



# Development Assessment Panel

## Business Paper

**date of meeting:** Wednesday 26 October 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.



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## **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:**



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

#### **BUSINESS PAPER AND MINUTES:**

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

#### **FORMAT OF THE MEETING:**

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

#### **INDEPENDENT CHAIR:**

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

#### **QUORUM:**

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

#### **DECISION MAKING:**

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

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

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

#### **LOBBYING:**



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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.



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## Development Assessment Panel

### ATTENDANCE REGISTER

| Member  | 27/07/16 | 24/08/16        | 14/09/16 | 28/09/16/16 | 12/10/16 |
|---|----------|-----------------|----------|-------------|----------|
| Paul Drake<br>Matt Rogers (alternate)   | ✓        | ✓<br>✓ (Item 8) | A<br>✓   | ✓           | ✓        |
| Dan Croft<br>Patrick Galbraith-Robertson<br>Warren Wisemantel<br>(alternates) | ✓<br>✓   | ✓<br>✓          | ✓        | ✓           | ✓        |
| David Troemel<br>Caroline Horan (alternate)<br>Bevan Crofts (alternate)       | ✓        | ✓               | ✓        | ✓           | ✓        |

**Key:** ✓ = Present

A = Absent With Apology

X = Absent Without Apology



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# Development Assessment Panel Meeting

Wednesday 26 October 2016

## Items of Business

| Item | Subject  | Page      |
|------|--|-----------|
| 01   | Acknowledgement of Country .....   | <u>7</u>  |
| 02   | Apologies.....   | <u>7</u>  |
| 03   | Confirmation of Minutes .....  | <u>7</u>  |
| 04   | Disclosures of Interest.....   | <u>11</u> |
| 05   | DA2016 - 614.1 - Subdivision Of One Lot Into Two Lots - Lot 10 DP<br>1130973, No 6764 Oxley Highway Yarras ..... | <u>15</u> |
| 06   | General Business   |           |



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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 12 October 2016 be confirmed.

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**PRESENT**

***Members:***

Paul Drake  
Dan Croft  
David Troemel

***Other Attendees:***

Ben Roberts  
Chris Gardiner

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The meeting opened at 2:00pm.

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**01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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**02 APOLOGIES**

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Nil.

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**03 CONFIRMATION OF MINUTES**

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CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 28 September 2016 be confirmed.

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**04 DISCLOSURES OF INTEREST**

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There were no disclosures of interest presented.

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**05 DA2015 - 694.1 ADDITIONS TO DWELLING AT LOT 392 DP 208523, NO. 8  
PARTRIDGE STREET, PORT MACQUARIE**

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CONSENSUS:

That DA 2015 - 694.1 for additions to dwelling at Lot 392, DP 208523, No. 8 Partridge Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**06 DA2016 - 673.1 ALTERATIONS AND ADDITIONS TO DWELLING - LOT 116 DP  
801596, 9 LADY ELLIOT COURT, PORT MACQUARIE**

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Speaker:  
Peter Klein (applicant)

CONSENSUS:

That DA2016 - 673 for a alterations and additions to dwelling at Lot 116, DP 801596, No. 9 Lady Elliot Court, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

- Additional condition in Section A of the consent to read:

‘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.

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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.'

- Additional condition in Section B of the consent to read:

'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:

Temporary construction access to Kwinana Lane for construction

Reinstatement of construction access upon completion of construction

The Road Authority shall require access to be created to enable all construction vehicles to enter and exit Kwinana Lane in a forward manner.'

- Additional condition in Section E of the consent to read:

'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.'

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## **07 GENERAL BUSINESS**

Nil.

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The meeting closed at 2:11pm.

Item: 04  
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

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

I, ..... declare the following interest:

☐

**Pecuniary:**

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

☐

**Non-Pecuniary - Significant Interest:**

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

☐

**Non-Pecuniary - Less than Significant Interest:**

May participate in consideration and voting.

For the reason that: .....  
.....

Signed: ..... Date: .....

