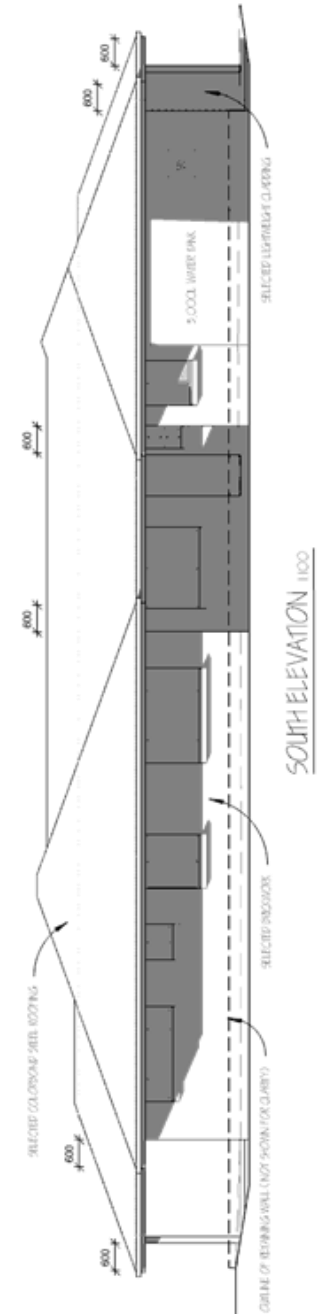
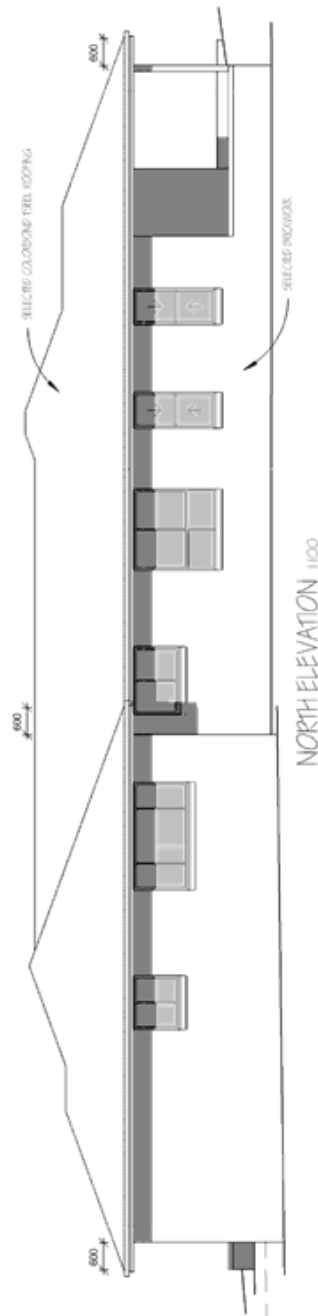
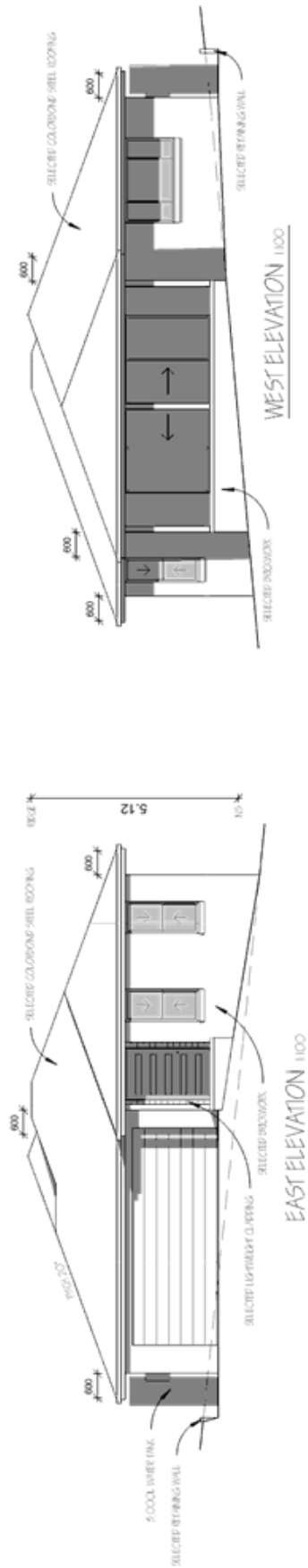
DATE: JANUARY 2016



SOUTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOLstice)



NORTHWEST PERSPECTIVE  
(SUN @ 12pm WINTER SOLstice)



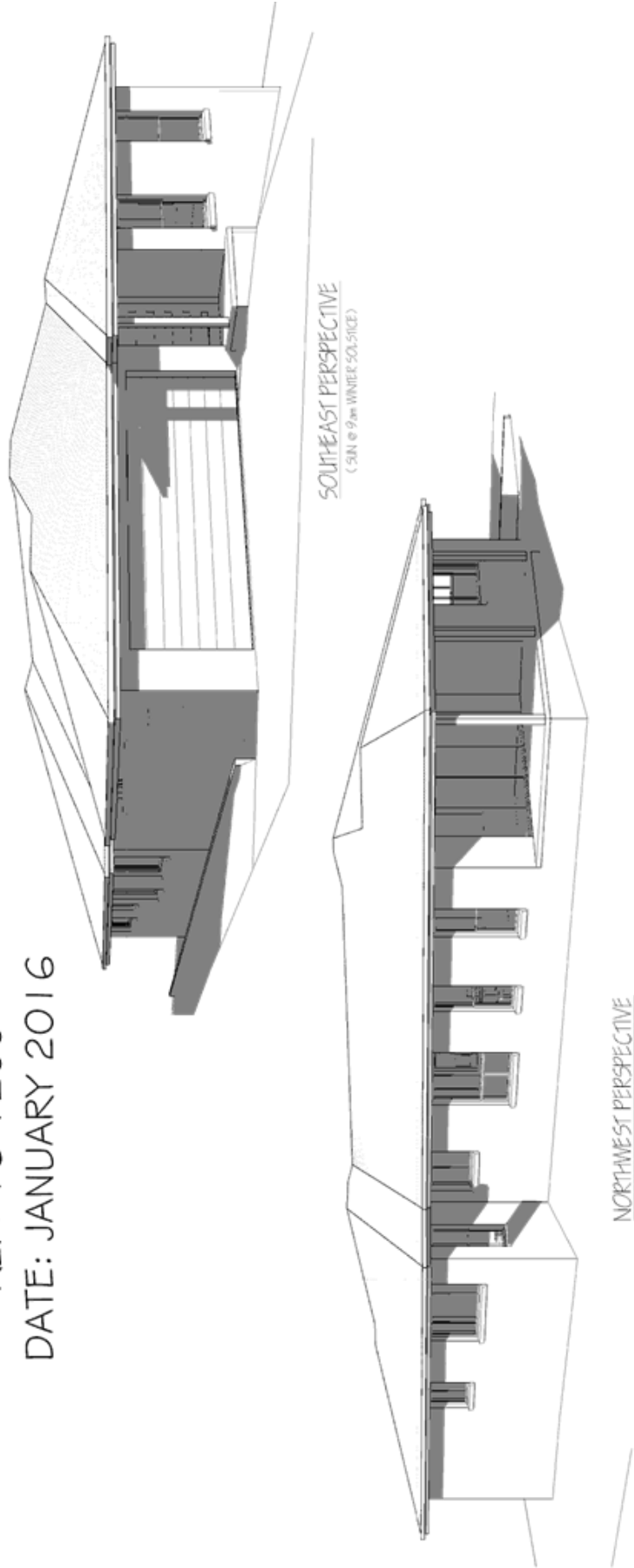
## PROPOSED RESIDENCE

AT: LOT 13 BUNDARRA WAY,  
BONNY HILLS

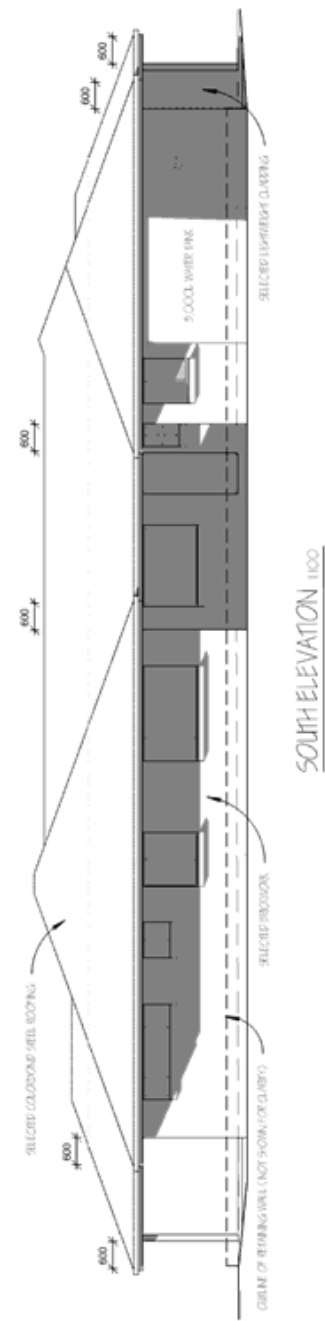
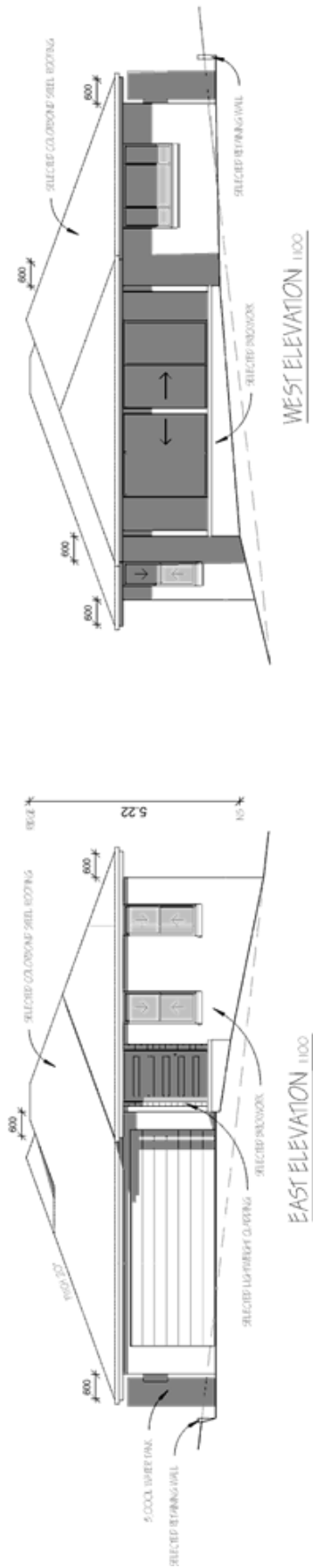
FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

DATE: JANUARY 2016







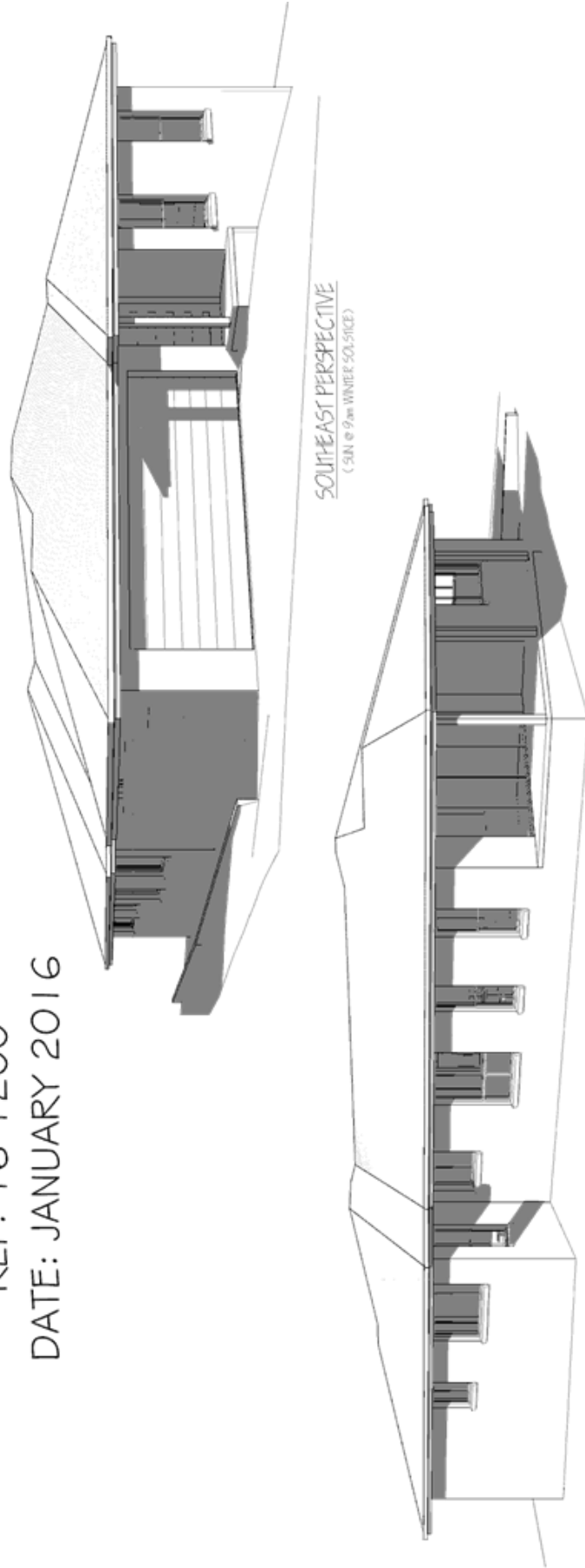
## PROPOSED RESIDENCE

AT: LOT 14 BUNDARRA WAY,  
BONNY HILLS

FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

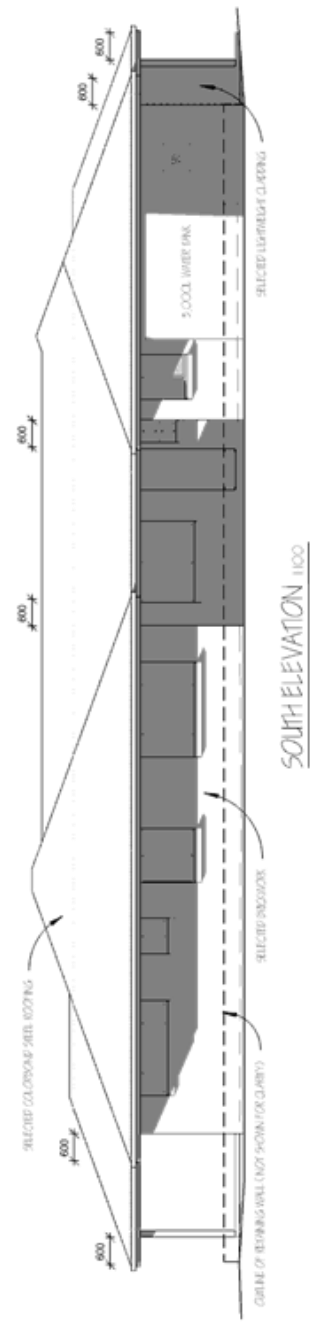
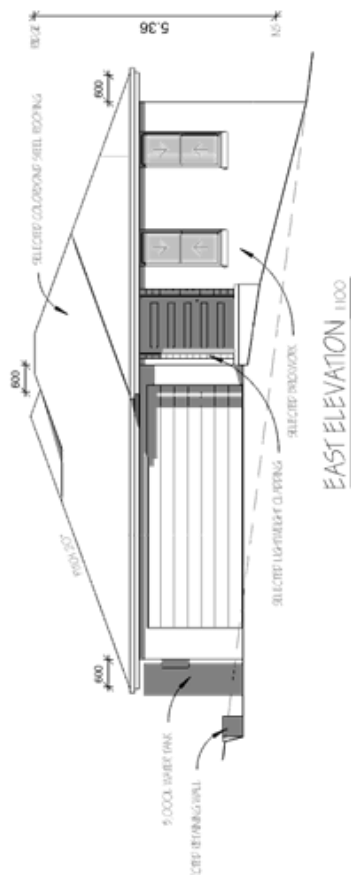
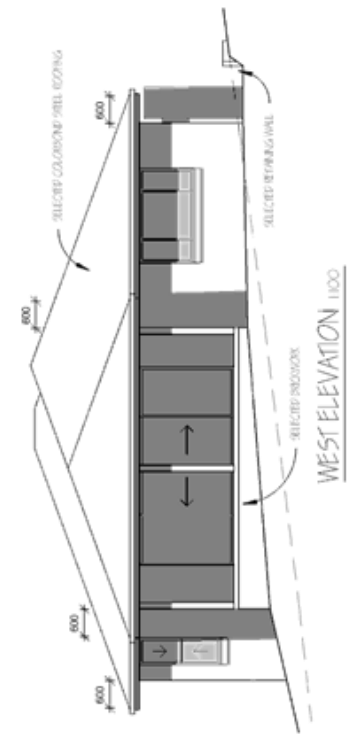
DATE: JANUARY 2016



NORTHWEST PERSPECTIVE  
(SUN @ 12pm WINTER SOLSTICE)

SOUTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOLSTICE)

16-1200  
SHEET 1 OF 3



ROBERT SMALLWOOD  
BUILDING PLANS  
ARCHITECTS

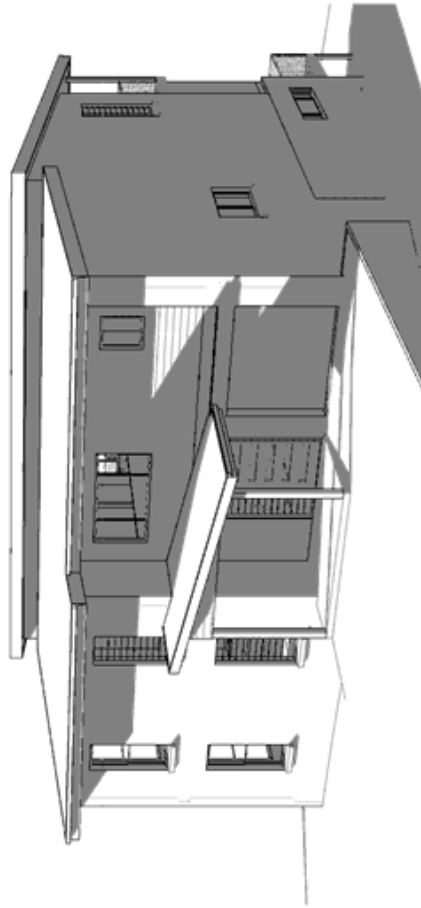
# PROPOSED RESIDENCE

AT: LOT 102, BUNDARRA WAY,  
BONNY HILLS

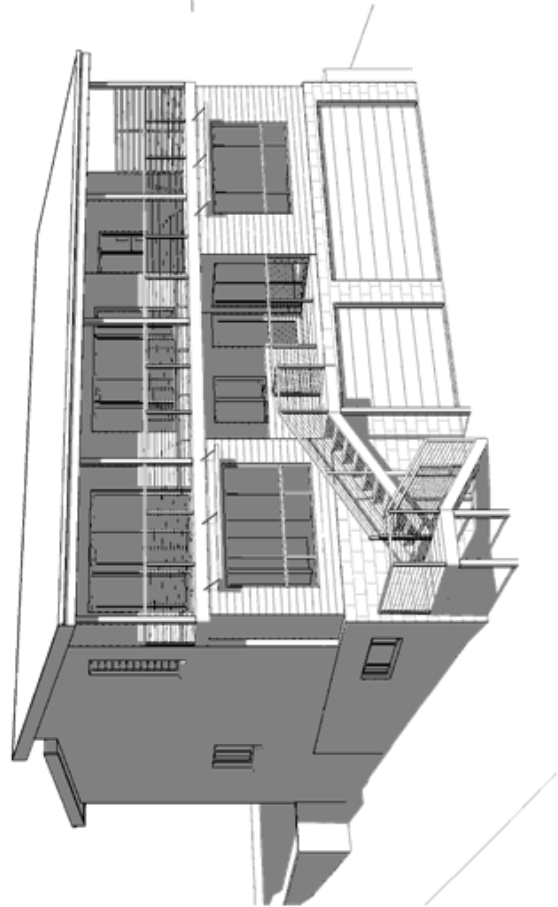
FOR: RIXON - SMALLWOOD SUBDIVISION

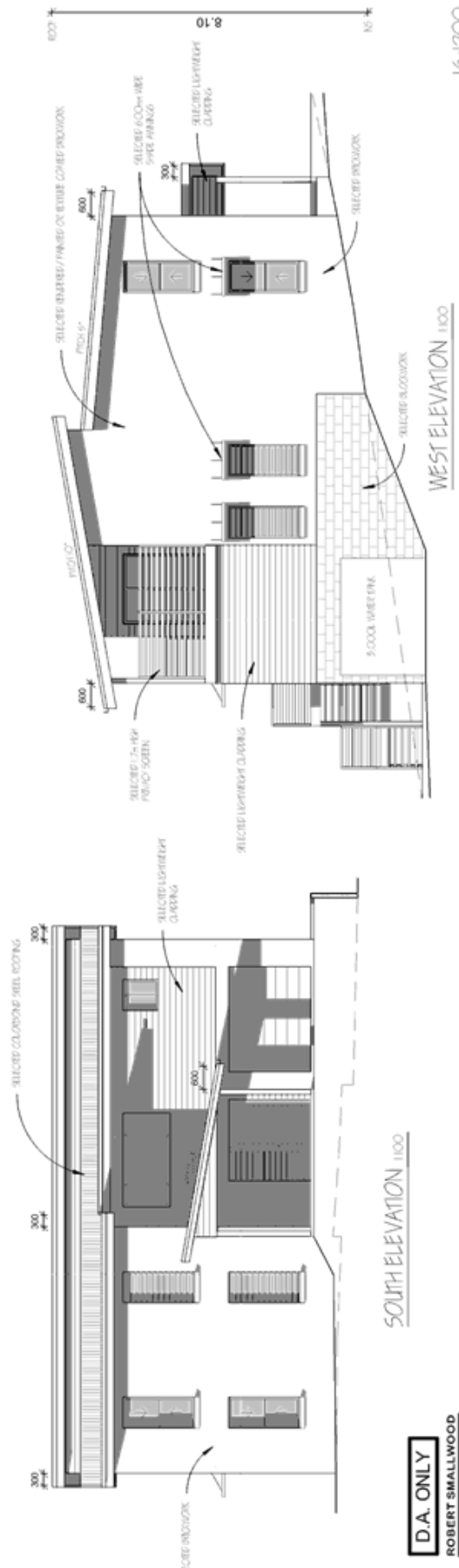
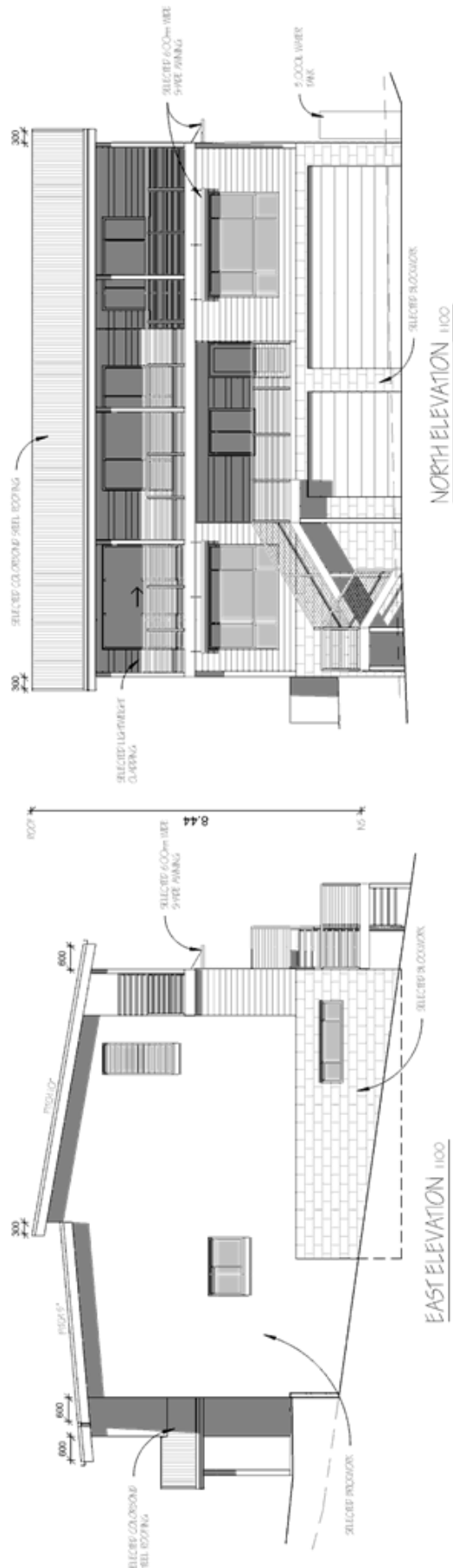
REF: 16-1200

DATE: FEBRUARY 2016



D.A. ONLY





16-1200  
SHEET 1 OF 4

D.A. ONLY  
ROBERT SMALLWOOD  
BUILDING PLANS  
DESIGN & BUILDING SERVICES LTD

PROPOSED SECONDARY  
DWELLING

AT: NO. 8 BUNDARRA WAY,  
BONNY HILLS

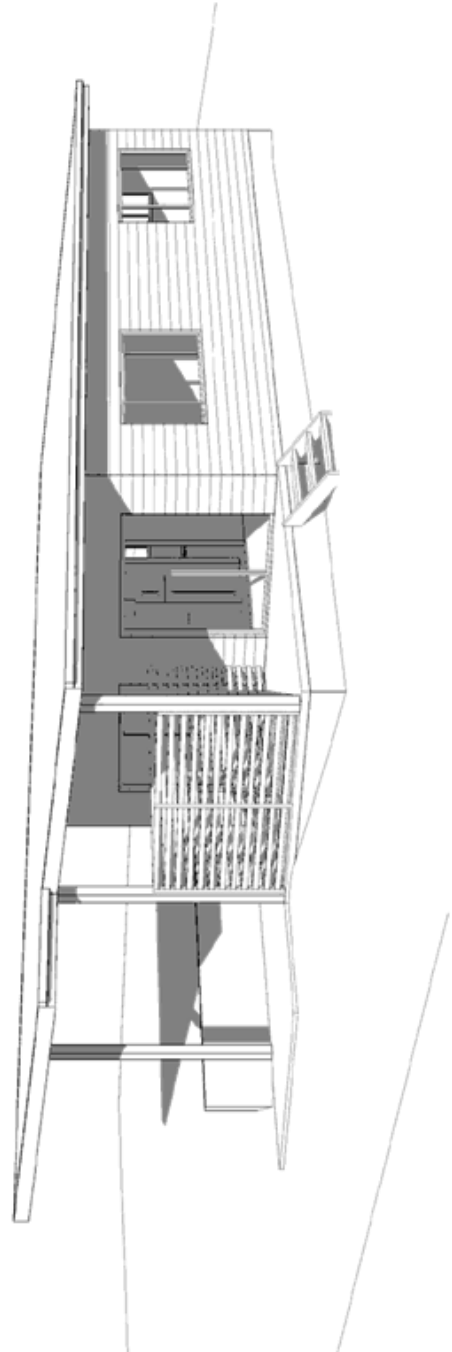
FOR: RIXON - SMALLWOOD SUBDIVISION

REF: 16-1200

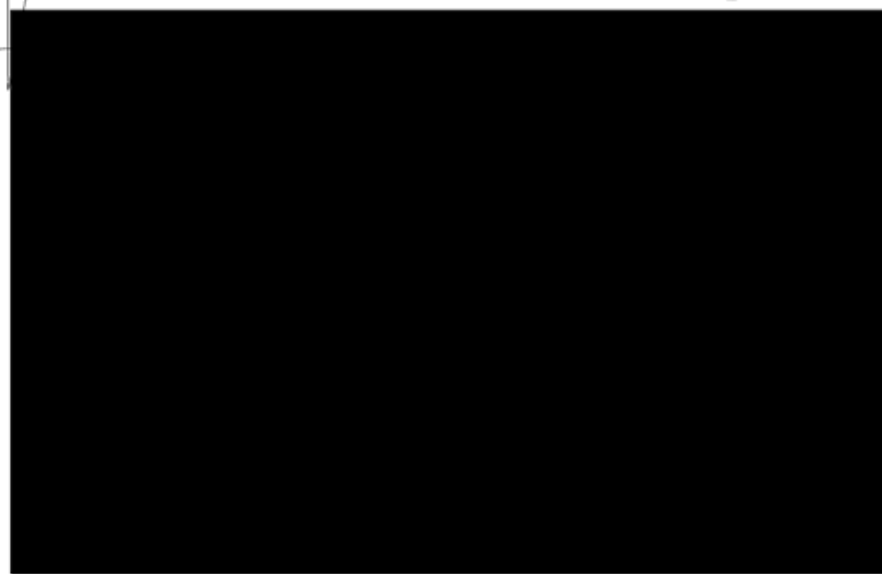
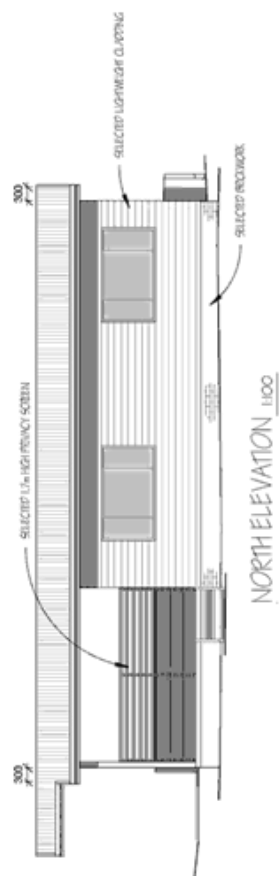
DATE: FEBRUARY 2016



D.A. ONLY

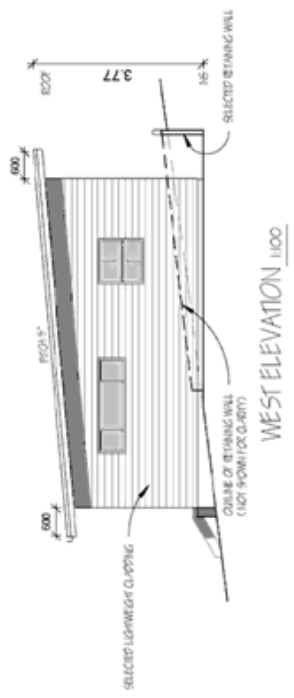
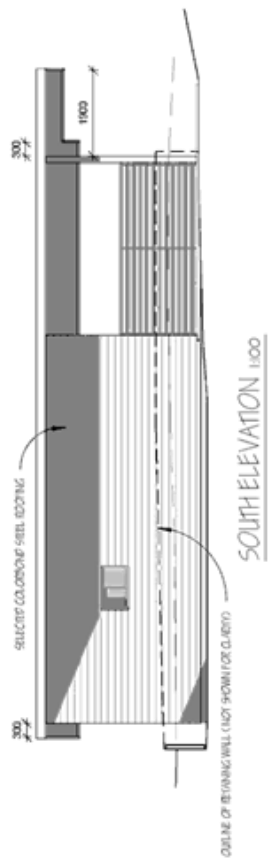
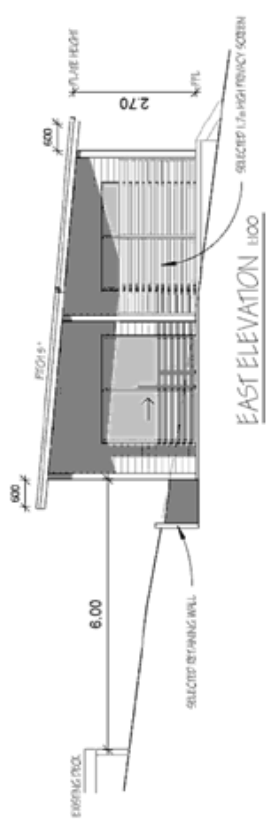






- NOTES
- SHORE ALUMINUM AS 9106
  - SELECTED ROOF
  - MECHANICAL VENT TO AS 1668
  - SELECTED PLANK TO ENGINEER'S SPECIFICATION
  - FINISHED FLOOR LEVEL
  - BASIC WINDOW SCHEDULE NUMBER REFER TO CERTIFICATE FOR DETAILS
- W1

16-1200  
SHEET 1 OF 2



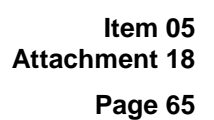
WINDOWS	AREAS
ALUMINUM FRAMED WINDOWS TO MANUFACTURER'S SPECIFICATION, AS 1200, AS 2047 & 508 WIND SPEED OPS - CRUISE GLAZING 5/0 - SLOPED GLASS POOR	LIVING - 59.6 m²
	OPEN CARPORT - 19.6 m²
	COVERED DECK - 16.0 m²
	TOTAL - 95.2 m²

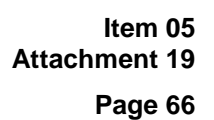
D.A. ONLY  
ROBERT SMALLWOOD  
BUILDING PLANS  
DESIGN & BUILDING SERVICES

[illegible]

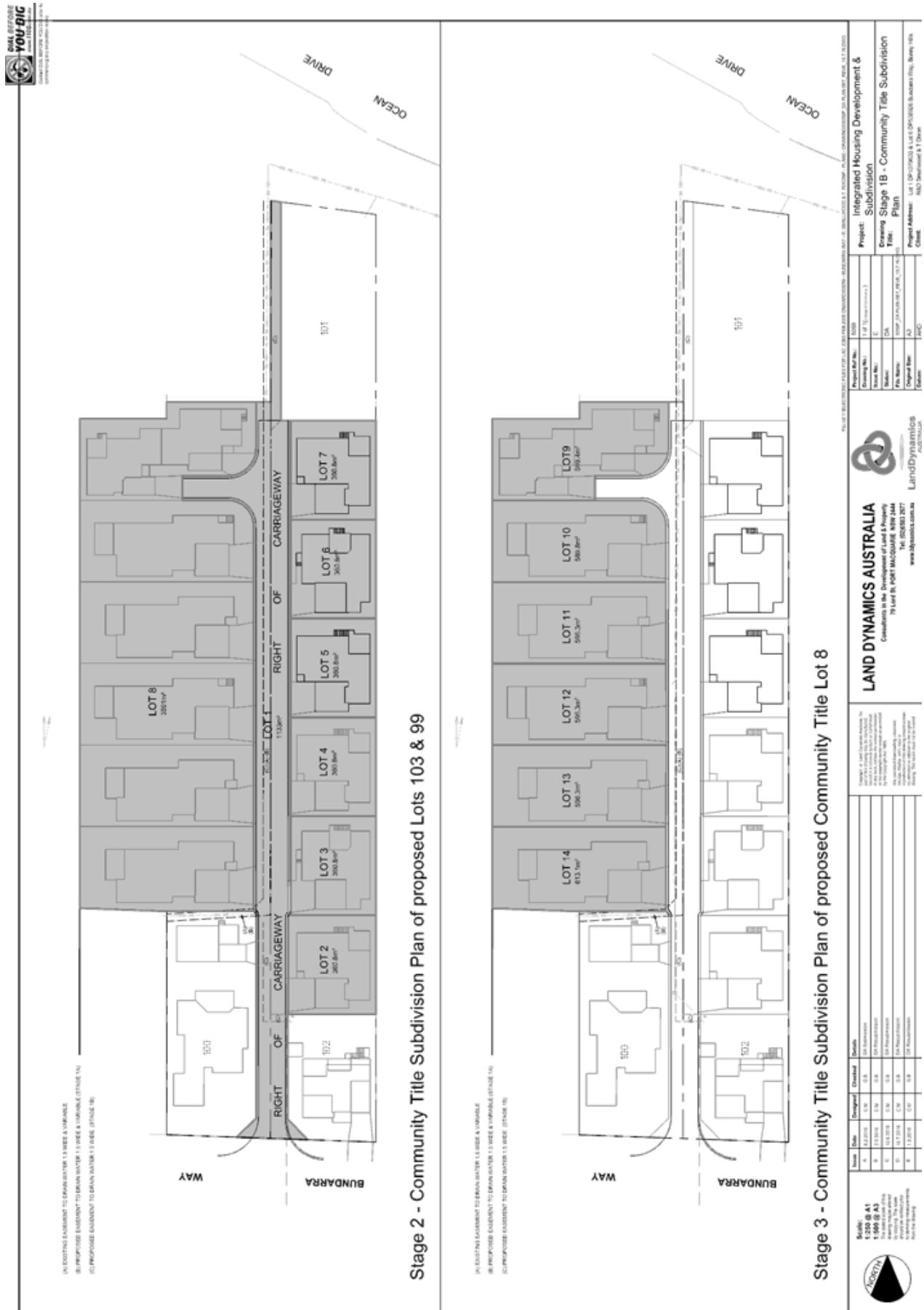














*All communications to be addressed to:*

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: [csc@rfs.nsw.gov.au](mailto:csc@rfs.nsw.gov.au)

Facsimile: 8741 5433



The General Manager  
Port Macquarie-Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444

Your Ref: 2016/131  
Our Ref: D16/0752  
DA16031001061 BS

**ATTENTION:** Patrick Galbraith-Robertson

21 July 2016

Dear Mr Galbraith-Robertson

**Integrated Development for 6//538926, 2//825021, 1//1079630 - 1001 Ocean Drive  
Bonny Hills, Lot 2 Bundarra Way Bonny Hills & 8 Bundarra Way Bonny Hills**

I refer to your letter dated 4 March 2016 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by Land Dynamics Australia, titled: 'Fire Provisions Plan', numbered as drawing 2 of 2, further identified as Issue D and dated 11 July 2016.

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the issue of subdivision certificates, and then in perpetuity, the following created lots shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
  - Lots that will, upon completion of the staged development, be known as Lots 101, 102, 104, 2, 6, 7, 9, 10 & 14.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

4. The proposed internal road, providing access to fourteen dwellings, shall comply with the requirements of section 4.1.3 Access (1) Public Roads of 'Planning for Bush Fire Protection 2006', except for the following:
  - The road width may be reduced to 5.5m for the first 45m (approximate distance) from the Southern entry point from Bundarra Way. The remainder of the road is proposed to be 6.5m in width, as per the referenced plan in Condition 1 above.
  - The turning area (located at the Northern end of the dead ended road) shall be in accordance with the referenced plan in Condition 1 above.

The internal access road shall comply with the following additional requirements of section 4.1.3 Access (1) - Public roads of 'Planning for Bush Fire Protection 2006'.

- Public roads greater than 6.5 metres wide locate hydrants outside of parking reserves to ensure accessibility to reticulated water supply for fire suppression.
- Public roads between 6.5 metres and 8 metres wide are 'No Parking' on one side with services (hydrants) located on this side to ensure accessibility to reticulated water for fire suppression.
- Public roads 5.5 to 6.5 metres wide (kerb to kerb) provide parking within parking bays located outside the kerb to kerb space and locate services outside of the parking bays to ensure accessibility to reticulated water for fire suppression.
- Dead end roads shall incorporate a 12 metre outer radius turning circle and be clearly signposted as a dead end.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

5. The existing building on proposed Lot 104 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.
6. Dwellings, required to be constructed to BAL-12.5 of AS 3959-2009 (and Addendum Appendix 3 of PBP 2006), shall have roofing that is either: gutterless or have guttering and valleys screened to prevent the build up of flammable material. Any materials used shall be non-combustible.
7. New construction of dwellings and secondary dwellings, located upon proposed lots 101, 102, 104, 2, 6, 7, 9, 10 & 14 shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

**Landscaping**

8. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Bradford Sellings on 1300 NSW RFS.

