



Development Assessment Panel

Business Paper

date of meeting: Wednesday 8 March 2017

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

time: 2:00pm

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

Development Assessment Panel

CHARTER

COMPOSITION:

Independent Chair (alternate, Director Development & Environment)
Manager Development Assessment (alternate, Director Development & Environment or
Development Assessment Planner)
Development Engineering Coordinator (alternate, Development Engineer)

MISSION:

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

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

FUNCTIONS:

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

DELEGATED AUTHORITY:

1. Pursuant to Section 377 of the Local Government Act, 1993 delegation to:
2. Determine development applications under Part 4 of the Environmental Planning and Assessment Act 1979 having regard to the relevant environmental planning instruments, development control plans and Council policies.
3. Vary Modify or release restrictions as to use and/or covenants created by Section 88B instruments under the Conveyancing Act 1919 in relation to development applications for subdivisions being considered by the panel.
4. Determine Koala Plans of Management under State Environmental Planning Policy 44 - Koala Habitat Protection associated with development applications being considered by the Panel.

TIMETABLE:

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



**PORT MACQUARIE
HASTINGS**

VENUE:

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

BUSINESS PAPER AND MINUTES:

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

FORMAT OF THE MEETING:

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

INDEPENDENT CHAIR:

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

QUORUM:

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

DECISION MAKING:

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

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

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



**PORT MACQUARIE
HASTINGS**

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	23/11/16	14/12/16/16	18/01/17	08/02/17	22/02/17
Paul Drake Matt Rogers (alternate)	✓	✓	✓	✓	✓
Dan Croft Patrick Galbraith-Robertson Warren Wisemantel (alternates)	✓	✓	✓	✓	✓
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 8 March 2017

Items of Business

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**PORT MACQUARIE
HASTINGS**

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

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

Item: 02**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

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

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 22 February 2017 be confirmed.

PRESENT

Members:

Paul Drake
Dan Croft
David Troemel

Other Attendees:

Chris Gardiner

The meeting opened at 2:00pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 8 February 2017 be confirmed.

04 DISCLOSURES OF INTEREST

Nil.

05 DA2016 - 661.1 DEMOLITION OF MULTI DWELLING HOUSING AND CONSTRUCTION OF RESIDENTIAL FLAT BUILDING INCLUDING CLAUSE 4.6 OBJECTION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AND STRATA SUBDIVISION AT LOT 101 DP 1122606, NO. 3 CLARENCE STREET, PORT MACQUARIE

The Chair tabled a submission from Greg Hollis objecting to the proposal.

Speakers:

Alison Innes (o)

Peter Deem (o)

CONSENSUS:

That DA 2016 - 661.1 for Demolition of Multi Dwelling Housing and Construction of Residential Flat Building Including Clause 4.6 Objection to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 and Strata Subdivision at Lot 101, DP 1122606, No. 3 Clarence Street, 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: 'In accordance with Section 71 of the Road Regulation 2008, no gate or door shall open into the public road, unless for emergency purposes.'

06 DA2016 - 852.1 ALTERATIONS AND ADDITIONS TO DWELLING AT LOT 15 DP 20480, NO. 3 ILLAROO ROAD, LAKE CATHIE

Speakers:

Lee Sanders (o)

Nigel Swift (applicant)

CONSENSUS:

That DA 2016 - 852.1 for Alterations and Additions to Dwelling at Lot 15, DP 20480, No. 3 Illaroo Road, Lake Cathie, be determined by granting consent subject to the recommended conditions.

07 GENERAL BUSINESS

Nil.

The meeting closed at 3:05pm.

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:

.....

Name:

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. The Council official must not be present at, or in sight of, the meeting of the Council at any time during which the matter is being considered or discussed, or at any time during which the council is voting on any question in relation to the matter. (section 451)

Non-Pecuniary

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

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

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

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

Non Pecuniary – Significant Interest

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

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

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

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

Non Pecuniary – Less than Significant Interest

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

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

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

Councillor's Name:

Councillor's Signature: Date:

Important Information

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

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

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

Item: 05**Subject: DA2016 - 956.1 JETTY - LOT 9 DP 217022, 20 NORTH SHORE DRIVE,
NORTH SHORE****Report Author: Benjamin Roberts**

Applicant: McNeil Architects Pty Ltd**Owner: L T Pas De Lion****Estimated Cost: \$20,000****Parcel no: 14804**

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2016 - 956.1 for a jetty at Lot 9, DP 217022, No. 10 North Shore Drive, North Shore, be determined by granting consent subject to the recommended conditions.