*(Further explanation is provided on the next page)*

**Further Explanation**

(Local Government Act and Code of Conduct)

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

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

**Pecuniary Interest**

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

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

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

**Non-Pecuniary**

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

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

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

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

***Non Pecuniary – Significant Interest***

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

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

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

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

***Non Pecuniary – Less than Significant Interest***

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

## SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

|  |   |
|--|---|
| <b>By</b><br><i>[insert full name of councillor]</i>   |   |
| <b>In the matter of</b><br><i>[insert name of environmental planning instrument]</i>   |   |
| <b>Which is to be considered at a meeting of the</b><br><i>[insert name of meeting]</i>  |   |
| <b>Held on</b><br><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<br>[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).<br><br><input type="checkbox"/> Associated person of councillor has interest in the land.<br><br><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><br>[Tick or cross one box]    | <input type="checkbox"/> The identified land.<br><br><input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.  |
| Current zone/planning control<br>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]       |   |
| Proposed change of zone/planning control<br>[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<br>[Tick or cross one box]  | <input type="checkbox"/> Appreciable financial gain.<br><br><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 - 614.1 - SUBDIVISION OF ONE LOT INTO TWO LOTS - LOT 10 DP 1130973, NO 6764 OXLEY HIGHWAY YARRAS

Report Author: Deb McKenzie

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Applicant: Hopkins Consultants Pty Ltd  
Owner: C M & R J Lyon & K R Laurie & B J Lyon  
Estimated Cost: N/A  
Parcel no: 57486

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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 - 614 for a subdivision of one lot into two at Lot 10 DP 1130973, No. 6764 Oxley Highway, Yarras be determined by granting consent subject to the recommended conditions.**

#### Executive Summary

This report considers a development application for the subdivision of one lot into two lots 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.

A report was considered by DAP on 28<sup>th</sup> September 2016. This report was deferred to receive appropriate advice regarding two matters - access to Lot 51 and dedication of Costigans as a public road. Both these matters have been resolved and the report amended to remove the proposed conditions of consent relating to these issues.

#### 1. BACKGROUND

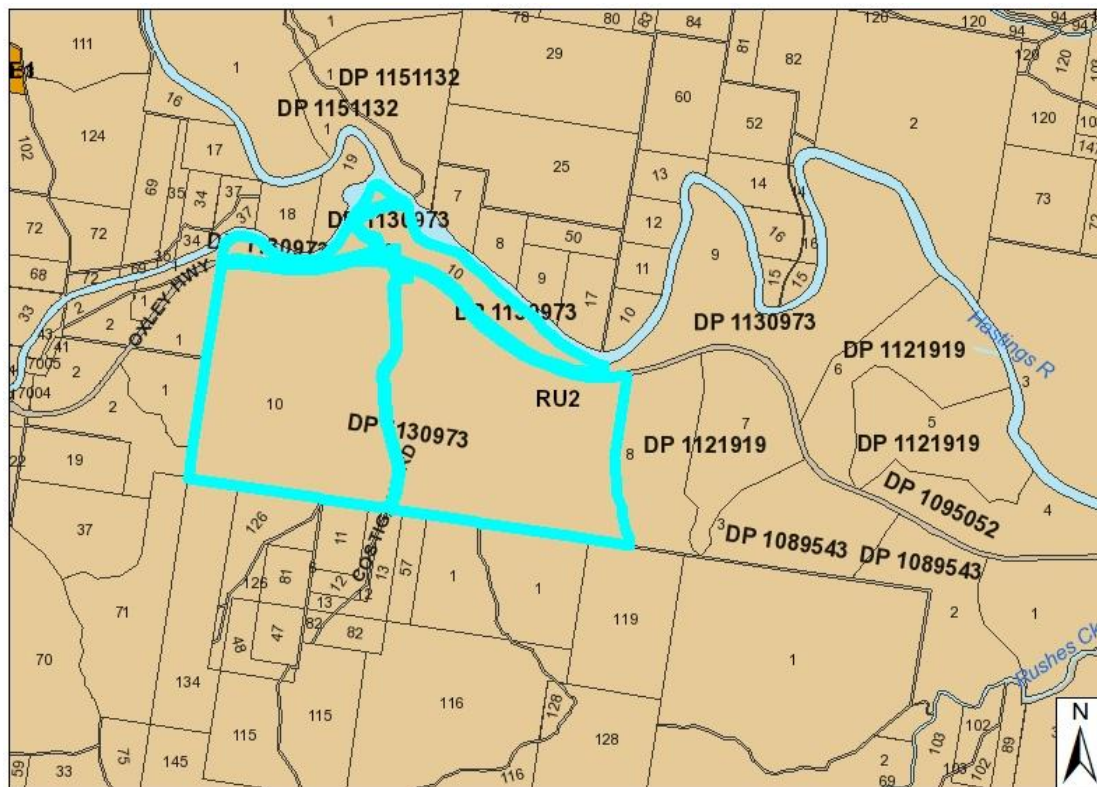
##### Existing site features and surrounding development