Yours sincerely



Alan Bawden

**Team Leader - Development Assessment and Planning**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2016/131****DATE: 15/08/2016****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.

<b>Plan / Supporting Document</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
Stage 1 Torrens title subdivision plan	Drawing 1	Land Dynamics Australia	1 August 2016
Stage 1B - Community title subdivision plan	Drawing 1	Land Dynamics Australia	1 August 2016
Services plan	Drawing 1	Land Dynamics Australia	1 August 2016
Koala tree replacement plan	Drawing 1	Land Dynamics Australia	1 August 2016
Preliminary Access Grading	Drawing 1	Land Dynamics Australia	24 November 2015
Overall Site and building location plan	Sheet 1	Robert Smallwood Building Plans	1 March 2016
Proposed 2 x units	Sheets 1 to 4	Robert Smallwood Building Plans	27 April 2016
Fencing detail plans	Sheet 1	Robert Smallwood Building Plans	
Statement of Environmental Effects		Land Dynamics Australia	February 2016
Ecological Assessment	EA-2015-2104	FloraFauna Consulting	October 2015
BASIX certificates	694695S, 694849S, 694892S, 694921S,	Robert Smallwood Building Plans	25 February 2016

	694937S, 695059S, 705162M, 701330S, 701453S, 701708S, 701759S, 701787S, 694381S, 691234S		
Proposed secondary dwelling plans	Sheets 1 to 3	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 102	Sheets 1 to 5	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 2	Sheets 1 to 3	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 3	Sheets 1 to 3	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 4	Sheets 1 to 3	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 5	Sheets 1 to 3	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 6	Sheets 1 to 3	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 7	Sheets 1 to 3	Robert Smallwood Building Plans	February 2016
Proposed residence Lot 10	Sheets 1 to 4	Robert Smallwood Building Plans	January 2016
Proposed residence Lot 11	Sheets 1 to 4	Robert Smallwood Building Plans	January 2016
Proposed residence Lot 12	Sheets 1 to 4	Robert Smallwood Building Plans	January 2016
Proposed residence Lot 13	Sheets 1 to 4	Robert Smallwood Building Plans	January 2016
Proposed residence Lot 14	Sheets 1 to 4	Robert Smallwood Building Plans	January 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) (A004) An application for a Construction Certificate will be required to be lodged with Council or an accredited certifier prior to undertaking subdivision works and a Subdivision Certificate is required to be lodged with Council on completion of works.
- (4) (A008) Any necessary alterations to, or relocations of, public utility services or roads and drainage shall be carried out at no cost to council and in accordance with the requirements of the relevant authorities including the provision of easements over existing and proposed public infrastructure.
- (5) (A009) The development site is to be managed for the entirety of work in the following manner:
1. 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;
  2. Appropriate dust control measures;
  3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
  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.
- (6) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (7) (A013) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
- **NSW Rural Fire Service** - The General Terms of Approval, Reference D16/0752 DA16031001061 BS and dated 21 July 2016, are attached and form part of this consent.
- (8) (A029) The provision, at no cost to Council, of concrete foot paving for the full street frontages of the development. For Bundarra Way and Ocean Drive a minimum 1.2 metre wide footpath is required with design details in accordance with AUSPEC and Council Standard drawing ASD 100 series. The design plans must be approved by Council pursuant to Section 138 of the Roads Act.
- (9) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (10) (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.

- (11) (A049) The existing footpath/verge area in Bundarra Way is to be raised to contain stormwater in the street. Design plans must be approved by Port Macquarie-Hastings Council pursuant to Section 138 of the Roads Act 1993.
- (12) All Street trees as per the Koala Tree Replacement Plan, are to be 75-100L Nat Spec plantings, and protected by way of a 1.8m high steel mesh fence enclosure and must remain in place until the adjacent residential development is complete and any defects liability period has expired. Any damage and vandalism to street trees are to be replaced at the cost of the developer up until the removal of the fence enclosures.
- (13) (A007) The development must only proceed in accordance with the stages shown on the approved plans.

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) (B006) An application 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 submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but are not limited to:

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

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

- (3) (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. New roads within the subdivision.
2. Earthworks, including filling of the land for flood protection.
3. Public parking areas including;
  - a. Driveways and access aisles;
  - b. Parking bays;
  - c. turning areas in accordance with AS 2890 and the RFS Bush Fire Safety Authority attached to this consent.
4. Sewerage reticulation.
5. Water supply plans which 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.
6. Retaining walls.
7. Stormwater systems.
8. Erosion and sedimentation controls.
9. Location of all existing and proposed utility services including:
  - a. Conduits for electricity supply and communication services (including fibre optic cable).
  - b. Water supply
  - c. Sewerage
  - d. Stormwater
10. Landscaping.
11. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, ASD 202 (heavy duty driveway crossing) and ASD 207 (long section), Port Macquarie-Hastings Council current version.
12. Roadworks along the full frontage(s) which shall include shoulder pavement widening for on-road cycleway on Ocean Drive, stormwater drainage pits and pipes and any necessary kerb construction or reconstruction in accordance with the current Town Centre Master Plan, or as otherwise accepted by Council's Director of Infrastructure.

13. Provision of a minimum 1.2m wide concrete footpath across each road frontage of the property.
14. Detailed intersection layout at the junction of Bundarra Way and internal subdivision road in accordance with the current version of the AUSTROADS guidelines for Intersection design, giving particular attention to sight distance.
- (4) (B010) Payment to Council, prior to the issue of the Subdivision or Construction Certificate (whichever comes first) of the Section select 94 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:
- Hastings S94 Administration Building Contributions Plan
  - Hastings Administration Levy Contributions Plan
  - Community Cultural and Emergency Services Contributions Plan 2005
  - Hastings S94 Major Roads Contributions Plan
  - Hastings S94 Open Space Contributions Plan
- 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.
- (5) (B007) Road names proposed for the subdivision shall be submitted to Council prior to release of the Construction Certificate. A suitable name for any new road(s) shall be in accordance with Council's adopted policy.
- (6) (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 or Subdivision Certificate (whichever comes first), 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
- (7) (B016) Provision to each lot of a separate sewer line to Council's main. All work will need to comply with the requirements of Council's adopted AUSPEC Design and Construction Guidelines and Policies. Any abandoned sewer junctions are to be capped off at Council's sewer main.
- (8) (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 the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.

- (9) (B037) The finished floor level of the building shall be at least 1050mm above the soffit of Council's sewer main. Details indicating compliance with this are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (10) (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.
- (11) (B053) The design of the access ways is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6). Certification that the design meets or exceeds AS 2890 by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
- (12) (B054) Where a vehicular access is provided, details (in the form of a longitudinal section) must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate demonstrating how the access will comply with Council's adopted AUSPEC Design and Construction Guidelines.
- (13) (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.
- (14) (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 legal point of discharge for the proposed development is defined as a direct piped connection to Council's stormwater network within Ocean Drive.
- In this regard, Council's piped drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 2.4m lintel) must be installed, to allow direct piped connection from the development site into the public drainage system.
- The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.
- b) All allotments must be provided with a direct point of connection to the public piped drainage system. Kerb outlet adapters are not permitted.
- c) The design requires the provision of inter-allotment drainage in accordance with AUSPEC D5.
- d) 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, unless it can be demonstrated to the satisfaction of Council's stormwater engineer (e.g. by hydraulic calculations) that such detention capacity will have no benefit to the receiving catchment given the site's proximity to the ocean. Note that pre development discharge shall be calculated assuming that the site is a 'greenfield' development site as per AUSPEC requirements.

- e) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
  - f) Where works are staged, a plan is to be provided which demonstrates which treatment measure/s is/are to be constructed with which civil works stage. Separate plans are required for any temporary treatment (where applicable e.g. for building phase when a staged construction methodology is adopted) and ultimate design.
  - g) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
  - h) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
  - i) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
- (15) (B086) Prior to issue of a Construction Certificate evidence provided to the satisfaction of the Certifying Authority of an application being made to the electricity and telecommunications service providers. Services are required to be underground.
- (16) Council records indicate that Lot 1 (proposed lot 100) has an existing 20mm metered water service from the 100 AC water main on the opposite side of Bundarra Way. A granny flat proposed for this lot may operate off the existing 20mm water service. A secondary dwelling or if the granny flat required a second water service will require headworks contributions. Proposed Torrens Title lots 101 and 102 will require individual water services. Each proposed lot within the Community Title must have an individual metered water service with the meter located at the Bundarra Way boundary unless a master meter located at the boundary with internal meters for each lot located on the lot in an easily accessible place. The proposed servicing for the whole of the development site is to be included on the engineering plans. The engineering plans submitted with the application are not acceptable for Water Supply Section purposes.
- Final water service sizings will need to be determined by a hydraulic consultant to suit the domestic and fire service components of the development.
- (18) Council records indicate that a 150mm sewer main traverses the development site. Each proposed lot within the Community Title (and the Torrens Titled Lot 102) must have the provision of an individual connection to sewer. A sewer extension is required at no cost to Council. The Sewer Reticulation Plan is acceptable in concept. A detailed engineering plan is to be provided.
- (19) Prior to issuing a construction certificate the applicant is to lodge a bond to cover the cost of the installation and maintenance of the nest boxes on Council-owned land.
- (20) (B030) Prior to issue of Construction Certificate, a pavement design report for the shoulder widening shall be prepared by a suitably qualified geotechnical or civil engineer and submitted to Council, including soil test results and in-situ CBR values (NATA certified). Council's minimum pavement compaction testing criteria are as follows:
- a. 98% (modified) base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1
  - b. 95% (modified) sub-base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1

- c. 100% (standard) subgrade/select layers - Maximum Standard Dry Density test in accordance with AS1289.5.1.1 (or for in-situ subgrade soils only, wet density testing may be used)
- (21) All Koala offset tree plantings proposed within the road reserve shall be approved first by Council as the Road Authority under a Roads Act (s138) application. Detailed plans shall be provided and are to meet the following requirements to the satisfaction of or as otherwise accepted by Council:
- a) Plantings shall not clash with the future potential footprint of road widening and Ocean Drive roundabout lead-in works,
  - b) Existing and proposed trees including their Tree Protection Zones (TPZ) shall be shown on the plan calculated in accordance with AS 4970,
  - c) Minimum clearances shall be shown to all existing and proposed infrastructure, and shall be greater than the likely TPZs as determined in accordance with relevant standards including AS 4970,
  - d) Trees shall be adequately spaced to ensure they thrive at maturity (minimum 10m spacings),
  - e) No new trees shall be proposed in front of neighbouring lots without the written consent of those owners.
  - f) Relocation of any utilities where needed to achieve the above requirements (at no cost to Council).

If the required number of offset plantings cannot be achieved in conjunction with these requirements, the plantings shall be provided on alternative land nearby, but only to the satisfaction of Council and provided written consent of the owner of the land is also obtained.

#### **C – PRIOR TO ANY WORK COMMENCING ON SITE**

- (1) (C013) Where a sewer manhole and/or Vertical Inspection Shaft (VIS) exists within a property, access to the manhole/VIS shall be made available at all times. Before during and after construction, the sewer manhole/VIS must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.

#### **D – DURING WORK**

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
- a. at completion of installation of erosion control measures
  - b. at completion of installation of traffic management works
  - c. at the commencement of earthworks;
  - d. when the sub-grade is exposed and prior to placing of pavement materials;
  - e. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
  - f. at the completion of each pavement (sub base/base) layer;
  - g. before pouring of kerb and gutter;

- h. prior to the pouring of concrete for sewerage works and/or works on public property;
- i. on completion of road gravelling or pavement;
- j. during construction of sewer infrastructure;
- k. prior to sealing and laying of pavement surface course;
- l. at each stage of street tree planting (e.g. pit preparation and tree planting);
- m. prior to final acceptance as a public asset or works on public land.

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

- (2) (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.
- (3) (D003) The site is in an area known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (4) (D025) The sewer junction shall be capped off with an approved fitting in conjunction with demolition works and Council notified to carry out an inspection prior to backfilling of this work.
- (5) Nest boxes installed and maintained by a qualified ecologist within the Bonny Hills habitat corridor as per the Ecological Assessment EA2015-2014 (Flora and Fauna Consulting October 2015).
- (6) A qualified Ecologist is to be present during the felling of any trees. Hollow bearing trees are to be removed in accordance with the Hollow Bearing Tree Removal Protocol as per the Ecological Assessment EA2015-2014 (Flora and Fauna Consulting October 2015).
- (7) (D051) Prior to commencement of any pavement works a material quality report from the proposed supplier shall be submitted to Council. The pavement materials shall meet Council's current specifications at the time of construction.
- (8) (D052) Prior to laying of Asphaltic Concrete (AC) or wearing surface course, submission to Council of pavement and soil test results prepared by a NATA registered person for all road pavement construction, including:
  - a. CBR test results, and
  - b. Subgrade / select fill, sub-base and base pavement compaction reports in accordance with AS1289.5.1.1 & AS1289.5.2.1 as applicable.

#### **E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE / SUBDIVISION 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) (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.
- (3) (E034) Prior to occupation or the issuing of the Subdivision Certificate for the relevant stage, provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority



certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.

- (4) (E038) Interallotment drainage shall be piped and centrally located within an inter-allotment drainage easement, installed in accordance with Council's current AUSPEC standards (minimum 225mm pipe diameter within a minimum 1.5m easement). Details shall be provided as part of a Construction Certificate application for subdivision works with dedication of the easement as part of any Subdivision Certificate associated with interallotment drainage.
- (5) (E039) An appropriately qualified and practising consultant is required to certify the following prior to each staged Subdivision Certificate and/or prior to the release of bond securities:
  - a. All public infrastructure and subdivision works comply with the requirements of AUS-SPEC.
  - b. all conditions of consent/ construction certificate approval have been complied with.
  - c. all drainage lines have been located within the respective easements, and
  - d. any other drainage structures are located in accordance with the Construction Certificate.
  - e. all stormwater has been directed to a Council approved drainage system
  - f. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (6) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (7) (E061) Landscaped areas being completed prior to occupation or issue of the Certificate.
- (8) (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. The application for the certificate is to include an acceptable Work-As-Executed plan for water and sewer mains and services from a Professional Engineer or Registered Surveyor.
- (9) (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 and/or dwellings/units (including street lighting and fibre optic cabling where required).
- (11) (E195) The subdivision certificate shall not be issued until such time that the dwellings associated with this development are substantially commenced (as determined by Council) or where a strata management statement, or restriction as to user, prohibits any dwelling on each lot other than the dwelling approved as part of this consent.
- (12) (E036) Certification by a suitably qualified consultant is to be submitted to Council that the construction of the internal accesses is in accordance with Council's Development Control Plan 2013 and Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6) prior to occupation or issue of the Subdivision Certificate for the stage which creates the Community Title road.
- (13) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.



- (14) (E080) The applicant is required to make provision in the application for a Subdivision Certificate:
  - a. Registration of a reciprocal right of carriageway and easement for services and maintenance over those parts of the lots, and
  - b. Registration of a positive covenant requiring all garbage collection for the internal lots to be by arrangement with a private contractor.
- (15) (E081) The applicant will be required to submit prior to the issue of the Subdivision Certificate, a geotechnical report confirming construction of all earthworks in accordance with AUSPEC D6 and/or indicating the suitability of all allotments for future home/building sites; such report to provide details of:
  - a. The surface levels of the allotments created and any other area filled or reshaped as part of the development.
  - b. Compaction testing carried out to Level 1 of Appendix B AS 3798.
  - c. Standard penetration tests and calculated N values.
  - d. Bore logs
  - e. Site classification of all allotments in accordance with AS2870.2011 - *Residential Slabs and Footings*.
- (16) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (17) (E196) Prior to occupation or the issue of an Occupation Certificate for any of the community title dwellings/lots, evidence shall be provided to the Principal Certifying Authority that satisfactory arrangements are in place for collection of waste from the premises by a private waste contractor.

#### **F – OCCUPATION OF THE SITE**

- (1) (F004) The dwellings are approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F006) The basin of the outflow control pit and the debris screen must be cleaned of debris and sediment on a regular basis by the owner.

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

Attention: Patrick Galbraith-Robertson

Subject: Notification of Development Proposal No 2016/131

Dear Patrick,

Thank you for the notification of the application for Integrated Housing, Torrens and Community Title Subdivision on the subject properties.

As the owner of No 6 Bundarra Way I am concerned regarding the potential impacts of the proposed development. These concerns are based primarily from an observation that the proposal is an over development of the site. The proposed development in its current form will have significant impacts on the amenity of the locality in general and will not provide quality living environments for its future residents.

The objections to the development, and those which demonstrate it is an overdevelopment of the site, relate to;

1. **Clearing of vegetation and lack of landscaping.** The complete clearing of the vegetation on the subject properties is in no way compensated for by the minimal replacement planting proposed or the lack of suitable area on the community title lots to provide and landscaping within their sites.

The ecologists report contained in the SEE concludes that the existing vegetation does not have sufficient value to warrant its preservation.

It would be interesting to see if an independent ecologist would draw the same conclusions as those in the Report prepared in support of the application, particularly with regards to; the value of the existing vegetation on the properties and its role in providing connectivity from the larger tracts of vegetation to the north and south of the development site.

In addition to this, the vegetation contributes significantly to the landscape and scenic values of the locality and to the amenity of the existing residences. This issue has not been given consideration in the application supporting documentation.

It would be possible to design this development in such a way as to preserve some of the vegetation and/or to incorporate some more substantial landscaping into its design in order to provide a minimum standard of amenity for the existing and future residents of the development and the surrounding area.

2. **Lot size and configuration.** The lot areas and sizes proposed comply with the majority of LEP and DCP controls and that smaller than 450m<sup>2</sup> lots are permitted for community title, however the placement of these within the terrain of the site does not provide for good outcomes across the development.

The DCP compliance table contained in the SEE does not include discussion regarding Sub Chapters 3.6.3.3 and 3.6.3.4 of the PMH DCP.

It is questioned whether the development would meet the objectives of 3.6.3.3; in that the design does not ensure subdivision design and road layout responds to the topography of the land and the site as it proposes a 180m long gun barrel straight driveway down a steep slope, as well as undersize lots that rely on significant excavation and high subfloor heights to make them viable. In addition to this it is questionable whether adequate space has been provided for waste collection, particularly on the smaller lots where there is a reduced building setback to the driveway and the front boundary of the lots directly adjoin the driveway. This consideration is relevant even if a private collection is proposed.

Sub chapter 3.6.3.4, and in particular Table 3.6.1 contains provisions for appropriate minimum lot sizes and dimensions based on slope. The SEE contains a sweeping statement that the land has an average slope of 10%, however a simple calculation of elevation over distance indicated an slope of over 11% to the east of the development site and 10.4% to the western side. As such it would be more appropriate for the development to comply with the minimum 450m<sup>2</sup> - 600m<sup>2</sup> minimum lot sizes rather than simply rely on Clause 4.1A to propose smaller lots without justifying how they meet the objectives and controls of other planning requirements which relate to lot size.

The repetitive and uniform lot sizes, shapes and setbacks proposed on either side of the access driveway will result in an uninteresting and undesirable outcome for the development. Incorporating a variety of lot sizes and configurations as well as some curvature within the access driveway would improve the development outcomes significantly.

3. ***Vehicular and Pedestrian Access*** – It is acknowledged that as a Community Title Subdivision, the development is able to be serviced by a driveway rather than a road, and that the proposed driveway meets the Australian Standard as a two way access. However the suitability and safety of a straight 180m long driveway down a significant slope where there are no footpaths and which pedestrians will be required to share is questionable and not a good or safe outcome for the residents or other members of the locality who may use it to gain pedestrian access from Bundarra Way to Ocean Drive.

The common turning area into Lot 9 will impact significantly on the amenity of that lot and is a substandard outcome for the development.

In addition to this a straight long driveway such as that proposed is unsightly.

If additional consideration went into this aspect of design of the development improved outcomes in safety and amenity could be achieved.

4. ***Building Setbacks lots 2-7***. The proposed setbacks for the dwellings to the driveway on lots 2 – 7 are only 1.8m. The SEE justifies this as the dwellings will not face a road. This justification is on a numerical basis only. It does not address the objective of having front setbacks

support an attractive streetscape which is a similar scenario to that of the dwellings facing the common driveway. Likewise the boundary opposite the entry to the dwellings should be considered to be a rear setback. It is not acceptable to propose that all four boundaries for these lots are "side" boundaries.

It is considered that all of the issues raised above contribute to the conclusion that the proposal is an overdevelopment of the site and will not provide acceptable outcomes for the amenity of the future occupants or the existing established development in the locality.

It is requested that the applicant be requested to address the issues raised and reconsider the proposal based on these and any other issues identified by Council.

Again, thank you for your consideration of this submission.

Regards,

[REDACTED]

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Item: 06

Subject: DA2016 - 338 - MULTI DWELLING HOUSING AND STRATA TITLE  
SUBDIVISION - LOT 2, DP 22432, 4 HILLTOP CRESCENT, PORT  
MACQUARIE

Report Author: Patrick Galbraith-Robertson

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Applicant: GR Bell CARE King and Campbell Pty Ltd  
Owner: GR & JM Bell  
Estimated Cost: \$1M  
Parcel no: 9302

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#### Alignment with Delivery Program

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

#### RECOMMENDATION

That DA 2016 - 338 for multi dwelling housing and strata subdivision at Lot 2, DP 22432, No. 4 Hilltop Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

#### Executive Summary

This report considers a development application for multi dwelling housing and strata title development at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

The proposal has been amended during the assessment of the application. Changes made include amendments to garage design to provide 1 of the 3 bedroom dwellings with a double garage (2 spaces) and removal of first floor balcony on rear of Unit 4.

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 771.4m<sup>2</sup>.

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:





This is an aerial map of a residential neighborhood. The map shows several streets: Blueberry Ln at the top, Hilltop Ln on the right, and Hastings River Dr at the bottom. A central street is labeled 'MORT S'. A specific lot is highlighted with a red rectangle and labeled 'R3'. This lot is bounded by DP 22432 to the north, DP 22431 to the east, and DP 21559 to the south. Other visible parcel identifiers include DP 412887, DP 22432, DP 380035, DP 525902, DP 21559, and DP 1178249. Lot numbers are scattered throughout the map, such as 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100. A north arrow is located in the bottom right corner.



PORT MACQUARIE  
HASTINGS

**2. DESCRIPTION OF DEVELOPMENT**

Key aspects of the proposal (as amended) include the following:

- Construction of 4x2 storey attached dwellings with 5 parking spaces. 2 of the dwellings have 2 bedrooms and 2 have 3 bedrooms.
- 1 external visitor parking space at front
- Stormwater infrastructure including on-site detention
- Strata subdivision

Refer to attachments at the end of this report.

**Application Chronology**

- 6 May 2016 - DA lodged.
- 16 to 30 May 2016 - Neighbour notification of proposal
- 15 June 2016 - Additional information requested.
- 29 July 2016 - Amended plans received.

**3. STATUTORY ASSESSMENT****Section 79C(1) Matters for Consideration**

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

**The provisions (where applicable) of:**

**(a)(i) Any environmental planning instrument****State Environmental Planning Policy No. 44 - Koala Habitat Protection**

With reference to clauses 6 and 7, the subject land is less than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP do not require consideration.

**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 Hastings River approximately 500m 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 noting clause 4 of the SEPP.

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;

The site is cleared and located within an established residential locality.

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

A BASIX certificate has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

#### **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 medium density residential. In accordance with clause 2.3(1) and the R3 zone landuse table, the proposed development for a multi dwelling housing development 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 having regard to the following:

- the proposal is a permissible landuse;
  - the proposal will provide for an alternate form of appropriate residential housing.
- 3.
- Clause 4.1A – Exceptions to min lot size permitted for this proposal as a strata development of multi dwelling units.



- Clause 4.3, the maximum overall height of the building above ground level (existing) is approximately 8.1m which complies with the standard height limit of 11.5 m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.62:1 which complies with the maximum 1:1 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 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, infrastructure, stormwater drainage and suitable road access to service the development.

**(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:**

<b><i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</i></b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.1	Ancillary development: • Not located in front setback	Water tanks located appropriately	yes
3.2.2.2	Articulation zone: • 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	Unit 1 front patio min.3.0 permitted as articulation zone with <25% site frontage	Yes
	Front setback (Residential not R5 zone): • Min. 4.5m local road	Min. 4.5m to primary front setback	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Unit1 garage closest to street set perpendicular to street and 5.7m setback. Setback >1m than primary front of building	Yes
	6m max. width of garage door/s and 50% max. width of building	Garage doors perpendicular to the street	Yes

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

	Requirements	Proposed	Complies
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	5 wide driveways crossing and <1/3 site frontage	Yes
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	Min. 2.0m to the rear posts of the covered patio of Unit 4 and 4m to the main part of Unit 4 building	No*/Yes
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>	Ground floor North side = Min. 0.9m First floor North side = Min. 2.4m - No shadowing of northern property Ground floor South side = Min. 6.0m First floor South side = Min. 5.4m Length of main dwelling has no walls greater than 12m unarticulated	Yes  Yes  Yes Yes  Yes
3.2.2.6	35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade	Greater than 35m <sup>2</sup> including 4x4m in one area	Yes
3.2.2.7	Front fences: <ul style="list-style-type: none"> <li>• If solid 1.2m max height and front setback 1.0m with landscaping</li> <li>• 3x3m min. splay for corner sites</li> <li>• Fences &gt;1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings</li> <li>• 0.9x0.9m splays adjoining driveway entrances</li> <li>• Front fences and walls to have complimentary materials to context</li> </ul>	1.5m high front fence with compliant recesses and transparency	Yes
3.2.2.10	Privacy: <ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or</li> </ul>	No direct views between living areas of existing adjacent dwellings obscured/ screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of	Yes

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

	Requirements	Proposed	Complies
	privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m	adjacent dwellings. No privacy screening considered necessary.	

**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
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Majority of proposal will include < 1m changes in ground level proposed with the exception of the rear western sections of the site potentially to 0.1- 0.2m variation for a limited section of the site.	Yes/No - Minor variation in extent of fill very limited section of site with objectives of DCP satisfied.
2.3.3.2	1m max. height retaining walls along road frontage	n/a	
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.2	New accesses not permitted from arterial or distributor roads	None proposed	Yes
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing minimal in practical width including maximising potential street parking	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per 2 bed dwelling	2 x 3 bedroom and 2 x 2 bedroom dwellings proposed.	Yes

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

	Requirements	Proposed	Complies
	1.5 spaces per 4 bedroom dwelling 1 space per 4 dwellings	5 spaces in garages. 1 visitor parking space	
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	Landscaping plan satisfactory	Yes
2.5.3.14	Sealed driveway surfaces unless justified	Concrete	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Driveway grades capable of complying with Council standard driveway crossover requirements and grades	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Stormwater detention proposed.	Yes
	Vehicle washing facilities – grassed area etc available.	No specific area available	No - only encouraged not a reason for refusal

The proposal seeks to vary the Development Provision relating to the recommended 4m rear setback. The rear Unit 4 proposed has a minimum setback of 2.0m to the rear posts of the covered patio within the recommended 4m setback.

The relevant objectives are:

- *To allow natural light and ventilation between dwellings/buildings and to private open space areas.*
- *To provide useable yard areas and open space.*

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

- The subject encroachment relates to an open single storey component of Unit 4.
- The main part of the building is set at 4m setback from the rear boundary.
- There are no adverse impacts on light or ventilation to warrant recommending refusal.

Based on the above assessment, the variations proposed to the provisions of the DCP are 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. (See Clause 5.5 of LEP 2011 & Assessment Officers Assessment Table under section (b) for assessment against Coastal Policy Objectives)

**(a)(v) Any Coastal Zone Management Plan**

- 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 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 sufficiently compatible with other residential development in the locality and adequately addresses planning controls for the area.

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

There are no significant 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.

**Roads**

The site has road frontage to Hilltop Crescent, a Council owned road with 'Access Place' status within Council's AUS-SPEC hierarchy. The road reserve is 15.2 metres wide with an approximately 8m wide formation (kerb to kerb) and a longitudinal grade in the order of 8%. The site is 60m north of the intersection with Hastings River Drive. The kerb and gutter is of the layback (SE) type and there are no existing concrete footpaths within the street. With regard to the proposed intensification on the site (construction of 4 dwellings) Council's present policy is for a 1.2m wide concrete footpath to be provided along the frontage of the development site.

**Traffic and Transport**

The proposal for 4 strata titled units is likely to generate 4-7 additional trips per day per dwelling on the public road network, or up to 28 trips per day in total, with reference to the RMS *Guide to Traffic Generating Developments*. The additional traffic is unlikely to have any adverse impacts on the existing road network.

**Site Frontage & Access**

Vehicle access to the site is proposed through a shared driveway to Hilltop Crescent. Access shall comply with Council AUSPEC and Australian Standards, and conditions have been imposed to reflect these requirements.

**Parking and Manoeuvring**

A total of 5 parking spaces have been provided on-site within garages with 1 additional parking space provided onsite for visitors. Parking and driveway widths on



site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.

Due to the type of development, car park circulation is required to enable vehicles to enter and exit the site in a forward manner. The site plans show adequate area is available.

**Water Supply Connection**

Council records indicate there is possibly an existing 32mm sealed water service to the lot from the existing 100mm PVC water main on the opposite side of Hilltop Crescent. Each separate dwelling will require the provision of a metered water service with the meter located at the Hilltop Crescent road frontage unless satisfactory alternative arrangements are made with the Water and Sewer Planning Manager (provision of a remote reading console or easily accessible internal meters). Details are to be shown on the hydraulic plans.

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 connected to Sewer via a sideline junction from Sewer main that runs approximately 1.5m outside the western boundary. Since the discharge from the proposed development will exceed 2ET, the development will need to discharge to an existing or proposed manhole. Any abandoned sewer junctions are to be capped at the main. Detailed engineering plans are to be provided.

A manhole will also be required at the high end of the line as it will be more than 40m long.

If the main is subject to future extension an end of line terminal shaft (poo pit) will be required.

As the dwellings are to be Strata Titled, a private sewer system can be adopted, connected from a single manhole junction or each dwelling can be connected directly to Council main with individual connections.

As the development will exceed 2ET discharge, sewer connection is to be made from a manhole.

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

**Stormwater**

The site naturally grades towards the west, being the rear of the site, and is currently not serviced by any existing inter-allotment drainage system according to Council's mapping system.

The legal point of discharge for the proposed development is defined as a direct connection to Council's stormwater pit within Hastings River Drive. The applicant has provided a design which shows the site can be drained by extending Council's pipe network along Hilltop Crescent to the site frontage.

A detailed site stormwater management plan will be required to be submitted for assessment with the S.68 application and prior to the issue of a CC.

In accordance with Councils AUSPEC requirements, onsite detention capacity must also be incorporated into the stormwater drainage plan.

**Other Utilities**

Telecommunication and electricity services are available to the site.

Evidence of satisfactory arrangements with the relevant utility authorities for provision to each proposed lot will be required prior to Construction Certificate approval.

**Heritage**

Following a site inspection (and 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**

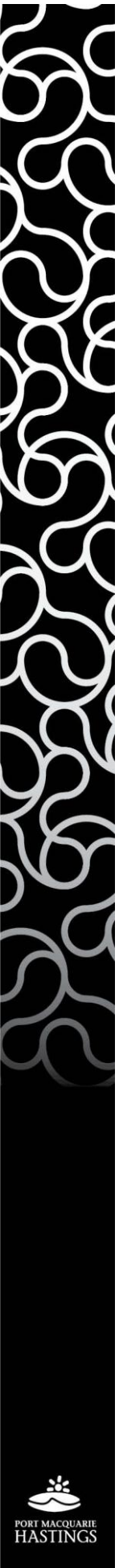
Construction of the proposed development will not require any removal/clearing of any significant vegetation and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna.

**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. 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. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.

**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**

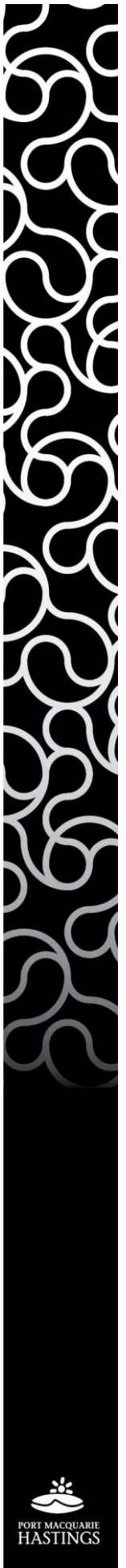
No potential adverse impacts identified to neighbouring properties with the construction of the proposal.

**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.

**(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 (1) written submission has been received following neighbour consultation of the application.

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

<b>Submission Issue/Summary</b>	<b>Planning Comment/Response</b>
Not enough visitors parking with only one spot for four dwellings.	The parking complies with Council Parking Policy. 5 parking spaces within garages plus 1 external visitor space are proposed.
All dwellings only have single garages with inadequate off street parking which will overflow residents and visitors cars on to the street.	
Other residents in street park cars on the development site.	This is unable to be addressed with the application.
People park cars in street when going to special events at Westport Park.	
Consideration to be given to impact of adding more cars to already busy location.	The street has capacity to handle the likely additional traffic generation from the 4 dwellings.

**(e) The Public Interest:**

The proposed development will be in the wider public interest with provision of appropriate additional housing.

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 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

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

**5. CONCLUSION**

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

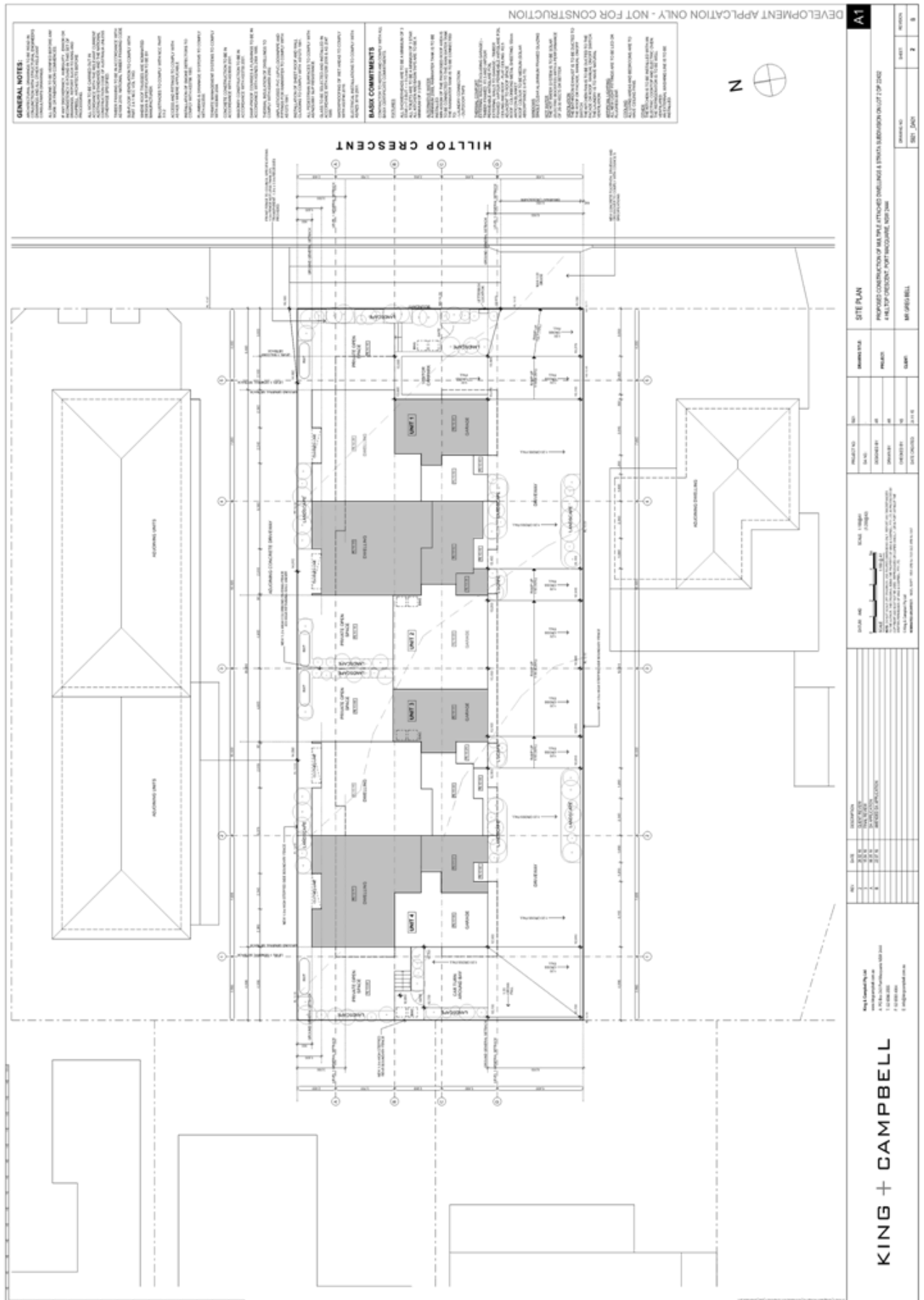
Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

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

**Attachments**

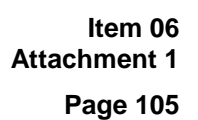
- 1 [View](#). DA2016 - 338.1 Amended Plan
- 2 [View](#). DA2016 - 338.1 App D Servicing Strategy
- 3 [View](#). DA2016 - 338.1 App F Proposed Strata Plan
- 4 [View](#). DA2016 - 338.1 App E Proposed Stormwater Design
- 5 [View](#). DA2016 - 338.1 Recommended Conditions
- 6 [View](#). DA2016 - 338.1 Submission Margaret Holle

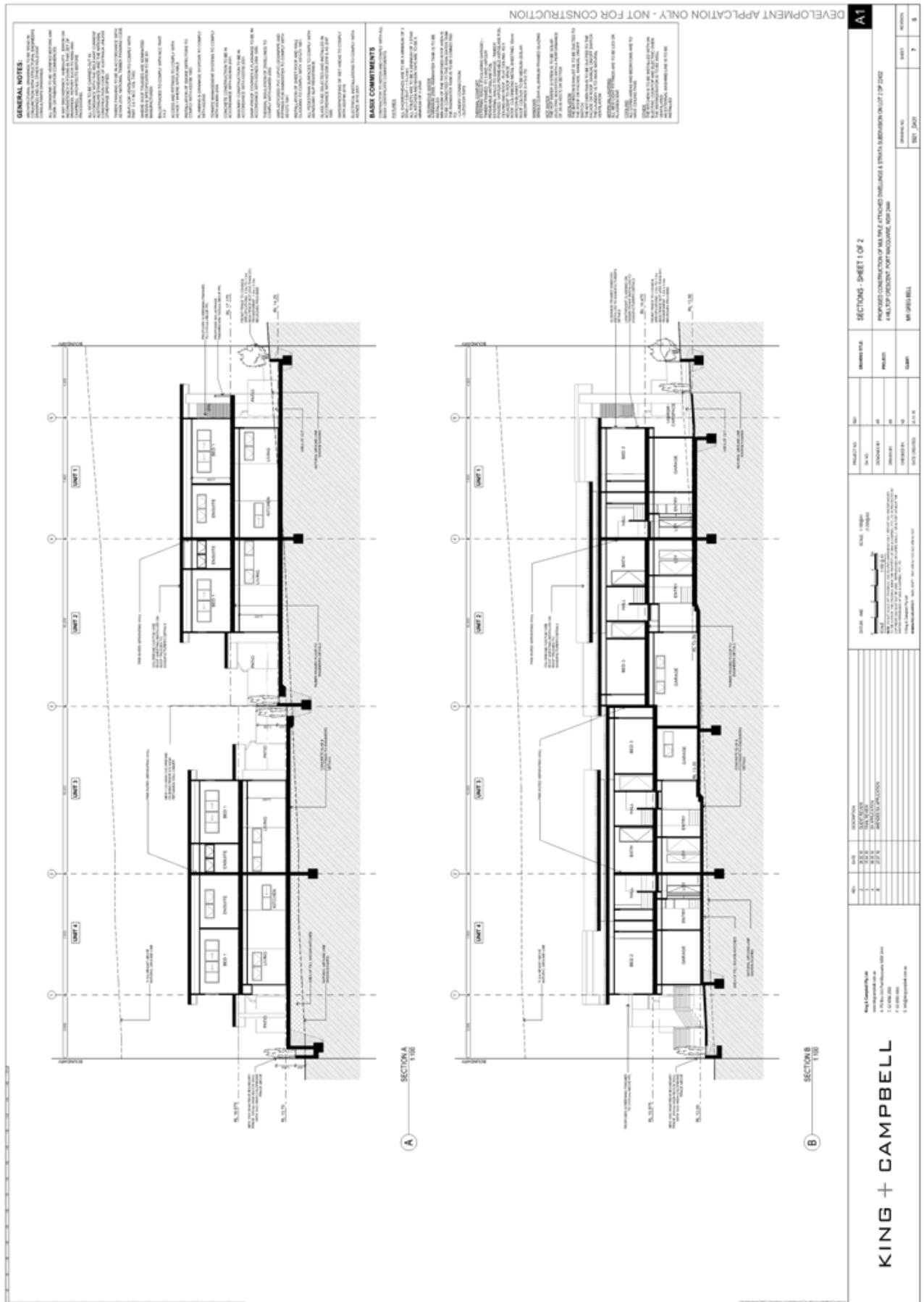
an integer  $q \geq 1$  and a function  $\psi$  on  $\mathbb{R}^n$  such that



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and  $\mathcal{H}^1$  is the Hausdorff measure of order 1.