Executive Summary

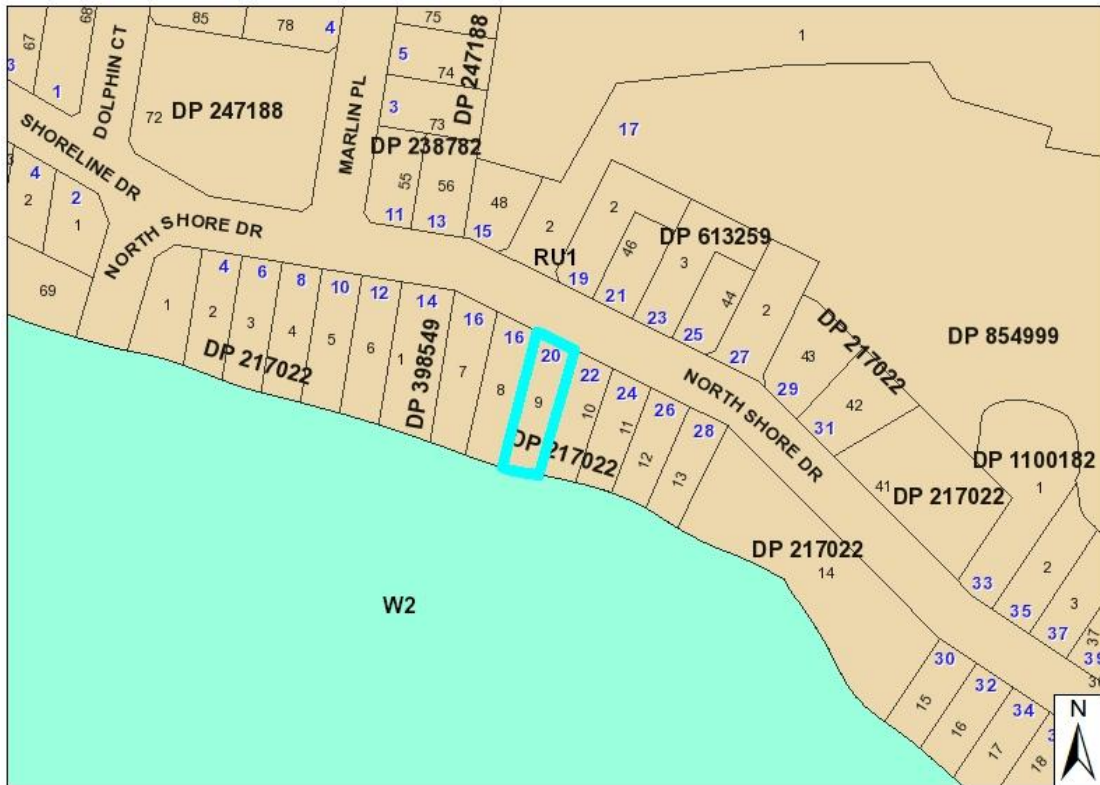
This report considers a development application for a jetty at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

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 689.2m².

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



The 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:

- Construction of a jetty

Refer to attachments at the end of this report.

Application Chronology

- 7 December 2016 - Application lodged
- 9 January 2017 - Referral to NSW Office of Water
- 9 January 2017 - Referral to NSW Department of Primary Industries (Fisheries)
- 9 January 2017 - Crown Lands NSW notified as per land owners consent letter.
- 19 January - 17 February 2017 - Public exhibition
- 3 February 2017 - NSW Department of Primary Industries (Fisheries) response with General Terms of Approval.
- 13 February 2017 - NSW Office of Water response with General Terms of Approval.

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 applicable to 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 the proposal will be unlikely to have any adverse impact on existing aquaculture industries.

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 (Infrastructure) 2007

The proposal does not trigger any provisions or referral to Roads and Maritime Services under this policy.

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 both RU1 Primary Production and W2 Recreational Waterways. In accordance with clause 2.3(1) dwellings (or ancillary structures to a dwelling) are a permissible land use with consent in the RU1 zone and water recreation structures are a permissible land use with consent in the W2 zone.

The objectives of the RU1 zone are as follows:

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

The objectives of the W2 zone are as follows:

- To protect the ecological, scenic and recreation values of recreational waterways.
- To allow for water-based recreation and related uses.
- To provide for sustainable fishing industries and recreational fishing.

In accordance with Clause 2.3(2), the proposal is consistent with both zone objectives as it is a permissible landuse and consistent with the established locality.

- Clause 7.1, the site is mapped as potentially containing class 3 acid sulfate soils. The proposed jetty will have footings extending into the bed of the river. The required works are unlikely to expose acid sulfate soils and no adverse impacts are expected to occur.
- Clause 7.3, the site is land within a mapped "flood planning area". In this regard the following comments are provided which incorporate consideration of the objectives of Clause 7.3 & Council's Interim Flood Policy 2007:
 - 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.
 - The jetty structure itself will be required to withstand flood forces and loadings from debris impacts. Standard consent conditions have been recommended.
- 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.