The site has an area of 732.8ha. The subject land is located on both sides of the existing Oxley Highway alignment. The property contains one dwelling (close to the river) that has existing access to the Highway.

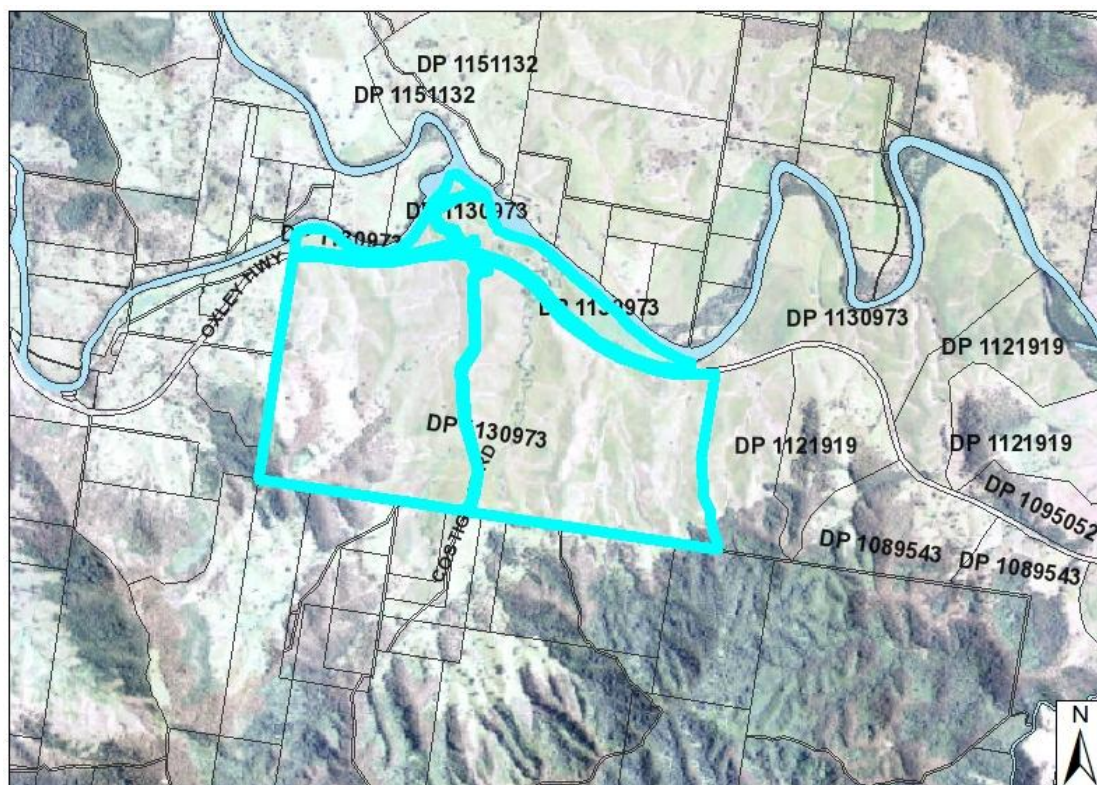
On the southern side of the Oxley Highway, the property includes a legally created road (R25704 - unformed and unused) and a ROW (20m wide DP 1114941) - Costigan's Road.