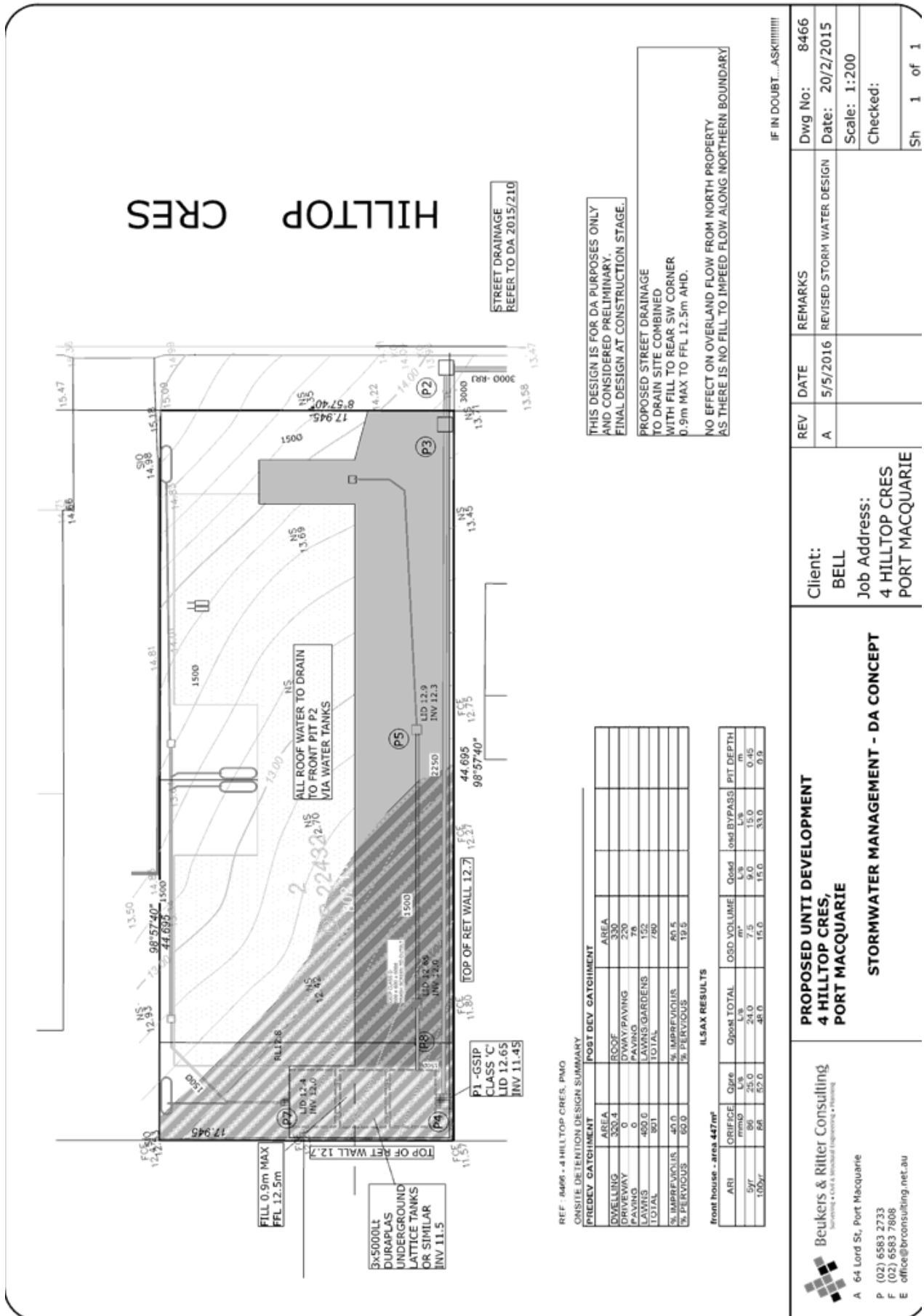


**Item 06**  
**Attachment 1**  
**Page 107**

DOOR SCHEDULE



**Item 06**  
**Attachment 3**  
**Page 110**



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2016/338

DATE:

### 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
BASIX certificate	722075M	Concept Designs Australia	30 April 2016
Development Plans	1 to 11	King and Campbell Pty Ltd	22 July 2016
Draft strata plan		King and Campbell Pty Ltd	6 May 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) (A005) This consent allows the strata-subdivision of the units, subject to the submission of an application for a Strata Certificate.
- (4) (A008) Any necessary alterations to, or relocations of, public utility services and any transitions to roads and drainage are to be carried out at no cost to council and in accordance with the requirements of the relevant authorities including the provision of easements over existing and proposed public infrastructure.
- (5) (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;

3. 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.
- (6) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (7) (A029) The provision, at no cost to Council, of concrete foot paving for the full street frontages of the development. For Hilltop Crescent a 1.2 metre wide footpath is required with design details in accordance with AUSPEC and Council Standard drawing ASD 100 series. The design plans must be approved by Council pursuant to Section 138 of the Roads Act.
- (8) (A030) The restoration of any vehicle access or stormwater kerb adapters rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (9) (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.

- (10) (A049) The existing footpath/verge area in Hilltop Crescent is to be raised to contain stormwater in the street. Design plans must be approved by Port Macquarie-Hastings Council pursuant to Section 138 of the Roads Act 1993.

#### **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) (B006) An application 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 submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

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

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

- (3) (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. Public parking areas including;
    - a. Driveways and access aisles;
    - b. Parking bays;
    - c. Delivery vehicle service bays & turning areas in accordance with AS 2890.
  2. Sewerage reticulation.
  3. 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.
  4. Retaining walls.
  5. Stormwater systems.



6. Erosion & Sedimentation controls.
  7. Location of all existing and proposed utility services including:
    - a. Conduits for electricity supply and communication services (including fibre optic cable).
    - b. Water supply
    - c. Sewerage
    - d. Stormwater
  8. Landscaping.
  9. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, ASD202 (heavy duty crossing) and ASD 208 (longitudinal grades), Port Macquarie-Hastings Council current version.
  10. Provision of a 1.2m concrete footpath across the full road frontage of the property.
- (4) (B010) Payment to Council, prior to the issue of the Construction Certificate of the Section 94 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:
- Hastings S94 Administration Building Contributions Plan
  - Hastings Administration Levy Contributions Plan
  - Community Cultural and Emergency Services Contributions Plan 2005
  - Hastings S94 Major Roads Contributions Plan
  - Hastings S94 Open Space Contributions Plan
- 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.
- (5) (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
- (6) (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 the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.

- (7) (B037) The finished floor level of the building shall be at least 1050mm above the soffit of Council's sewer main. Details indicating compliance with this are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (8) (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.
- (9) (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.
- (10) (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 legal point of discharge for the proposed development is defined as Council's existing drainage pit in Hastings River Drive. In this regard, Council's piped drainage system in Hilltop Crescent shall be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site (and uphill of the proposed driveway crossing if required by Council), where a kerb inlet pit (minimum 2.4m lintel) must be installed, to allow direct piped connection from the development site into the public drainage system.  
  
The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.
  - b) 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.
  - c) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
  - d) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
  - e) All surfaces shall be designed so that the overland flow path for stormwater drains to the road reserve or via inter-allotment drainage easements, in the event of blockages or when pipe capacities are exceeded. No overland flows may drain over neighbouring properties unless within the envelope of an appropriate easement.
  - f) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
- (11) (B086) Prior to issue of a Construction Certificate evidence provided to the satisfaction of the Certifying Authority of an application being made to the electricity and telecommunications service providers. Services are required to be underground.

- (12) Council records indicate there is possibly an existing 32mm sealed water service to the lot from the existing 100mm PVC water main on the opposite side of Hilltop Crescent. Each separate dwelling will require the provision of a metered water service with the meter located at the Hilltop Crescent road frontage unless satisfactory alternative arrangements are made with the Water and Sewer Planning Manager (provision of a remote reading console or easily accessible internal meters). Details are to be shown on the hydraulic plans.
- (13) Council records indicate that the development site is connected to Sewer via a sideline junction from Sewer main that runs approximately 1.5m outside the western boundary. Since the discharge from the proposed development will exceed 2ET, the development will need to discharge to an existing or proposed manhole. Any abandoned sewer junctions are to be capped at the main. Detailed engineering plans are to be provided.
- (14) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6). Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
- (15) (B054) Where a vehicular access is provided, details (in the form of a longitudinal section and cross sections) must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate demonstrating how the access will comply with Council's adopted AUSPEC Design and Construction Guidelines.
- (16) Prior to issue of any Construction Certificate, the land owner shall formally surrender the entitlement to development consent DA 2015/210 (for 'filling of the site and extension of public drainage') by requesting to do so in writing to Council's Group Manager, Development Assessment. This will have the effect of cancelling the existing Roads Act (s138) approval issued by Council.

#### **C – PRIOR TO ANY WORK COMMENCING ON SITE**

- (1) (C013) Where a sewer manhole and/or Vertical Inspection Shaft (VIS) exists within a property, access to the manhole/VIS shall be made available at all times. Before during and after construction, the sewer manhole/VIS must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.
- (2) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.

#### **D – DURING WORK**

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
  - a. at completion of installation of traffic management works
  - b. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;

- c. before pouring of kerb and gutter;
- d. prior to the pouring of concrete for sewerage works and/or works on public property;
- e. during construction of sewer infrastructure;
- f. prior to final acceptance of works on public property or public assets.

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

- (2) (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.
- (2) (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.
- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (5) (E039) A practicing Civil Engineer or Registered Surveyor is required to certify the following:
  - a. all public infrastructure works and works on public property are in accordance with Council's AUS-SPEC.
  - b. all conditions of consent/ construction certificate approval have been complied with.
  - c. all drainage lines have been located within the respective easements, and
  - d. any other drainage structures are located in accordance with the Construction Certificate.
  - e. all stormwater has been directed to a Council approved drainage system
  - f. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (6) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (7) (E061) Landscaped areas being completed prior to occupation or issue of the Certificate.
- (8) (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. The application for the certificate is to include an acceptable Work-As-Executed plan for water and sewer mains and services from a Professional Engineer or Registered Surveyor.
- (9) (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 and/or dwellings/units (including street lighting and fibre optic cabling where required).

- (10) (E036) Certification by a suitably qualified consultant is to be submitted to Council that the construction of the car park and internal accesses is to be in accordance with Council's Development Control Plan 2013 and Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6) prior to occupation or issue of the Occupation Certificate.
- (11) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.
- (12) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.

#### **F – OCCUPATION OF THE SITE**

- (1) (F004) The dwellings are approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F006) The basin of the outflow control pit and the debris screen must be cleaned of debris and sediment on a regular basis by the owner.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Sunday, 29 May 2016 1:19 PM  
**To:** Council  
**Subject:** development submission

**Categories:** [REDACTED]

Development Proposal LOT:2 DP:22432 4 HILLTOP CRESCENT PORT MACQUARIE  
APPLICATION NO: 2016/338

To Whom it May Concern,

Reference above proposal,

I wish to advise that once more with reference to the current development application for 4 Hilltop Crescent

that in my opinion not enough thought has been given to visitor parking at the proposed development.

From what I can see only one spot for four dwellings and most people these days seem to have two cars per family.

Hilltop Crescent is a very small Street, it already has 5 multi dwellings including Horizons, a large apartment block.

Two more apparently soon to be built at No 9.

All seem to have only single garages and residents cars plus visitors overflow onto the street.

A considerable amount of residents have two cars, some of the residents at Number 6 don't use their garages because the units are very small and seem to be used for storage.

The properties either side of No 4 also park their cars on the proposed land, when building begins these will also be forced onto the street.

As well because of the proximity to Westport Park people drive to Hilltop Crescent, park their cars and walk to the park for special events.

We get extra noise at night people shouting and slamming car doors.

I would urge Council to please consider the impact of adding more cars to an already busy location.

Yours faithfully,

[REDACTED]  
[REDACTED]  
[REDACTED]

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**Item: 07****Subject: DA2016 - 414 - ALTERATIONS AND ADDITIONS TO DWELLING - LOT 113, DP 31187,12 BOURNE STREET, PORT MACQUARIE****Report Author: Michael Roberts**

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<b>Applicant:</b>	<b>Collins W Collins</b>
<b>Owner:</b>	<b>Anthony &amp; Jodi Heeney</b>
<b>Estimated Cost:</b>	<b>\$250,000</b>
<b>Parcel no:</b>	<b>2511</b>

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA 2016 - 414.1 for alterations and additions to dwelling at Lot 113, DP 31187, 12 Bourne Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a development application for alterations and additions to dwelling 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, submissions from one neighbours have been received.

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

The site has an area of 557.5m<sup>2</sup>.

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





The 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:



- Alterations and additions to an existing two-storey dwelling including a carport and detached shed.

Refer to attachments at the end of this report.

**Application Chronology**

- 30 May 2016 - Application lodged
- 1 June 2016 - Neighbour notification
- 6 - 20 June 2016 - Exhibition period
- 10 June 2016 - Site inspection undertaken by assessing officer
- 15 June 2016 - Submission received
- 28 June 2016 - email to applicant requiring to attend to DCP non-compliances (i.e. side setback and rear deck privacy screen)
- 1 July 2016 - email response from applicant requesting Council consider proposal as submitted
- 19 July 2016 - email to applicant requiring DCP provisions and objectives to be addressed further
- 4 August 2016 - revised plans submitted with privacy screen to rear deck and change to ground floor building design

**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 Hastings River catchment.

**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 cleared and located within an area zoned for residential purposes.

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

A BASIX certificate (A249918) has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

**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 alterations and additions and ancillary development 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 and consistent with the established residential locality,

- Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.
- Clause 4.3, the maximum overall height of the building above ground level (existing) is 6.4 m which complies with the standard height limit of 8.5 m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.64:1.0 which complies with the maximum 1:1 floor space ratio applying to the site.

- Clause 5.9 - No trees identified 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 7.13, satisfactory arrangements are in place for provision of essential services.

**(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:**

<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> <li>• 4.8m max. height</li> <li>• Single storey</li> <li>• 60m<sup>2</sup> max. area</li> <li>• 24 degree max. roof pitch</li> <li>• Not located in front setback</li> </ul>	Detached Shed & Carport 3.03m max. Height Single storey 34m <sup>2</sup> 3 degree roof pitch Located in rear yard	Yes Yes Yes Yes Yes
3.2.2.2	Articulation zone: <ul style="list-style-type: none"> <li>• Min. 3m front setback</li> <li>• An entry feature or portico</li> <li>• A balcony, deck, patio, pergola, terrace or verandah</li> <li>• A window box treatment</li> <li>• A bay window or similar feature</li> <li>• An awning or other feature over a window</li> <li>• A sun shading feature</li> </ul>	3.1m to proposed front deck	Yes
	Front setback (Residential not R5 zone): <ul style="list-style-type: none"> <li>• Min. 6.0m classified road</li> <li>• Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot</li> <li>• Min. 3.0m secondary road</li> <li>• Min. 2.0m Laneway</li> </ul>	6m to front enclosed Dining Room wall	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Existing garage - door change only	Yes
	6m max. width of garage door/s	36% of building width	Yes

<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
	and 50% max. width of building		
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	10.359m to rear deck 1.35m to Shed	Yes Yes
3.2.2.5	<p>Side setbacks:</p> <ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>	<p>Ground floor northern side open pergola attached to dwelling = 0m</p> <p>Shed &amp; carport = 0.97m off southern boundary</p> <p>First floor Butler's Pantry 0.91m &amp; proposed additions 2.8m setback off northern side boundary - no adverse overshadowing</p> <p>First floor balcony addition 1.578m side setback off southern boundary - no adverse overshadowing</p> <p>Northern wall addition 9.4m</p>	<p>No*</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
3.2.2.6	35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade	>35m <sup>2</sup> private open space available with a directly accessible 4x4 area.	Yes
3.2.2.10	<p>Privacy:</p> <ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</li> <li>• Privacy screen required if floor level &gt; 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m</li> </ul>	<p>No additional windows proposed facing neighbouring properties</p> <p>Majority of existing windows to be bricked over</p>	<p>Yes</p> <p>Yes</p>

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

	Requirements	Proposed	Complies
	<ul style="list-style-type: none"> <li>Privacy screens provided to balconies/verandahs etc which have &lt;3m side/rear setback and floor level height &gt;1m</li> </ul>	Front and rear deck privacy screens to be installed.	Yes

**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
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Minor cut/fill proposed <1m during construction	Yes

The proposal seeks to vary Development Provision 3.2.2.5 requiring ground floors to be setback a minimum of 900mm from the side boundary. The proposal is to build an open pergola structure on concrete slab with the posts and framework built to the northern boundary.

The relevant objectives of the Development Control Plan are to reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy and to provide visual and acoustic privacy between dwellings.

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

- The proposed pergola is entirely open with no enclosing walls or roof, floor area of 20m<sup>2</sup> and has a maximum height of 2.7m.
- The design has been modified from an enclosed storage room to an open pergola.
- The applicant has requested the posts be built to the boundary to allow vehicular access to the proposed shed and carport located in the rear yard.
- The open pergola as designed is not considered overbearing and bulky in scale.
- The proposed pergola is not a habitable structure and will not have any adverse impacts on visual and acoustic privacy between dwellings.
- The proposal does not result in adverse overshadowing impacts.

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

(iiiia) 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:**

**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 the existing dwelling components is capable of compliance with the relevant standard.

**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 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:**

**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 is no adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

**Access, transport and traffic**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. Vehicle access to the site is via a driveway off Bourne Street.

**Water Supply**

Service available – details required with S.68 application.

**Sewer**

Service available – details required with S.68 application.

**Stormwater**

Service available – details required with S.68 application

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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.

**Energy**

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



**Noise and vibration**

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

**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 (ie increased expenditure in the area).

**Site design and internal design**

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

**Construction**

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

**Cumulative Impacts**

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

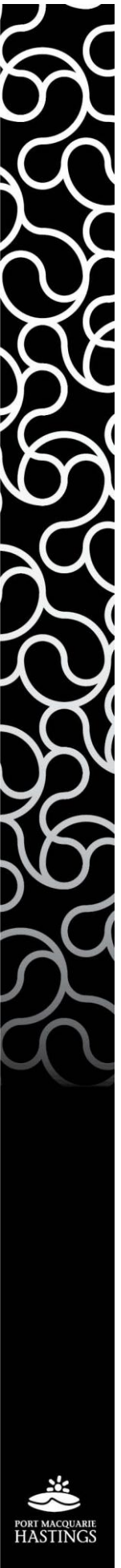
**(c) The suitability of the site for the development:**

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

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

Written submissions have been received from one neighbour 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
Strong objection to non-compliant development - refer to detailed submission on this issue attached.	Refer to comments within PMHC Development Control Plan 2013 assessment section. The current proposal as submitted is considered to comply with the objectives of the DCP. There are no significant adverse impacts that would justify refusal of the development.
Concerns raised with ambiguity and accuracy of statements made in application and statement of environmental effects.	Statements made by the applicant are their opinions and do not represent assessment staff's views. The information contained in the application as a whole is considered sufficient for interested parties to determine what the development entails. The information is also considered sufficient to enable assessment staff to undertake their own objective assessment against relevant planning instruments as presented in this report.
Concerns raised with the manner in which the non-compliant application was accepted and processed by Council.	Applications that include variations to the DCP cannot be legally rejected on this basis at the time of lodgement. DCPs are objective-based documents and any variations need to be assessed on merit. It is not considered unreasonable for assessment staff to discuss a submitter's concerns with them and/or the applicant so as to better understand the concerns and determine whether they can be resolved. Ultimately, the assessing officer takes into consideration all submissions, relevant statutory planning instruments and merit-based issues when making a recommendation.

**(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**

Not applicable.

**5. CONCLUSION**

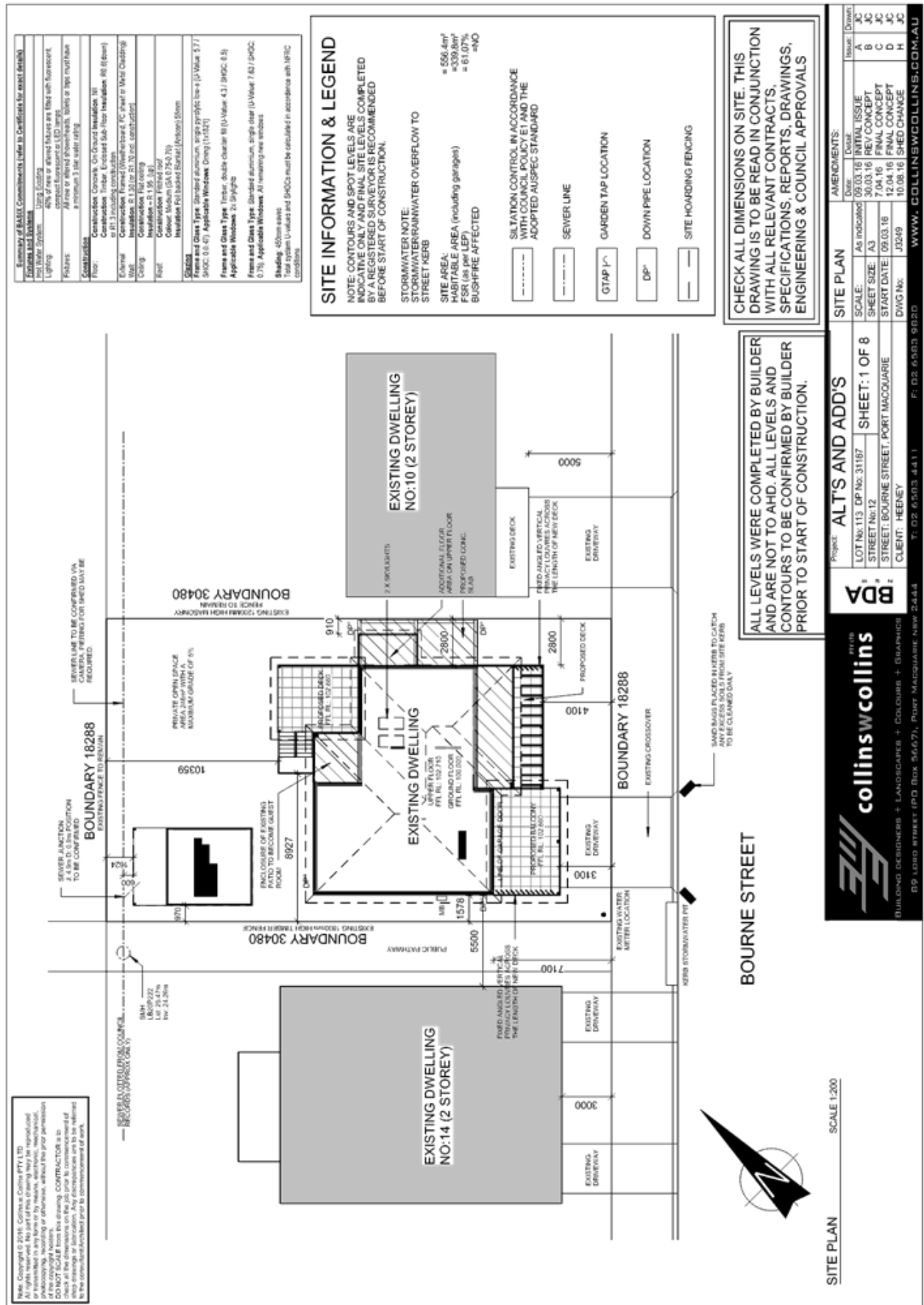
The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

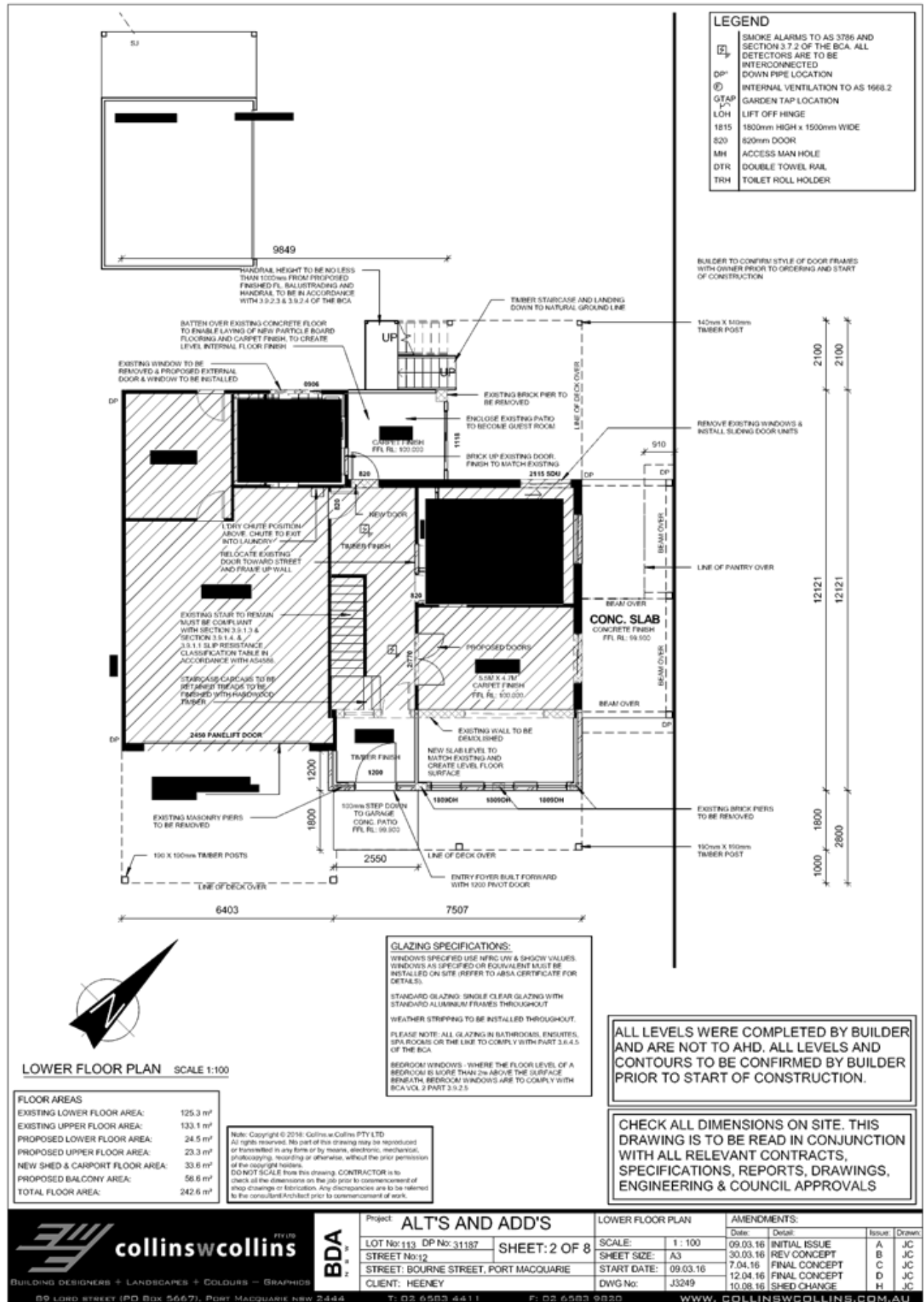
Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

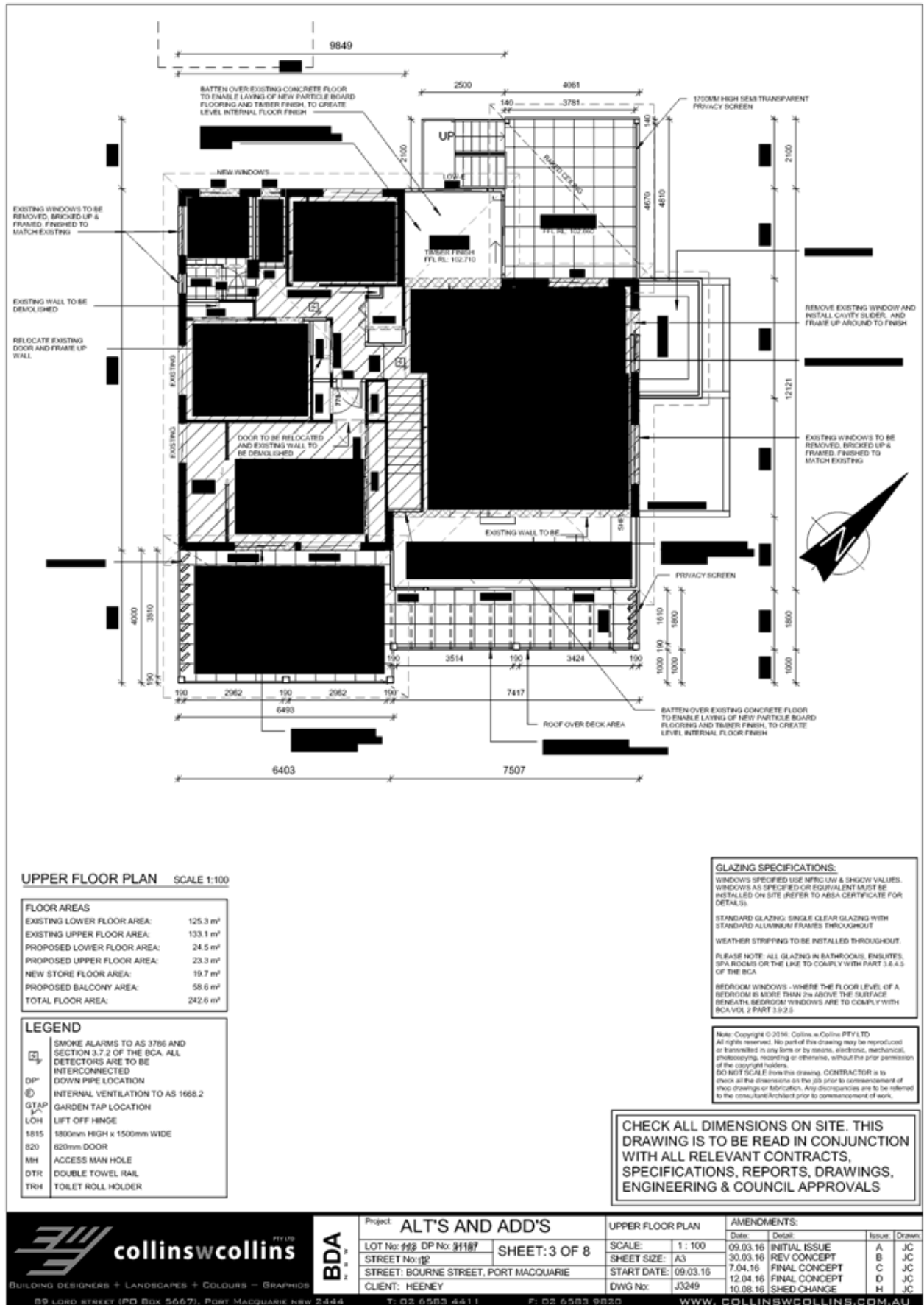
The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment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

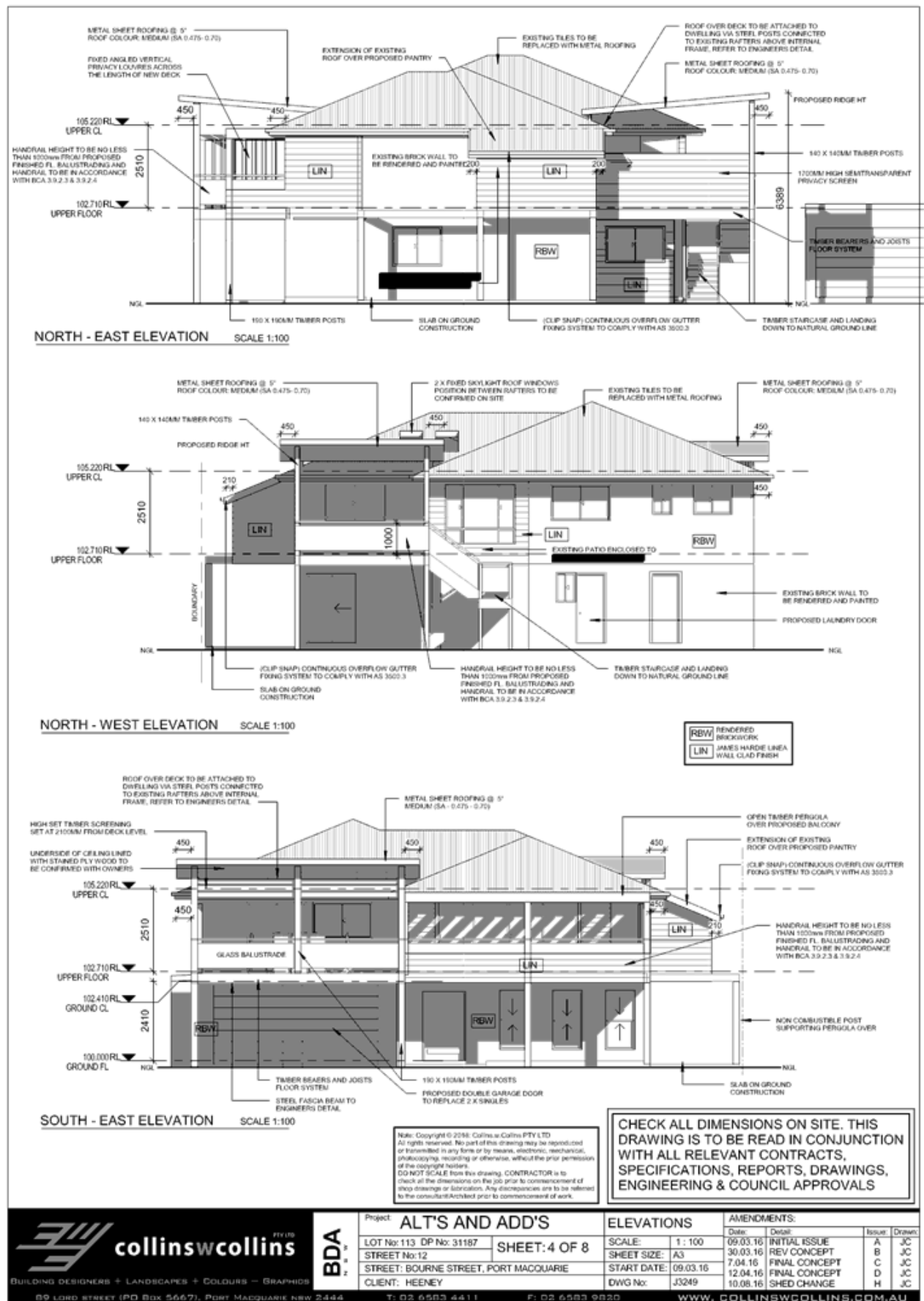
**Attachments**

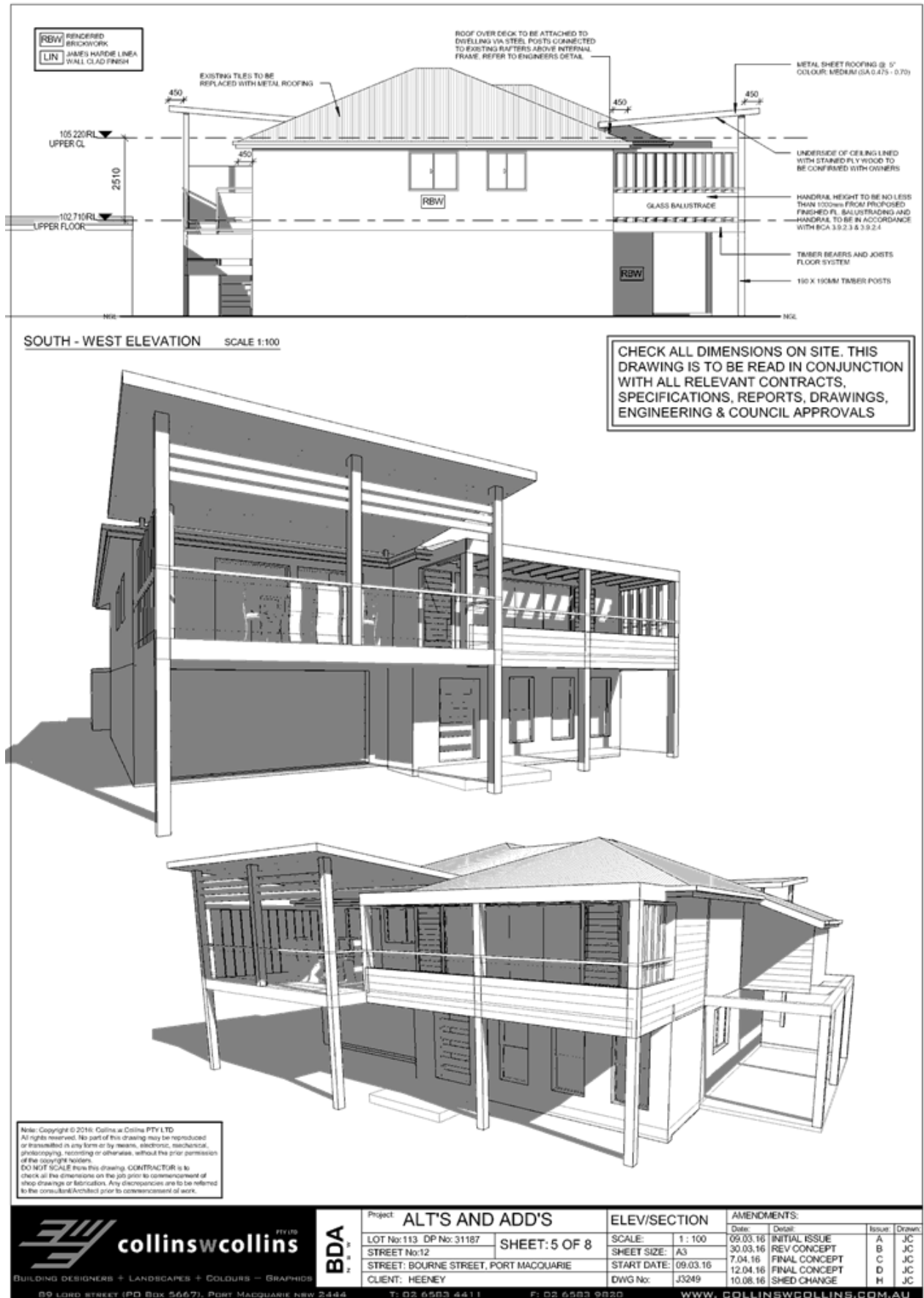
- 1 [View](#). DA2016 - 414.1 Plans
- 2 [View](#). DA2016 - 414.1 Recommended Conditions
- 3 [View](#). DA2016 - 414.1 Submission - Smith
- 4 [View](#). DA2016 - 414.1 Submission - Smith - 29-6-16
- 5 [View](#). DA2016 - 414.1 Submission - Smith - 18-7-16
- 6 [View](#). DA2016 - 414.1 Submission - Smith - 11-8-16













**THESE NOTES MUST BE READ AND UNDERSTOOD BY ALL INVOLVED IN THE PROJECT.****THIS INCLUDES (but is not limited to): OWNER, BUILDER, SUB-CONTRACTORS, CONSULTANTS, RENOVATORS, OPERATORS, MAINTENORS, DEMOLISHERS.****1. FALLS, SLIPS, TRIPS****A) WORKING AT HEIGHTS****DURING CONSTRUCTION**

Wherever possible, components for this building should be prefabricated off-site or at ground level to minimise the risk of workers falling more than two metres. However, construction of this building will require workers to be working at heights where a fall in excess of two metres is possible and injury is likely to result from such a fall. The builder should provide a suitable barrier whenever a person is required to work in a situation where falling more than two metres is a possibility.