(iii) any Development Control Plan in force:

Port Macquarie-Hastings Development Control Plan 2013

The following provisions of this plan relevant to boating structures are addressed in the following table:

DCP 2013: Ancillary development			
	Requirements	Proposed	Complies
3.2.2.13	(a) Mooring piles set at no lower than that which ensures the floating structure is retained during 1:100 year flood.	(a) Capable. Engineering details to be provided at Construction Certificate stage.	Yes. Suitable conditions recommended.
	(b) Width of jetty walkway to platform no greater than 1m.	(b) Proposed width of jetty is 2m.	No. Condition requiring CC plans to reflect 1m width.
	(c) area of platform not exceed 10m ² .	(c) Proposed platform area is 18m ² .	No. Condition requiring CC plan to reflect 10m ² platform area.
	(d) overall length of jetty from existing revetment not exceed 17m.	(d) There is no existing revetment wall. The jetty will extend 23m from the proposed rock wall.	No, but considered acceptable in this instance.
	(e) Boat ramps max width of 3m and max length of	No boat ramp proposed.	N/A.

	<p>10m from existing revetment. If associated with boat shed max width 2.7m.</p> <p>(f) pontoons moored at right angles not to extend beyond 17m from revetment.</p> <p>(g) pile cut off levels no lower than RL3m AHD.</p> <p>(h) fixed jetties only to extend 7m from revetment.</p> <p>(i) any extension beyond 7m be a pivoting walkway to floating pontoon.</p> <p>(j) deck of jetty be above and not resting on revetment and top surface less than RL 1.4m AHD.</p> <p>(k) Pontoons moored parallel to revetment not extend beyond 12m.</p> <p>(l) floating moorings be located between 17m from revetment.</p> <p>(m) fixed mooring poles no greater than 17m from revetment.</p>	<p>(f) Pontoon extends 26m from proposed rock wall.</p> <p>(g) Capable. Details to be provided as part of Construction Certificate.</p> <p>(h) and (i) Details of fixed jetty component not shown however CC plans can provide sufficient details of pivoting section beyond 7m.</p> <p>(j) Details to be provided on CC plans.</p> <p>(k) Pontoon approx 27m from proposed rock wall.</p> <p>(l) and (m) Details of floating and fixed components can be provided as part of the CC plans. Likely that poles will extend beyond 17m.</p>	<p>No, but considered acceptable in this instance.</p> <p>Yes</p> <p>Yes details can be provided on CC plans.</p> <p>Yes. Details can be provided on CC plans.</p> <p>No but considered acceptable in this instance.</p> <p>No but considered acceptable in this instance.</p>
3.2.2.14	<p>(a) Jetties and moorings located a min of 10m from any adjacent jetties or moorings.</p> <p>(b) Boat ramps and jetties located so</p>	<p>>10m from nearest jetty or mooring.</p> <p>Mooring of a typical sized vessel to jetty</p>	<p>Yes. Nearest jetty located approx 50m downstream.</p> <p>Yes</p>

	that vessels don't project past prolongation of side boundaries.	will not result in projection past side boundaries of site.	
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The variations to the jetty and pontoon development standards are considered acceptable for the following reasons in response to the relevant objectives:

- The standards are typical of that required in the canals of Port Macquarie and not the Hastings River.
- The design of the jetty will maintain the amenity and function of the waterway.
- The design of the jetty will not adversely impact on any adjoining property.
- The design of the jetty will provide for the equitable use of the waterway. The river in this location is approximately 400m wide will not adversely impact on recreational use of the waterway.

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	The proposed rock wall works are greater than 1m in height. The height is acceptable in this instance.	No but acceptable.
2.3.3.2	1m max. height retaining walls along road frontage	NA	NA
	Any retaining wall >1.0 in height to be certified by structure engineer	Details to be provided as part of CC process.	Yes
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	NA	NA
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Yes

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

No planning agreement has been offered or entered into.

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.

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

None applicable.

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

- The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be consistent with other 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 impacts.

Access, transport and traffic

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

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

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 mapped as bushfire prone land and there is no increased bushfire risk from the proposed development.

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.

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:

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

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

Submission Issue/Summary	Planning Comment/Response
Jetties between Trawler creek and the Settlement Point Ferry should not be permitted due to major and minor flooding causing debris to build up on them.	It is noted on the southern approach to the ferry there is a 30m jetty within 20m of the ferry operations. Ferry operations generally cease quite early on in a flood event. Therefore if debris were to collect around the ferry cable restraints this would not impact on operations as the ferry would already be out of service. There may be some maintenance and debris clearance before the ferry can resume operations after a flood, however this would be required regardless of the additional jetty.
The existing jetty at 28 North Shore Drive can hold debris for 50m upstream.	Noted refer to comments above.
If this application is approved it will set a precedent for more jetties closer to the ferry and add to the debris build up.	Noted refer to comments above.
The build up of flood debris as a result of such structures will impact on the ferry cables and its operation.	Noted refer to comments above.
Permitting jetties that extend 15m into the river will push kayak, canoe and paddle boards further into the main channel placing them at increased risk from ever increasing boat and jet ski traffic.	The Hastings River is approximately 400m wide in this location which provides adequate space for all means of recreational activities. It is also noted that safe distance and speed rules apply in NSW waters between such recreational users.

