

Development Assessment Panel

Business Paper

date of meeting: Wednesday 13 May 2015

Iocation: Function Room

Port Macquarie-Hastings Council

17 Burrawan Street

Port Macquarie

time: 2.00pm



ote: 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

Functions:

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

Delegated Authority:

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

Format Of The Meeting:

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



Development Assessment Panel

ATTENDANCE REGISTER

Member	22/10/14	12/11/14	26/11/14	10/12/14	21/01/15
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft	✓	✓	✓	✓	✓
Patrick Gailbraith-Robertson					
(alternate)					
David Fletcher	✓	✓	✓	Α	✓
Paul Biron (alternate)					
David Troemel (alternate)	✓	✓	✓	✓	√

Member	11/02/15	25/02/15	11/03/15	25/03/15	08/04/15
Paul Drake	✓	✓	✓	✓	√
Matt Rogers					
Dan Croft	✓	✓	✓	✓	✓
Patrick Gailbraith-Robertson					
(alternate)					
David Fletcher	Α	✓	√	✓	✓
Paul Biron (alternate)					
David Troemel	Α	Α	√	✓	√
Caroline Horan (alternate)	✓				

Member	22/04/15		
Paul Drake	✓		
Matt Rogers			
Dan Croft	✓		
Patrick Gailbraith-Robertson			
(alternate)			
David Fletcher	✓		
Paul Biron (alternate)			
David Troemel	✓		
Caroline Horan (alternate)			

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



Development Assessment Panel Meeting Wednesday 13 May 2015

Items of Business

Item	Subject	Page
01	Acknowledgement of Country	5
02	Apologies	
03	Confirmation of Minutes	<u>5</u>
04	Disclosures of Interest	<u>9</u>
05	DA2014 - 0962 - Proposed Deck - Lot 285 DP 236277, No 64 The Summit Road, Port Macquarie	<u>13</u>
06	DA2014 - 988.1 - Additions to Hotel - Shade Structure - Lot 3 DP 1040459, 2-6 Horton Street, Port Macquarie	<u>30</u>
07	DA2015 - 0075 - Additions to Dwelling including a Clause 4.6 variation to Clause 4.3 (Height of Buildings) of the Port Macquarie Hastings Local Environmental Plan 2011 at Lot 29 DP 31035, 14 Arakoon Avenue, Port Macquarie	6 <u>3</u>
80	DA2015 - 0135 - Boundary Adjustment - Lot 2 DP 802621 and Lot 2 DP 1056817, Berryman Road, Logans Crossing	
09	DA2015 - 94 - Multi-dwelling Housing Comprising 10 Dwellings and Strata Subdivision - 15B Racewyn Close, Port Macquarie	<u>131</u>
10	General Business	



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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 April 2015 be confirmed.





PRESENT
Members:
Paul Drake Matt Rogers Dan Croft David Fletcher David Troemel Other Attendees:
Chris Gardiner
Chris Gardiner
The meeting opened at 2.03pm.
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 April 2015 be confirmed.
04 DISCLOSURES OF INTEREST
There were no disclosures of interest presented.



05 DA2015 - 0121 CONVERSION OF SHED TO DWELLING FOR TOURIST AND VISITOR ACCOMMODATION TO CREATE DUAL OCCUPANCY AT LOT 66 DP574934, 10 JOHNSTONE STREET, WAUCHOPE

CONSENSUS:

That DA 2015 - 121 for conversion of shed to dwelling for tourist and visitor accommodation to create dual occupancy at Lot 66, DP 574934, No. 10 Johnstone Street, Wauchope, be determined by granting consent subject to the recommended conditions.

06 DA2015 - 0090 - ADDITIONS TO DWELLING AT LOT 11 DP 18385, 10 SEAVIEW AVENUE, PORT MACQUARIE

Speakers: Ian Nebauer (o) George Watt (applicant)

CONSENSUS:

That DA 2015 - 0090 for additions to a dwelling at Lot 11, DP 18385, No. 10 Seaview Avenue, Port Macquarie, be determined by granting consent subject to the recommended conditions.

07 DA2015 - 0030 - ADDITIONS TO DWELLING INCLUDING CLAUSE 4.6
OBJECTION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF PORT MACQUARIE
HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 377 DP 236950, 31
VENDUL CRESCENT, PORT MACQUARIE

Speakers:
Philip Laing (o)
Robina Laing (o)
Tamsen Robinson (o)
Wayne Ellis (applicant)

DAP was unable to reach consensus.

David Fletcher moved the following motion:

'That the application be deferred to enable the applicant to investigate reducing the void height between the first and second floor to 300mm and a corresponding reduction in overall roof ridge height be made'.