The site is zoned RU2 Rural Landscape 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:

There are two small land parcels contained within the subject land (being Lot 51 DP 1159956, owned by the Wauchope Presbyterian Church and Lot 1 DP 567340 owned by RMS). Neither of these parcels were shown on the submitted plans accompanying the DA.

Refer to attachments at the end of this report.

**Application Chronology**

- DA lodged 4<sup>th</sup> August 2016
- Internal referrals - Development Engineering, Section 94
- External referral - NSW RFS
- Notification commenced 12<sup>th</sup> August 2016
- One submission received - 25<sup>th</sup> August 2016
- Request for additional information to applicant - 25<sup>th</sup> August 2106
- Additional information received from applicant - 25<sup>th</sup> - 29<sup>th</sup> August 2016
- Internal referral - Dev Eng received - 30 August 2016
- DAP meeting - 28 September 2016 (deferred)

**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 (Rural Lands) 2008**

The SEPP applies to the application as the land is in a rural zone and the proposal seeks approval for a subdivision of that land. The following assessment table provides an assessment against specific requirements of this SEPP:

| Applicable clauses for consideration   | Comments  | Satisfactory |
|--|---|--------------|
| The existing uses and approved uses of land in the vicinity of the development - 10(3)(a)  | No known landuse conflicts or potential landuse conflicts.  | Yes          |
| Whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development – 10(3)(b) | Each lot is in excess of 100ha in size. Agricultural uses will be able to continue to operate on each parcel. | Yes          |
| Whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b) – 10(3)(c)  | None known.   | Yes          |
| If the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone – 10(3)(d)  | No adjoining rural residential zone.  | Yes          |
| Any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d) – 10(3)(e).  | None required.  | Yes          |

### 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 RU2 Rural Landscape. In accordance with clause 2.3(1) and the RU2 zone landuse table, the proposed development for a two lot rural subdivision is a permissible landuse with consent.

The objectives of the RU2 zone are as follows:

- - To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
  - To maintain the rural landscape character of the land.
  - To provide for a range of compatible land uses, including extensive agriculture.
  - To provide for rural tourism that does not compromise the primary industry capabilities of the land and is based on the rural attributes of the land.
  - To secure a future for agriculture in the area by minimising loss of potential agricultural productivity and fragmentation of rural land.

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 size of each lot created is large enough to sustain a primary industry on the site.
- The proposal will not result in any unnecessary fragmentation of rural land.

- The proposal will not alter the rural landscape of the land or the surrounding area.
- Clause 4.1, the two lot sizes to be created as a result of the subdivision are proposed Lot 10 - 294.1ha and proposed Lot 11 - 438.7ha. Both proposed lots comply with the minimum lot sizes identified in the Lot Size Map relating to the site. That is, 100ha minimum.
- Clause 7.13. Proposed Lot 10 contains an existing dwelling and access. Proposed Lot 11 is currently vacant. Each lot is capable of providing essential services - to a rural standard, including water supply, electricity supply, on-site sewage, stormwater drainage and suitable road access to service the development. Provision of electricity will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by a condition of consent.

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

None.

**(iii) any Development Control Plan in force:**

**Port Macquarie-Hastings Development Control Plan 2013**

| <b>DCP 2013: Rural Subdivision</b> |  |  |                 |
|------------------------------------|--|--|-----------------|
|                                    | <b>Requirements</b>  | <b>Proposed</b>  | <b>Complies</b> |
| 3.6.3.41                           | <p>a) A minimum gate width of 3.6m should be provided to any property.</p> <p>b) Land with a slope greater than 15 degrees is not to be proposed for house construction or effluent disposal.</p> <p>c) Unless created under clause 4.2 of LEP 2011 or clause 9 of SEPP (Rural Lands) 2008, lots in rural areas should:</p> <ul style="list-style-type: none"> <li>• have an identified building platform for a dwelling house.</li> <li>• have appropriate area and dimensions for the siting and construction of a dwelling and any ancillary outbuildings.</li> <li>• have a gate installed for the driveway.</li> <li>• demonstrate that an environmentally sensitive, 2 wheel drive standard access can be located between the driveway (referred to above) and the nominated building platform on each lot and in accordance with Council's adopted design specifications.</li> <li>• have a sealed driveway, constructed from the road to 3m inside the property boundary.</li> </ul> | The large nature of the allotments allows for numerous design solutions at dwelling stage. | Y               |