**DURING OPERATION OR MAINTENANCE**

For houses or other low-rise buildings where scaffolding is appropriate, cleaning and maintenance of windows, walls, roof or other components of the building will require persons to be situated where a fall from a height in excess of two metres is possible. Where this type of activity is required, scaffolding, ladders or ladders should be used in accordance with relevant codes of practice, regulations or legislation. For buildings where scaffolding, ladders, ladders are not appropriate, cleaning and maintenance of windows, walls, roof or other components of the building will require persons to be situated where a fall from a height in excess of two metres is possible. Where this type of activity is required, scaffolding, fall barriers or Personal Protective Equipment (PPE) should be used in accordance with relevant codes of practice, regulations or legislation.

**B) SLIPPERY OR UNEVEN SURFACES****FLOOR FINISHES Specified**

If finishes have been specified by the designer, these have been selected to minimise the risk of floors and paved areas becoming slippery when wet or when walked on with wet shoes/feet. Any changes to the specified finish should be made in consultation with the designer or, if this is not practical, surfaces with an equivalent or better slip resistance should be chosen.

**FLOOR FINISHES By Owner**

If designer has not been involved in the selection of surface finishes, the owner is responsible for the selection of surface finishes in the pedestrian trafficked areas of this building. Surfaces should be selected in accordance with AS 1080:1999 and AS/NZS 4586:2004.

**STEPS, LOOSE OBJECTS AND UNEVEN SURFACES**

Due to design restrictions for this building, steps and/or ramps are included in the building which may be a hazard to workers carrying objects or otherwise occupied. Steps should be clearly marked with both visual and tactile warning during construction, maintenance, demolition and at all times when the building operates as a workplace. Building owners and occupants should monitor the pedestrian access ways and in particular access to areas where maintenance is routinely carried out to ensure that surfaces have not moved or cracked so that they become uneven and present a trip hazard. Spills, loose material, stray objects or any other matter that may cause a slip or trip hazard should be cleaned or removed from access ways. Contractors should be required to maintain a tidy work site during construction, maintenance or demolition to reduce the risk of trips and falls in the workplace. Materials for construction or maintenance should be stored in designated areas away from access ways and work areas.

**2. FALLING OBJECTS****LOOSE MATERIALS OR SMALL OBJECTS**

Construction, maintenance or demolition work on or around this building is likely to involve workers working above ground level or above floor levels. Where this occurs one or more of the following measures should be taken to avoid objects falling from the area where the work is being carried out onto persons below:

1. Prevent or restrict access to areas below where the work is being carried out.
2. Provide toeboards to scaffolding or work platforms.
3. Provide protective structure below the work area.
4. Ensure that all persons below the work area have Personal Protective Equipment (PPE).

**BUILDING COMPONENTS**

During construction, renovation or demolition of this building, parts of the structure including fabricated steelwork, heavy panels and many other components will remain standing prior to or after supporting parts are in place. Contractors should ensure that temporary bracing or other required support is in place at all times when collapse which may injure persons in the area is a possibility.

Mechanical lifting of materials and components during construction, maintenance or demolition presents a risk of falling objects. Contractors should ensure that appropriate lifting devices are used, that loads are properly secured and that access to areas below the load is prevented or restricted.

**3. TRAFFIC MANAGEMENT**

For building on a major road, narrow road or steeply sloping road, parking of vehicles or loading/unloading of vehicles on the roadway may cause a traffic hazard. During construction, maintenance or demolition of this building designated parking for workers and loading areas should be provided. Trained traffic management personnel should be responsible for the supervision of these areas. For building where on-site loading/unloading is restricted, construction of this building will require loading and unloading of materials on the roadway. Deliveries should be well planned to avoid congestion of loading areas and trained traffic management personnel should be used to supervise loading/unloading areas. For all buildings, heavy construction and demolition sites present a risk of collision where deliveries and other traffic are moving within the site. A traffic management plan supervised by trained traffic management personnel should be adopted for the work site.

**4. SERVICES****GENERAL**

Rupture of services during excavation or other activity creates a variety of risks including release of hazardous material. Existing services are located on or around the site. Where known, these are identified on the plans but the exact location and extent of services may vary from that indicated. Services should be located using an appropriate service (such as Call Before You Dig). Appropriate excavation practice should be used and, where necessary, specialist contractors should be used. Locations with underground power. Underground power lines MAY be located in or around this site. All underground power lines must be disconnected or carefully located and adequate warning signs used prior to any construction, maintenance or demolition commencing. Locations with overhead power lines: Overhead power lines MAY be near or on this site. These pose a risk of electrocution if struck or approached by lifting devices or other plant and persons working above ground level. Where there is a danger of this occurring, power lines should be, where practical, disconnected or relocated. Where this is not practical adequate warning in the form of bright coloured tape or signage should be used or a protective barrier provided.

**5. MANUAL TASKS**

Components within this design with a mass in excess of 25kg should be lifted by two or more workers or by mechanical lifting device. Where this is not practical, suppliers or fabricators should be required to limit the component mass. All material packaging, building and maintenance components should clearly show the total mass of packages and where practical all items should be stored on site in a way which minimises bending below lifting. Advice should be provided on safe lifting methods in all areas where lifting may occur. Construction, maintenance and demolition of this building will require the use of portable tools and equipment. These should be fully maintained in accordance with manufacturer's specifications and not used where faulty or (in the case of electrical equipment) not carrying a current electrical safety tag. All safety guards or devices should be regularly checked and Personal Protective Equipment should be used in accordance with manufacturer's specification.

**6. HAZARDOUS SUBSTANCES****ASBESTOS**

For alterations to a building constructed prior to 1990, if this existing building was constructed prior to asbestos 1990 - it therefore may contain asbestos 1990 - it therefore is likely to contain either in cladding material or in fire retardant insulation material. In either case, the builder should check and, if necessary, take appropriate action before demolishing, cutting, sanding, drilling or otherwise disturbing the existing structure.

**POWDERED MATERIALS**

Many materials used in the construction of this building can cause fibrosis, asbestosis, cancer or other health problems if inhaled during construction, operational maintenance or demolition should ensure good ventilation and wear Personal Protective Equipment including protection against inhalation while using powdered material or when sanding, drilling, cutting or otherwise disturbing or creating powdered material.

**TREATED TIMBER**

The design of this building may include provision for the inclusion of treated timber within the structure. Due to fumes from this material can be harmful. Persons working on or in the building during construction, operational maintenance or demolition should ensure good ventilation and wear Personal Protective Equipment including protection against inhalation of harmful material when sanding, drilling, cutting or using treated timber in any way that may cause harmful material to be released. Do not burn treated timber.

**VOLATILE ORGANIC COMPOUNDS**

Many types of glue, solvents, spray paints, primers, varnishes and some cleaning materials and materials used in the building during construction, maintenance or demolition should ensure good ventilation and wear Personal Protective Equipment including protection against inhalation of harmful material when sanding, drilling, cutting or using treated timber in any way that may cause harmful material to be released. Do not burn treated timber.

**SYNTHETIC MINERAL FIBRE**

Sound insulation may contain synthetic mineral fibre which may be harmful if inhaled or if it comes in contact with the skin, eyes or other sensitive parts of the body. Personal Protective Equipment including protection against inhalation of harmful material should be used when installing, removing or working near bulk insulation material.

**TIMBER FLOORS**

This building may contain timber floors which have an applied finish. Areas where finishes are applied should be kept well ventilated during sanding and application and for a period after installation. Personal Protective Equipment may also be required. The manufacturer's recommendations for use must be carefully considered at all times.

**7. CONFINED SPACES****EXCAVATION**

Construction of this building and some maintenance on the building will require excavation and installation of items within excavations. Where practical, installers should be trained and use methods which do not require workers to enter the excavation. Where this is not practical, adequate support for the excavated area should be provided to prevent collapse. Warning signs and barriers to prevent accidental or unauthorised access to all excavations should be provided.

**ENCLOSED SPACES**

For buildings with enclosed spaces where maintenance or other access may be required, enclosed spaces within this building may present a risk to persons entering for construction, maintenance or any other purpose. The design documentation calls for warning signs and barriers to unauthorised access. These should be maintained throughout the life of the building. Where workers are required to enter enclosed spaces, air testing equipment and Personal Protective Equipment should be provided.

**SMALL SPACES**

Buildings with small spaces where maintenance or other access may be required. Trained personnel within this building will require access by construction or maintenance workers. The design documentation calls for warning signs and barriers to unauthorised access. These should be maintained throughout the life of the building. Where workers are required to enter small spaces they should be scheduled so that access is for short periods. Manual lifting and other manual activity should be restricted in small spaces.

**8. PUBLIC ACCESS**

Public access to construction and demolition sites and to areas under maintenance causes risk to workers and public. Warning signs and secure barriers to unauthorised access should be provided. Where electrical installations, excavations, plant or loose materials are present they should be secured when not fully supervised.

**9. OPERATIONAL USE OF BUILDING****RESIDENTIAL BUILDINGS**

This building has been designed as a residential building. If, at a later date, it is used or intended to be used as a workplace, the provisions of the Work Health and Safety Act 2011 or subsequent replacement Act should be applied to the new use.

**10. OTHER HIGH RISK ACTIVITY**

Code All electrical work should be carried out in accordance with Code of Practice: Managing Electrical Risks at the Workplace, AS/NZS 4576:2011 and all licensing requirements. 2012 All work using Plant should be carried out in accordance with Code of Practice: Managing Risks of Plant at the Workplace. Code of All work should be carried out in accordance with Code of Practice: Managing Noise and Preventing Hearing Loss at Work. Due to the history of serious incidents it is recommended that particular care be exercised when undertaking work involving steel construction and concrete placement. All the above apply.

**EXCAVATIONS****1. Excavations**

The part of the site to be covered by the proposed building or buildings and in area of less than 1000mm deep where part of the site or to boundaries of the site, whichever is the lesser, shall be cleared or graded as indicated on the site works plan. Top soil shall be cut to a depth sufficient to remove all vegetation. Excavations for all footings shall be in accordance with the Engineer's Recommendations or the BCA requirements.

**FOUNDATIONS AND FOOTINGS****1. Underfloor Fill**

Underfloor fill shall be in accordance with the BCA.

**2. Terminate Risk Management**

Terminate treatment shall be carried out in accordance with the BCA.

**3. Vapour Barrier**

The vapour barrier installed under slab-on-ground construction shall be 0.2mm nominal thickness, high impact resistance polyethylene film installed in accordance with the BCA.

**4. Reinforcement**

Reinforcement shall conform and be placed in accordance with the Engineer's Recommendation and the BCA. Support to all reinforcement shall be used to correctly position and avoid any undue displacement of reinforcement during the concrete pour.

**5. Concrete**

Concrete shall not be less than Grade N20 except otherwise specified by the engineer and in accordance with the BCA.

**6. Curing**

All concrete slabs shall be cured in accordance with AS 3600.

**7. Footings and Slabs on Ground**

Concrete slabs and footings shall not be poured until approval to pour concrete is given by the engineer or the Local Council.

**8. Sub-Floor Ventilation**

Where required, adequate cross ventilation will be provided to the spaces between suspended ground floor. Construction is to meet the requirements of the BCA. No section of the under floor area shall be constructed in such manner that will hold pockets of air.

**9. Sub-Floor Access**

If required, access will be provided under suspended floors in position where indicated on plans.

**EFFLUENT DISPOSAL/DRAINAGE****1. Storm Water Drainage**

Stormwater drainage shall be carried out in accordance with the BCA. The Builder will allow for the supplying and laying of stormwater drains where shown on the site plan.

**TIMBER FRAMING****1. Generally**

All timber used shall be of good quality, free from knots, splits and decay. Timber shall be cut to size and be in accordance with the Engineer's Recommendation and the BCA.

**2. Roof Trusses**

Where roof truss construction is used, trusses shall be designed in accordance with AS 1720 and fabricated in a properly equipped factory and erected, fixed and braced in accordance with the fabricator's written instructions.

**3. Bracing**

Diagonal bracing shall be determined and installed in accordance with AS 1684 as appropriate for the design wind velocity for the site. Bracing shall be evenly distributed throughout the building.

**4. Flooring**

Floors shall be covered with strip or sheet flooring as shown on plan with particular regard to ground clearance and installation in wet areas as required by the BCA. Thickness of the flooring is to be appropriate for the floor joist spacing.

**5. Timber Posts**

Posts supporting the carports, verandas and porches shall be timber suitable for external use, or as otherwise specified, supported on galvanneal or treated metal post shoes, unless otherwise specified. Posts shall be bolted to all adjoining beams or joists for the wind speed classification assessed for the site.

**6. Corrosion Protection**

All door frames, facing plates and other associated fixings used in structural timber joints and bracing must have appropriate corrosion protection.

**STEEL FRAMING****1. Generally**

Steel floor, wall or roof framing shall be installed in accordance with the manufacturer's recommendations and the BCA.

**ROOFING**

All roof cladding is to comply with the relevant structural performance and weathertighting requirements of the BCA and be installed as per the manufacturer's recommendations.

**1. Tiled Roofing**

The Builder shall cover the roof of the dwelling with approved tiles as selected. The tiles are to be fixed (as required for appropriate design and wind speed) to battens of sizes appropriate to the spacing of rafters/trusses in accordance with the manufacturer's recommendations. The Builder will cover hips and ridges with capping and all necessary accessories including starters and eave caps. Capping and verge tiles are to be well bedded and neatly pointed. Roofing adjacent to valleys should be fixed so as to minimise water penetration as far as practicable. As roof tiles are made of natural products slight variation in colour is acceptable.

**2. Metal Roofing**

The Builder will provide and install a metal roof together with accessories all in accordance with the manufacturer's recommendations. Except where design prohibits, sheets shall be in single lengths from fascia to ridge. Fixing sheets shall be strictly in accordance with the manufacturer's recommendation as required for the appropriate design and wind speed. Incompatible materials shall not be used for fixings, fasteners or downpipes.

**3. Gutters and Downpipes**

Gutters and downpipes shall be manufactured and installed in accordance with the BCA. Gutters and downpipes are to be compatible with other materials used.

**4. Sarking**

Sarking under roof coverings must comply with and be fixed in accordance with manufacturer's recommendations.

**5. Sealants**

Appropriate sealants shall be used where necessary and in accordance with manufacturer's recommendations.

**6. Flashings**

Flashings shall comply with, and be installed in accordance with the BCA.

**MASONRY****1. Damp Proof Courses**

All damp proof courses shall comply with the BCA and Clause 1.6.9.9. The damp proof membrane shall be visible in the external face of the masonry member in which it is placed and shall not be bridged by any applied coatings, render or the like.

**2. Cavity Ventilation**

Open vertical joints (weepholes) must be created in the course immediately above any DPC or flashing at centres not exceeding 1.2m and must be in accordance with the BCA.

**3. Mortar and Jointing**

Mortar shall comply with the BCA. Joint tolerances shall be in accordance with AS 3700.

**4. Linets**

Linets used to support brickwork opening in walls must be suitable for the purpose as required by the BCA. The Builder will provide one linet to each wall leaf. The Builder will provide corrosion protection in accordance with the BCA Part 3.4.4 as appropriate for the site environment and location of the linets in the structure.

**5. Clearing**

The Builder will clear all exposed brickwork with an approved clearing system. Care should be taken not to damage brickwork or joints or other fittings.

**CLADDING AND LININGS****1. External Cladding**

Sheet materials or other external cladding shall be fixed in accordance with the manufacturer's recommendations and any applicable specific details.

Where required in open verandas, porches and save soffits, materials indicated on the plans shall be installed.

**2. Internal Wall and Ceiling Linings**

The Builder will provide internal plasterboards or other selected materials to walls and ceilings. Plasterboard sheets are to have recessed edges and will be a minimum of 10mm thick. Internal angles in walls from floor to ceiling are to be set. Suitable cornice moulds shall be fixed at the junction of all walls and ceilings or the joint set as required. The lining of wet areas and walls shall be constructed in accordance with the BCA. Wet area lining is to be fixed in accordance with the manufacturer's recommendations.

The ceiling access hole shall be of similar material to the adjacent ceiling.

**3. Waterproofing**

All internal wet areas and balconies over internal habitable rooms are to be waterproofed in accordance with the BCA.

**JOINERY****1. General**

All joinery work (metal and timber) shall be manufactured and installed according to accepted building practices.

**2. Door Frames**

External door frames shall be a minimum of 30mm thick solid rebated 12mm deep to receive doors. Internal jamb linings shall be a minimum of 18mm thick fit with 12mm thick door stops. Metal doorframes shall be installed where indicated on drawings in accordance with the manufacturer's recommendations.

**3. Doors and Doorsets**

All internal and external timber door and door sets shall be installed in accordance with accepted building practices. Unless listed otherwise in the Schedule of Works, doors and door sets shall be manufactured in accordance with AS 2088 and AS 2089.

**4. Windows and Sliding Doors**

Sliding and other timber windows and doors shall be manufactured and installed in accordance with AS 2047.

Sliding and other aluminium windows and doors shall be installed in accordance with manufacturer's recommendations and AS 2047.

All glazing shall comply with the BCA and any commitments outlined in the relevant BASIX Certificate.

**5. Stairs, Balustrades and other Barriers**

The Builder will provide stairs or ramps to any change in levels, and balustrades or barriers to at least one side of ramps, landings and balconies as per the BCA.

**SERVICES****1. Plumbing**

All plumbing shall comply with the requirements of the relevant supply authority and AS 3600. The work is to be carried out by a licensed plumber.

**2. Electrical**

The Builder will provide all labour and materials necessary for the proper installation of the electricity supply by a licensed electrician in accordance with AS/NZS 3000 and the requirements of the relevant supply authority. Unless otherwise specified, the electrical service shall be 240 volt, single phase supply.

**3. Gas**

All gas installation (including LPG) shall be carried out in accordance with the rules and requirements of the relevant supply authority.

**4. Smoke Detectors**

The Builder will provide and install smoke alarms manufactured in accordance with AS 3786 AS specified or as indicated on the plans and in accordance with the BCA.

**5. Thermal Insulation**

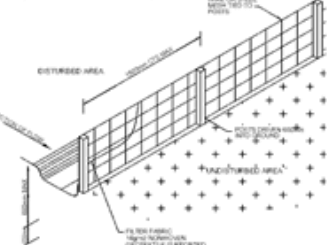
Where thermal insulation is used in the building fabric or services, such as air conditioning ducting or hot water systems, it shall be installed in accordance with manufacturer's recommendations to achieve the R-Values required by the BCA or as outlined in the relevant BASIX Certificate.

**TILING****1. Materials**

Cement mortar and other adhesives shall comply with AS 3088.1 or the manufacturer's recommendation.

**2. Installation**

Installation of tiles shall be in accordance with AS 3088.1, manufacturer's recommendations or accepted building practices. Where practicable, spacing between tiles should be even and regular. The Builder will provide expansion joints where necessary. All vertical and horizontal joints between walls and fixtures e.g. bench top, bath, etc. and wall/floor junctions to be filled with flexible mould resistant sealant. All joints in the body of tile surfaces shall be neatly filled with appropriate grout material as specified by the tile manufacturer or accepted building practice. As tiles are made of natural products a slight variation in colour is acceptable.



**collinswcollins**

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**BDA**

Project: **ALT'S AND ADD'S**

LOT No: 999 DP No: 91187 SHEET: 6 OF 8

STREET No: 12

STREET: BOURNE STREET, PORT MACQUARIE

CLIENT: HEENEY

WORK SAFETY NOTES

SCALE: As indicated

SHEET SIZE: A3

START DATE: 09.03.16

DWG No: J3249

AMENDMENTS:

Date Detail

09.03.16 INITIAL ISSUE

30.03.16 REV CONCEPT

07.04.16 FINAL CONCEPT

12.04.16 FINAL CONCEPT

03.05.16 ISSUED FOR CONSTRUCTION

Issue

A

B

C

D

H

JC

JC

JC

JC

JC

JC

JC

JC

JC

**THESE NOTES MUST BE READ AND UNDERSTOOD BY ALL INVOLVED IN THE PROJECT.****THIS INCLUDES (but is not limited to): OWNER, BUILDER, SUB-CONTRACTORS, CONSULTANTS, RENOVATORS, OPERATORS, MAINTENORS, DEMOLISHERS.****BUILDING SPECIFICATIONS FOR CLASS 1 AND 10 BUILDINGS**

All works to be completed in accordance with the current version of the National Construction Code Series, including Building Code of Australia (BCA), Volume 2 and the Plumbing Code of Australia (PCA), Volume 3 as applicable.

All Australian Standards listed are the versions that have been adopted by the relevant version of the National Construction Code Series at the time of Construction Certificate or Complying Development Certificate Application.

**SITE PREPARATION**

**Earthworks** – Earthworks are to be undertaken in accordance with Part 3.1.1 of the BCA.

**Drainage** – Stormwater drainage is to be undertaken in accordance with AS/NZS 3500.3, or, Section 5 of 3500.3, or, the Acceptable Construction Practice as detailed in Part 3.1.2 of the BCA.

**Termite Risk Management** – Where a primary building element is considered susceptible to termite attack the building shall be protected in accordance with the following:

- a) AS 3600.1, and
- b) A durable notice is permanently fixed to the building in a prominent location, such as in a meter box or the like, including the details listed in Part 3.1.3.2 of the BCA, or
- c) The Acceptable Construction Practice as detailed in accordance with Part 3.1.3 of the BCA.

**FOOTINGS AND SLABS**

The footing or slab is to be constructed in accordance with AS 2870, except that for the purposes of Clause 5.3.3.1 of AS 2870, a damp-proofing membrane is required to be provided, or, the Acceptable Construction Practice detailed in Part 3.2 of the BCA.

Piled footings are to be designed in accordance with AS 2159.

**MASONRY**

Unreinforced Masonry – to be designed and constructed in accordance with:

- a) AS 2700, or
  - b) AS 4773 Parts 1 and 2
- Reinforced Masonry – to be designed and constructed in accordance with:
- a) AS 2700, or
  - b) AS 4773 parts 1 and 2

Masonry Accessories – to be constructed and installed in accordance with:

- a) AS 2700, or
  - b) AS 4773 Parts 1 and 2
- Weatherproofing of Masonry**
- This Part applies to an external wall (including the junction between the wall and any window or door) of a Class 1 Building.
- This Part does not apply to any Class 10 building except where its construction contributes to the weatherproofing of the Class 1 building.
- The weatherproofing of masonry is to be carried out in accordance with:
- a) AS 2700, or
  - b) AS 4773 Part 2 1 and 2

**FRAMING**

**Structural Software** – Must comply with the Australian Building Codes Board (ABCB) Protocol for Structural Software and Part 3.4.2 of the BCA.

**Sub-Floor Ventilation** – Is to comply with the Acceptable Construction Practice of Part 3.4.1 of the BCA.

**Steel Framing** – Is to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.4.2 of the BCA, or, one of the following manuals:

- a) Steel structures: AS 4100.
- b) Cold-formed steel structures: AS/NZS 4600.
- c) Residential and low-rise steel framing: NASH Standard.

**Timber Framing** – Is to be designed and constructed in accordance with the following, as appropriate:

- a) AS 1684.2.
- b) AS 1684.4.

**Structural Steel Members** – Is to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.4.4 of the BCA, or, one of the following manuals:

- a) Steel Structures: AS 4100.
- b) Cold-formed steel structures: AS/NZS 4600.

**ROOF AND WALL CLADDING**

**Roof Cladding** – Is to comply with the Acceptable Construction Practice of Part 3.5.1 of the BCA, or, one of the following:

- a) Roofing steel: AS 2040 and AS 2050.
- b) Metal roofing: AS 1562.1.
- c) Plastic sheet roofing: AS/NZS 4256 Parts 1, 2, 3 and 5; and AS/NZS 1562.3.
- d) Corrugated fibre-reinforced cement sheet roofing: AS/NZS 1562.2.
- e) Asphalt shingles: ASTM D3018-90.
- f) Flexible membrane and underlay: AS/NZS 4200 Parts 1 and 2.

**Gutters and Downpipes** – are to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.5.2 of the BCA, or, AS/NZS 2500.3 – Stormwater drainage, or AS/NZS 3500.5 – Domestic installations, Section 5 – Stormwater drainage.

**Wall Cladding** – to be designed and constructed in accordance with Acceptable Construction Practice of Part 3.5.3.1 of the BCA, or, for metal wall cladding if it is designed and constructed in accordance with AS 1562.1.

**GLAZING**

Glazing – to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.6.1 of the BCA, or, one of the following manuals as applicable:

- a) AS 2047.
- b) AS 1288.

**FIRE SAFETY**

**Fire Separation** – to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.7.1 of the BCA.

**Smoke Alarms** – to be designed, connected and located in accordance with the Acceptable Construction Practice of Part 3.7.2 of the BCA.

**Heating Appliances** – are to be installed in accordance with the Acceptable Construction Practice of Part 3.7.3 of the BCA, or, one of the following manuals:

- a) Domestic solid-fuel burning appliances are installed in accordance with AS/NZS 2013.
- b) Boilers and pressure vessels are installed in accordance with AS/NZS 1200.

**BUSHFIRE AREAS**

**Bushfire Areas** – This section relates to:

- a) A Class 1 building, or
- b) A Class 10a building or dock associated with a Class 1 building, if it is constructed in accordance with the following:

- c) AS 3099, except for Section 9 Construction for Bushfire Attack Level F2 (BAL-F2). Buildings subject to BAL-F2 must comply with specific conditions of development consent for construction at this level; or
- d) The requirements of (c) above as modified by the development consent following consultation with the NSW Rural Fire Service under section 70BA of the Environmental Planning and Assessment Act 1979; or
- e) The requirements of (c) above as modified by the development consent with a bushfire safety authority issued under section 100B of the Rural Fire Act for the purposes of integrated development.

**Alpine Areas** – to be constructed in accordance with the Acceptable Construction Practice of Part 3.7.5 of the BCA if located in an alpine area, as identified in Figure 3.7.5.2 of the BCA.

**HEALTH AND AMENITY**

**Wet Areas and External Waterproofing** – building elements in wet areas within a building must:

- a) be waterproof or water resistant in accordance with Table 3.8.1.1 of the BCA, and
- b) Comply with AS 3740.

**Room Heights** – are to be constructed in accordance with the Acceptable Construction Practice of Part 3.8.2 of the BCA.

**Facilities** – are to be constructed in accordance with Acceptable Construction Practice of Part 3.8.3 of the BCA.

**Light** – is to be provided in accordance with the Acceptable Construction Practice of Part 3.8.4 of the BCA.

**Ventilation** – is to be provided in accordance with the Acceptable Construction Practice of Part 3.8.5 of the BCA.

**Sound Insulation** – (only applies to a separating wall between two or more class 1 buildings) is to be provided in accordance with the Acceptable Construction Practice of Part 3.8.6 of the BCA.

**SAFE MOVEMENT AND ACCESS**

**Safe Movement and Access**

**Stair Construction** – to be constructed and installed in accordance with the Acceptable Construction Practice of Part 3.9.1 of the BCA.

**Balustrades and Handrails** – to be constructed and installed in accordance with the Acceptable Construction Practice of Part 3.9.2 of the BCA.

**Swimming Pool Access** – to be designed and installed in accordance with the Swimming Pools Act 1992, Swimming Pool Regulation 2008 and AS 1926 Parts 1 and 2.

**Swimming Pool Water recirculation Systems** – is to be designed and constructed in accordance with AS1926.3.

**ADDITIONAL CONSTRUCTION REQUIREMENTS**

**High Wind Areas** – Applies to a region that is subject to design wind speeds more than ND or C1 (see table 1.1.1 of the BCA). To be constructed in accordance with one or more of the relevant manuals of Part 3.10.1 of the BCA.

**Earthquake Areas** – relates to areas subject to seismic activity. To be constructed in accordance with the Acceptable Construction Manuals listed in Part 3.11 of the BCA.

**Flood Hazard Areas** – applies to areas on a site (whether or not mapped) encompassing the land lower than the flood hazard level (as defined by the BCA) which has been determined by the appropriate authority (statutory authority). are to be constructed in accordance with the ABCB Standard for Construction of Buildings in Flood Hazard Areas.

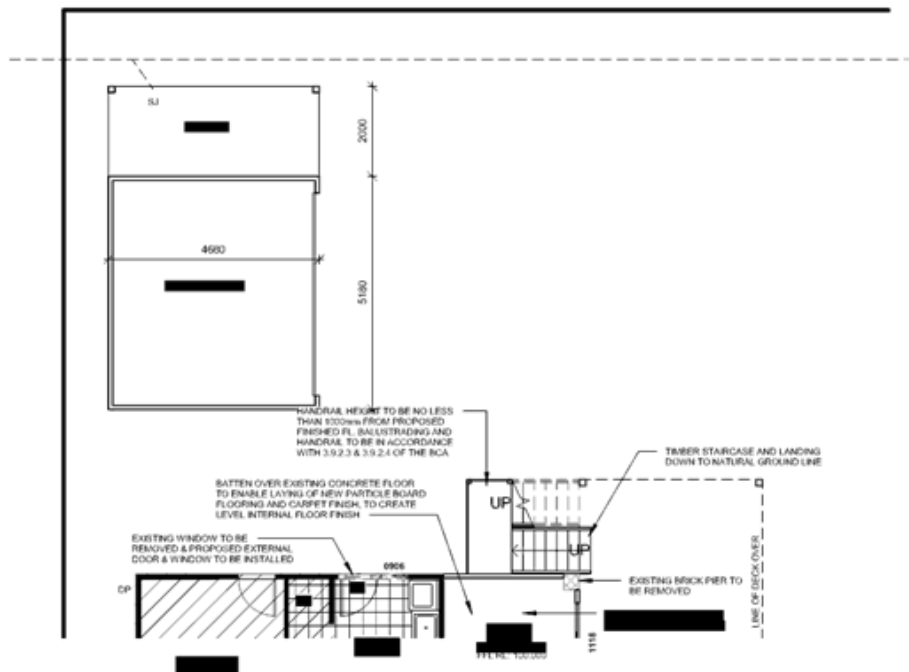
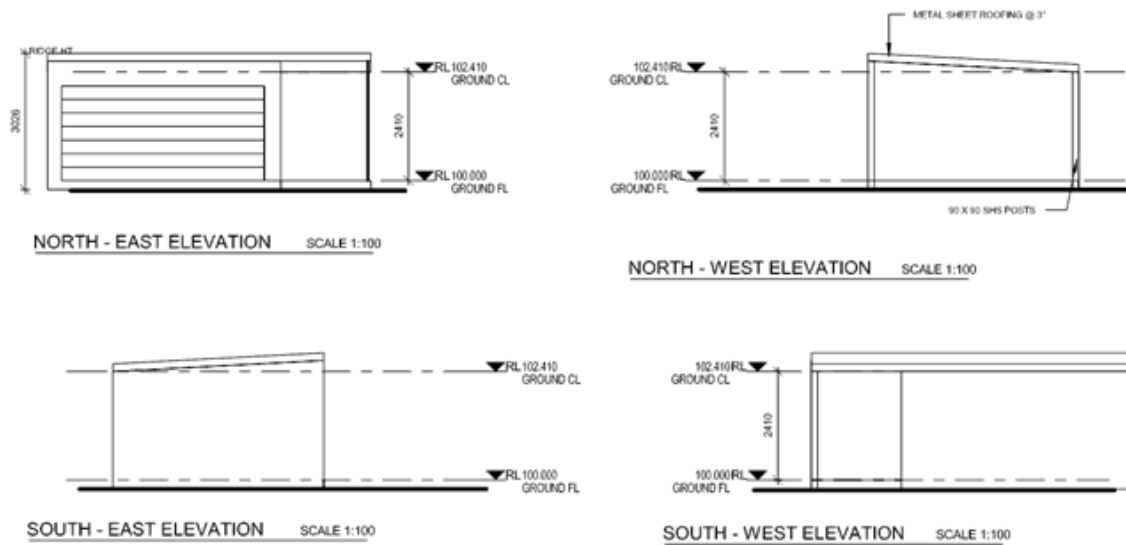
**STRUCTURAL DESIGN MANUALS**


**Structural Design Manuals** – is satisfied by complying with:

- a) 3.11.2, 3.11.3 and 3.11.6 of the BCA; or
- b) the relevant provisions of other Parts of Section 3 of the Housing Provisions of the BCA relating to structural elements; or
- c) any combination thereof.

**ENERGY EFFICIENCY**

Energy Efficiency – to comply with the measures contained in the relevant BASIX certificate.



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	LOT No: 113 DP No: 31187	SHEET: 8 OF 8	SCALE: 1:100	DATE: 09.03.16	INITIAL ISSUE	A JC
	STREET No: 12		SHEET SIZE: A3	30.03.16	REV CONCEPT	B JC
	STREET: BOURNE STREET, PORT MACQUARIE		START DATE: 09.03.16	7.04.16	FINAL CONCEPT	C JC
	CLIENT: HEENEY		DWG No: J3249	12.04.16	FINAL CONCEPT	D JC
				10.08.16	SHED CHANGE	H JC

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**SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT**

The conditions of consent referred to in the Notice of Determination for DA No 2016/414 are as follows:

**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 - Sheets 1-8	Issue 'H'	CollinsWCollins	10.08.16
BASIX Certificate A249918	-	CollinsWCollins	19 May 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;

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 holidays

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.

#### **B - PRIOR TO ISSUE OF 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

#### **C – PRIOR TO ANY WORK COMMENCING ON SITE**

Nil

#### **D – DURING CONSTRUCTION**

- (1) (D007) A survey certificate from a registered land surveyor is to be submitted to the Principal Certifying Authority at footings and/or formwork stage. Such certificate shall set out the boundaries of the site and include certification that siting of the buildings are in accordance with the approved plans.
- (2) The proponent is responsible for ensuring that the existing fence and retaining wall traversing/adjoining the land is not damaged while performing any building works. If any structures are damaged during the course of performing the works, the proponent will be responsible for repairing the damage.
- (3) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (4) (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

Port Macquarie-Hastings Council  
Development Consent - Development Application 010.2016.00000414.001  
Alterations and Additions to Dwelling

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Page 3 of 3

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](#)

#### **E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE**

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (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.

#### **F – OCCUPATION OF THE SITE**

Nil

The conditions referred to in this schedule are imposed in conformity with the relevant provisions of the Environmental Planning and Assessment Act and Regulations, the Local Government Act and Regulations, The Building Code of Australia and with Council's Codes and Policies, LEP's, DCP's or any other ancillary Act or Regulation in force at the time of the date of determination and are aimed at protecting the natural environment, preserving our heritage and providing a safe and health built environment.

#### **Rights of Appeal**

If you are dissatisfied with this decision:

1. A request for a review of the determination may be made to Council, under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979.
2. Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court.

Michael Roberts  
Building Surveyor

From: [REDACTED]  
Sent: Wed, 15 Jun 2016 08:47:15 +1000  
To: "Council" <council@pmhc.nsw.gov.au>  
Subject: DA 2016/414 Submission  
Priority: Normal

Subject: DA 2016/414 Submission  
Email to: council@pmhc.nsw.gov.au

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To: The General Manager  
Title: Submission (DA 2016/414)  
Name: [REDACTED]  
Address: [REDACTED]  
Phone: [REDACTED]  
Email: [REDACTED]  
Application Number: 2016/414  
Disclosure of political gift or donation: N/A  
Grounds for objection/support of the proposal:

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NO OBJECTION is raised to COMPLIANT development.  
STRONG OBJECTION is raised to NON-COMPLIANT development.  
It is expected that Council harnesses the requisite internal and INDEPENDENT external resources to identify ALL non-compliances.  
It is suggested that holding such a frontline position is REASONABLE in view of the background to, and purpose of, development policy creation (including stakeholder consultations undertaken and AGREEMENTS brokered).  
Each of Council's POLICY STATEMENTS SHOULD ENDURE over and above incomplete, summary reasoning attached to specific formulae and values. Presumably, any REVISED CRITERIA for the precinct's allotments would require referral to full Council for consideration of a resolution to adopt an AMENDED POLICY.  
It is appreciated that DA Notification occurs EARLY in the assessment process and that there appears to be no embargo on "TESTING" non-compliances (if any). CONCERNS are raised over any approvals of material non-compliances in terms of (but not limited to) creation of precedence, consequential IMPEDIMENTS to future developments on adjacent lands (with or without requisite compensation), maintenance access, health, amenity and utility. It is trusted that Council achieves a LEGAL AND EQUITABLE outcome (in this and all cases), giving due consideration to all relevant matters and, in particular, its ADOPTED POLICIES within a SET regulatory framework.  
Postscript: Should the DAP APPROVE A NON-COMPLIANT application, are there AVENUES OF APPEAL for objectors



(eg extension of time for objectors to engage sufficient resources to analyse and assess the full impact of non-compliances followed by submission to full Council or higher authority for ratification or otherwise of the DAP decision)?