(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

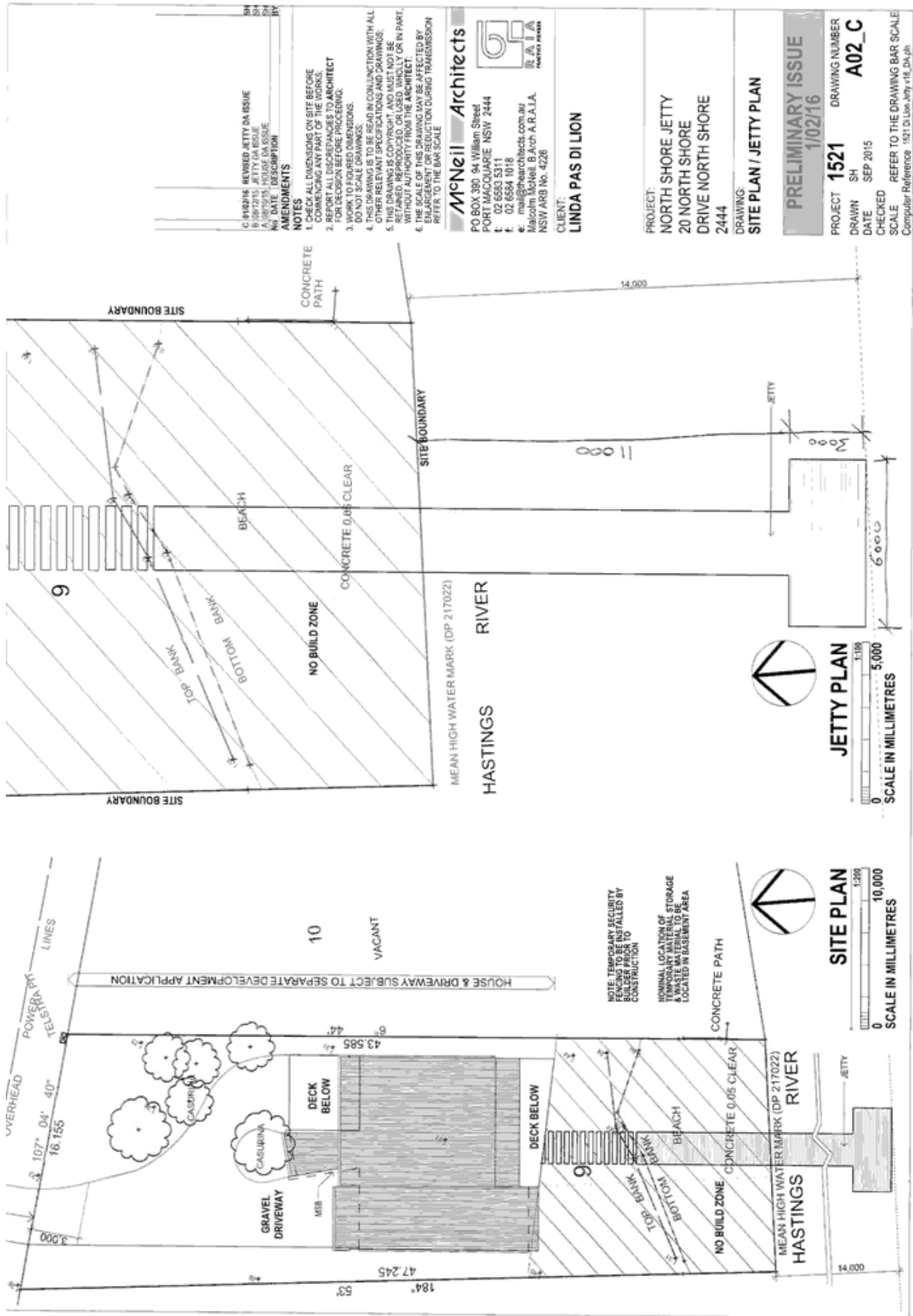
The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

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 - 956.1 Plan
- 2 [View](#). DA2016 - 956.1 Recommended Conditions
- 3 [View](#). DA2016 - 956.1 Submission - Fewings



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2016/956****DATE: 24/02/2017****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
Development plans as stamped	1521 A02_C	McNeil Architects	1 February 2016
Rock Wall details	-	-	Undated