| <b>DCP 2013: Rural Subdivision</b> |  |  |                 |
|------------------------------------|--|--|-----------------|
|                                    | <b>Requirements</b>  | <b>Proposed</b>  | <b>Complies</b> |
|                                    | <ul style="list-style-type: none"> <li>• have access to a public road that is readily upgraded to all weather two wheel drive standard;</li> <li>• comply with bushfire guidelines;</li> <li>• be above Q100 flood level and has high level road and/or pedestrian access to land above probable maximum flood level;</li> <li>• have adequate solar access;</li> <li>• not impact on rural activities on nearby land.</li> </ul> <p>d) Where access is on a right of way over another property, the maximum number of allotments that may share in the above right of way access arrangements is 2.</p> <p>e) For battleaxe or hatchet shaped allotments access width should be a minimum of pavement width (including width required for earthworks, batters, retaining walls, longitudinal drainage and services etc) as specified in Council's adopted design specification documents.</p> |  |                 |
| 3.6.3.42                           | <p>a) Lot boundaries should be suitably located taking into the relevant criteria slope of the land:</p> <ul style="list-style-type: none"> <li>• natural boundaries;</li> <li>• existing fencing and paddock structure;</li> <li>• protection of natural or cultural features;</li> <li>• site environmental constraints;</li> <li>• retention of special features such as trees and scenic topographical features.</li> </ul>  | The proposed allotments are large in size and sufficiently respond to the existing features of the land. | Y               |
| 3.6.3.43                           | a) Rural roads should be designed in accordance with Council's adopted design specification documents.   | Existing   | Y               |
| 3.6.3.44                           | <p>a) Rural roads should be designed in accordance with Council's adopted design specification documents.</p> <p>b) Pathways and cycleways are to be provided in large lot residential subdivisions.</p>   | Existing   | Y               |

(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:

None.

**iv) any matters prescribed by the Regulations:****New South Wales Coastal Policy:**

Not applicable.

**Demolition of buildings AS 2601:**

Not applicable.

**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:**

Not 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:****Roads**

The proposed lots have road frontage to the Oxley Highway. The Oxley Highway is under the care, control and management of RMS. Proposed Lot 10 has existing access to an existing dwelling. Proposed Lot 11 will require access from the Oxley Highway or via an internal access to Costigan's Road.

**Site Frontage & Access**

Vehicle access to proposed Lot 10 is available from the Oxley Highway. There is no current access to Lot 11. Any new dwelling will require a safe and suitable access point to be determined in consultation with the RMS. A new access to Lot 11 can be achieved. The applicant will need to demonstrate that they can achieve adequate sight distance as required by Austroad Road Design Guide Part 3 - Geometric Road Design. Access shall comply with Council AUSPEC and Australian Standards. Conditions are to be imposed to reflect these requirements.

It is noted that existing Council road reserve within Lot 10 DP 1130973 does not physically connect to the Oxley Highway, and as such Council currently does not have legal right to access and maintain this existing road reserve. Furthermore, the existing Costigans Road formation (which includes two bridge structures) and Clayworths Road formation through Lot 10 appears not to be within a public road reserve. In the long term the dedication of the road formation to Council would ensure Council's legal right to maintain formation (and existing road reserves) and structures and to minimise legal risk to any existing or future property owner from injury along this road. Dedication of the road would also ensure legal right of access for properties further south up the valley and reduce public safety risk for all affected properties south of the southern boundary. While it is in the public interest for this road to be dedicated as public road, this matter can be pursued outside of the DA process and therefore is not part of this application.

**Water Supply Connection**

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

**Sewer Connection**

Proposed Lot 10 will have existing onsite services for the dwelling house.



Proposed Lot 11 will require the provision of an adequate onsite sewer system should a dwelling be proposed in the future.