**From:** [REDACTED]  
**Sent:** Wednesday, 29 June 2016 8:23 AM  
**To:** Michael Roberts  
**Subject:** 2016/414

Apologies: I was not prepared for your phone call yesterday and was unable to specifically and clearly respond at the time. There was some sort of sporadic interference at my end. I was not receiving all words and there was probably cross-talking. That's why I indicated that email is the preferred communication method (overcomes this sort of problem and also ensures clarity / completeness). In hindsight, I should have requested termination of the conversation earlier. My best take on the situation following the conversation is that Council is poised to approve the application without referral to the DAP and, prior to so doing, it requires further details on any objection. From the conversation it seemed Council is happy that the current application/proposal is acceptable in terms of satisfaction of Council's suite of documented regulatory/control requirements.

The requested confirmatory email doesn't seem to reflect Council's position in this regard. Please confirm Council's current position and intention. It is acknowledged that Council, on its own volition, will be going back to the applicant with certain concerns (development provisions non-compliances) and will see what the applicant comes back with. It would appear that Council is seeking potential compliance in relation to development provisions. In iteration of my email dated 15.06.16, it was advised that no objection is raised to compliant development and that strong objection is raised to non-compliant development. The reasons for holding such a position were given. It was thought that Council would harness the requisite internal and independent external resources to identify all non-compliances. This simplistic view was put forward for a number of reasons including (but not limited to) the belief that Council is best able to adopt an impartial stance in these matters, has access to all relevant information and is well experienced in the equitable execution of all the information of various types (Acts, regulations, policies etc: ie the regulatory / control framework).

It would seem unnecessary and unproductive for a stakeholder outside the applicant-authority segment to carry out such an assessment process in parallel to the authority itself. The "proposal" is presented only in SOEE form which, from an outside stakeholder point of view could easily be seen as erroneous, biased and misleading to quite an extent. Once again, it is presumed that Council will be reliant upon the quality-assured, regulatory framework rather than non-certified documentation which can boast one-sided interpretation and opinion on certain matters. In short it is difficult and resources-hungry for an external stakeholder to specifically identify all non-compliances. It is appreciated that the use of the terms "compliance" and "non-compliance" can be an issue in itself. In lay (respondent), simple terms, if the speed limit is X, no objection is raised to X or under, but strong objection is raised to anything over X.. Presumably, Council will approve things greater than X under certain circumstances.

In relation to the application at hand, it is understood that the only "non-compliances" that Council has identified are those confined to the DCP and, indeed, those identical to the applicant's SOEE. It is further understood that Council is currently of the identical opinion / interpretation to/of the SOEE insofar as that, although certain development provisions have not been complied with, the accompanying objectives have been complied with and therefore the DCP has been complied with.

It is understood that Council refers the external stakeholder to the DCP as available on its website. From the get-go, it was assumed that there would be no need for an external stakeholder to make such reference. There is an inference that reference should be made to all such regulatory/control documentation in order to substantiate a position.

Pretty hard in the early stages of application and without resources and without requisite expertise! Our initial position was put forward without reading, deciphering, comprehending or analysing relevant reference material. It was based on the application of overarching, good-governance principles. Despite this, concerns may be expressed over Council's reasoning in reaching the currently mooted decision (if indeed such a decision is pending and Council's reasoning is provided). It appears that opinion on, and interpretation of, limited qualitative objectives override development provisions (set parameters).

It now seems apparent that external stakeholder reference to the DCP and (arguably biased) SOEE is required to reinforce the initial position.

DCP says "Ground floors should be setback a minimum of 900mm from side boundaries". DCP uses both "must" and "should" throughout. Hence "should" doesn't mean "must".

It seems pointless to specify a minimum or any other value in this case. Aside: Presumably, "setback" should read "set back".

SOEE Refers to the DCP requirement "Side Setback: Ground Floors: 900mm". It can be misleading not to mention that the 900mm is a minimum development provision. Presumably, providing better than minimum is desirable from a planning viewpoint. The SOEE proposal "built to boundary" seems dismissive of the issue. (cf "Instead of a minimum of 900mm, no setback from the side boundary is proposed".)

SOEE puts aside certain development provisions by giving an opinion/interpretation on/of compliance with DCP objectives with the presumption that satisfaction of same overrides provisions.

It is contended that such a belief is open to argument.

Should Council also have identical reliance on the preface "Objective" (presumably in the plural), as the high-ground compliance pathway, it is suggested that such reliance is at odds with its DCP policy statement concerning variations.

"Council may consider varying the development provisions where it can be adequately demonstrated that the objective to which the provision relates can be wholly achieved by reasonable or innovative solutions." It is asserted that the SOEE does not wholly achieve objectives and does not offer reasonable or innovative solutions.

DCP Objective (sic objectives)

"To reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy.

To provide for visual and acoustic privacy between dwellings."

The SOEE, on some items state facts. On others it gives its unquantified opinions and/or comments. In relation to

its identified development provisions non-compliances  
 SOEE comments are paraphrased and responded to as follows:  
 "wall is to be built to boundary 900mm less than the numerical development standard".

Response: No mention of the 900mm being a minimum. It is a minimum specified setback – not a "standard" as such. Does "standard" have the same meaning as it does in the process for mandatory DAP referral: proposals where the applicant is seeking a variation to the "Development Control standard"?

"Built to boundary" means zero rather than 900mm minimum.  
 "The ground floor of adjacent dwelling contains garages".

Response: dwelling is split level and frontage ground level is entirely different to rear ground level. The rear ground level is coincident with floor levels of a double garage and laundry. It would be naïve to suggest that, 40yrs post-development that a double garage could not be utilised for things other-than-car-parking (eg domestic workshop, storage, cinema room, play area, entertainment area etc. There is a double window to the "garage" and a single window to the laundry. The front ground level is coincident with hallway, bathroom and bedrooms.

There is concern over the SOEE statements as far as levels are concerned. "Site is located on the high side of Bourne St in an area that is quite flat".

Response: Is the "site" the "allotment" in question or something larger?. Is not the allotment located on the high end of Bourne St rather than the high side? What is meant by 'quite flat' and what "area" is being referred to? Of relevance to the DA it is suggested that the sides of Bourne St slope grossly in the south easterly direction and moderately in the opposite direction (to the extent that retaining walls come into play and requisite inter-allotment easements for drainage. Overland stormwater flows are dependent upon such inclines. "quite flat" is entirely qualitative.

"accordingly "no adverse visual or acoustic privacy expected as a result of the proposal".

Response: Have absolutely no understanding of what this means. What is acoustic privacy? How is it assessed? No mention of impact? In general terms: something is or isn't! What is meant be "expected"? Expected by whom? Council may be in a position to clarify.

"Wall is 7.2m wide and at its highest is only 3.2m high".

Response: What is meant by "only"? SOEE considers it to be relatively small and inconsequential? Relative to what? Why include the word "only"?

"relatively small section of wall"

Response: "small" relative to what?

"Adjoining property ground floor" does not appear to be any habitable rooms containing windows or doors.

Response: Something does or doesn't in a technical report.

"something appearing to" doesn't cut it. According to the "Building Code of Australia" a habitable room is: "a room used for normal domestic activities and Includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room, home theatre, and sunroom, but excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothes drying room, other spaces of a specialised nature occupied neither frequently nor for extended periods."

So: is the SOEE/DA proposing to sterilise the adjacent dwelling's options for utilisation of its internal "ground floor" room(s) that has/ have windows and doors for regular music, study, TV, play, sewing, cinema etc now and/or in the future?

"Accordingly, given that it is an aspect of the adjoining property with low quality sun, no habitable room windows/walls and no usable area of private open space, no adverse impacts of overbearing or perceptions of building bulk are expected".

Response: It is suggested that this is highly emotive language. Difficult to understand. What is meant by "given" and "aspect" in the singular? and "property"? and "low quality"? etc

Who has determined that there are no "adverse impacts of overbearing"? Is there an admission of overbearing?

The DCP objective is to reduce overbearing. The proposal increases overbearing from the adjacent allotment's perspective. It is unpleasantly overpowering. Bulk, scale, spatial separation and overbearing building form are important considerations that cannot be summarily dismissed by an applicant-consultancy consortium. It is assumed that Council will make an impartial and well-considered decision in this regard (and all others). SOEE asserts that there are no adverse impacts. To who? How justified?

"Primary living areas and primary private open space areas of the adjoining property will not be adversely overshadowed for more than 3 hours, between 9am and 3pm, on the winter solstice."

Response: Don't know why SOEE refers to "winter solstice" rather than DCP "21 June". Doesn't address objective: "reduce overbearing and perceptions of building bulk on adjoining properties...". Adjoining property identifies increased overbearing and perceives building bulk. Loss of 40-year old views and "closing in" are some of the factors involved. SOEE chooses to ignore such considerations.

"Accordingly, Clause 3.2.2.5 of the DCP is satisfied"

Response: Quantum leap from development provisions non-compliance to satisfaction of DCP without comprehensive referral to Council's above mentioned conditions for variation It is advocated that SOEE doesn't justify variation. Can Council?

Objector can't (uninformed stakeholder in comparison to the PCA's experience, resource base and empowerment).

With further reference to open areas, DCP says (re protecting the visual privacy of on-site and nearby residents) "direct views from living rooms of dwellings into the principle area of private open space of other dwellings should be screened or obscured where they are within a 12m radius".

Is the DCP itself quality assured? Should "principle" read "principal"?

As far as equitable arrangements are concerned, it was traditionally accepted that, as a general principle, separation distances should be equally shared between neighbours. Council will note that No. 10 provides the full separation to No. 8. The current proposal means that No.10 will also provide the full separation to No.12. In terms of EPAA compliance, it is hoped that the public authority's requirements were conveyed to the applicant up-front and that correct information was gathered. The SOEE seems deficient in this regard. Presumably Council has been given all requisite information (eg boundary dimensions, site area, existing vegetation & trees on land, existing levels of land in relation to buildings & roads, location & uses of buildings on sites adjoining the land, methods of draining the land) Whilst it is appreciated that construction details are not provided until the CC application stage, it is suggested that certain structural, drainage, utility and health issues be considered at DA stage

where such issues are relevant to any development provisions non-compliances. Presumably referral to DAP would enable multi-discipline assessment (including engineering).

"Built to boundary" is a rough approximation in real terms. There is a masonry block retaining wall straddling the boundary. It retains No12 strata to a depth of half a metre. There are no weep holes. There is no formal drainage on the low side. There is a reliance on breezeway, sun drying and downslope overland stormwater flows. Elimination of any setback will have structural impacts on wall and will severely inhibit drying mechanisms applied to the wall, the path and the basal section of the existing brick wall adjacent to the path. There is also the potential for extra water to enter the area from the heightened walling. The near-boundary walling will mean reduced natural light entering the bottom windows at No.10 and consequently, artificial lights will need to be activated during daylight hours. Council is conscious of maintaining appropriate ongoing access to its water, sewerage, stormwater and other infrastructure within public and private domains. It is not fair for Council to allow a significant departure from a development provision which will potentially cause interallotment maintenance issues down the track. (eg how to access the development for maintenance without trespass). Such a situation already exists at the opposite boundary. Strengthening and future maintenance of the retaining wall are also issues associated with zero setback.

SOEE considers the development provides a housing type that will meet the needs of a segment of the community and, as such, meets the objectives: provide for the housing needs of the community, provide for a variety of housing types and densities, enable other land uses that provide facilities or services to meet the day to day needs of residents. It is difficult to understand the nexus between "a housing type that meets the needs of a segment of the community" and the provision of "a variety of housing types" and the other objectives. Which segment?

Zero setbacks are generally inconsistent with other dwellings in the locality.

Bottom Lines: No objection to "Compliant" Development. Strong objection to "Non-Compliant Development". There is a concern that the development may be approved because it is deemed "compliant". Since yesterday's phone call, we have now taken best efforts to understand certain parts of some of the regulatory/control documents and form a lay opinion: it is suggested that the application is "non-compliant" (our point of view). This is contrary to the SOEE report in the least.

[REDACTED]

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**From:** [REDACTED]  
**Sent:** Monday, 18 July 2016 9:06 AM  
**To:** Michael Roberts  
**Subject:** 2016/414

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Mr Roberts,

Thank you for your acknowledgement email of 13.07.16  
relating to Council's call for additional information on  
our 15.06.16 submission (phone call / email 28.06.16)  
and our answer (email 29.06.16).

Our position remains unaltered.

In iteration of our submission: No objection to compliant  
development, strong objection to non-compliant development.  
(for the reasons given).

For this scale of development, it is a totally reasonable  
expectation that Council:

1. Refers to LEP, DCP's, PMHC req'ts & other relevant docs
2. Impartially checks an application for compliance
3. Routinely accepts a compliant application
4. Rejects a non-compliant application
5. Considers rare circumstances (eg heritage non-compliance).

It would be unreasonable for Council to:

Expect the maker of a submission to check compliance  
(resident ratepayers should not be confronted with this)



Approve non-compliance because of non-objection to same  
Create precedence through proliferation of non-compliance.

It was difficult to understand:

1. Council's up-front conclusion of compliance
2. Its call for substantiation of an alternative view
3. Its initial non-referral to DAP having received a submission
4. Some quarters referring to delay of determination because of Council's receipt of "objection" (ergo: non-compliant application)

Our initial submission was made because we were worried  
that a non-complying development could occur to our detriment.  
It was noted at the time that the development was not the  
subject of a complying development certificate issued  
by Council or private accredited certifier.

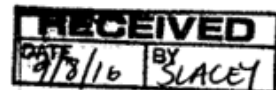
Our subsequent detail assessments of the subject development  
(called for by Council) confirm non-compliance, in our opinion  
(contrary to Council's and the Applicant's interpretations).  
These detailed assessments do not extend to the full suite of  
regulatory/control documents, legislation and information  
provided by the Applicant.

Issues needed to be raised in our email of 29.06.16  
(eg equitable separations, sunlight, ventilation, moisture, drainage,  
building bulk, imposing façade) endure. Council's ongoing  
unqualified support for the proposal is concerning. Having to  
provide further responses to our reasonable and simplistic  
submission has been arduous and taxing.

Regards,

[REDACTED]

24/08/2016



PORT MACQUARIE HASTINGS 2511	
TRIM No	CRM No
11 AUG 2016	
Keyword	
Activity	
Subject	
Folder D10.2016.414.1	

9 August 2016

The General Manager  
 Mr Craig Swift McNair  
 Port Macquarie –  
 Hastings Council  
 PO Box 84  
 Port Macquarie  
 NSW Australia 2444

craig.swift-mcnair@pmhc.nsw.gov.au

**COVER NOTE:**

Letter emailed to addressees 09.08.16  
 Originals delivered to Offices 09.08.16

**PMHC LGA DEVELOPMENT & 2016/414 DEVELOPMENT NON-COMPLIANCE**

We refer to Council's letter dated 1 June 2016 which advised of its receipt of the subject DA and specified conditions for making a submission.

We made a submission on 15 June 2016 relating to compliance / non-compliance. A determination remains outstanding.

We have deep concerns about the development process undertaken thus far and potential consequences in this case. Those concerns are also relevant in the wider context.

It is felt that the issue (as expounded in the Attachment) should be drawn to the attention of Council's executive and our representative / elected members.

cc Councillor Lisa Intemann cr.lintemann@pmhc.nsw.gov.au  
 (Chair Planning Development & Environment Standing Committee 2007-2008)

cc Councillor Sharon Griffiths cr.sgriffiths@pmhc.nsw.gov.au  
 (Extensive knowledge: legal development compliance 30 July 2012)

<b>ATTACHMENT</b>
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**SUBMISSION: 15 JUNE 2016****Objection of (sic "to") the Proposal / Support of the Proposal**

The submission expressed:

1. "NO OBJECTION" to "COMPLIANT DEVELOPMENT"
2. "STRONG OBJECTION" to "NON-COMPLIANT DEVELOPMENT"

**Grounds**

1. The existing development regulatory / control framework has been crafted over quite some time, has been designed to avoid adverse development impacts and has been universally agreed to.
2. It would be unreasonable to raise an objection if the development is compliant.
3. Equally, it would be reasonable to raise an objection if the development does not comply with requirements set out in the established, accepted framework.

**WHY A SUBMISSION WAS MADE****Our Wishes**

We would prefer no significant local development.

It would be unreasonable (and against the settled framework) to make any submission on this basis. .

**Our Expectations**

That Council would:

1. Impartially and thoroughly assess this and any other proposal.
2. Only approve compliant development proposals
3. Reject this and any other proposal that does not comply.
4. Only allow a variation (non-compliant proposal) in exceptional circumstances (eg demolition of a minor element having a questionable heritage listing attached to it)

That we would not need to:

1. Examine publicly displayed or any other information on the proposal
2. Make a submission

That development stakeholders generally would:

1. Have the same expectations
2. Expect consistency of approach

### **Flawed and Biased SOEE**

The only information on the proposal provided by the Council was a Statement of Environmental Effects (SOEE). This was prepared by the Applicant.

Our cursory look at the document suggested to us that:

1. The proposal may be non-compliant
2. The SOEE is hearsay, flawed and biased in favour of the developer
3. Council may already be accepting of the SOEE
4. Council may be ready to "rubber stamp" the proposal on the basis of the SOEE
5. Our expectations may not be satisfied
6. We need to make a submission to express our expectations
7. We should wonder why a PMHC PCA pathway had been chosen rather than a PC complying development pathway (reinforcing our initial concerns)

### **Tempering of the Submission**

Our up-front dismay with the SOEE and our initial perception of Council's support for the SOEE compelled us to make statements regarding compliance / non-compliance.

We also tried to express an understanding of the situation as we saw it. The DA was in the early stage of assessment and determination.

Whilst trying to demonstrate an appreciation for due process, we also wanted to flag some of the implications of Council potentially accepting a non-compliant DA.

In simple terms:       compliant DA – no consequences  
                                  non-compliant DA - consequences

We expected that:

1. Council would harness the requisite internal and INDEPENDENT external resources to identify ALL non-compliances.
2. Each of Council's POLICY STATEMENTS SHOULD ENDURE over and above incomplete, summary reasoning attached to specific formulae and values.

We appreciated that:

1. DA Notification occurs EARLY in the assessment process
2. There appears to be no embargo on "TESTING" non-compliances (if any).

We expressed concern over approvals of material non-compliances in terms of things such as:

1. Creation of precedence
2. Impediments to future developments on adjacent lands ((with or without requisite compensation)
3. Maintenance access
4. Health, amenity and utility

We expressed trust that Council:

1. Achieves a legal and equitable outcome
2. Gives due consideration to all relevant matters
3. Particularly considers its adopted policies within a set regulatory framework.

Because of our initial perception of Council's support for the SOEE and our worry that Council may accept a non-compliant proposal, we asked:

1. Are there avenues of appeal for objectors?
2. Can there be an extension of time for objectors to engage sufficient resources to analyse and assess the full impact of non-compliances followed by submission to full Council or higher authority for ratification or otherwise of a DAP decision, for instance?

**COUNCIL'S INTENTION TO APPROVE: 28 JUNE 2016****Unsolicited Phone Call**

Council advised that:

1. It was about to approve the DA
2. The DA complies with the DCP
3. The SOEE is correct

Council asked that:

1. We instantaneously provide more information on our submission
2. Give reasons why the DA should not be approved

**Email**

Council further advised that it would inform the applicant about concerns regarding:

1. the side setback
2. the privacy screen on the rear deck

Council stated that

1. Providing a privacy screen along the rear deck is unreasonable due to the 2.8m side setback as proposed.
2. It would see what the applicant comes back with.

**Our Reaction**

At this point it was quite apparent that our initial fears relating to the processing of this DA were being realised.

It was felt that an urgent counter to Council's assessment (compliant) was required to avoid imminent approval of the DA.

This would require overnight, close scrutiny of the SOEE, and cross-referencing to Council's DCP as well as some other reference documents.

It was anticipated that the email would confirm the matters discussed in the phone call. In actuality it was totally unrelated and was confusing in terms of Council's position.



**OUR RESPONSE: 29 JUNE 2016****Our understanding of Council's Current Position**

We confirmed that we understood that Council:

1. Was about to approve the application without referral to the DAP
2. Required further details on any objection
3. Was happy that the current application/proposal is acceptable in terms of satisfaction of Council's suite of documented regulatory/control requirements.

We asked that Council confirm its position because its email didn't seem to reflect same.

We iterated our previously submitted expectations in depth.

**Our Additional Information & Compliance Assessment**

We found and advised Council of a host of issues associated with its DCP and the SOEE. This confirmed our initial thoughts including those of flaws and bias.

We found that the DA is non-compliant and should not be approved.

We felt that Council should have already come to the same conclusion without our involvement in any way in this matter.

We made specific comment on a **VERY LONG LIST OF THINGS** such as:

1. Emotive language and misleading statements within the reference documents
2. Hierarchy of set parameters (eg heights & set backs over objectives)
3. Use of biased opinions and unsubstantiated interpretations
4. Meanings and incomprehensible assertions
5. Imposing, bulky and overbearing building facades
6. Moisture, light, ventilation & maintenance problems with reduced set backs
7. Closing in and loss of views
8. Equal sharing of separation distances between neighbours
9. EPAA compliance (eg gathering of complete and correct information)

**10. Structural and drainage issues (existing retaining wall)**

We suggested that the application is "non-compliant", is contrary to the SOEE report in the least and asked if Council can justify the DCP variation.

**Our Expectation**

Despite our response being hastily prepared and by no means complete (for the reasons given earlier), it was expected That Council would:

1. Review and expand its assessment
2. Deem the DA non-compliant
3. Reject the Proposal

**COUNCIL'S RESPONSE: 13 JULY 2016**

Council:

1. Recognized "our" identified DCP non-compliance
2. Discussed this with the Applicant

The Applicant:

1. Discussed this with the Clients
2. Requested Council to further consider the submitted plans

Council believed:

1. That the DA complies with DCP objectives
2. The SOEE justification of compliance

Council wanted:

1. Our response
2. Our acceptance or otherwise of the proposal

Council would:

Send the proposal to DAP if we pursued our initial objection

**COUNCIL'S REQUEST / ADVICE: 17 JULY 2016**

Council asked us to provide a response by 18 July 2016

Council advised that it:

1. Needs to move forward with the DA
2. Needs to collate a report ASAP if the matter is to be reported to the next available DAP meeting

**OUR RESPONSE: 18 JULY 2016****Reasons for Response**

1. To reinforce and justify what we consider to be a simple, logical and fair position to adopt
2. To iterate our expectations and our perception of Council's role

**Our Position (iterated & unaltered)**

1. No objection to compliant development
2. Strong objection to non-compliant development (for the reasons given)

**Our Reasonable Expectation**

For this scale of development, it is a totally reasonable expectation that Council:

1. Refers to LEP, DCP's, PMHC requirements & other relevant docs
2. Impartially checks an application for compliance
3. Routinely accepts a compliant application
4. Rejects a non-compliant application
5. Considers rare circumstances (eg heritage non-compliance).

It would be unreasonable for Council to:

1. Expect the maker of a submission to check compliance (residential ratepayers should not be confronted with this)

2. Approve a non-compliance DA because there has been no submission of objection to same
3. Create precedence through proliferation of non-compliance.

**Council's Perplexing Actions**

It was difficult to understand Council's:

1. Up-front conclusion of compliance
2. Call for substantiation of an alternative view
3. Initial non-referral to DAP having received a submission
4. Council's use of the term "objection" in connection with its deemed "compliant DA" whilst there was no objection submitted for a "compliant DA"

**Our Recap**

1. Initial submission was made because we were worried that a non-complying development could occur to our detriment
2. It was noted at the time that the DA was not the subject of a complying development certificate issued by Council or private accredited certifier
3. Our subsequent detailed assessments of the subject development (called for by Council) confirm non-compliance, in our opinion (contrary to Council's and the Applicant's interpretations)
4. These detailed assessments do not extend to the full suite of regulatory/control documents, legislation and information provided by the Applicant
5. Issues needed to be raised in our email of 29.06.16 (eg equitable separations, sunlight, ventilation, moisture, drainage, building bulk, imposing facade) endure
6. Council's ongoing unqualified support for the proposal is concerning
7. Having to provide further responses to our reasonable and simplistic submission has been arduous and taxing.

**Conclusion**

AT THIS POINT, THE SITUATION HAD BECOME UNTENABLE.  
OUR POSITION REMAINED UNALTERED.

**COUNCIL'S ADVICE / REQUESTS: 4 AUGUST 2016****Council's Receipt & Acceptance of DA Revisions**

Council advised that it:

1. Had received revised plans addressing DCP non-compliance issues
2. Believed that the revisions have addressed our concerns

**Council's Requests**

Council asked us to:

1. Review the plans within 7 days
2. Provide feedback to allow Council to proceed with DA
3. Withdraw our objections to the proposal if we are satisfied with the changes

**OUR RESPONSE (THIS LETTER): 9 AUGUST 2016**

So, Council had received a primary development application and, later in its protracted handling of this DA, it now appears that it has received a revision constituting primary and ancillary developments

**Revised DA Plans**

1. We will not review the plans within 7 days
2. We ask that Council review the plans and the complete DA and certify compliance or non-compliance with its entire regulatory framework (including but not limited to EPAA, LGA, BCA, LEP, DCP)
3. We ask that Council provide feedback as to its final determination on this basis
4. We are satisfied with this, the previous or any other proposal provided that it is compliant

5. We will not withdraw our submission
6. We object to non-compliant development only
7. We do not object to compliant development
8. We are concerned that Council does not share this view
9. We are concerned that Council shares the biased and flawed views of the developer in this and other cases (to the detriment of current and future stakeholders)

**Supporting Email (SOEE Rider)**

1. The SOEE steadfastly indicates no impacts with anything it proposes or sees
2. Our suspicions that the revised DA (primary and ancillary developments) is not compliant remain as a result
3. We suggest that the SOEE's mention of other local similar situations is an example of precedence (non-compliant DA's slipping through the cracks or net – as the one at hand could easily do)
4. It would seem that Council's continued allowance for this to happen favours the developer in terms of those that win approval up-front and those that successfully appeal to the L&EC on the basis of precedence
5. The SOEE is selective: saying that something complies with the BCA: but does it comply with everything else it supposed to?

Presumably, Council will make a fair and correct assessment (including, but not limited to, compliance with the LEP, use of the development, vehicular access to the development (already using the crossing that serves the adjacent allotment), DCP, LGA, Roads Act, Contributions plan etc)

**CLOSING COMMENTS****Enough is Enough**

We have had enough.  
We are done.  
We are spent.  
We have said the same thing over and over.  
We do not object to compliant development.  
We strongly object to non-compliant development.  
A DA is either compliant or not.  
It is not for us to carry out the functions of Council  
Why doesn't Council have the same view in this case and generally?

**Our Expectations**

WE EXPECT COUNCIL TO BE FAIR, ACCURATE, RESPONSIBLE & IMPARTIAL IN ITS DEALINGS.

**Assessment of Compliance**

THE MAKER OF A SUBMISSION ON THIS SCALE OF DEVELOPMENT SHOULD NOT BE BURDENED WITH THE TASK OF PROVIDING COUNTER INVESTIGATIONS AND REPORTS TO THOSE PROVIDED BY A DEVELOPER WITH VESTED INTERESTS.

THE MAKER OF A SUBMISSION ON THIS SCALE OF DEVELOPMENT WOULD NORMALLY NOT HAVE THE RESOURCES, EXPERTISE AND INFORMATION ACCESS TO COMPLETELY ASSESS COMPLIANCE OR NON-COMPLIANCE.

IT IS EXPECTED AND TRUSTED THAT COUNCIL WILL MAKE ITS OWN CORRECT, FAIR, IMPARTIAL AND INDEPENDENT ASSESSMENT.

COUNCIL HAS ACCESS TO THE FULL SUITE OF GOVERNORS WITHIN THE LEGISLATIVE FRAMEWORK AND HAS ALL OF THE INFORMATION PROVIDED WITH THE DA. THE MAKER OF A SUBMISSION DOES NOT.

**Good Governance**

It is difficult to comprehend Council's running of the DA.

Council's lack of consistency and clarity is appalling.

Presumably has its own comprehensive and complete DA compliance checklist against which proposals are assessed.

Presumably, matters need to be certified and processes comply with good governance systems such as Q/A and the ABEF.

Documentation in this case contains errors. There is even conflict when it comes to specifying the Applicant entity.

Then, there are the usual values: superior customer service, transparency, fairness, honesty, integrity & **TRUST**

WE TRUST THAT COUNCIL EXERCISES GOOD GOVERNANCE.

WE TRUST THAT COUNCIL LOOKS AFTER OUR INTERESTS IMPARTIALLY AND FAIRLY AND IN ACCORDANCE WITH THE LEGISLATIVE FRAMEWORKS

**IN THE SAFEGUARDING OF OUR INTERESTS ON THIS OCCASION, IT IS FELT THAT OUR USE OF TRUST HAS NOT BEEN A GOOD MANAGEMENT TOOL.**

#### **Finalisation of the DA**

We are not preventing the finalisation of the DA.

WE TAKE UMBRAGE AT ANY STAKEHOLDER'S SUGGESTION THAT WE ARE OBJECTORS, THAT WE ARE IMPEDIMENTS TO THE DEVELOPMENT AND THAT WE ARE HOLDING UP THE DA.

As far as we are aware, Council has not refuted anything provided by or claimed by the DA proponents. We certainly have. We are obviously at odds with the Council in this matter. We cannot understand why.

From our viewpoint it is quite clear that, if we had not made a submission, non-compliant DA would have been promptly approved to our detriment. We feel it still could happen.

#### **Compensation**

If now and/or sometime down the track, current/future stakeholder/s identify approved non-compliances and experience adverse effects consequent to those non-compliances, compensation should apply. It is for Council to consider all relevant matters.

It is suggested that other Departments in Council could inherit the impacts of approvals of non-compliant developments.

THIS IS A CRITICAL AREA OF ENDEAVOUR.  
WHAT IS DONE IS DONE.  
IT CANNOT BE UNDONE DOWN THE TRACK.

In fairness to all current and future stakeholders (including inheritors of non-compliant developments), adverse impacts should be compensated for.

#### **Testing the Waters**

Although a recognized right, Council should not encourage the practice where there is obvious non-compliance. This sends incorrect signals to the development sector, promotes wastage of resources in "application and assessment" processes.

It is suggested that such a situation should apply to larger developments and where there is an absence of a clear governing framework for such developments.



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**Possible Perception of Current Development Culture Within Council**

It seems that:

Anyone can have a go at a non-compliant development at this scale.

Council will believe it's OK and give it a quick green light if a report is provided that says it's OK and if there isn't an objection.

If there is an objection, Council will mediate and try to get the thing through in any case.

Council wants to be the good cop (with the developer).

The neighbour is the bad cop.

This can cause interallotment problems.

If this is the case, it's not fair to anyone.

Council is the impartial assessor and determiner, not the neighbour.

Who is actually in control?

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Item: 08

Subject: DA2016 - 417.1 - ALTERATIONS AND ADDITIONS TO DWELLING -  
LOT 18 DP 21262, 86 PACIFIC DRIVE, PORT MACQUARIE

Report Author: Stephen Ryan

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Applicant: L Vallentine  
Owner: C E Morgan & T P Vallentine  
Estimated Cost: \$150,000  
Parcel no: 19661

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#### Alignment with Delivery Program

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

#### RECOMMENDATION

That DA 2016 - 417.1 for alterations and additions to dwelling at Lot 18, DP21262, No. 86 Pacific Drive, Port Macquarie, be determined by granting consent subject to the recommended.

#### Executive Summary

This report considers a development application for alterations and additions to dwelling 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 619.7m<sup>2</sup>.

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



The 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:

- Additions to dwelling comprising first floor addition, deck and shade structure.

Refer to attachments at the end of this report.

**Application Chronology**

- 1 June 2016 - Application lodged.
- 14 June 2016 - 27 June 2016 - Exhibition via neighbour notification.
- 22 June 2016 - Meeting at Council chambers with submitter.
- 23 June 2016 - Submission received.
- 25 July 2016 - Site inspection.

**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. 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

A BASIX certificate (number A247124) has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

#### 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 additions and 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 and consistent with the established residential locality,

- Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.
- Clause 4.3, the maximum overall height of the building above ground level (existing) is 8.0m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.36:1.0 which complies with the maximum 1.0:1 floor space ratio applying to the site.
- Clause 7.13, existing services in place.

#### (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

<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> <li>• 4.8m max. height</li> <li>• Single storey</li> </ul>	Proposed deck & shade structure. 4.7m Single storey	Yes Yes

	<ul style="list-style-type: none"> <li>• 60m<sup>2</sup> max. area</li> <li>• 24 degree max. roof pitch</li> <li>• Not located in front setback</li> </ul>	<p>42m<sup>2</sup> in total &lt;24° Rear setback</p>	<p>Yes Yes Yes</p>
	<p>Front setback (Residential not R5 zone):</p> <ul style="list-style-type: none"> <li>• Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot</li> </ul>	10m	Yes
3.2.2.3	<p>Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided</p>	Maintains existing	Yes
	<p>Driveway crossover 1/3 max. of site frontage and max. 5.0m width</p>	6.6m tapering to 6.0m over 15m site frontage. Greater than 1/3 of frontage	No*
3.2.2.4	<p>4m min. rear setback. Variation subject to site analysis and provision of private open space</p>	12.4m	Yes
3.2.2.5	<p>Side setbacks:</p> <ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>	<p>Shade structure 1.4m from northern boundary. Deck with shade structure 3.180m from southern side boundary &amp; 6.4m from northern boundary.</p> <p>1.350m first floor addition to southern boundary. Overshadowing demonstrated not adverse therefore setback complaint.</p>	<p>Yes</p> <p>Yes &amp; No*</p> <p>Yes</p>
3.2.2.6	<p>35m<sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade</p>	Available at rear	Yes
3.2.2.10	<p>Privacy:</p> <ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</li> <li>• Privacy screen required if floor level &gt; 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m</li> </ul>	<p>Direct views from the rear deck are to be restricted with a proposed privacy screen. No direct views have been identified into private open space areas of adjoining habitable areas. It is considered that privacy implications are no greater than what already exists between the two properties.</p> <p>First floor windows on the southern boundary are located within 3m however, are for a bedroom (privacy screen</p>	<p>Yes</p> <p>Yes</p>

	<ul style="list-style-type: none"> <li>• Privacy screens provided to balconies/verandahs etc which have &lt;3m side/rear setback and floor level height &gt;1m</li> </ul>	<p>is not required). Windows on lower level adjoining boundary are existing. New windows facing the northern boundary are located &gt; 3m (dining room) &amp; at a sill height of 1.7m for sun room. (Screening not required)</p> <p>Privacy screen provided to rear side boundary deck. Front deck does not require a privacy screen as views are to the front public open space.</p>	Yes
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<b>DCP 2013: General Provisions</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes
2.5.3.2	New accesses not permitted from arterial or distributor roads	Maintains existing access	Yes
	Driveway crossing/s minimal in number and width including maximising street parking	Single driveway proposed	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Two spaces available within existing	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.14	Sealed driveway surfaces unless justified	Sealed concrete driveway proposed	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length		Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.		Yes
	Vehicle washing facilities – grassed area etc available.	Available	Yes

The proposal seeks to vary Development 3.2.2.3

The relevant objectives are:

- To minimise the impact of garages and driveways on the streetscape, on street parking and amenity.
- To minimise the visual dominance of garages in the streetscape.

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

- The proposal is for the amalgamation of the two existing driveways into one. The two driveways have a combined width of 6.6m wide tapering to 6.0m over the council verge.
- Currently there is no concrete layback over the council nature strip; however there will be no change to existing gutter layback width which is reflected in the overall driveway width.
- The variation is acceptable as there will be no additional impact on the driveway from what already exists.

The proposal seeks to vary Development 3.2.2.5

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 reduced setback of 1.350m for the second storey component of the additions is considered acceptable as there will be only a minor reduction in solar access from the proposed works. The applicant has provided shadow diagrams which demonstrate that the primary living areas and primary private open space areas of the adjoining property at 87 Pacific Drive will not be adversely overshadowed for more than 3hrs between 9am- 3pm on 21 June. The setback complies with the allowable variation in setback to 900mm.
- There will be no foreseeable reduction in visual and acoustic privacy between dwellings.

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

**(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:**

**New South Wales Coastal Policy:**

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

**Demolition of buildings AS 2601:**

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:**



N/A

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

**Context and setting****Solar access-**

- Although there will be some additional overshadowing of the adjoining dwelling at 87 Pacific Drive, the reduction in solar access is considered to be minor.
- The applicant has submitted shadow diagrams that demonstrate that shadows cast by the additions will not result in adverse overshadowing of the main private open spaces. The proposal does not prevent the adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.
- The foreseeable impact by overshadowing is only slightly greater than what already exists between the two dwellings at 86 & 87 Pacific Drive. It is not anticipated that the adjoining roof top solar panels will be impacted upon by the proposed additions and that overshadowing of the rear deck of the adjoining property will be only slightly greater at 9am than that which already exists (See shadow diagrams below)



Overshadowing from proposed additions 9am on 21 June.



Overshadowing from proposed additions 12 noon on 21 June.



Overshadowing from proposed additions 3pm on 21 June.

- 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.

**Access, transport and 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.

**Water Supply**

Service available – details required with S.68 application.

**Sewer**

Service available – details required with S.68 application.

**Stormwater**

Service available – details required with S.68 application

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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.

**Energy**

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

**Noise and vibration**

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

**Bushfire**

The site is identified as being bushfire prone.

The applicant has submitted a bushfire assessment. Council has undertaken its own assessment and the following comments are provided having regard to section 4.3.5 of Planning for Bushfire Protection 2006:

<b>Asset Protection Zones</b>	APZ to be determined in accordance with AS3959	Coastal headland brushbox littoral rainforest vegetation  APZ to be 15m – which can include 0m outer APZ  Effective slope = Downslope 8° (> 5- 10 degrees)
<b>Siting and building design</b>	Siting and design principles considered section 4.3.5	Building sited 58m from hazard which is excess of standard calculated APZ  Cladding  No box gutters  The site has an 8° slope.  Raised floors not proposed with concrete slab

		The building additions are two storey
<b>Construction standards</b>	Construction in accordance with AS3959.	FDI rating 80 Effective slope = Downslope 8° (> 5- 10 degrees) = 58m = BAL 12.5
<b>Access requirements</b>	4.1.3 public road access 4.2.7 for internal road access	Constructed public road frontage N/A
<b>Water and utility services</b>	4.1.3 services - water and electricity.	Water supply services available. Existing electrical transmission lines.
<b>Landscaping</b>	Appendix 5 landscaping	No additional landscaping proposed.

The above assessment concludes that the bushfire risk is acceptable subject to BAL 12.5 construction levels being implemented and APZ being maintained.