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;
 - 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.
- (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 Department of Primary Industries - Water** - The General Terms of Approval, Reference 30ERM2017/0058 and dated 7 February 2017 are attached and form part of this consent.
 - **NSW Department of Primary Industries - Fisheries** - The General Terms of Approval, Reference IDA17/5 and dated 2 February 2017 are attached and form part of this consent.
- (5) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (6) (A195) The jetty structure, including any mooring piles, gangways, anchor points and any other structural element associated with the jetty must be designed to ensure that the structure is retained during the design 1 in 100 year flood event including any applicable climate change allowance plus the relevant freeboard. For the purpose of this requirement, the flood planning level may be assumed to be 3.64m AHD. Account is to be taken of likely debris loadings.
- (7) (AP196) Pile cut off levels must not be lower than the 1 in 100 year flood event including any applicable climate change allowance plus 500mm freeboard. For the purpose of this requirement, the pile cut off level may be assumed to be 3.64m AHD.
- (8) (A196) The jetty structure is not to be modified, extended or changed without the prior approval of Council.
- (1) (AP197) The deck of the jetty is to be above and not resting on the revetment wall. No load is to be imparted to the revetment wall.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council.
- (2) (BP195) Prior to release of the Construction Certificate a practising chartered professional structural engineer is to provide certification to the PCA that the jetty is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur for a range of floods up to and including the 1 in 100 year flood including climate change and the relevant freeboard level of 500mm. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.14m AHD. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1 in 100 year flood including climate change plus freeboard. For the purpose of this requirement, the velocity for the 1 in 100 flood including climate change may be assumed to be 0.72m/s.
- (3) (BP196) The Construction Certificate plans shall nominate a jetty walkway width of 1m and total platform area of 10m².

- (4) (B039) Detailed drawings and specifications prepared by a professional engineer for the rock retaining wall are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

- (1) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (2) The building contractor is responsible for the provision, erection and maintenance of barriers, lights, etcetera, as may be required to ensure that safety of the public at all times.

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) (E195) A suitable qualified civil or structural engineer shall provide certification that the pontoon construction has been carried out in accordance with the approved engineered designed plans.
- (3) (E017) The occupation or use of the jetty structure shall not occur until a satisfactory inspection of the slab or footings for the dwelling approved via DA 2016/183 has been undertaken by the Principal Certifying Authority.

F – OCCUPATION OF THE SITE

- (1) The use of the jetty shall be such as to prohibit the encroaching of any boat, when moored beyond the projection of the property boundaries.

From: Wendy Fewings [REDACTED]
Sent: Thursday, 16 February 2017 2:34 PM
To: Ben Roberts
Subject: Proposed Jetty submissions

Wendy and Gary Fewings
16-18 North Shore dr
North Shore
[REDACTED]

Application Number- 2016/956

Proposed jetty at No. 20 North Shore Dr North Shore
Jetties between trawler creek and the ferry should not be permitted, due to major and minor flooding causing debris to bank up on them.
The existing jetty at No.28 can hold back debris for 50 metres up stream. If a precedent is set I know of two neighbors up stream waiting for the outcome which will put the debris backlog closer to our ferry cables. The debris on 99% of occasion is sent to the north bank by southerly and south westerly winds, the debris will float backwards and forwards for days with the tide fouling our cables, I personally have had to chainsaw logs off the ferry cables.
Permitting jetties to obstruct 15 metres out on the river will put recreational kayaks, canoes and paddle boarders out into the main channel, where boats and jet ski traffic has increased 50 fold, over my 45 years on the river. Many changes have occurred, but these proposals will be a bad decision.
A chat and visual on my verandah by council and maritime would be welcomed.

Yours Concerned
Gary Fewings

Item: 06

Subject: DA2017 - 52.1 - DWELLING - LOT 711 DP 1228141, 53 YALUMA DRIVE, PORT MACQUARIE

Report Author: Clint Tink

Applicant: J & P Carey

Owner: Richmond Horizons Pty Ltd and A R & P A Richmond

Estimated Cost: \$423,750

Parcel no: 66303

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2017 - 52.1 for a dwelling at Lot 711, DP 1228141, No. 53 Yaluma Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