**Other Utilities**

Telecommunication and electricity services are available to the area. Lot 10 will have services already in place. Lot 11 will require new services should a dwelling be proposed in the future.

**Bushfire**

The site is identified as being bushfire prone.

In accordance with Section 100B - Rural Fires Act 1997 - the application proposes subdivision of bush fire prone land that could lawfully be used for rural residential purposes.

The applicant has submitted a bushfire report prepared by a Certified Consultant. The report assumes that proposed subdivision will occur and has carried out an assessment under Section 100B requirements.

The Commissioner has assessed the development and has issued a Bushfire Safety Authority consisting of a number of standard conditions of consent.

**Social impacts in the locality**

Subject to the conditions of consent proposed, the nature of the proposed development and its' location is unlikely to result in any adverse social impacts.

**Economic impact in the locality**

No adverse impacts.

**Cumulative Impacts**

The subdivision of the land into two parcels will not result in any adverse cumulative impacts for the land or the wider area.

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

The subject land is a large rural holding. The subdivision of the site to proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.

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

One written submission has been received following public exhibition of the application. It was proposed to the applicant that Lot 51 DP 1159956 be consolidated with proposed Lot 10, at no cost to that landowner. This would resolve the necessity for any ongoing future negotiations about the land or the necessity to create legal access to the site. This proposition was declined by the applicant in the first instance.

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

| Submission Issue/Summary                    | Planning Comment/Response  |
|---|--|
| The submitted plans did not include Lot 51. | The applicant was requested to include this land in the proposed subdivision plan. An amended plan was submitted including the site. The proposed subdivision plan does not include any form of access to Lot 51. It is understood that this matter is being pursued by the relevant landowners outside of the DA process. |

**(e) The Public Interest:**

While it is in the public interest to have legal access created to Lot 51 and a dedicated road (via Costigans Road) to the rural properties located south of the subject site, Council undertook to further consider these matters after the DAP meeting on 28 September 2016. In the circumstances Council officers concluded that that each of these matters can be resolved outside of the DA process. Therefore the dedication of Costigans Road, should Council resolve to pursue its dedication, can occur at a later date.

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

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.

**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. No further action is required to resolve this matter. The two relevant landowners are undertaking separate negotiations in regard to the future ownership and access to Lot 51.

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.