#### **Safety, security and crime prevention**

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

#### **Social impacts in the locality**

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

#### **Economic impact in the locality**

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

#### **Site design and internal design**

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

#### **Construction**

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

**Cumulative impacts**

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

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

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

**(d) Any submissions made in accordance with this Act or the regulations**

Following exhibition in accordance with DCP 2013, one (1) submission was received

**(e) The public interest**

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

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

One (1) 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:

<b>Submission Issue/Summary</b>	<b>Planning Comment/Response</b>
Front deck and windows looking into bedroom of 87 Pacific Drive. Request windows be high level windows & privacy screen to deck.	First floor windows are not required to have a privacy screen if located in a bedroom. The proposed upper level front deck looks onto the public open space of the street frontage and a privacy screen is not considered to be justified.
Distance of proposal to boundary	The distance of the proposed additions to the southern side boundary meets the required setbacks of DCP 2013 as outlined in the report.
Overshadowing of solar system on roof of 87 Pacific Drive.	From the shadow diagrams provided the solar hot water system will not be overshadowed.
Plans do not delineate between roof lines of dwellings.	The architectural plans clearly indicate rooflines of the existing & proposed additions.
Wishes to retain privacy	Privacy will be retained by a rear privacy screen. No screen is required for the proposed upstairs bedroom windows or the front deck as noted above.

**(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 - 417.1 Plans

2[View](#). DA2016 - 417.1 Recommended Conditions

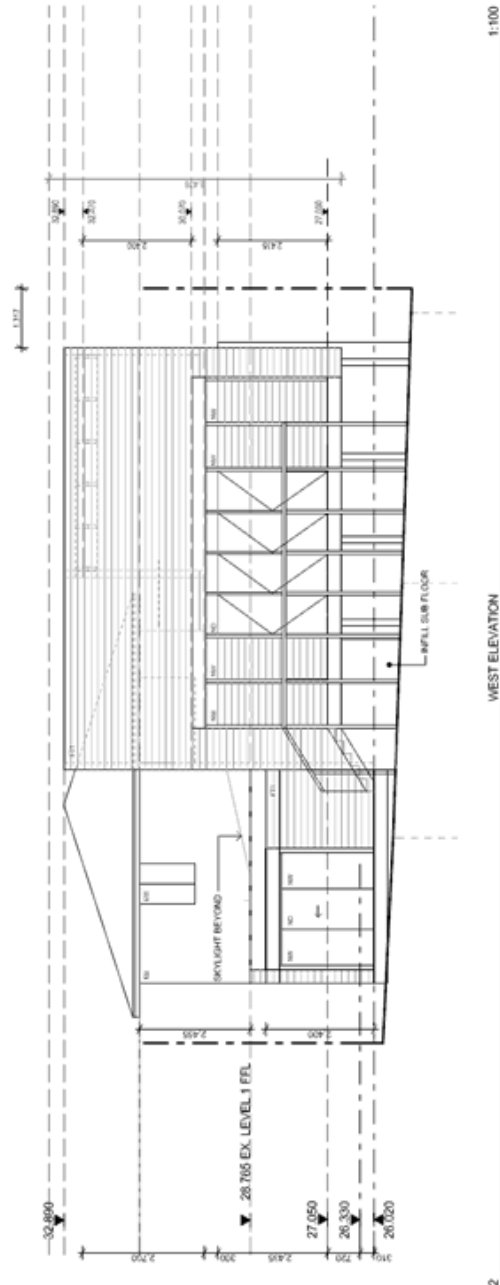
3[View](#). DA2016 - 417.1 Submission - Reid



PROJECT <b>ALTERATION &amp; ADDITION TO EXISTING RESIDENCE</b> <b>LOT 18 DP 21262 86 PACIFIC DRIVE</b> <b>PORT MACQUARIE</b> <b>MR. T. VALLENTINE &amp; MS. C. MORGAN</b>	REV. 01	DATE 23.03.16	DESCRIPTION DEVELOPMENT APPLICATION	BY LV	TITLE <b>DEVELOPMENT APPLICATION</b> <b>SITE PLAN</b>
	SCALE 1:200 @ A3		DRAWN LV	DATE MAY 2016	SHEET NO. <b>DA-01</b>
NOMINATED ARCHITECT: LAURA VALLENTINE (NSW REG NO. 5262)					

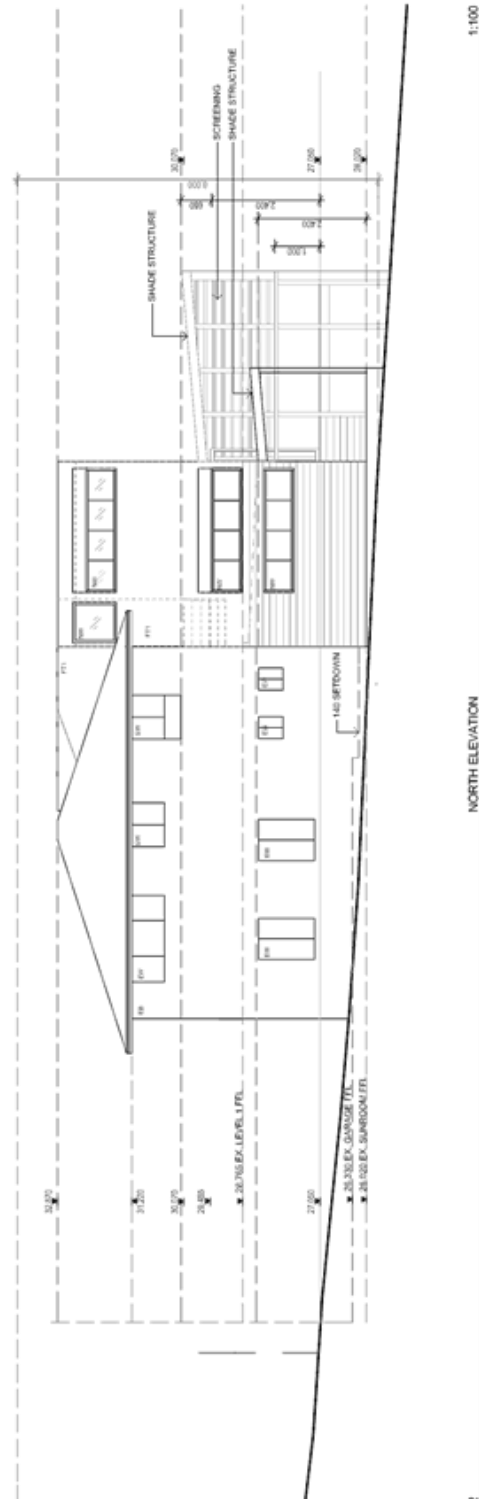




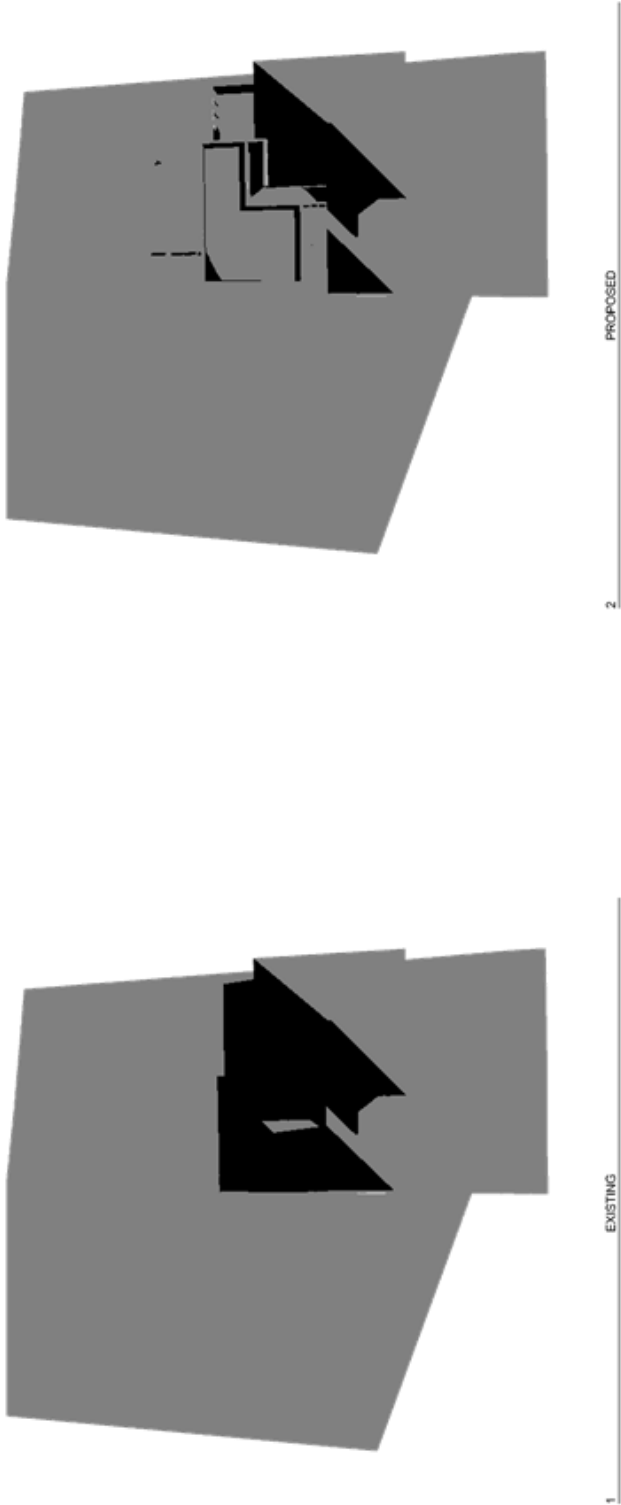


PROJECT AL ALTERATION & ADDITION TO EXISTING RESIDENCE LOT 18 DP 21262 86 PACIFIC DRIVE PORT MACQUARIE MR. T. VALLENTINE & MS. C. MORGAN	REV. 01	DATE 23.05.16	DESCRIPTION DEVELOPMENT APPLICATION	BY L.V.	TITLE ELEVATIONS SHEET 1					
						SCALE 1:100 @ A3	DRAWN L.V.	DATE MAY 2016	SHEET NO. DA-05	REV. 01

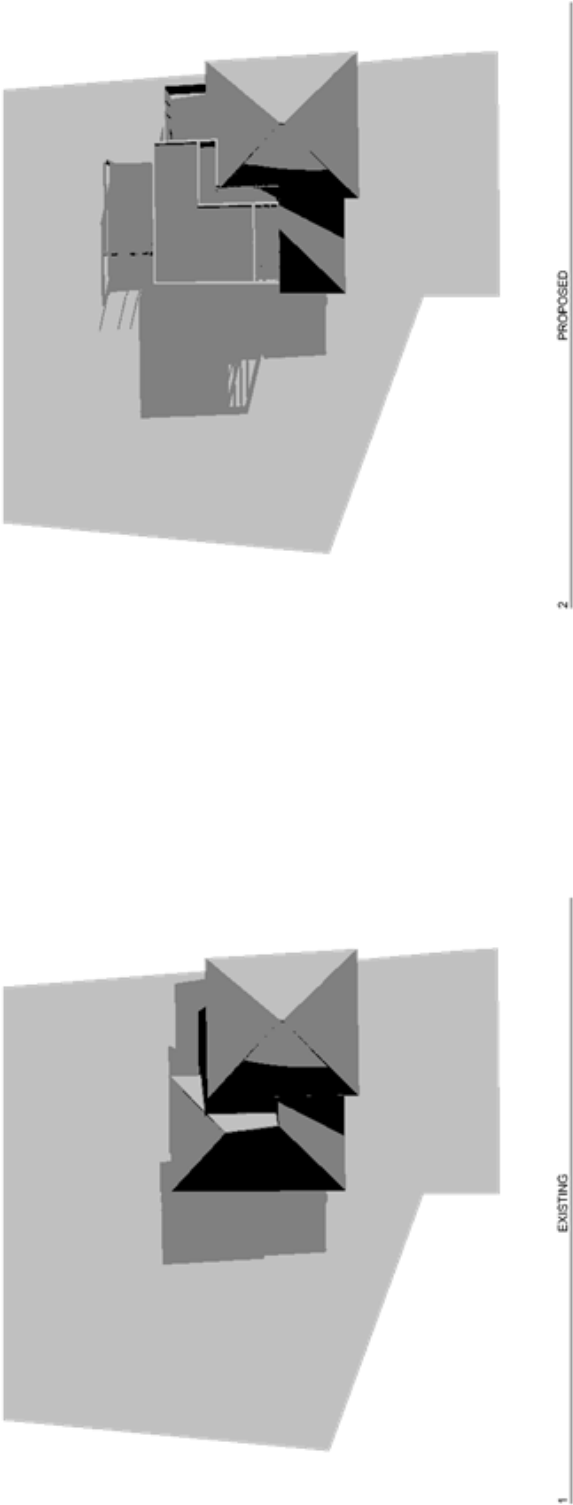
NOMINATED ARCHITECT: LAURA VALLENTINE (NSW REG NO. 9262)



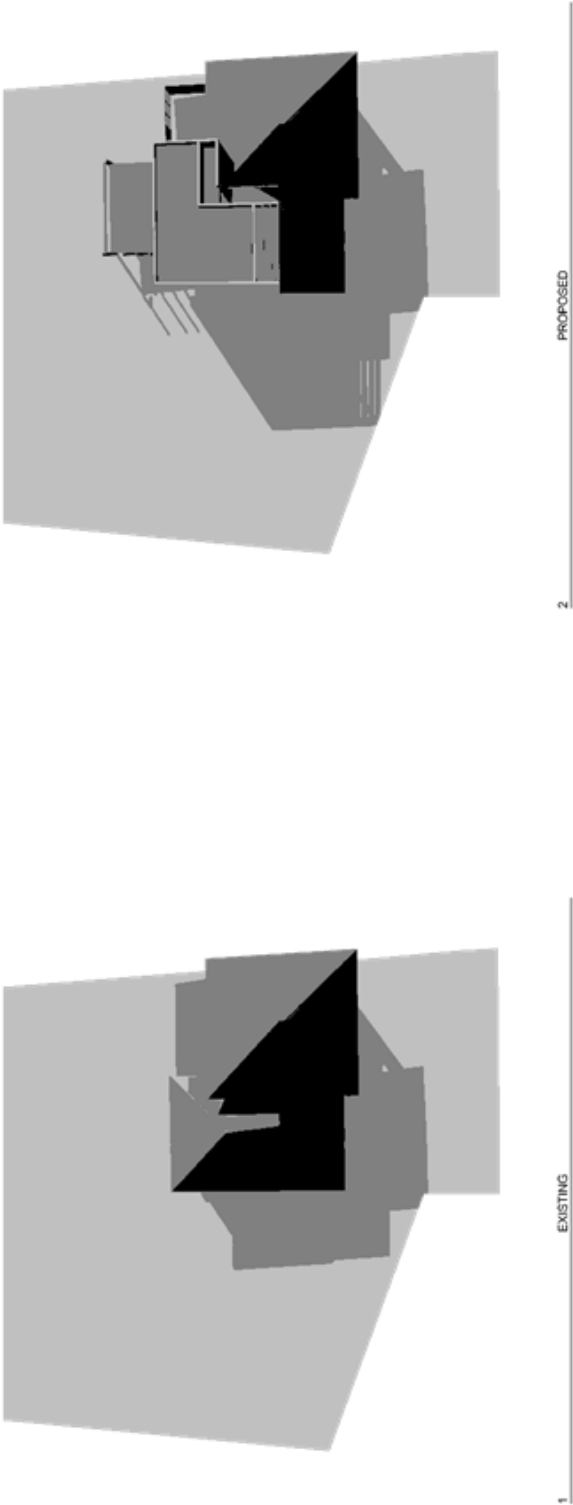
PROJECT <b>ALTERATION &amp; ADDITION TO EXISTING RESIDENCE</b> <b>LOT 18 DP 21262 86 PACIFIC DRIVE</b> <b>PORT MACQUARIE</b> <b>MR. T. VALLENTINE &amp; MS. C. MORGAN</b>	REV. 01	DATE 23.03.16	DESCRIPTION DEVELOPMENT APPLICATION	BY L.V.	TITLE <b>DEVELOPMENT APPLICATION</b> <b>ELEVATIONS SHEET 2</b>
	SCALE 1:100 @ A3 L.V.				
DATE MAY 2016					SHEET NO. <b>DA-06</b>
REV. 01					



NOMINATED ARCHITECT: LAURA VALLENTINE (NSW REG NO. 9262)	PROJECT		REV.	DATE	DESCRIPTION	BY	TITLE
	ALTERATION & ADDITION TO EXISTING RESIDENCE LOT 18 DP 21262 86 PACIFIC DRIVE PORT MACQUARIE		01	23.05.16	DEVELOPMENT APPLICATION	LV	DEVELOPMENT APPLICATION SHADOW STUDIES - Jun 21st 9am
	MR. T. VALLENTINE & MS. C. MORGAN		SCALE		DRAWN	DATE	SHEET NO.
			1:100 @ A3		LV	MAY 2016	DA-07
						REV	
						01	



NOMINATED ARCHITECT: LAURA VALLENTINE (NSW REG NO. 9262)	PROJECT ALTERATION & ADDITION TO EXISTING RESIDENCE LOT 18 DP 21262 86 PACIFIC DRIVE PORT MACQUARIE  MR. T. VALLENTINE & MS. C. MORGAN	REV. 01	DATE 23.05.16	DESCRIPTION DEVELOPMENT APPLICATION	BY LV	TITLE 23.05.16 FOR INFORMATION DEVELOPMENT APPLICATION SHADOW STUDIES - Jun 21st 12pm			
		SCALE 1:100 @ A3		DRAWN LV	DATE MAY 2016	SHEET NO. DA-07	REV 01		



NOMINATED ARCHITECT: LAURA VALLENTINE (NSW REG NO. 9262)	PROJECT ALTERATION & ADDITION TO EXISTING RESIDENCE LOT 18 DP 21262 86 PACIFIC DRIVE PORT MACQUARIE  MR. T. VALLENTINE & MS. C. MORGAN	REV. 01	DATE 23.05.16	DESCRIPTION DEVELOPMENT APPLICATION	BY LV	TITLE 23.05.16 FOR INFORMATION DEVELOPMENT APPLICATION SHADOW STUDIES - Jun 21st 3pm
		SCALE 1:100 @ A3		DRAWN LV	DATE MAY 2016	SHEET NO. DA-07
						REV 01

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2016/417****DATE: 12/08/2016****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.

<b>Plan / Supporting Document</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
Architectural plans	DA-01- DA-07 Revision: 01	Laura Vallentine	25 May 2016
Basix certificate	No: A247124	Laura Vallentine	6 June 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.
  - 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

- (2) (B006) An application 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 submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

- Footway and gutter crossing
- Functional vehicular access

- (3) (B046) The building shall be designed and constructed so as to comply with the Bush Fire Attack (BAL) 12.5 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

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

#### **C – PRIOR TO ANY WORK COMMENCING ON SITE**

nil

#### **D – DURING WORK**

- (1) (D003) The site is in an area known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (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](#)

#### **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) (E034) Prior to occupation or the issuing of the Final Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (3) (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.
- (4) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

#### **F – OCCUPATION OF THE SITE**

nil

Regarding development 2016/417 at 86 PACIFIC DRIVE  
My concern is the front deck and windows looking  
straight into my bedroom

I request right and left side windows looking  
at south elevation be high level windows

I request a full height (or minimum  $\frac{3}{4}$  height)  
security screen to be built on edge of deck.

I am concerned about the distance from my  
boundary which is correct according to Surveyors  
Certificate in 1985 according to current requirements  
at that date.

I am a little concerned at the shadowing on  
my solar system.

Please NOTE my house is 87 NOT 88 as on plan  
Plan views do not delineate between roof lines  
~~and on~~ front and back balconies. My front balcony  
is not on plan

As a resident of 31 years I would like to  
retain my privacy

Yours sincerely



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Item: 09

Subject: DA2016 - 444.1 - ALTERATIONS AND ADDITIONS TO DWELLING -  
LOT 61 DP 236278, 159 MATTHEW FLINDERS DRIVE, PORT  
MACQUARIE

Report Author: Stephen Ryan

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Applicant: J Wright & A T Forrester

Owner: J Wright & A T Forrester

Estimated Cost: \$107300

Parcel no: 13361

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#### Alignment with Delivery Program

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

#### RECOMMENDATION

That DA 2016 - 444.1 for alterations and additions to a dwelling at Lot 61, DP236278, 159 Matthew Flinders Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions .

#### Executive Summary

This report considers a development application for alterations and additions to an existing dwelling comprising a first floor addition and carport at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

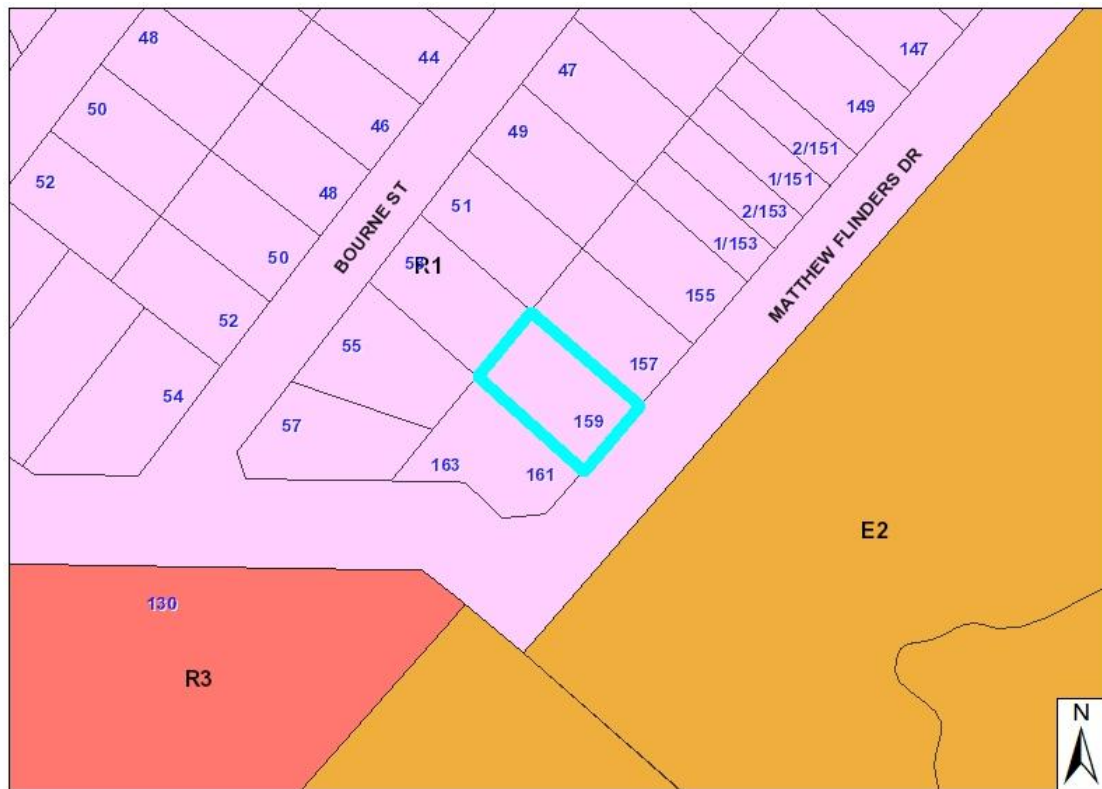
Following exhibition of the application, one (1) submission has been received.

#### 1. BACKGROUND

##### Existing sites features and surrounding development

The site has an area of 588.1m<sup>2</sup>.

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



The 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:



- First floor addition to the south western rear portion of the existing dwelling.
- Addition of a carport to the southern side of the dwelling.

Refer to attachments at the end of this report.

### **Application Chronology**

- 15 June 2016 - Application lodged.
- 20 June 2016 - 4 July 2016 - Exhibition via neighbour notification.
- 28 June 2016 - Meeting at Council chambers with objector.
- 4 July 2016 - Objection received.
- 20 July 2016- Revised plans received showing increased carport setback from side boundary.
- 25 July 2016 - On site inspection.

### **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. 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**

A BASIX certificate (number A257172) has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

**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 additions and 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 and consistent with the established residential locality,

- Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.
- Clause 4.3, the maximum overall height of the building above ground level (existing) is 6.4m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.48:1.0 which 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 not mapped as potentially containing acid sulphate soils.
- Clause 7.3, the site is not land within a mapped “flood planning area”.
- Clause 7.5 – Koala Habitat – The land is not identified as a “Koala Habitat area” on the Koala Habitat Map.

- Clause 7.6 – The land is not identified as a Coastal Erosion Risk on the Coastal Erosion Map (Lake Cathie/Town Beach).
- Clause 7.13, satisfactory arrangements are in place for provision of essential services.

**(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**

<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> <li>• 4.8m max. height</li> <li>• Single storey</li> <li>• 60m<sup>2</sup> max. area</li> <li>• 100m<sup>2</sup> for lots &gt;900m<sup>2</sup></li> <li>• 24 degree max. roof pitch</li> <li>• Not located in front setback</li> </ul>	Carport 4.1m Single storey 24.4m <sup>2</sup> - 20° Side setback	Yes Yes Yes N/A Yes Yes
	Front setback (Residential not R5 zone): <ul style="list-style-type: none"> <li>• Min. 4.5m local road.</li> </ul>	-7.760m	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	7.760m. Not 1m behind façade however achieves 5.5m minimum setback.	Yes & No
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	8.222m	Yes
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>	Carport 0.5m to boundary First floor additions 1.240m from side boundary - overshadowing not considered to be adverse - refer to comments below	No Yes  Yes
3.2.2.6	35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade	Available at rear	Yes
3.2.2.10	Privacy: <ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent</li> </ul>	No direct views identified between adjoining habitable areas. Windows at rear are calculated to be 22m from the habitable areas of the dwelling to the rear.	Yes



	dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandas etc which have <3m side/rear setback and floor level height >1m	Windows along southern boundary relate to a proposed ensuite.  Ensuite window on southern boundary is less than 3m however greater than 1.5m to sill height	Yes
		Landing at front stairs 2.9m from boundary. Existing deck 3.640m from boundary. Views to public open space therefore privacy screen not required.	Yes

**DCP 2013: General Provisions**

	Require	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	One space available	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
	Vehicle washing facilities – grassed area etc available.	Available on site	Yes

The proposal seeks to vary Development 3.2.2.5

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 carport is to be sited at a proposed setback from the side boundary of 500mm.
- DCP 2013 requires a minimum side boundary setback of 900mm, however to provide a usable carport the encroachment is considered acceptable. The carport will be an open structure and not contribute to perceptions of building bulk. There will be minimal impact on the adjoining property in terms of privacy or overshadowing.
- The proposed 500mm setback complies with the minimum setback requirements for open carports in the Building Code of Australia.
- The second storey addition is proposed at a setback of 1.240m to the southern boundary. The proposed setback is considered acceptable as there

is only a single window proposed along the southern boundary for an ensuite which will not contribute to any foreseeable loss of visual or acoustic privacy.

- There is identified the potential for additional overshadowing of the adjoining properties at 161 & 163 Matthew Flinders Drive due to their existing reduced property boundary setbacks, however it is not anticipated that it will result in adverse overshadowing of the main private open space areas or living room windows for more than 3 hours on 21 June. Therefore a reduced setback to 1.240mm is considered acceptable.

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

**(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:**

**New South Wales Coastal Policy:**

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

**Demolition of buildings AS 2601:**

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:**

N/A

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

### **Context and setting**

#### **View Sharing -**

The public exhibition of the proposal resulted in concerns being raised in relation to loss of views from the existing dwelling at 53 Bourne Street, Port Macquarie.

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

Using the planning principles of NSW Land and Environment Court in *Tenacity Consulting v Warringah 2004 NSW LEC 140*, the following comments are provided in regard to the view impacts using the 4 step process to establish whether the view sharing is acceptable.

Step 1

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

Comments: The affected view is to south east and comprises a small portion of ocean views between existing coastal vegetation at the Lighthouse Beach vehicular access. The view at the time of inspection comprised only water views and did not include an interface between land and water.

Step 2

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

Comments: The affected view is obtained from the southern portion of the rear balcony and bedroom of the single storey dwelling at 53 Bourne Street. The view is from the rear, however exists across the rear of 159 Matthew Flinders Drive and between dwellings at the side of the property boundary. Views are available only from the standing position. It should be noted that current views are potentially likely to be lost due to vegetative growth at the rear boundary of 159 Matthew Flinders Drive and any future growth of coastal dune vegetation on Lighthouse Beach.

Step 3

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

The extent of the impact upon the views enjoyed from 53 Bourne Street is considered to be moderate to severe for the following reasons:

- Standing views of the water from a section of the rear deck and bedroom will be impacted.
- Current views are not considered to be iconic and are enjoyed across a rear boundary.
- There are no ocean views identified from other areas of the property.
- Existing views are considered to be potentially transient and there is no guarantee that they will be retained due to future vegetative growth along the Lighthouse Beach dune and rear boundary vegetative screening.

Step 4

*Assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact*

*may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

Comments: The proposal includes a variation to the clause 3.2.2.5 of Development Control Plan 2013 (DCP) in relation to setbacks to side boundaries for first floor additions. The variation is acceptable in regard to overshadowing and does not relate to view sharing impacts.

Although the proposed additions will result in the loss of current ocean views from the single storey dwelling at 53 Bourne Street, having regard to the above assessment the view impact is not considered to be sufficient grounds for refusal of the application. It should be noted that the property at 53 Bourne Street is single storey and could enjoy panoramic views of the coastline from any future first floor addition.

**Solar access**

There is a minor reduction in solar access to adjoining properties on the southern boundary, but will not result in adverse overshadowing of the main private open spaces. 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. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

**Water Supply**

Service available – details required with S.68 application.

**Sewer**

Service available – details required with S.68 application.

**Stormwater**

Service available – details required with S.68 application

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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.

**Energy**

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

**Noise and vibration**

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

**Bushfire**

The site is identified as being bushfire prone.

The applicant has submitted a bushfire assessment. Council has undertaken its own assessment and the following comments are provided having regard to section 4.3.5 of Planning for Bushfire Protection 2006:



<b>Asset Protection Zones</b>	APZ to be determined in accordance with AS3959	Tall heath vegetation APZ to be 15m – which can include 0m outer APZ Effective slope = upslope & flat land (0°)
<b>Siting and building design</b>	Siting and design principles considered section 4.3.5	Building sited 35m from hazard which is excess of standard calculated APZ Cladding No box gutters The site has as minor slope. Raised floors not proposed with concrete slab The building additions are two storey
<b>Construction standards</b>	Construction in accordance with AS3959.	FDI rating 80 Effective slope = Upslope & flat land = 35m = BAL 12.5
<b>Access requirements</b>	4.1.3 public road access 4.2.7 for internal road access	Constructed public road frontage N/A
<b>Water and utility services</b>	4.1.3 services - water and electricity.	Water supply services available. Existing electrical transmission lines.
<b>Landscaping</b>	Appendix 5 landscaping	No additional landscaping proposed.

The above assessment concludes that the bushfire risk is acceptable subject to BAL 12.5 construction levels being implemented and APZ being maintained.

### **Safety, security and crime prevention**

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

### **Social impacts in the locality**

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

**Economic impact in the locality**

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

**Site design and internal design**

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

**Construction**

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

**Cumulative impacts**

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

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

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

**(d) Any submissions made in accordance with this Act or the regulations**

Following exhibition in accordance with DCP 2013, one (1) submission was received

**(e) The public interest**

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

**Section 94/94A Contributions**

No

**Section 64 Water and Sewer Contributions**

No

**Additional Comments**

88B Instrument- No restrictions or easements identified applicable to the proposed works.

**(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
Loss of views to the ocean from the property at the rear.	There is a small corridor of view from the objectors' property that looks between dwellings toward the road opening in the vegetation on lighthouse beach. The proposed addition is likely to remove this view however the view is across property boundaries and is likely to be removed by the continued growth of existing vegetation on the boundary. It is possible for the objector to enhance his views of the beach by a future upper level addition.
Reduction in privacy to the property at the rear.	The setback of the proposed additions is 8.222m which complies with minimum rear setback requirements under DCP 2013. Privacy loss to the property at the rear is not considered to be any greater than what already exists from the existing dwelling.
Reduced setback of 1240mm will result in a loss of views and result in overshadowing of the adjoining and rear properties.	The loss of views has been addressed above. Due to the elevation and 8m setback from the rear property, overshadowing is not considered to be an issue. As the two properties adjoining to the south are setback close to the boundary, there is expected to be some overshadowing however it is not anticipated that it will result in adverse overshadowing of the main private open space area or living room windows for more than 3 hours on 21 June. The overshadowing impact would therefore be considered acceptable in the context of the Development Control Plan provisions.
Proposed eave of 750mm will contribute to view loss & overshadowing.	The proposed 750mm eave length is consistent with those of the existing dwelling. It is not anticipated that the eave length will have an additional impact in regard to overshadowing and view loss which has been addressed previously.
No definition of relevant bushfire ratings and proposal does not address specific bushfire requirements.	A bushfire assessment has been provided to Council and a bushfire attack level of BAL 12.5 determined in agreement with Council assessment. Under legislative requirements bushfire construction measures are not required to be shown on the Development Application plans.

(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 - 444.1 Plans

2 [View](#). DA2016 - 444.1 Recommended Conditions

3 [View](#). DA2016 - 444.1 Submission - C J Gallagher

## **PROPOSED ADDITION to RESIDENCE**

At No 159 Matthew Flinders Drive  
Port Macquarie

For A Forrester and J Wright

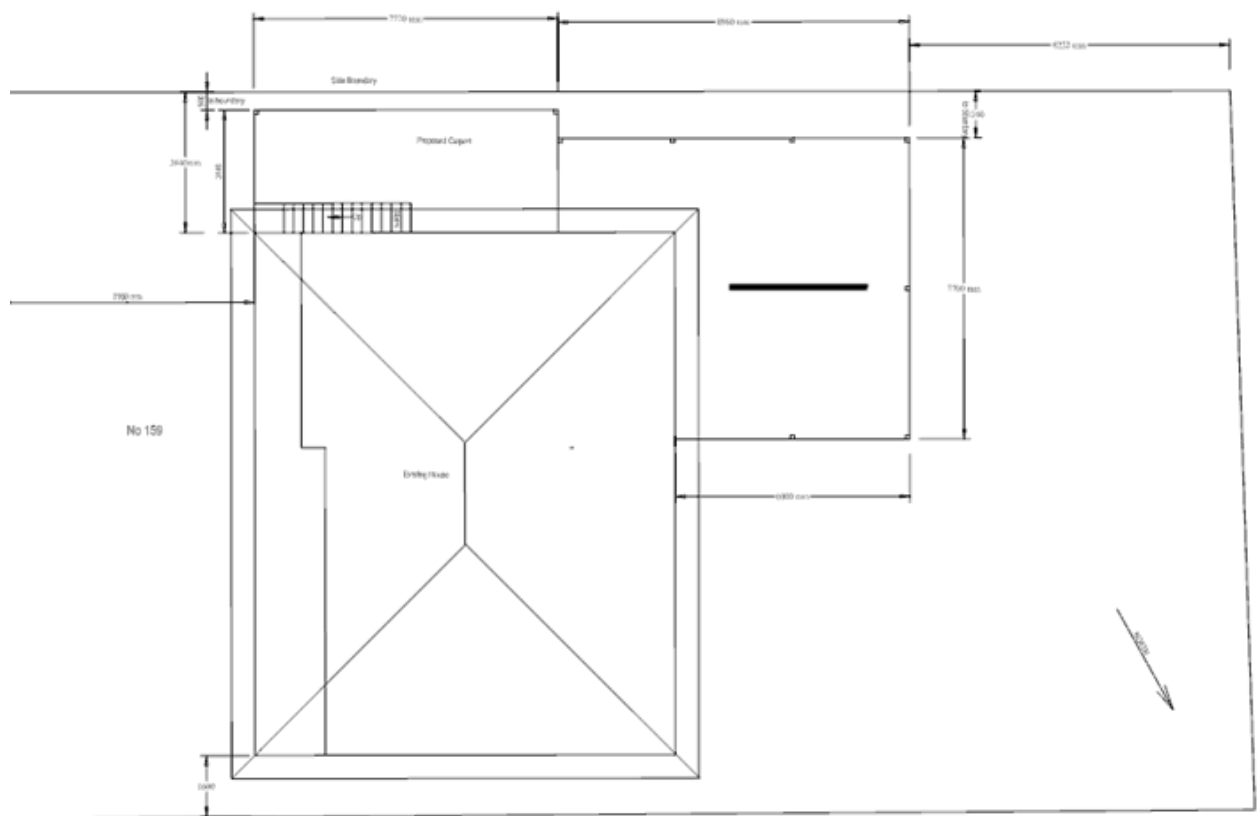
REF: 16 - 005  
Dated: May 2016

### AREA

Bedroom and Ensuite = 53.4 sq metres  
Carport = 27.22 sq metres  
Total Addition = 80.62 sq metres

### NOTES

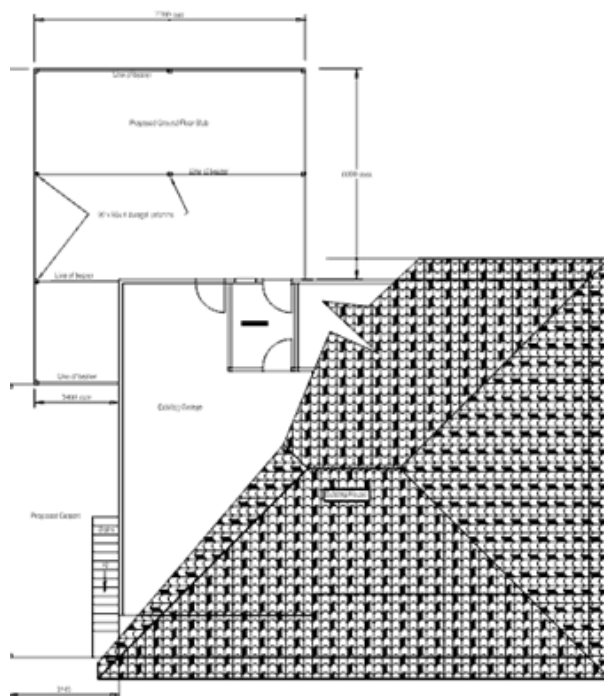
All measurements to be confirmed on site  
Framing to comply with AS.1684.2-2006  
Roof Trusses to be installed to Manufactures de  
Aluminium Windows to Manufacturer's Specifica  
AS. 1288, AS. 2047  
Smoke Alarms to AS. 3786



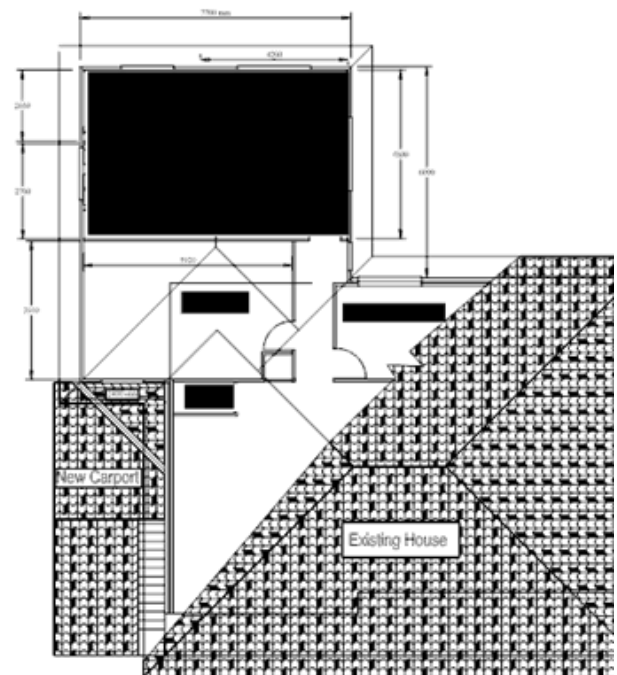
Site Plan

Scale 1:100 @ A3

Draw  
Ref.