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

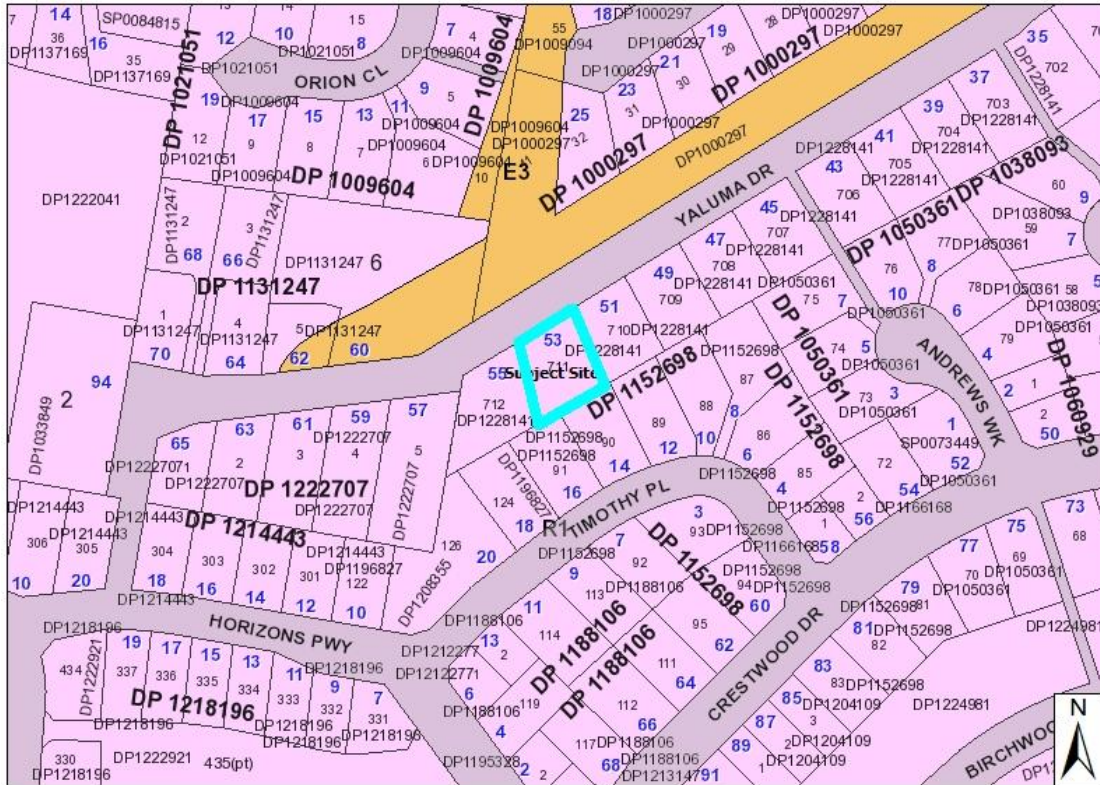
Following exhibition of the application, two (2) submissions were received.

1. BACKGROUND

Existing sites features and Surrounding development

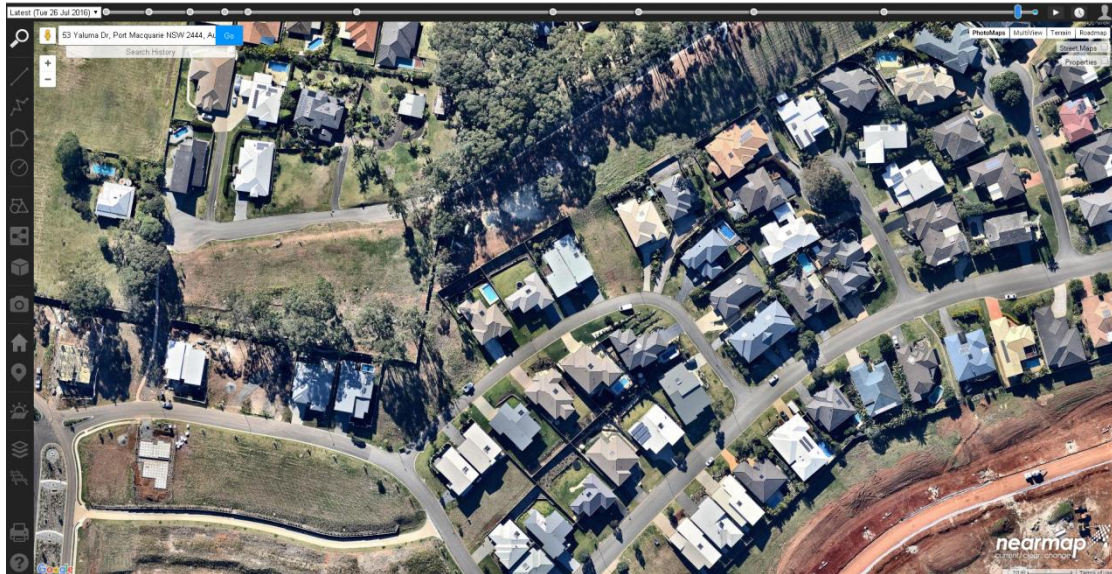
The site has an area of 813.8m².

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 photographs. The first aerial photo is from 2012, while the second is from 2016:





2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Single storey dwelling with a slightly elevated rear/southern section.

Refer to attachments at the end of this report.

Application Chronology

- 30 January 2017 - Application lodged with Council.
- 8 February 2017 - Council staff requested additional information on the rear setback variation, privacy, overshadowing and tree removal.
- 9 to 22 February 2017 - Exhibition period.
- 10 February 2017 - Applicant responded to additional information request.

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 one hectare in area and involves no tree removal. 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.