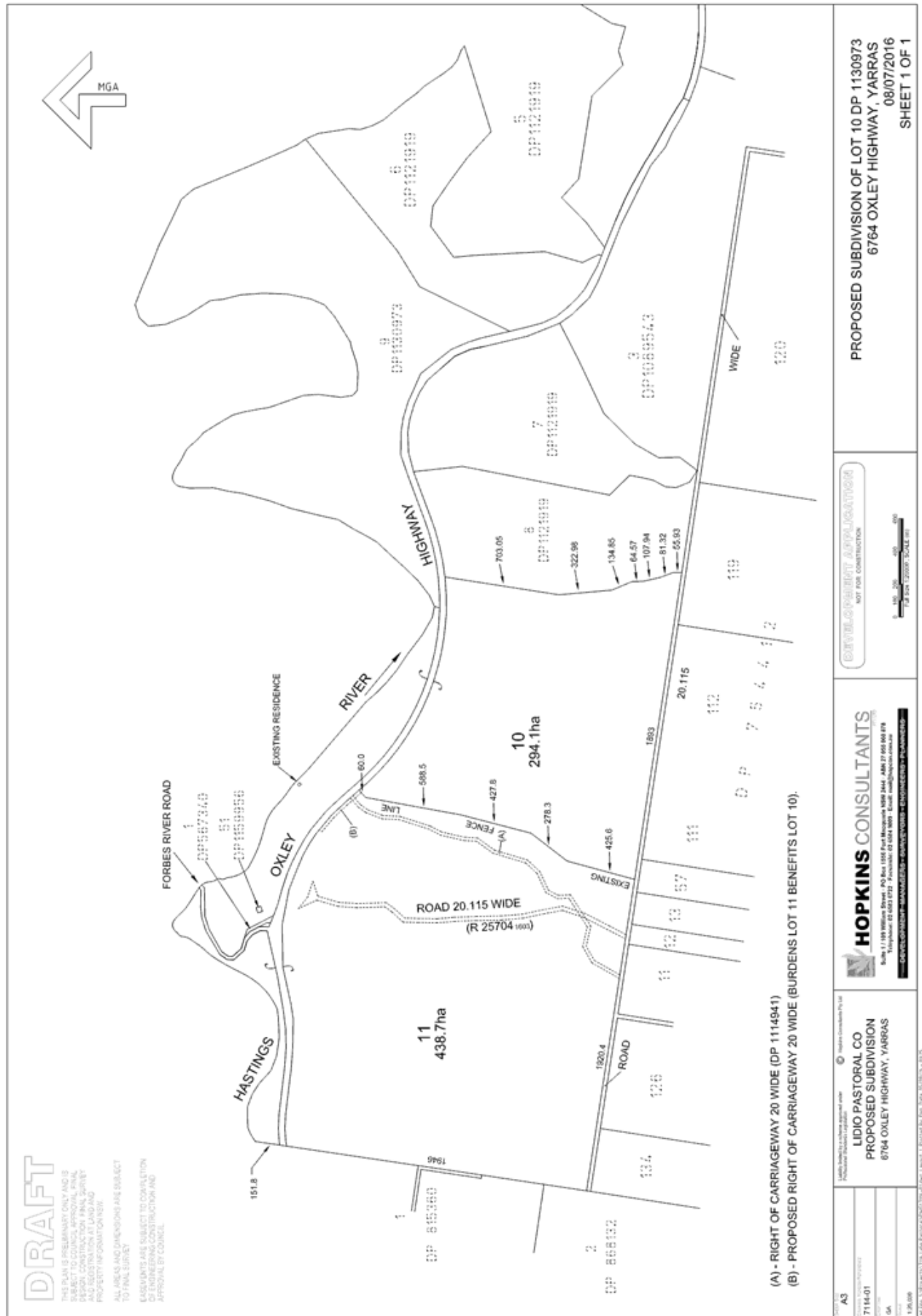
**Attachments**

1[View](#). DA2016 - 614.1 Plan

2[View](#). DA2016 - 614.1 Recommended Conditions.

3[View](#). DA2016 - 614.1 General Terms of Approval - NSW Rural Fire Service

4[View](#). DA2016 - 614.1 Submission - Wauchope Presbyterian Church





**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2016/614****DATE: 15/09/2016****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> |
|-----------------------------------|----------------------|---------------------|-------------|
| Proposed Subdivision Plan         | 7114-01 Sheet 1 of 1 | Hopkins Consultants | 08/07/2016  |

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) (A003) The proponent shall submit an application for a Subdivision Certificate for Council certification with all relevant documentation.
- (3) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (4) (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 D16/2672 DA16081503348 DC and dated 7 September 2016, are attached and form part of this consent.
- (5) (A016) This consent does not override any requirements of the *Native Vegetation Act 2003* and/or the *Environmental Protection and Biodiversity Conservation Act 1999*.
- (6) (A028) Construction of functional vehicular accesses to rural allotments in accordance with AUSPEC Specifications D1.31. Details of the construction of the accesses are to be provided with the application for approval pursuant to Section 138 of the *Roads Act*.

**B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE**

nil

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

nil

**D – DURING WORK**

nil

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

- (1) (E008) Payment to Council, prior to occupation or the issue of the Subdivision Certificate (whichever occurs first) 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
- Hastings S94 Major Roads Contributions Plan
- Hastings S94 Open Space Contributions Plan
- Community Cultural and Emergency Services Contributions Plan 2005

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.

- (2) (E068) Prior to the issue of a Subdivision 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.