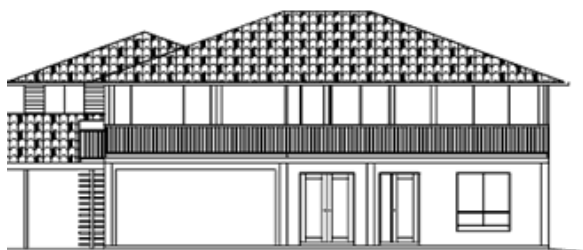
Ground Floor Plan



Upper Floor Plan

Scale 1:100 @ A3

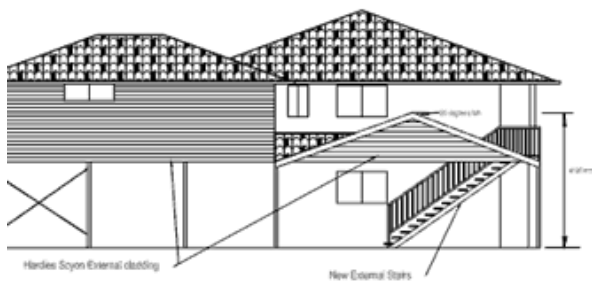
Drawn  
Ref: 1



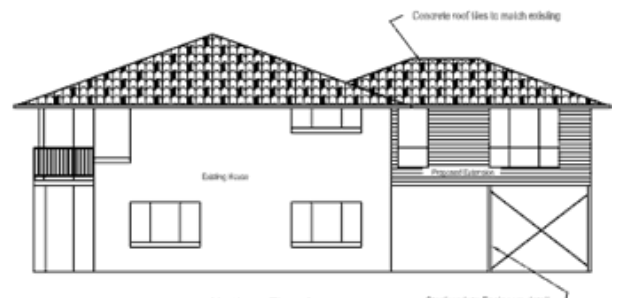
Front Elevation



Western Elevation



Southern Elevation



Northern Elevation

Scale 1:100 @ A3

Drawing No 3  
Ref: 16-005

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2016/444****DATE: 10/08/2016****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.

<b>Plan / Supporting Document</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
Architectural plans	REF: 16 - 005 Drawings 1 -3	Applicant	May 2016
Basix Certificate	No: A257172	Jackianne Wright	8 August 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.
  - 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
- (2) (B046) The building shall be designed and constructed so as to comply with the Bush Fire Attack (BAL) 12.5 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

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

#### **C – PRIOR TO ANY WORK COMMENCING ON SITE**

nil

#### **D – DURING WORK**

- (1) (D003) The site is in an area known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (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](#)

#### **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) (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.
- (3) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

#### **F – OCCUPATION OF THE SITE**

nil

#### **CONDITIONS APPLYING TO JETTIES AND BOAT RAMPS**

nil

From: [REDACTED]  
Sent: Mon, 4 Jul 2016 13:56:28 +1000  
To: "Council" <council@pmhc.nsw.gov.au>  
Subject: Submission for Application 2016-444  
Priority: Normal  
Attachments: Submission Letter for Application No 2016444.pdf  
To:

General Manager  
Port Macquarie- Hastings Council  
PO Box 84  
Port Macquarie NSW 2444

Attention: Stephen Ryan

**RE: Submission for Application No. 2016/444**

Dear Stephen,

**Please find attached my Letter stating my Objections to Application No. 2016/444.**

My contact details are as follows:

[REDACTED]

I declare that I have not made any political donations of any kind in relation to this or any other matter.

I look forward to receiving your reply in due course.

Thank you.

[REDACTED]



---

3 July 2016

General Manager  
Port Macquarie – Hastings Council  
PO Box 84  
Port Macquarie NSW 2444

Attention: Stephen Ryan

**RE: SUBMISSION for Application No. 2016/444**

Dear Stephen,

I refer to Port Macquarie – Hastings Council *Notification Of Development Proposal* letter dated 15 June 2016 regarding Application No. 2016/444 and our meeting held at your office on 28 June 2016 regarding this Application No. 2016/444.

Application No. 2016/444 relates to proposed Alterations and Additions to the dwelling located at 159 Matthew Flinders Drive Port Macquarie (Lot 61/DP 236278).

I am the owner of the property located at 53 Bourne Street Port Macquarie that is situated directly behind this property (approximately West).

I am writing to **OBJECT** to this proposal on the following grounds:

- 1) This proposal will result in a **Total Loss of Views** to the sea from my property. My property currently enjoys sea views from the rear deck, dining room and master bedroom.
- 2) This proposal will result in a significant reduction in privacy to my property. All of my main living areas (deck, lounge, dining and master bedroom) will be looking directly into the proposed master bedroom that has 4 large windows (two on the Northern Elevation and two on the Western Elevation).
- 3) The side setback between the proposed 2<sup>nd</sup> storey addition wall and the Southern boundary is shown as 1240 mm. This is a reduced setback distance and will result in a loss of my sea views and result in overshadowing to mine and adjacent properties.
- 4) The eave of the proposed 2<sup>nd</sup> storey addition on the Southern boundary side is shown as 750 mm (as shown on the Western Elevation drawing). This is a very large proposed eave dimension and will create a further loss of sea views to my property and result in further overshadowing effects to mine and adjacent properties.
- 5) The proposal does not define the relevant Bushfire Hazard (BAL) rating of the Alterations and Additions and the existing dwelling. Furthermore, the proposal does not address any of the specific requirements pursuant to the relevant Bushfire Hazard rating.

I look forward to receiving your response to my objections in due course.

Yours sincerely



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Item: 10

Subject: DA2016 - 487.1 - ALTERATIONS AND ADDITIONS TO DWELLING -  
LOT 20 DP 18138, 34 PACIFIC DRIVE, PORT MACQUARIE

Report Author: Benjamin Roberts

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nApplicant: Robert Smallwood Building Plans  
Owner: Executive Pools Australia Pty Ltd  
Estimated Cost: \$312,000  
Parcel no: 19470

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#### Alignment with Delivery Program

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

#### RECOMMENDATION

That DA2016 - 487.1 for alterations and additions to dwelling at Lot 20, DP 18138, 34 Pacific Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.

#### Executive Summary

This report considers a development application for alterations and additions to dwelling 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 436.3m<sup>2</sup>.

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



The 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:



- Alterations and additions to dwelling

Refer to attachments at the end of this report.

**Application Chronology**

- 27 June 2016 - Application lodged
- 29 June 2016 - Request for land owners consent & shadow diagrams
- 29 June 2016 - Land owners consent provided
- 4 July 2016 - Shadow diagrams provided
- 2-15 July 2016 - Exhibition via neighbour notification
- 27 July 2016 - Email to applicant re reduced setback and dining windows
- 27 July 2016 - Revised plans with dining windows screened

**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. The site is less than 1ha in area therefore 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.

**State Environmental Planning Policy 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 Hastings River.

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

A BASIX certificate (number A247171) has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

**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, alteration and additions to the existing dwelling (and 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 land use and consistent with the established residential locality,

- Clause 4.3, the maximum overall height of the building above ground level (existing) is approximately 9.86m which complies with the height limit of 14.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is approximately 0.65:1.0 which complies with the maximum 1.5:1 floor space ratio applying to the site.
- Clause 5.9 - No trees identified 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 7.13, satisfactory arrangements are in place for provision of essential services.

**(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**

<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> <li>• 4.8m max. height</li> <li>• Single storey</li> <li>• 60m<sup>2</sup> max. area</li> <li>• 100m<sup>2</sup> for lots &gt;900m<sup>2</sup></li> <li>• 24 degree max. roof pitch</li> <li>• Not located in front setback</li> </ul>	Detached garage 5.47m height. Single storey. 52m <sup>2</sup> . N/A. 25 degree roof pitch. Behind front setback.	No* Yes Yes N/A No* Yes
3.2.2.2	Articulation zone: <ul style="list-style-type: none"> <li>• Min. 3m front setback</li> <li>• An entry feature or portico</li> <li>• A balcony, deck, patio, pergola, terrace or verandah</li> <li>• A window box treatment</li> <li>• A bay window or similar feature</li> <li>• An awning or other feature over a window</li> <li>• A sun shading feature</li> </ul>	1.49m setback to front entry porch.	No*
	Front setback (Residential not R5 zone):		

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

	Requirements	Proposed	Complies
	<ul style="list-style-type: none"> <li>• Min. 6.0m classified road</li> <li>• Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot</li> <li>• Min. 3.0m secondary road</li> <li>• Min. 2.0m Laneway</li> </ul>	N/A 4.41m setback to Pacific Drive. 3m building setback to Elizabeth Street.	No* Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	5.5m setback to detached garage.	Yes
	6m max. width of garage door/s and 50% max. width of building	5.3m garage door width. <50% of building width.	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Crossover 5m wide. <1/3 of site frontage.	Yes
	Garage and driveway provided on each frontage for dual occupancy on corner lot	Not a dual occupancy.	N/A
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	Corner block no rear setback.	N/A
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>	Ground west side = 0.5m to garage and 7m to dwelling. Ground south side = 1m to garage and 1.18m to dwelling. First floor west side = 7m. First floor south side = 1.18m. 11m maximum . Adequate articulation provided.	No* Yes Yes No* Yes
3.2.2.6	35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade	>35m <sup>2</sup> private open space available with a directly accessible 4x4 area.	Yes
3.2.2.7	Front fences: <ul style="list-style-type: none"> <li>• If solid 1.2m max height and front setback 1.0m with landscaping</li> <li>• 3x3m min. splay for corner sites</li> <li>• Fences &gt;1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings</li> </ul>	No 3m splay provided to corner. 1.8m high front courtyard	No* Yes

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

	Requirements	Proposed	Complies
	<ul style="list-style-type: none"> <li>0.9x0.9m splays adjoining driveway entrances</li> <li>Front fences and walls to have complimentary materials to context</li> </ul>	fencing proposed with openings (25% transparency) and maximum length of 6m sections.	
3.2.2.8	No chain wire, solid timber, masonry or solid steel front fences	None proposed.	N/A
3.2.2.10	<p>Privacy:</p> <ul style="list-style-type: none"> <li>Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</li> <li>Privacy screen required if floor level &gt; 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m</li> <li>Privacy screens provided to balconies/verandahs etc which have &lt;3m side/rear setback and floor level height &gt;1m</li> </ul>	Privacy screening provided to southern elevations of first floor decks within 3m and dining room windows.	No adverse privacy impacts subject to the privacy screening as proposed.

**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
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	<1m cut and fill proposed.	Yes
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)	No significant tree removal proposed.	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Yes
2.5.3.2	New accesses not permitted from arterial or distributor roads	N/A	N/A
	Driveway crossing/s minimal in number and width including	Single crossover.	Yes

<b>DCP 2013: General Provisions</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
	maximising street parking		
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Double garage proposed.	Yes
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Acceptable.	Yes
2.5.3.14	Sealed driveway surfaces unless justified	Driveway to be sealed.	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Driveway grades capable of compliance.	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Acceptable.	Yes
	Vehicle washing facilities – grassed area etc available.	Acceptable.	Yes

The proposal seeks to vary Development Provision 3.2.2.1 which requires ancillary development to be a maximum height of 4.8m with maximum roof pitch of 24 degrees. The proposal incorporates a detached garage with a building height of 5.47m and roof pitch of 25 degrees.

The relevant objectives are to facilitate and sustain certain development as ancillary development.

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

- The detached garage serves as the off-street parking provided for the dwelling, is located on the same lot and is ancillary to the development.
- The proposed variation in height and roof pitch of the detached garage will not result in any adverse privacy or overshadowing impacts to primary living or open space areas of the adjoining dwelling.

The proposal seeks to vary Development Provision 3.2.2.2 which requires any articulation zone to a street frontage to be no less than 3m from a property boundary and a primary street frontage setback of minimum 4.5m. The proposal incorporates an entry porch setback 1.49m from the Elizabeth Street property boundary and a primary street frontage setback of 4.41m to the Pacific Drive frontage.

The relevant objective is that front setbacks support an attractive streetscape.

Having regard for the development provisions and relevant objectives, the variations are considered acceptable for the following reasons:

- The existing dwelling is setback 4.41m from the Pacific Drive property boundary. The proposal is to retain this primary street frontage setback. The proposed elevation incorporates open style veranda and doors which support an attractive streetscape to this frontage.



- The existing dwelling is setback 3m from the Elizabeth street boundary with minimal articulation provided to the street frontage. The incorporation of the entry porch feature will improve and support an attractive streetscape.

The proposal seeks to vary Development Provision 3.2.2.5 requiring first floors and above to be setback a minimum of 3m from the side boundary. The standard provides that the side boundary setback may be reduced down to 900mm where it can be demonstrated that the adjoining property primary living areas and private open space areas will not be overshadowed for more than 3hrs between 9am-3pm on 21 June. The proposed first floor southern side setback of the dwelling ranges from 1.18m to 1.22m.

The planning principle firstly referenced in *Parsonage v Ku-ring-gai* [2004] NSWLEC 347, *Roseth SC* and later revised in *Benevolent Society v Waverly Council* [2010] NSWLEC 1082, *Moore SC* concerning access to sun light provides some guidance in determining acceptable impact. The terms of the principle are as follows:

*Where guidelines dealing with the hours of sunlight on a window or open space leave open the question what proportion of the window or open space should be in sunlight, and whether the sunlight should be measured at floor, table or a standing person's eye level, assessment of the adequacy of solar access should be undertaken with the following principles in mind, where relevant:*

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*

- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

In response to the relevant points within the planning principle the following comments are provided:

- The planned density of development within this area, having regard to the 14.5m building height limit and 1.5:1 floor space control, provides an expectation that the claim for retention of solar access may be compromised.
- The amount of sunlight lost in relation to the whole property is not significant.
- Having regard to the corner block location, limited site area and existing dwelling setbacks the design is considered appropriate.
- No primary living or open space areas are impacted. No windows to primary open space or living areas are impacted.
- The site is located within an area undergoing change. There are a number of residential flat buildings within the immediate locality. What is likely to be built is evident from the applicable planning controls encouraging higher density.
- 

The relevant objectives of the Development Control Plan are to reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy and to provide visual and acoustic privacy between dwellings.

Having regard to the planning principle, development provisions and relevant objectives of the DCP, the variation is considered acceptable for the following reasons:

- An inspection of the adjoining dwelling indicated a setback of approximately 4m from the side boundary. The ground floor north facing windows serve a bedroom, bathroom, laundry and office. There are no first floor north facing windows. The kitchen and living rooms are located on the ground floor in the middle of the house and south side respectively. There are no primary living or open space areas on the adjoining dwelling that would be overshadowed for more than 3hrs between 9am-3pm on 21 June.
- First floor living room windows and decks within 3m of the side boundary are suitability screened to protect privacy between dwellings.
- The southern elevation of the dwelling contains suitable articulation and finishes that reduce the perception of bulk and overbearing.
- The proposed development is well within the 14.5m building height control applicable to the land.

The proposal seeks to vary Development Provision 3.2.2.5 requiring minimum ground floor setbacks of 900mm from side boundaries. The proposed detached garage is setback 500mm from the western side boundary.

The relevant objectives are to reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy and to provide 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 adjoining lot to the west contains an old timber garage and no dwelling.
- The detached garage is single storey in construction and the setback of 500mm to the western boundary which will not result in any adverse privacy or bulk impacts.

The proposal seeks to vary Development Provision 3.2.2.7 requiring a 3m x 3m splay for fencing treatment on corner block. The proposal incorporates a 0.9m x 0.9m splay for the fencing treatment.

The relevant objectives are to define the edge between public and private land and to provide privacy and security. To ensure the adequate sight lines are provided for vehicles leaving the site. To ensure front fencing does not impact on the public domain. To encourage surveillance of the street and other public places.

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

- The substantial width of the Pacific Drive road reservation inclusive of footpath provides for sufficient sight lines for vehicles entering the intersection.
- The existing 1.2m high timber paling fence is located on the boundary with no splay. The provision of a 900mm x 900mm splay would improve the current situation.
- The provision of 3m x 3m splay would greatly constrain the available north facing private open space provided within the front courtyard.

Based on the above assessment, the variations proposed to the provisions of the DCP are considered acceptable and the relevant objectives have been satisfied.

Cumulatively, the variations do not amount to an adverse impact or a significance that would justify refusal of the application.

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

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

**iv) any matters prescribed by the Regulations:**

**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 the existing detached garage and part demolition of the existing dwelling is capable of compliance with the relevant standard.

**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 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:**

**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 is no adverse privacy impact.
- There is no adverse overshadowing impact. 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, Site Frontage & Access**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. Vehicle access to the site is via a driveway from Elizabeth Street. Details of construction to be required with section 138 application.

**Parking and Manoeuvring**

Detached double garage to service dwelling with direct access to Elizabeth Street.

**Water Supply Connection**

Service available – details required with section 68 application.

**Sewer Connection**

Service available – details required with section 68 application.

**Stormwater**

A detailed site stormwater management plan will be required to be submitted for assessment with the S.68 application and prior to the issue of a CC.

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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 with private garbage collection arrangements. 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. No adverse impacts anticipated.

**Noise and vibration**

No adverse impacts anticipated. Condition recommended restricting 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. 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.

**(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 submission and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
The building is overly bulky and would be overbearing when viewed from the residence at 35 Pacific Drive.	Refer to comments within Development Control Plan 2013 assessment section. No significant adverse impact that would warrant refusal of the application.
The building will result in a significant loss of solar access to the residence at 35 Pacific Drive.	Refer to comments within Development Control Plan 2013 assessment section. No significant adverse impact that would warrant refusal of the application.
The development controls require the first floor side setback to be a minimum of 3m to avoid the significant impacts highlighted above. The plans should be revised to provide a compliant setback which would reduce the bulk and solar access impacts to the adjoining dwelling.	Refer to comments within Development Control Plan 2013 assessment section.
The height of the garage adds to the overshadowing of the adjoining dwelling in the afternoon. Its height should be lowered.	Refer to comments within Development Control Plan 2013 assessment section.
To clarify the house at 35 Pacific Drive is currently unoccupied as opposed to uninhabitable and is to be renovated and occupied by year's end.	Noted.

**(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**

Not applicable.

**5. CONCLUSION**

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

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

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic

impact. 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 - 487.1 Plans
- 2 [View](#). DA2016 - 487.1 Shadow Diagrams
- 3 [View](#). DA2016 - 487.1 SOEE
- 4 [View](#). DA2016 - 487.1 Recommended Conditions
- 5 [View](#). DA2016 - 487.1 Submission - Marian Easterbrook

# PROPOSED ALTERATIONS & ADDITIONS + GARAGE

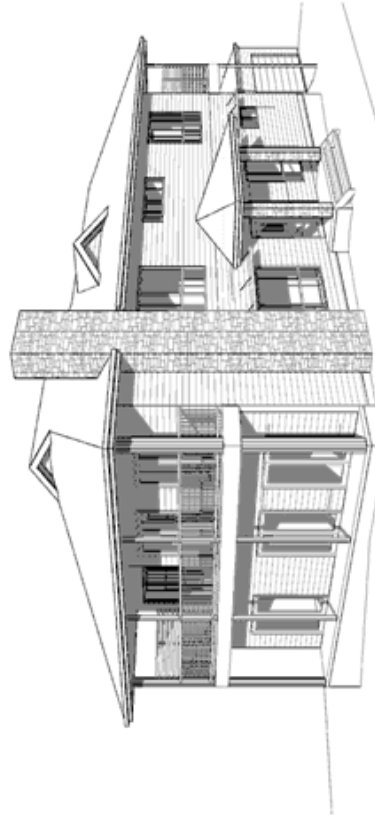
AT: NO. 34 PACIFIC DRIVE,  
PORT MACQUARIE

FOR: C. & S. BOYD-SMITH

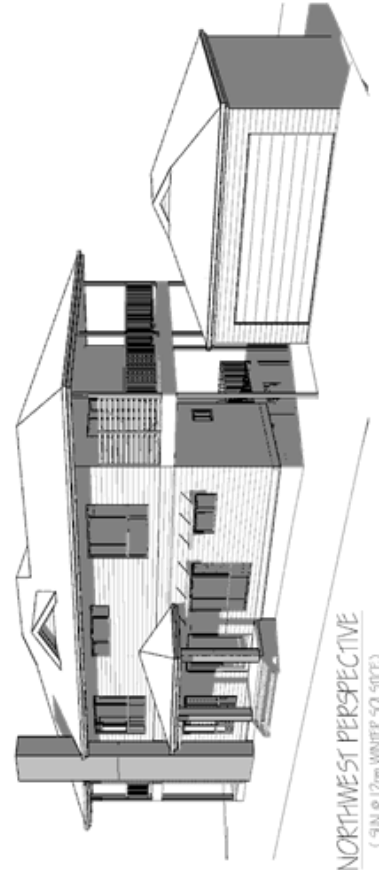
REF: 16-1202

DATE: APRIL 2016

**ROBERT SMALLWOOD**  
**BUILDING PLANS**  
*'BETTER BY DESIGN'*  
MEMBER OF BUILDING DESIGNERS AUSTRALIA - NSW  
EMAIL: design@robertsmallwood.com.au  
PH: (02) 6559 5222 FAX: (02) 6559 6438  
453 OCEAN DRIVE, LAURIETON NSW 2443  
www.robertsmallwood.com.au



NORTHEAST PERSPECTIVE  
(SUN @ 9am WINTER SOLstice)

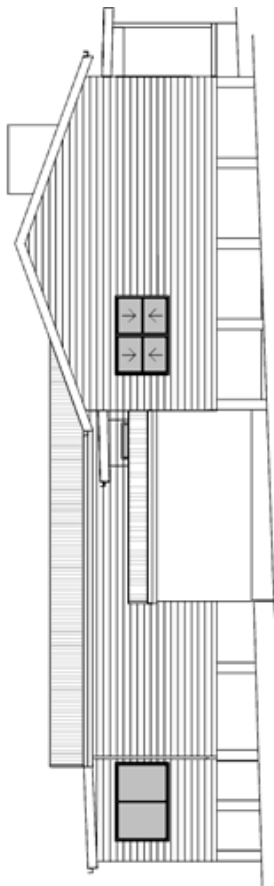


NORTHWEST PERSPECTIVE  
(SUN @ 12pm WINTER SOLstice)

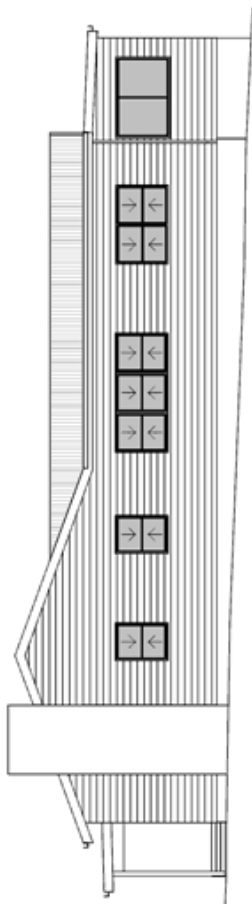


SOUTHWEST PERSPECTIVE  
(SUN @ 5pm SUMMER SOLstice)

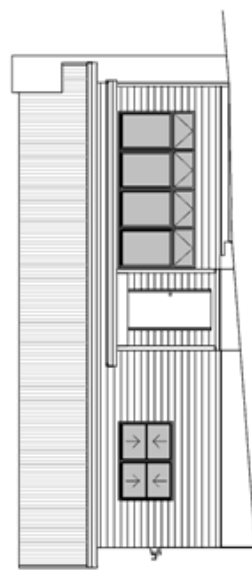
**D.A. APPLICATION**  
(AMENDED 27-07-16)



SOUTH ELEVATION 1:100



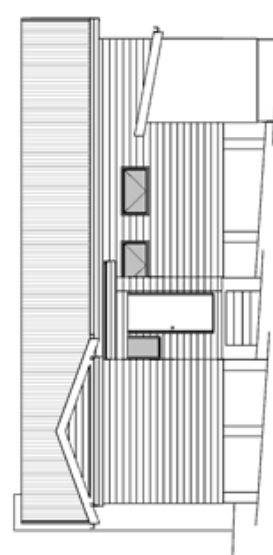
NORTH ELEVATION 1:100



EAST ELEVATION 1:100

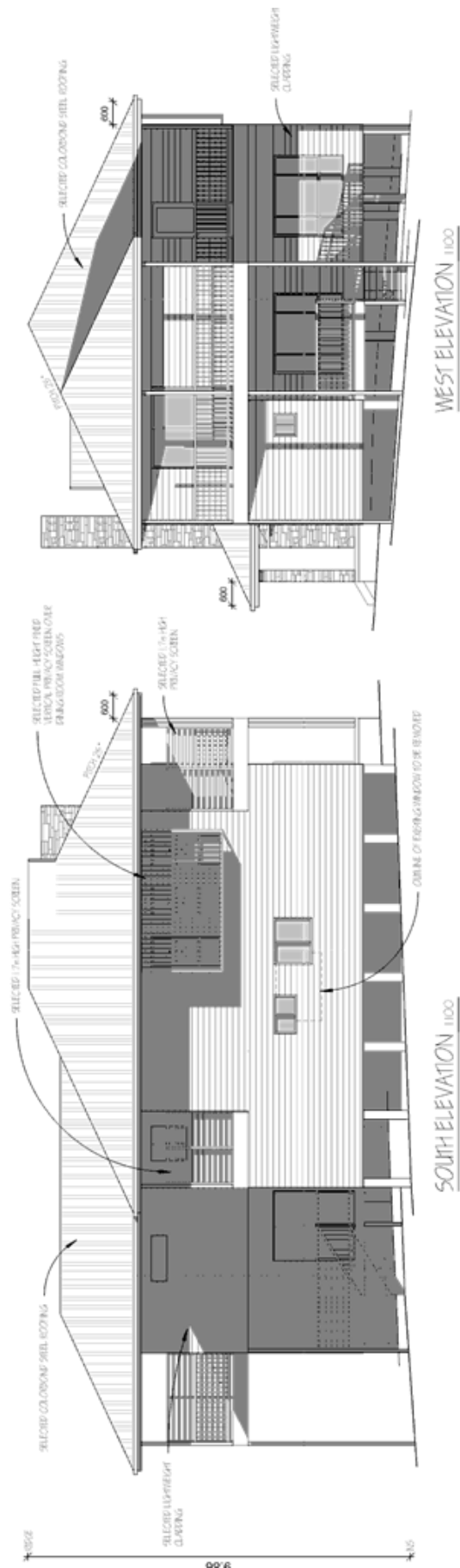


FLOOR PLAN 1:100



WEST ELEVATION 1:100

EXISTING RESIDENCE





[illegible]

NOTES

41.0 ————— SURFACE CONTOURS & SPOT HEIGHTS ON AND OFF PAVEMENT SURFACES. REGISTERED SURVEYOR'S PLAT OF CORRECTION.

1.22 ————— PULLING TO DOMINANT OFFSETS

ALSO X = DESIGN SURFACE LEVEL

INT. 42.04 = EXISTING FLOOR LEVEL

M. 42.04 = FINISHED FLOOR LEVEL

- PROPOSED SEWER (LOO DIA.)

- CONNECT TO EXISTING SYSTEM

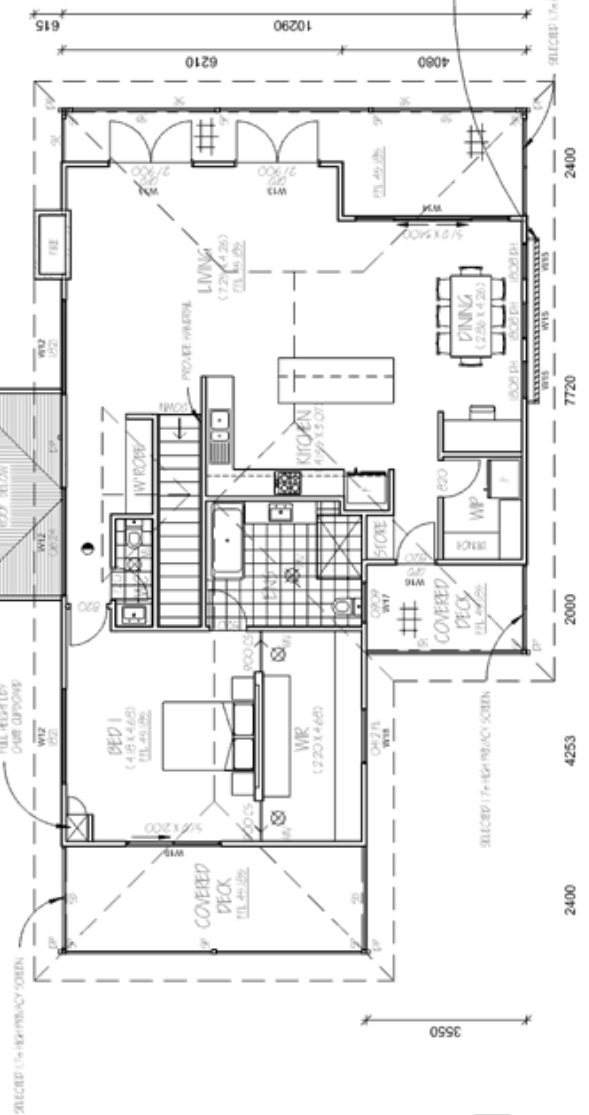
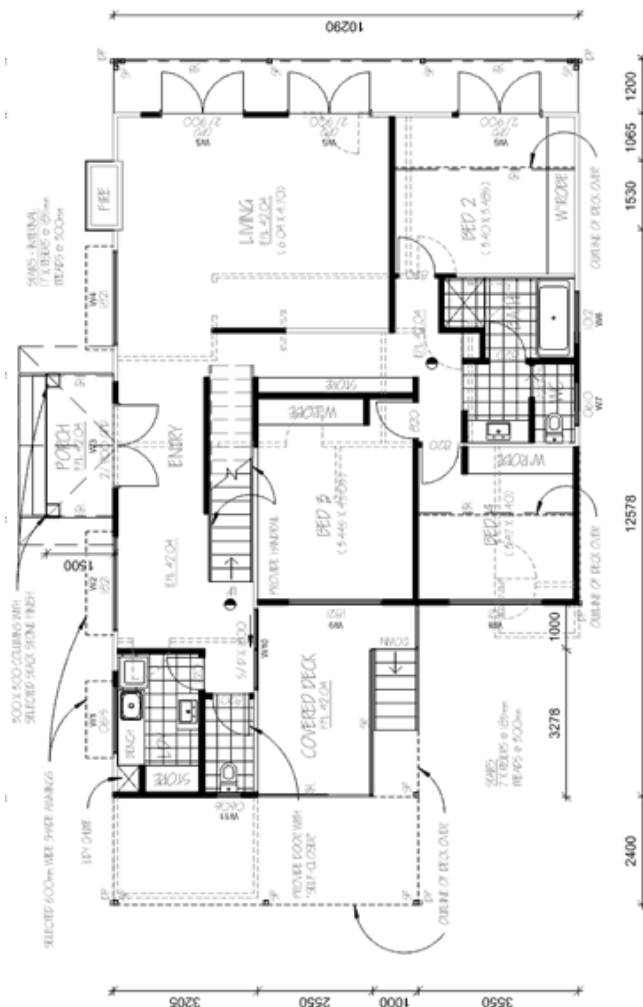
- PROPOSED SIDEWALK (6'0" DIA.)

- CONNECT TO EXISTING SYSTEM

PROVIDE SEWAGE FEED AS FIRST STEP IN CONSTRUCTION PHASE (6'0" DIA. OR EQUIVALENT)

COURTYARD FENCE DETAIL 1100

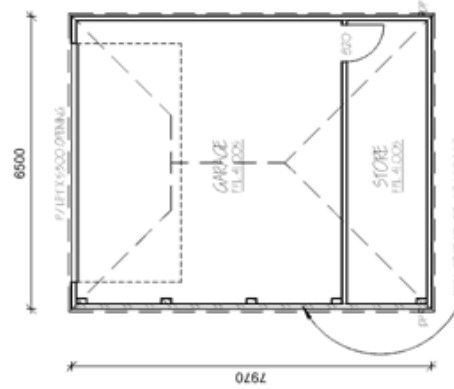
**D.A. APPLICATION**  
**ROBERT SMALLWOOD**  
**BUILDING PLANS**  
OFFICE OF THE DIRECTOR OF BUILDING PLANS, CITY OF LOS ANGELES



**D.A. APPLICATION**  
ROBERT SMALLWOOD  
**BUILDING PLANS**  
REGISTERED BUILDING DESIGNER (REGISTERED 1998)

16-1202  
SHEET 4 OF 5

16-1202  
SHEET 5 OF 5

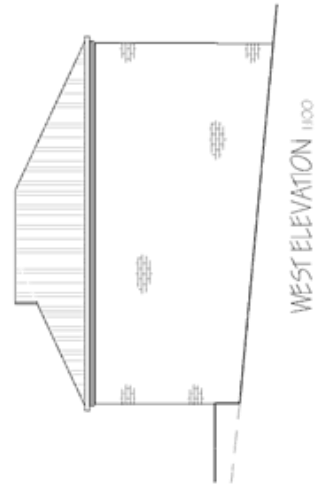


FLOOR PLAN 1:100

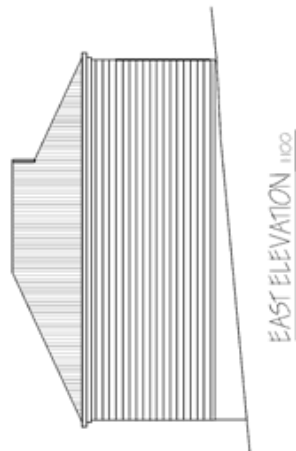
AREAS	NOTES
GARAGE - 115.0 m <sup>2</sup>	FTL 42.04 - FINISHED FLOOR LEVEL
STORE - 117.8 m <sup>2</sup>	
TOTAL - 232.8 m <sup>2</sup>	



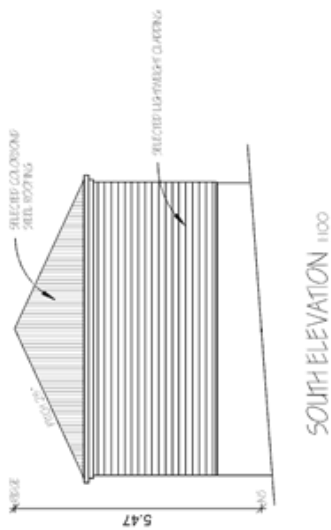
NORTH ELEVATION 1:100



WEST ELEVATION 1:100

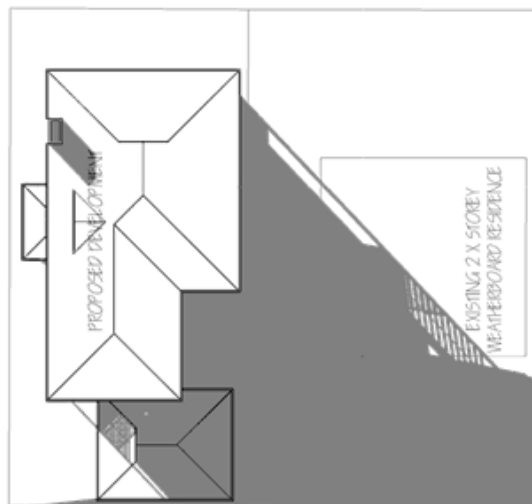


EAST ELEVATION 1:100

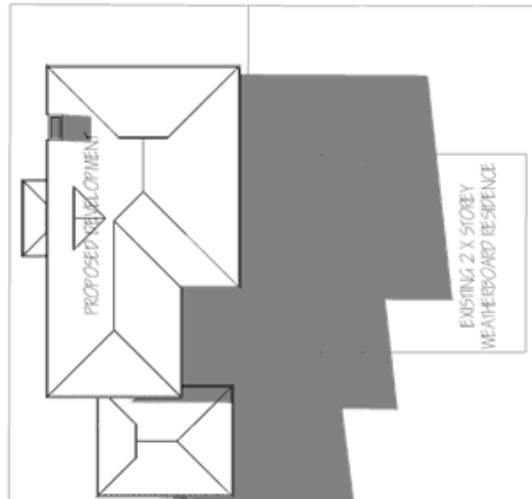


SOUTH ELEVATION 1:100

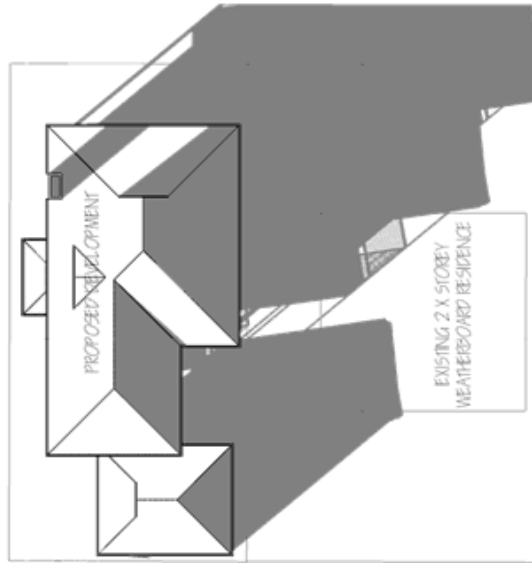
PROPOSED GARAGE



SUN @ 9am WINTER SOLSTICE



SUN @ 12pm WINTER SOLSTICE



SUN @ 3pm WINTER SOLSTICE

PROPOSED SHADOW DIAGRAMS



## STATEMENT OF ENVIRONMENTAL EFFECTS

This form is to be submitted for minor development applications only, such as new dwellings, alterations and additions and ancillary structures, change of use/first use of commercial and industrial premises. Other applications will require a comprehensive SOEE. Refer to SOEE Fact Sheet or Council's Duty Planner for assistance.

If you answer "yes" to any item in sections 4 to 8 you will need to detail the likely impact(s) and the proposed means of mitigating or reducing such impact(s). If insufficient space has been provided, attach additional sheet(s).

### 1. PROPERTY DETAILS

Lot No 20 Section No. .... DP/SP No DP 18138 Street No 34  
 Street Name PACIFIC DRIVE  
 Suburb/Town PORT MACQUARIE Postcode 2444

### 2. PROPOSAL DESCRIPTION

Provide a description of the proposed development. ....  
BUILD ALTERATIONS AND ADDITIONS INCLUDING A SECOND STOREY  
TO EXISTING DWELLING + A DETACHED GARAGE

The following questions are to be completed for applications relating to home business/industry, shops, commercial and industrial premises.