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

A BASIX certificate (number 789907S) 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 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 above ground level (existing) is 5.964m, 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 0.32:1.0 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, the site does not contain or adjoin any known heritage items or sites of significance and is disturbed from past subdivision activities.
- 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:

None relevant.

(iii) any Development Control Plan in force:

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

	Requirements	Proposed	Complies
3.2.2.2	<p>Articulation zone:</p> <ul style="list-style-type: none"> • Min. 3m front setback • An entry feature or portico • A balcony, deck, patio, pergola, terrace or verandah • A window box treatment • A bay window or similar feature • An awning or other feature over a window • A sun shading feature 	Not utilised.	N/A
	<p>Front setback (Residential not R5 zone):</p> <ul style="list-style-type: none"> • Min. 6.0m classified road • Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot • Min. 3.0m secondary road • Min. 2.0m Laneway 	Dwelling is setback 4.5m.	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade.	Garage is setback 5.5m and 1m behind the front façade.	Yes
	Garage door recessed behind building line or eaves/overhangs provided		
	6m max. width of garage door/s and 50% max. width of building	Garage door is less than 6m and 50% of the width of the building.	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Driveway crossover does not exceed 5m or 1/3 of the site frontage.	Yes
	Garage and driveway provided on each frontage for dual occupancy on corner lot	Not a dual occupancy or corner lot.	Yes
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	Dwelling is setback 4m from the rear boundary.	Yes
3.2.2.5	<p>Side setbacks:</p> <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	The single storey components of the dwelling are setback 900mm+. The raised sections of the building are setback 2.261m to 3m+. The areas of the raised section less than 3m from a side boundary either contain no windows, contain low use rooms or relate to a small deck associated with a	Yes

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

	Requirements	Proposed	Complies
		laundry (low use). The north/south aspect and relatively low building height will also ensure no adverse overshadowing to side boundaries. Based on the above, the variations do not impact on privacy or overshadowing. Building provides suitable articulation.	
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The property contains a 35m ² private open space area, which includes a 4m x 4m section accessible from a living area.	Yes
3.2.2.10	Privacy: <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. 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 height >1m 	Refer to comments following this assessment table.	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 of private and public space available. Limited concealment or entrapment areas exist.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m	Cut and fill will not	Yes

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

	Requirements	Proposed	Complies
	outside the perimeter of the external building walls	exceed 1m and is generally 1m outside perimeter of external walls.	
2.3.3.2	1m max. height retaining walls along road frontage	Retaining walls are cut in along the road frontage so will not protrude more than 1m above ground.	Yes
	Any retaining wall >1.0 in height to be certified by structure engineer	None proposed.	N/A
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	No front fence retaining wall combination proposed.	N/A
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Noted
2.5.3.2	New accesses not permitted from arterial or distributor roads	Development does not front an arterial or distributor road.	N/A
	Driveway crossing/s minimal in number and width including maximising street parking	Standard crossover proposed.	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Double garage proposed.	Yes
2.5.3.11	Section 94 contributions	Credit exists from lot/original subdivision to cover dwelling.	Yes
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Not applicable to dwelling with parking in garage.	Yes
2.5.3.14	Sealed driveway surfaces unless justified	Driveway will 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	Capable of complying.	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Parking area within garage - no impact.	Yes
	Vehicle washing facilities – grassed area etc available.	Grassed area exists adjacent to driveway for vehicle washing.	Yes

3.2.2.10 Privacy

The development application includes a dwelling design with a raised rear section on a lot that slopes down towards neighbouring properties to the south. The development is unlikely to create any loss of privacy and remains compliant with DCP 2013 for the following reasons:

1. The south eastern deck is small in size and is only accessible from a laundry. It is likely that this deck will only be used for clothes drying/low use. Given the size and accessibility via a laundry, the deck is unlikely to be occupied as a high use living area.
2. The design has been amended to comply with the 4m rear setback requirement in DCP 2013.
3. The applicant proposes to have a solid balustrade to negate part of the downward views.
4. A wall exists between the main deck and the smaller laundry deck, which partially restricts side views.
5. A 1.8m high fence exists along the southern boundary to negate part of the downward views.
6. A large section of the rear deck is only 1.8m wide and is unlikely to be used as a key living area. The 1.8m wide section is more likely to be used as a section to traverse to the larger deck area in the south western corner.
7. The raised eastern and western facades contain low use rooms and limited openings to avoid cross views.
8. The plans of the properties to the south were considered and showed that the proposed development complies with the 9m and 12m setback requirements to living areas and private open space in DCP 2013 or that views to such areas would be hampered by the solid balustrade, 1.8m fencing etc. In summary, the following observations were made:
 - 12 Timothy Place = The dwelling is setback over 9m from the rear boundary, along with the 4m rear setback provided by DA2016 - 52, creates a 13m separation (building to building). The rear section of the property is steep and unlikely to be used as a key private open space area. The key private open space and living areas are shown to be on the north eastern and eastern sections of the property, which is setback more than the aforementioned 13m.
 - 14 Timothy Place = This dwelling is the closest being located directly behind the proposed development. The rear section of the property is steep and is unlikely to be used as a key private open space living area. The site inspection confirmed as such. The rear rooms are not key living rooms.
 - 16 Timothy Place = The deck for DA2017 - 52 (excluding the stair component) is located approximately 20m from the deck and key living areas of 16 Timothy Place. 16 Timothy Place also includes a retained private open space area to the north, which is approximately 12m from the deck of DA2017 - 52.