**F – OCCUPATION OF THE SITE**

nil

*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

Facsimile: 8741 5433



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

Your Ref: 2016/614  
Our Ref: D16/2672  
DA16081503348 DC

**ATTENTION:** Deborah McKenzie

7 September 2016

Dear Sir / Madam

**Integrated Development for 10//1130973 - Oxley Highway Yarras 2446**

I refer to your letter dated 9 August 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 following:
  - subdivision layout identified on the drawing prepared by Hopkins Consultants Pty Ltd numbered 7114/01, Sheet 1 of 1, dated 8th July, 2016; and
  - the indicative dwelling location for proposed Lot 11 as submitted in the 'Bushfire Threat Assessment Report' prepared by Hopkins Consultants dated 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 certificate and in perpetuity the property around the existing dwelling on proposed Lot 10 to a distance of 10 metres, shall be maintained 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'.

**Water and Utilities**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

3. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres fire fighting water supply shall be provided to the existing dwelling on proposed Lot 10 for fire fighting purposes as follows:
  - (Existing) tanks shall have a 65 mm metal Storz outlet with a gate or ball valve fitted and be accessible for a fire fighting truck.
  - All water supplies for fire fighting purposes shall be clearly signposted as a fire fighting water supply.
  - A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
    - i. Markers must be fixed in a suitable location so as to be highly visible; and
    - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Fire fighting water supply may be provided by a tank, a swimming pool or a dam that shall be located no more than 20 metres from the approved structure.

4. Any alteration to electricity services over bush fire prone land shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**General Advice – consent authority to note**

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Danette Cook on 1300 NSW RFS.

Yours sincerely



Alan Bawden  
**Team Leader, Development Assessment & 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'.

**From:** "Wauchope Presbyterian Church" [REDACTED]  
**Sent:** Thu, 25 Aug 2016 16:50:18 +1000  
**To:** "Theresa Foster" <Theresa.Foster@pmhc.nsw.gov.au>  
**Subject:** RE: 2016 - 614.1 Submission Acknowledgement letter - 6764 Oxley Highway YARRAS - Wauchope Presbyterian Church 57486  
**Priority:** Normal  
**Attachments:** image001.jpg; image002.jpg; image003.jpg  
G'day Theresa,

Thanks for the acknowledgement. I wrote that quickly without checking my emails ... should have added the following from one of our Committee of Management members ..

I think that the grounds for the submission are that "we object to the subdivision on the basis that the DP does not show our block which is surrounded by one of the Lots in the proposed subdivision and therefore does not adequately represent the boundaries of the newly created block". Adding to that that we are seeking legal advice regarding this (I will be able to call the Solicitor tomorrow).

Ian

Could you please add that to our submission

Peter

*Wauchope Presbyterian Church exists to be a people of God who love Him, love each other and desire to see others come to know Him*

**From:** Theresa Foster [mailto:Theresa.Foster@pmhc.nsw.gov.au]  
**Sent:** Thursday, 25 August 2016 2:39 PM  
**To:** 'wauchpc@bigpond.com' [REDACTED]  
**Subject:** 2016 - 614.1 Submission Acknowledgement letter - 6764 Oxley Highway YARRAS - Wauchope Presbyterian Church 57486

Good Afternoon,

Please find attached submission acknowledgement for the above application.

Thank you

**Theresa Foster**  
**Administration Officer - Development & Environment**

Port Macquarie-Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444  
(02) 6581 8547  
(02) 6581 8123 (Fax)



## Wauchope Presbyterian Church

30 Bain Street (PO Box 643) Wauchope 2446. [REDACTED]

Pastor: Peter Huxley Phone. [REDACTED]

Email: [REDACTED]

Web: [wauchopepresbyterian.org](http://wauchopepresbyterian.org)

FB: Wauchope Presbyterian

25/8/2016

### TO WHOM IT MAY CONCERN

I write on behalf of the Church to indicate that we do have concerns re the proposed 2 lot Subdivision at Yarras. Lot 10 DP 1130973. We are currently in negotiations with the existing owner of the block. These will most likely soon become legal negotiations as the Law Agent for the Presbyterian Church has become involved.

Your plans that are on display do not even show our block of land on them and we will have a right of way that will affect the whole situation. We urge you not to take any further steps in this process until our process with the current owner has come to a satisfactory conclusion.

Yours sincerely

Peter Huxley (for Wauchope Presbyterian Church)