Hours of operation? ..... N/A

Client and staff numbers? ..... N/A

Type, size and quantity of goods to be made, stored or transported? ..... N/A

Details of any deliveries (i.e. hours, frequency, type of vehicles)? ..... N/A

Details of any retailing? ..... N/A

Comments: .....

.....

.....

### 3. PLANNING INFORMATION

What is the zoning of the subject land? ..... R1 General Residential .....

What is the current use of the land/building? ..... EXISTING DWELLING .....

Is your proposal:

- permissible in the zone? Yes ☒ No ☐
- consistent with the zone objectives? Yes ☒ No ☐

Does your proposal comply with the relevant:

- development standards (i.e. FSR, heights) in the Local Environmental Plan? Yes ☐ No ☒
- development control plan (e.g. setbacks, car parking)? Yes ☒ No ☐

If you answered "no" to any of the above questions, a detailed justification is required. Additionally, you should discuss your proposal with the Duty Planner before lodging your development application.

### 4. SITE SUITABILITY

Will the development:

- affect any neighbouring residences by overshadowing or loss of privacy? Yes ☒ No ☐
- result in the loss or reduction of views? Yes ☐ No ☒
- impact on any item of heritage or cultural significance? Yes ☐ No ☒
- result in land use conflict or incompatibility with neighbouring premises? Yes ☐ No ☒
- be out of character with the surrounding area? Yes ☐ No ☒
- be visually prominent within the existing landscape/streetscape? Yes ☐ No ☒
- require excavation or filling in excess of 1 metre? Yes ☐ No ☒
- require the erection or display of any advertising signage? Yes ☐ No ☒

Comments: ..... An increase in overshadowing of adjoining southern site.  
..... Refer to additional report.  
.....

## 5. ENVIRONMENTAL IMPACTS

Is the site affected by any of the following natural hazards? Yes ☒ No ☐

If yes, please indicate which hazard. Flooding ☐ Bushfire ☒ Acid sulfate soils ☐

(Note: Information on natural hazards available from Council.)

Will the proposal:

- result in any form of air pollution (smoke, dust, odour, etc)? Yes ☐ No ☒
- have the potential to cause any form of water pollution? Yes ☐ No ☒
- emit noise levels that could affect neighbouring properties? Yes ☐ No ☒
- be considered potentially hazardous or offensive (refer SEPP 33 for definitions)? Yes ☐ No ☒
- affect native or aquatic habitat? Yes ☐ No ☒
- have an impact on a threatened species or habitat? Yes ☐ No ☒
- involve the removal of any trees? (If yes, detail type and number below.) Yes ☐ No ☒

Comments: .....

.....

.....

## 6. ACCESS, TRAFFIC &amp; UTILITIES

Are electricity and telecommunications services available to the site? Yes ☒ No ☐

Does the site have access to town water? Yes ☒ No ☐

Does the site have access to town sewerage? Yes ☒ No ☐

If you answered no to the above, is a waste water report attached? Yes ☐ No ☒

Provide details of on-site parking, including number of spaces. .... 4 .....

.....

Is lawful and practical access available to the site? Yes ☒ No ☐

Will the development increase local traffic movements and volumes? Yes ☒ No ☐

Are appropriate manoeuvring, unloading and loading facilities available on site? Yes ☐ No ☒

(Note: Turning templates may be required for medium density, commercial and industrial.)

Provide details of proposed method of stormwater disposal (e.g. street, rubble drain, rainwater tank)

To existing system .....



Comments: .....

.....

.....

#### 7. SOCIAL & ECONOMIC IMPACTS *(Not applicable to new dwellings, additions or like.)*

Will the proposal have any social or economic impacts in the area? Yes ☒ No ☐

Have you conducted any community consultation (e.g. neighbours, Police)? Yes ☐ No ☒

Have you considered Council's Social Impact Assessment Policy? Yes ☐ No ☒

Comments: Positive impact on owners amenity in use of dwelling  
economic benefit to local trades and suppliers.

.....

.....

#### 8. WASTE DISPOSAL

Provide details of waste management, including reuse and recycling .....

Use of recyclable building materials and use of council  
authorised waste removalists

.....

How and where will the wastes be stored? Council authorised bins

.....

Does the proposed use generate any special wastes (e.g. medical, contaminated)? Yes ☐ No ☒

Will the use generate trade wastes (e.g. greasy or medical wastes)? Yes ☐ No ☒

Comments: .....

.....

.....



APPLICANT'S SIGNATURE

June 2016

DATE



General Manager  
Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444

25<sup>th</sup> May 2016

Attention: Planning Staff

**RE: REQUEST FOR BUILDING TO BOUNDARY SIDE SETBACK VARIATIONS,  
& ANCILLARY HEIGHT VARIATION FOR PROPOSED  
ALTERATIONS AND ADDITIONS TO EXISTING DWELLING  
@ No. 34 PACIFIC DRIVE, PORT MACQUARIE**

The purpose of this report is to provide council with sufficient detail to be able to provide approval for the application.

This report has been prepared using DCP 13 & LEP 2011.

#### **EXISTING SITUATION**

The site is a residential block with a single storey 3 bedroom , weatherboard clad, galv. steel roof dwelling + detached garage. Land area of 440.2m<sup>2</sup>

The site is adjoined by a uninhabitable two storey dwelling to the south, a single garage to the west, it fronts Elizabeth Street to the north and Pacific Drive to the east.

The site is zoned R1 General Residential.

The site has a 'floor space ratio' of 1.50 : 1

The site has a maximum overall height of 14.5m

#### **PROPOSED**

It is proposed to add an additional floor level + extend & alter the existing dwelling + construct a new detached garage + build a courtyard fence + a dedicated entry feature.

This proposal would be permitted with consent.

#### **PLANNING**

LEP 2011 - Zone = R1 General Residential

Objectives : - Provide for the housing needs of the community.

- Provide 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.

Development Standard being varied = DCP 2013 - 3.2.2.1

Objectives of Development Standard :

- To facilitate and sustain certain development as ancillary development

Development Provisions :

a) Height of a building should not be more than 4.8m above existing ground level.

b) Max. roof pitch of 24deg.

Proposed Numeric values of development :

Overall height = 5.47m

Proposed % Variation to DCP

Overall height = +13.9%

Overall height of Garage

- There will be NO overshadowing of the adjoining southern site of any primary living areas or primary private open space areas that precludes a max. of 3 hours overshadowing between 9.00am & 3.00pm on 21<sup>st</sup> June.
- There is no impact to the garage to the west.
- The beyond 4.8m height only starts approx. 2.7m from the southern boundary, with the highest point being approx. 4.3m from the southern boundary.
- The roof pitch is only 1deg. above the required. It is this pitch to match the roof pitch of the dwelling. This extra pitch adds 70mm to the overall height.

Development Standard being varied = DCP 2013 - 3.2.2.2Objectives of Development Standard :

- Front setbacks should support an attractive streetscape.

Development Provisions :

- a) Developments may incorporate an articulation zone to a street frontage at no less than 3.0m of an entry feature.

Proposed Numeric values of development :

Setback = 1.49m

Proposed % Variation to DCP

Setback = -49.6%

Front Setback

- The vehicular access to the site and parking availability is off Elizabeth Street, therefore the front entry to the dwelling has been designed to also come in off this side boundary.
- The entry Portico will bring much needed articulation to this street frontage. The existing large, well established Frangipani trees in the road reserve are to remain and when combined with the feature courtyard fencing will greatly ameliorate this proposed entry and ensure an 'attractive' streetscape is provided.

Development Standard being varied = DCP 2013 - 3.2.2.6Objectives of Development Standard :

- To reduce overbearing & perceptions of building bulk on adjoining properties & to maintain privacy.
- To provide for visual and acoustic privacy between dwellings

Development Provisions :

- a) Ground floors should be setback @ a minimum of 0.9m from side boundaries.
- b) First floors and above should be setback @ a minimum of 3.0m from the side boundary or reduced down to 0.9m where it can be demonstrated that the adjoining property primary living areas and primary open space areas should not be adversely overshadowed for more than 3.0hours between 9.00am & 3.00pm on June 21st.
- c) Building walls are to step in and out at least every 12m by a minimum of 0.5m

Proposed Numeric values of development :

Side setback = Ground floor (South)= 1.18m to 1.22m

Side setback = Top floor (South)= 1.18m to 1.22m

Proposed % Variation to DCP

Side setback = Ground floor (south) = + 31% to +35%

Side setback = Top floor (south) = -39.3% to -40.6%

Side Setbacks - South

- There will be NO overshadowing of the adjoining southern site of any primary living areas or primary private open space areas that precludes a max. of 3 hours overshadowing between 9.00am & 3.00pm on 21<sup>st</sup> June.
- There is no impact to the garage to the west.
- The focal point from within the new dwelling is across the proposed front decks towards the ocean to the east, this focus (both internal and external) combined with minimal southern glazing and screening will help to ensure minimal visual & acoustic impact.
- The articulated roof form (elevation & direction) and building footprint combined with minimal eastern facing glazing & deck screening when viewed from the adjoining southern site, will ameliorate any perceptions of building bulk and reduce overbearing therefore minimising the impact on neighbours and ensure that their amenity is not adversely effected.
- This locality is an area under transition ie smaller, older development is being replaced by more substantial dwellings that reflect the sort after location.

**CONCLUSION**

This proposal meets the DCP objectives by providing a pleasant, manageable and functional living environment that is sympathetic to and maintains an appropriate 'residential' character in the immediate locality, allows for adequate visual and acoustic privacy for all residents, allows for safe accessibility for both residents and visitors, has private open space area that have good solar access, avoids any major overshadowing and will be energy efficient and BCA compliant.

We envisage that there are no environmental, social or economic problems associated with this proposal.

Declaration. I declare to the best of my knowledge and belief that all particulars mentioned are true and correct in every detail and the information required has been supplied.

Yours faithfully



Robert Smallwood

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2016/487****DATE: 9/08/2016****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.

<b>Plan / Supporting Document</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
Statement of Environmental Effects	34 Pacific Drive	Robert Smallwood	25 May 2016
Development Plans	16-1202 Sheets 1 to 5	Robert Smallwood	April 2016
BASIX certificate	A247171	Robert Smallwood	25 May 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:
- a) the appointment of a Principal Certifying Authority and
  - b) 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:
1. 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;
  2. Appropriate dust control measures;
  3. 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 holidays

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.

- (4) (A010) The wood heater is to be installed to *Australian Standard 2918 - Domestic solid fuel burning appliances - Installation*. Details illustrating compliance shall be shown on the Construction Certificate plans.

#### **B - PRIOR TO ISSUE OF 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
- (2) (B072) A stormwater drainage design is to be submitted and approved by Port Macquarie-Hastings 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.

#### **C – PRIOR TO ANY WORK COMMENCING ON SITE**

Nil

#### **D – DURING CONSTRUCTION**

- (1) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (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.*

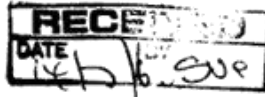
**E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE**

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (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.

**F – OCCUPATION OF THE SITE**

Nil





12 July 2016

The General Manager  
Port Macquarie-Hastings Council  
P O Box 84  
PORT MACQUARIE NSW 2444

19470.

HASTINGS

CRM No CRM No

15 JUL 2016

Keyword

Activity

Subject

Folder DA2016-487.1

Dear Sir

**SUBMISSION - APPLICATION NO. 2016/487**  
**(34 Pacific Drive, Port Macquarie)**

I am the owner of the adjoining Port Macquarie properties, 35 Pacific Drive (my house) and 2 Elizabeth Street (my back garden).

I have two very major concerns about the above Submission/Application No. 2016/487:

- Bulk of the building at 34 Pacific Drive**

The proposed new building at 34 Pacific Drive is overpoweringly bulky, indeed intimidating, as seen (on the plans) from the north side of my property, 35 Pacific Drive. I fear I will suffer a loss of privacy and can see from the Proposed Shadow Diagrams that 34's bulk will dramatically affect my winter sun.  
(My only northern windows are on the ground floor of 35 Pacific Drive.)
- Loss of sunshine at 35 Pacific Drive**

The aforementioned loss of sunshine is, of course, the other major concern, especially in the winter. That winter sunshine on 35 Pacific Drive's north side helps to heat my house!

I understood originally from Cherie Boyd-Smith that the new 34 Pacific Drive would have two stories on the Elizabeth Street (north) side and one storey on the south side facing my property.

However, with this new configuration of two stories on 34's south side, the Proposed Shadow Diagrams show an *extremely* small amount of winter sun falling on 35 Pacific Drive – indeed at 12 noon, when you would expect that side of the house to be warm, there will be *no* sunshine at all! I don't know how anyone can think this scenario is acceptable.

The north west room of 35 Pacific Drive is an office adjoining a west facing back verandah used as a day-time sitting room. I have lived in this house before and know the layout really well (my father owned 35 Pacific Drive in the 60s/70s). Both and I will be living in the house once its renovation is completed towards the end of 2016 and, as we are both published writers (and members of Port Writers Inc) we will be using that office room every day. However, under the Proposed Shadow Diagrams there will be no winter sunshine in that office room until well after 3 pm - not a very healthy prospect for either of us!

If the two storied south side of 34 Pacific Drive (with its intimidating bulk and the taking away of a *huge* proportion of our winter sun) is being considered to go ahead, I would like to point out that Port Macquarie-Hastings Council requires that number 34's south side proposed top floor should be set back 3 metres, whereas at present it is set back 1.18 metres on the plans.

Adhering to this Council requirement would give us back more of our winter sun and also reduce the bulk of 34's southern side, making it more attractive.

Naturally, it would be much better for us, as the occupants of my house at 35 Pacific Drive, if the south side of number 34 was to remain as a single storey, which is what I was originally told.

It would help us greatly to see two new plans of the south side of the new 34 Pacific Drive building:

- One plan showing the 3 metre set back of the top floor, and
- The other plan showing the south side as a single storey.

We would, of course, also like to see the Proposed Shadow Diagrams for both these two new plans showing the winter overshadowing at 9am, 12 noon and 3 pm.


On the present Proposed Shadow Diagrams 34's garage roof is contributing to the afternoon winter overshadowing of the north west corner room (the office) of 35 Pacific Drive. We ask that the height of 34's garage roof be lowered to help with our overshadowing problem.

We have, in the past, met Cherie Boyd-Smith, who we like, and are happy to discuss these two major concerns with her and her husband, Chris.

May I say here that my house is *not* "uninhabitable" (as stated in the notes attached to the Building Plans) - merely unoccupied at the moment, awaiting renovation. I find the use of the word "uninhabitable" to be very insulting, indicating my house is "derelict", whereas it is definitely not derelict (most days we check on 35 Pacific Drive, inside and out) and, as stated before, the house is to be renovated and occupied by us by the end of this year. [REDACTED] has Parkinsons Disease and the extra space in the house would greatly help him to move around.

Thank you in advance for considering these objections to this Submission.

Yours faithfully

A large black rectangular redaction box covering the signature area.

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Item: 11

Subject: DA2016 - 525.1 - ALTERATIONS AND ADDITIONS TO DWELLING -  
LOT 1 DP 1216723, 8B THE PENINSULA, PORT MACQUARIE

Report Author: Chris Gardiner

---

Applicant: B L Sprague  
Owner: B L & E Sprague  
Estimated Cost: \$1,000  
Parcel no: 65060

---

#### Alignment with Delivery Program

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

#### RECOMMENDATION

**That DA 2016 - 525.1 for alterations and additions to dwelling at Lot 1, DP 1216723, No. 8B The Peninsula, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

#### Executive Summary

This report considers a development application for alterations and additions to the dwelling 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 submission has been received.

#### 1. BACKGROUND

##### Refusal of DA2014 - 506.3 and Associated Compliance Action

The Development Assessment Panel previously considered a Section 96 application for the subject site on 11 November 2015. The application sought consent for the retention of a section of infill wall on the north-west boundary of the site that had been constructed without consent. The Panel resolved:

1. *That DA 2014 - 0506.3 for a Section 96 modification to the alfresco area as part of a dual occupancy at Lot 48, DP 1040148, No. 8 The Peninsula, Port Macquarie, be determined by refusing consent for the following reasons.*







## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Installation of fixed metal louvres between the top of the existing boundary wall and the underside on the rear alfresco area roof.

Refer to attachments at the end of this report.

### Application Chronology

- 7 July 2016 - Application lodged.
- 14 July 2016 to 27 July 2016 - Neighbour notification.
- 8 August 2016 - Site inspected by assessing officer.

## 3. STATUTORY ASSESSMENT

### Section 79C(1) Matters for Consideration

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

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

**State Environmental Planning Policy No. 55 – Remediation of Land**

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 Hastings River.

**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 Port Macquarie-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 located within an established residential 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 R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the 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 and consistent with the established residential locality.

- Clause 4.3, the maximum overall height of the building would not be increased as a result of the proposed alterations and additions.
- 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. The proposed development does not include any excavation and would not adversely impact on acid sulphate soils on the 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;
- Clause 7.13, satisfactory arrangements are in place for provision of essential services.

**(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**

<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> <li>• Ground floor min. 0.9m</li> <li>• First floors &amp; above min. 3m setback, unless demonstrated that adjoining property primary living areas &amp;</li> </ul>	Zero side setback.	No*



	POS unaffected. • Building wall set in and out every 12m by 0.5m.		
3.2.2.10	Privacy: • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandas etc which have <3m side/rear setback and floor level height >1m	Adequate privacy was achieved for the original development with the provision of a minimum 1.8m high boundary wall along the north-western boundary.  The proposal would provide additional privacy screening between the alfresco area and any first floor windows of future development at No. 10 The Peninsula.	Yes

The modified proposal seeks a variation to Development Provision 3.2.2.5 in relation to the setback of the proposed louvres to the north-western side boundary.

The objectives of the provision 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.

Construction of the proposed louvres would have a slight positive impact in terms of visual and acoustic privacy. However, as noted above, satisfactory visual and acoustic privacy were considered to be achieved with the original development with the provision of a minimum 1.8m high boundary wall along the north-western boundary.

In terms of overbearing and perceptions of building bulk, the Land and Environment Court established a planning principle in *Galea v Marrickville Council (2005) NSWLEC 113* to test whether building on the boundary in residential areas is appropriate. Comments in relation to the planning principle are provided below.

It is noted that the parapet roof over the alfresco area has already been approved at a zero lot line.

*Is the street characterised by terrace housing? Building to the boundary is likely to be appropriate in streets where the existing form of development is terrace houses or villa homes, i.e. where building to the boundary follows the existing pattern of development.*

Comment: There are a number of attached dual occupancies and semi-detached dwellings in the locality, which include building to the boundary on one side. There are a similar number of detached dwellings that are not built to the boundary on either side.

Walls built to the boundary on both sides of a lot are not common in the locality, although 8A The Peninsula is one example of this.

*What is the height and length of the wall on the boundary? Short lengths of single storey walls (such as garages) are usually acceptable on the boundary.*

Comment: The proposal would effectively result in a structure on the boundary 4.6m long and having a height of 4.6m, which is close to the height of a two storey wall on the boundary.

The length of the structure is considered appropriate, being less than the length of a garage wall. The dominance of the structure is also considered to be less than a solid wall due to the openings that the louvre screen would provide.

*Has the applicant control over the adjoining site(s) or the agreement of their owners? Where the applicant has control over the development of the adjoining sites or their owners agree to a wall on the common boundary, such walls are likely to be appropriate.*

Comment: It is not anticipated that the installation or maintenance of the louvres would require access to the adjoining property.

*What are the impacts on the amenity and/or development potential of adjoining sites? Building to the boundary may be appropriate, even where the above tests are not answered favourably, provided it can be shown that a wall on the boundary does not diminish the amenity or the development potential of the adjoining site.*

Comment: The proposed reduced setback would result in a slight reduction in solar access to adjoining No. 10 The Peninsula early in the morning, but would not result in adverse overshadowing of the main private open space area or living room windows for more than 3 hours on 21 June. It is noted that the majority of overshadowing would be created by the roof over the alfresco area, and the proposed louvres are unlikely to contribute to any additional shadow. The overshadowing impact would therefore be considered acceptable in the context of the Development Control Plan provisions.

View impacts are discussed in detail later in this report. The impact of the proposal on views is considered to be negligible and a compliant side setback would not improve the impact.

The visual impact of the proposed modified development on the adjoining property at No. 10 The Peninsula is considered satisfactory for the following reasons:

- The proposal involves fixed louvre screens for only part of the length of the existing alfresco roof, and northern part would remain open to the side boundary.
- The screen includes openings that would break down the bulk of the structure.

- The proposal would create a mix of materials and colours for the part for the building located on the boundary, which would also reduce the bulk and scale of the wall.

In terms of development potential for the adjoining property, there is an existing approval (DA2006/285) in place for dual occupancy and the second dwelling could be constructed in the future as the development has been physically commenced. The approved development does not include any ground floor windows facing towards the proposed structure, and the relevant first floor windows include a bedroom, walk-in robe, and bathroom. The proposed louvres would be out the normal field of vision from all of these windows.

If the approved development did not proceed and an alternative design was investigated, it is not considered that there would be a reduction in development potential for the following reasons:

- There would be potential for the neighbouring property to incorporate zero lot line building in the same location.
- Any living room windows of a future dwelling that were directed towards the side boundary would require privacy screening in any case and there would be no potential for views to be obtained across the location of the proposed louvres.

*Are there arrangements in place for the maintenance of the wall or gutters? The question of maintenance should be considered at the time of the development application to avoid disputes later.*

Comment: No arrangements are in place for the future maintenance of the wall and the owner of the adjoining land has objected to the proposal. It is noted that the Access to Neighbouring Land Act 2000 provides for parties to make application to the Local Court for an access order to carry out such work. However, the planning principle recommends that arrangements be considered as part of the development application to avoid future disputes.

In this instance, it is anticipated that the proposed louvres could be installed and maintained without requiring access to the neighbouring property.

Having regard to the open nature of the structure, lack of view sharing and overshadowing impacts, and the ability to maintain the structure without accessing neighbouring property, the proposal is considered to satisfy the planning principle for building on the boundary in a residential area. The proposal is therefore considered to also achieve the relevant DCP objective of reducing overbearing and perceptions of building bulk on adjoining properties. It is recommended that the proposed variation to Development Provision 3.2.2.5 be supported for the reasons stated above.

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

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

**iv) any matters prescribed by the Regulations:**

**NSW Coastal Policy 1997**

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

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

None applicable.

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

### **View Sharing**

The public exhibition of the proposal resulted in concerns being raised in relation to loss of views from an approved dwelling at No. 10 The Peninsula that is yet to be constructed.

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

Using the planning principles of NSW Land and Environment Court in *Tenacity Consulting v Warringah 2004 NSW LEC 140*, the following comments are provided in regard to the view impacts using the 4 step process to establish whether the view sharing is acceptable.

#### Step 1

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

Comments: The affected view is to the east and north-east and includes water views across the canals, including The Broadwater and Northern Harbour. The view includes the interface between land and water on both sides of The Broadwater and is considered valuable.

#### Step 2

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

Comments: In terms of the development approved for No. 10 The Peninsula under DA2006/285, the affected view is obtained from a first floor bedroom, walk-in robe, and bathroom across a side property boundary. The approved plans indicate that these rooms will have a finished floor level of 7.25m AHD.

The proposed metal louvres will be located between 6.05m AHD and 7.75m AHD, which indicates that the top of the louvres is only 0.5m above the first floor level of



the approved dwelling on the adjoining property, and 0.2m below the sill height of the bedroom window. The proposal would therefore not affect existing views from either sitting or standing positions.

The location of the proposed louvres is to the south of the windows and at an acute angle. It is not expected that the structure would be visible during normal use of these rooms.

An alternative design for a future dwelling on No.10 The Peninsula is unlikely to be able to achieve water views between the underside of the alfresco area roof and the boundary wall across the side boundary without resulting in privacy impacts.

As noted above views across side property boundaries are more difficult to protect and the expectation to retain side views is often unrealistic.

### Step 3

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

Comments: The proposed privacy screen would have negligible impact on existing views as the top of the louvres would be located 0.2m below the sill height of the windows from which views would be obtained. The location of the proposed louvres is to the south of the windows and at an acute angle. It is not expected that the structure would be visible during normal use of these rooms.

Extensive water views would be retained from the first floor bedroom and also ground floor living areas to the north and north-east. The overall impact on the existing extensive views is considered to be negligible.

### Step 4

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

Comments: The proposal includes a variation to clause 3.2.2.5 of Development Control Plan 2013 (DCP) in relation to zero side setbacks for the proposed metal louvre privacy screen. As noted under Step 3 above, there is a negligible impact on existing views to the east and north-east resulting from the proposed development. A compliant 0.9m side setback would not result in any improvement to the extent of views retained.

Having regard to the negligible impact and the extent of the views that would be retained, the view sharing is considered satisfactory.

**Privacy**

The extent of screening achieved by the existing boundary wall is considered adequate to provide privacy between the alfresco area and adjoining property at No. 10 The Peninsula. The proposal would provide additional privacy screening between the alfresco area and any first floor windows of future development at No. 10 The Peninsula.

**Overshadowing**

Having regard to the lot orientation, the proposal is not expected to have 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. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

**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.

**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.

**Energy**

No adverse impacts anticipated.

**Noise and vibration**

No adverse impacts anticipated. Condition recommended restricting 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 anticipated.

**Site design and internal design**

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

**Construction**

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

**Cumulative impacts**

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

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

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

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

One 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
Insufficient information submitted to assess the impacts of overshadowing on No. 10 The Peninsula.	Shadow diagrams were submitted for the original building constructed under DA2014/506, which included the roofed alfresco area. The shadow diagrams confirm that the proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.  The current proposal is for installation of fixed metal louvres below the approved roof line of the alfresco area. It is not expected that the louvres would increase the amount of shadow cast by the existing alfresco roof.
Non-compliance with DCP setback requirements.	Noted. See comments earlier in this report under Development Control Plan 2013.
Unacceptable bulk and scale when viewed from No. 10 The Peninsula.	The bulk and scale of the proposal are discussed earlier in this report under Development Control Plan 2013. The bulk and scale are considered acceptable having regard to the relevant DCP objectives and planning principle.
Loss of views of the canal and foreshore from any future development on No. 10 The Peninsula. View loss would adversely impact property value.	See comments earlier in this report under View Sharing regarding the likely impact on views from the adjoining property.  The suggested loss of property value has not been substantiated. Given the negligible impact of the proposed development on views identified in earlier assessment, it is not expected that this result in any significant loss of property value.
Access to No. 10 The Peninsula would be required for construction and future maintenance.	It is expected that the proposed metal louvres could be installed and maintained without accessing the neighbouring property.
Undesirable zero setback precedent would be created.	Zero lot line construction already exists in the locality at a number of properties. As the development has been demonstrated to be consistent with the relevant DCP objectives and planning principle, it is not considered that it would create an undesirable precedent for future development.

**(e) The Public Interest:**

The proposed development satisfies the objectives of the 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.

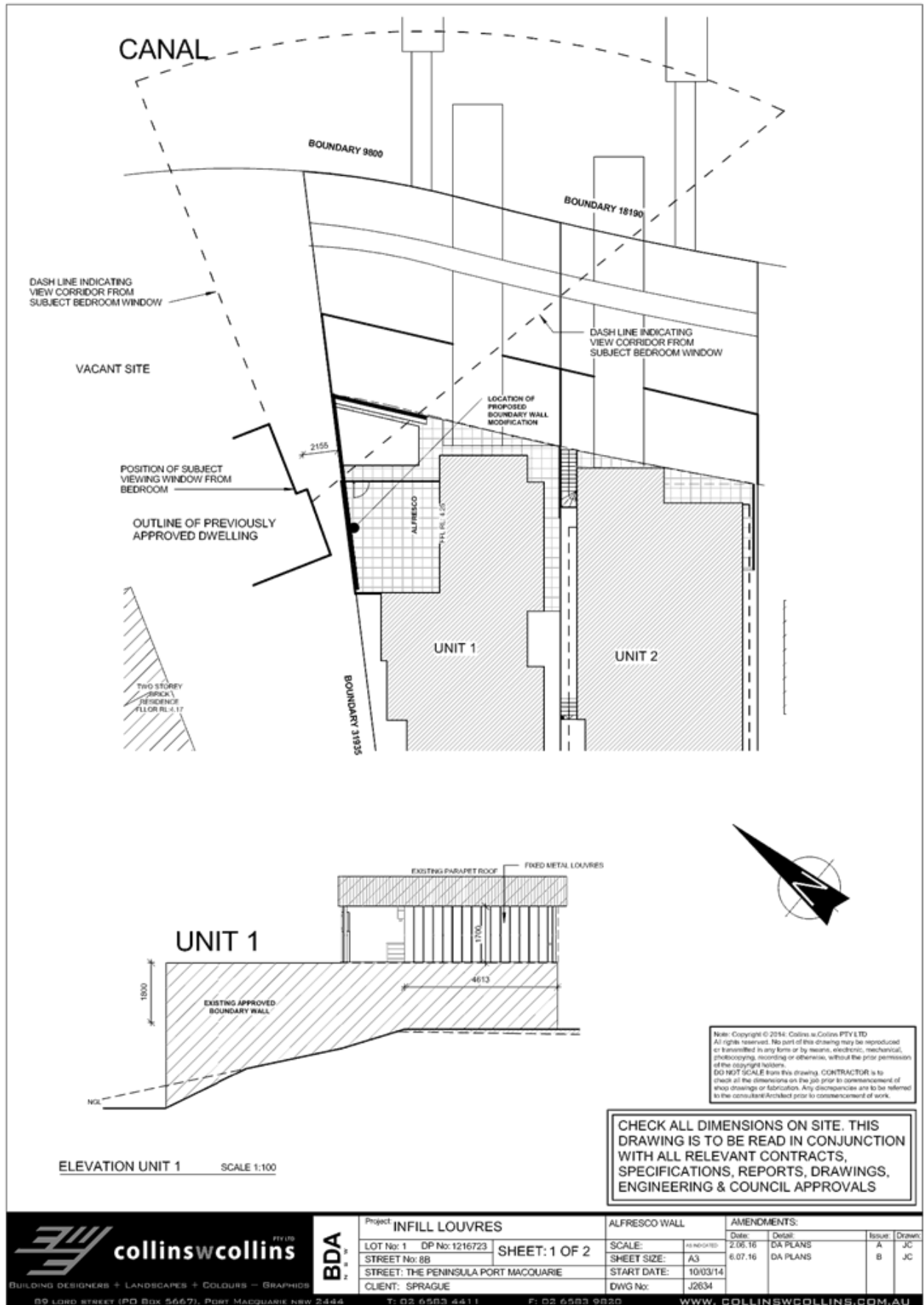
The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment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

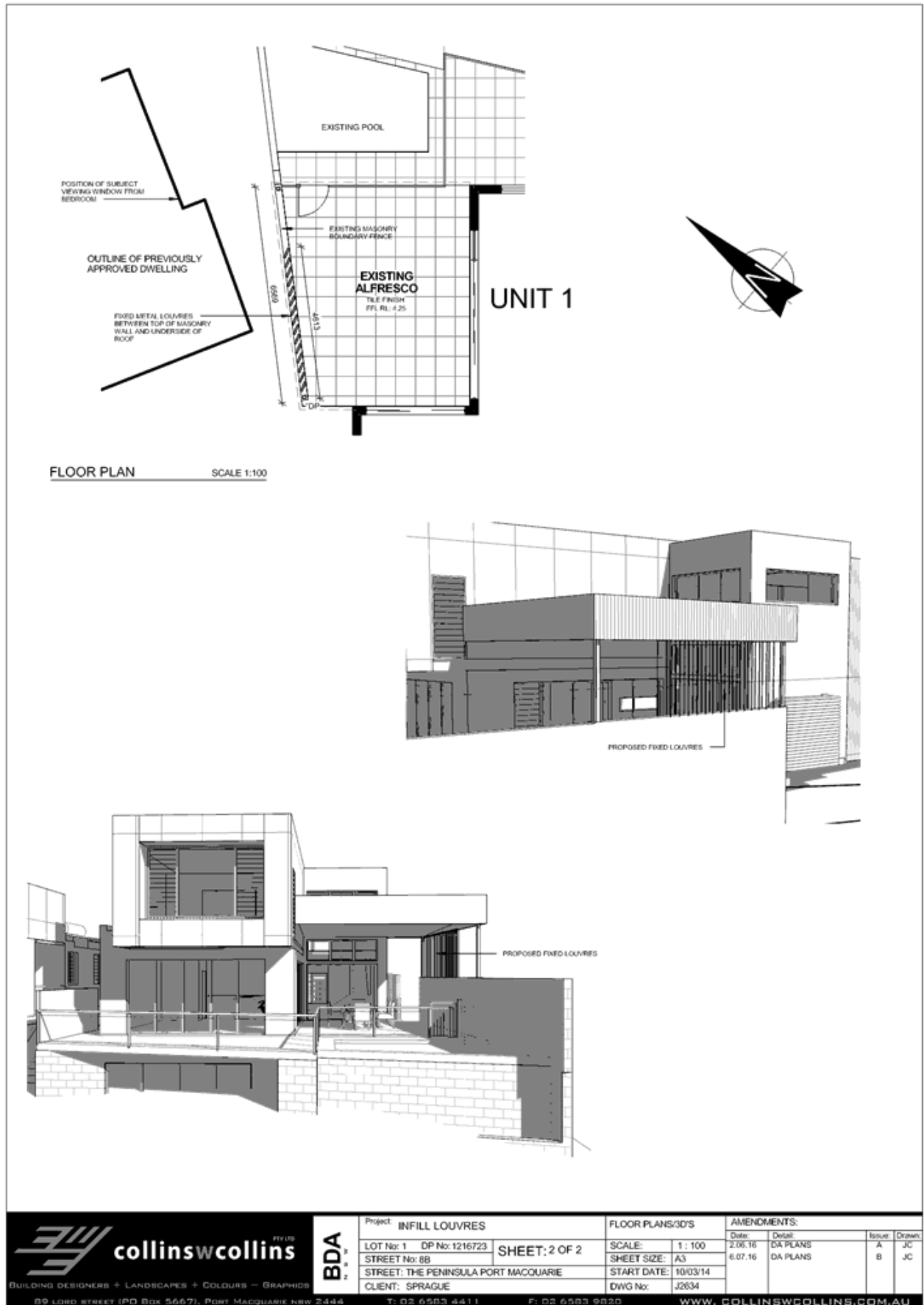
**Attachments**

1[View](#). DA2016 - 525.1 Plans

2[View](#). DA2016 - 525.1 Recommended Conditions

3[View](#). DA2016 - 525.1 Submission - Greentape Planning





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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2016/525

DATE: 11/08/2016

### 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	J2634 Sheets 1 & 2 Issue B	Collins W Collins Pty Ltd	6 July 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:

- a) the appointment of a Principal Certifying Authority and
- b) 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:

1. Appropriate dust control measures;
2. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
3. Building waste is to be managed via an appropriate receptacle;
4. 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 CONSTRUCTION CERTIFICATE

Nil

**C – PRIOR TO ANY WORK COMMENCING ON SITE**

Nil

**D – DURING CONSTRUCTION**

Nil

**E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE**

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.

**F – OCCUPATION OF THE SITE**

Nil

DRAFT



1 August 2016

The General Manager  
Port Macquarie Hastings Council  
PO Box 84  
Port Macquarie NSW 2111  
robert.slater@pmhc.nsw.gov.au  
council@pmhc.nsw.gov.au

Dear Sir,

**DA 525/2016 Objection to development application for additions to existing dwelling at 8B The Peninsula, Port Macquarie (Lot 48 DP 1040148)**

We have been engaged by the owners of 10 - 12 The Peninsula, Port Macquarie [REDACTED] to submit an objection to development application No. 525/2016 for additions to the existing dwelling house at 8 The Peninsula, Port Macquarie.

The [REDACTED] land adjoins the subject site.

As Council is aware, there is a long history to this matter since the original consent to DA 506/2014. Copies of relevant correspondence regarding illegal works following the construction of a 4.5 metre high wall in the location of the proposed louvres, along with our previous objection to the section 96 application to modify DA 506/2014 and authorise the illegal wall (refused by Council 11 November 2015) are attached.

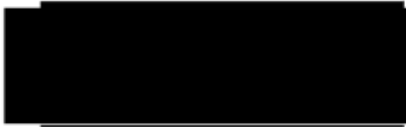
After reviewing the architectural plans for 'Infill Louvres' and supporting Statement of Environmental Effects prepared by Collins & Collins, our client is seriously concerned by the proposal, the Applicants blatant disregard of Council's assessment report and determination on 11 November 2015, the continual disregard of planning controls and the impact any development on the property boundary above the approved wall height will have on the [REDACTED] land.

**Grounds for objection:**

1. Insufficient information:

The development application does not include sufficient information to adequately assess the overshadowing and amenity impacts of the proposed louvres. The orientation of the proposed fixed louvres on the common boundary will have the same impact on overshadowing and solar access on the Bastable land as the existing illegal 4.5 metre wall erected in that location. This wall blocks solar access to the adjoining lot that would otherwise be enjoyed between the hours of 10am to 3pm. This significantly impacts amenity on the [REDACTED] land and dramatically impacts future development on the vacant lot.





2. Non-compliance with Councils setback requirements:

The Port Macquarie-Hastings Development Control Plan 2013 requires a setback of 900mm from the side boundary of a property, and a setback of 3 metres from the side boundary for a second floor to achieve the objectives of the Low Density Residential zone.

The proposed fixed louvres are located on the property boundary. When combined with the existing parapet roof and a compliant boundary fence height, the proposal will still present as a two storey wall on the property boundary. The non-compliance adds unacceptable bulk and scale to the development when viewed from the [REDACTED] land.

3. View sharing will be unacceptably impacted:

The proposed louvres are fixed and have the potential to completely eliminate views of the canal and foreshore for any future development that would be enjoyed if the proposal were to comply with the Council's setback development control. An independent land valuation prepared by LJ Hooker Port Macquarie set a devaluation of at least \$50,000 (6.25%) resulting from the view loss and reduced development potential of the [REDACTED] land if the development application were to be approved in its current form. This is an unacceptable and unjustified impact resulting from non-compliance with a development control.

4. Access for construction and future maintenance:

The Applicant constructed the illegal wall and parapet roof in the proposed louvre location by using the [REDACTED] land. The [REDACTED] land was left in such a degraded state that rehabilitation works were required to stabilise the soils and clean up sediment erosion on the foreshore walkway.

The Applicant has failed to demonstrate how they would construct and maintain the wall, louvres and roof on the boundary without trespassing on the [REDACTED] land.

5. Undesirable precedent:

There are many undeveloped lots in the area. By approving this application, Council will establish an unacceptable precedent for future development in this low density residential area. There is no justification for a zero boundary setback having regard to aims and objectives of the zone, the clear development controls for boundary setbacks and the overall nature of these waterfront residential blocks. A zero setback precedent will not only adversely impact adjoining residences, it will also impact lots to the rear that will ultimately lose view corridors to the water along with solar access and breezes.



Based on the above concerns, and the determination made in respect of DA506.2/2014, we submit that the application should be refused, and the applicant be required to demolish the 4.5 metre wall constructed along the common boundary.

The development of any walls or louvres must comply with the Council's setback controls to ensure the objectives of the zone are achieved, and the [REDACTED] land is not unacceptably impacted.

Regards



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]