Based on the above, the proposed development is considered to comply with the privacy requirements of DCP 2013.

In addition to the above, overshadowing was also considered. Shadow calculations suggest with a rear height of approximately 5m and rear setback of 4m, the shadow cast to the south will be around one metre more than the existing 1.8m rear fence. Furthermore, the additional overshadowing will not result in less

than 3 hours of sunlight, between 9am and 3pm on the winter solstice, to key living and private open space areas.

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

None relevant.

- iv) **any matters prescribed by the Regulations:**

None relevant.

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

None relevant.

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

Context 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 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. 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

Refer to comments on heritage in the LEP 2011 section of this report.

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 not identified as being bushfire prone.

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

No adverse impacts. Likely positive impacts can be attributed to the construction of the development and associated flow on effects (ie maintained employment/expenditure in the construction industry).

Site design and internal design

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

Construction

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

Cumulative impacts

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

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

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

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

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

Two (2) written submissions have 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
Rear setback does not comply with the 4m requirement in DCP 2013.	Applicant amended the plans to provide a compliant 4m setback without changing the overall design of the development.
Privacy impacts from the development/rear deck on adjoining properties.	Refer to comments in this report on 3.2.2.10 Privacy at the end of the DCP 2013 assessment.

(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

None relevant - credit exists from the subdivision.

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](#). DA2017 - 52.1 Plans
- 2 [View](#). DA2017 - 52.1 Recommended Conditions
- 3 [View](#). DA2017 - 52.1 Submission - Collins
- 4 [View](#). DA2017 - 52.1 Submission - Kinani









**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2017/52****DATE: 24/02/2017****PRESCRIBED CONDITIONS**

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects	J3370	Collins W Collins Pty Ltd	January 2017
Plans	Drawing No J3370, Sheets 1 to 7 of 7	Collins W Collins Pty Ltd	9 February 2017
BASIX	789907S	Collins W Collins Pty Ltd	24 January 2017

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) (A195) The south facing balustrades are to be solid (not transparent) as shown on the approved plans.
- (4) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work

adjoins the public domain, fencing is to be in place so as to prevent public access to the site;

4. Building waste is to be managed via an appropriate receptacle;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public 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
 - 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:

 - i. Footway and gutter crossing
 - ii. Functional vehicular access

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.

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) (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.
- (4) (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

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.

DRAFT

[REDACTED]

From: Fiona Collins
Sent: Wednesday, [REDACTED]
To: Council
Cc: Mark Collins
Subject: 53 Yalumba Drive Port Macquarie - Lot 711 DP: 1228141

Categories: [REDACTED]

To Whom It May Concern,

In reference to the letter received 6/2/17 to M & F J Collins of 16 Timothy Place regarding the proposed development as listed above.

Please note we object to the rear set back being less than DCP requirements of 4m and request that the exception to bring forward to 3.361 is not granted.

We do not believe this will have a minimal impact on the privacy of our house and our surrounding neighbours properties. In fact, bringing the back deck closer to the back boundary will have a detrimental impact on the privacy of our backyard and give the applicants an unrestricted view straight into the backyard of 3 properties (12,14 and 16 Timothy Place) where we each have children playing.

Looking over the plans we believe that this is unnecessary and will have a huge impact on our privacy and kindly ask that this exception is not granted and is kept within the DCP requirement.

Kind regards,

Mark and Fiona Collins

[REDACTED]

From: Al Kinani [REDACTED]
Sent: Wednesday, 22 February 2017 1:46 PM
To: Council
Subject: Objections for 53 Yaluma Dr, Port Macquarie 2444 NSW (LOT: 711 DP: 1228141) ATT: Clinton Tink

Categories: [REDACTED]

Dear Sir or Madam,

RE \
53 Yaluma Dr, Port Macquarie 2444 NSW (LOT: 711 DP: 1228141)

I would like to make objections on the basis of dwelling position and its impact on my home . I believe construction of this house will effect our privacy .
The balcony is less than 9 meters from my property and it is overlooking our backyard and our swimming pool.

Regards
Humam Alkinani
12 Timothy Place, Port Macquarie, NSW 2444
[REDACTED]