David Troemel and Dan Croft supported the motion.

Paul Drake did not support the motion.



The dissenting recommendation from Paul Drake was:

'That it be a recommendation to Council that DA2015 - 0030 for additions to dwelling including Clause 4.6 variation to Clause 4.3 (height of buildings) of Port Macquarie-Hastings Local Environmental Plan 2011, at Lot 377, DP 236950, 31 Vendul Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions with amendments to conditions of consent as follows:

- Amend condition A(4) by adding an additional numbered point to read; 'Building works are to be undertaken so as not to result in the damage or loss of existing vegetation on the site.'
- Additional condition in Section B of the consent to read: 'Prior to release of the construction certificate, the plans are to be amended to provide for opaque glass to the windows of the second floor ensuite and wardrobe.'

08	GENERAL BUSINESS
Nil.	

The meeting closed at 3.49pm.

Item: Subject:	04 DISCLOS	URES OF INTEREST				
RECOM	RECOMMENDATION					
That Dis	sclosures of	Interest be presented				
	DIS	SCLOSURE OF INTEREST DECLARATION				
Name of	f Meeting:					
Meeting	Date:	V				
Item Nu	mber:					
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)						



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

By [insert full name of councillor]		
In the matter of [insert name of environmental planning instrument]		
Which is to be considered at a meeting of the [insert name of meeting]		
Held on [insert date of meeting]		
PECUNIARY INTEREST		
Address of land in which councillor associated person, company or be proprietary interest (the identified	y has a	
Relationship of identified land to co [Tick or cross one box.]	owner or has other	interest in the land (e.g. is er interest arising out of a rust, option or contract, or
	☐ Associated per interest in the lan	son of councillor has d.
	☐ Associated con has interest in the	npany or body of councillor land.
MATTER GIVING RISE TO PE	UNIARY INTEREST	
Nature of land that is subject to a cin zone/planning control by propose LEP (the subject land iii [Tick or cross one box]	d d	ns or is adjacent to or is in
Current zone/planning control [Insert name of current planning in and identify relevant zone/planning applying to the subject land]	rument control	oriumo di idan di
Proposed change of zone/planning [Insert name of proposed LEP and proposed change of zone/planning applying to the subject land]	dentify control	
Effect of proposed change of zone control on councillor	llanning □ Appreciable fin	ancial gain.
[Tick or cross one box]		

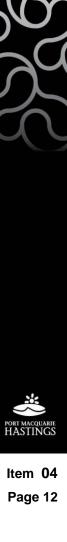
DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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.

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.



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).

Item: 05

Subject: DA2014 - 0962 - PROPOSED DECK - LOT 285 DP 236277, NO 64 THE

SUMMIT ROAD, PORT MACQUARIE

Report Author: Paul Biron

Property: Lot 285 DP 236277, 64 The Summit Road, Port Macquarie

Applicant: K H Le & S Chung

Owner: K H Le & S Chung

Application Date: 17 December 2014

Estimated Cost: \$18,000

Location: Port Macquarie File no: DA2014 - 0962

Parcel no: 23927

Alignment with Delivery Program

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

RECOMMENDATION

That DA2014 - 0962 for a deck at Lot 285, DP236277, No. 64 The Summit Road, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

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

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

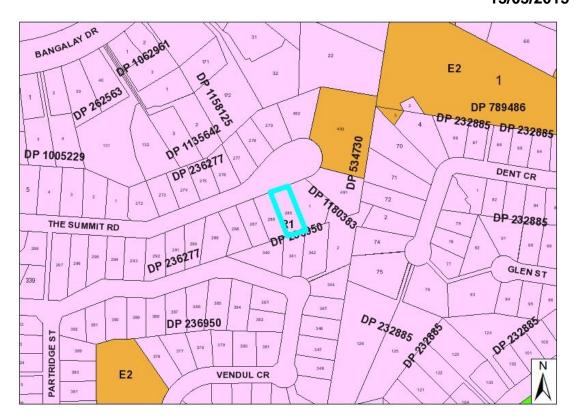
1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 752.5m².

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





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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- Construct a new deck.
- Existing vegetation maintained except for one small palm tree.

Refer to attachments at the end of this report.

Application Chronology

- 17 December 2014 application lodged.
- 9 January to 22 January 2015 neighbour notification.
- 22 January 2015 submission received objecting to the proposal.
- 23 January 2015 email sent to applicant advising of submission and additional matters to be addressed.
- 31 March 2015 revised plans received in response to Council's 23/1/2015 email.
- 31 March 2015 revised plan forwarded to objector.
- 5 April 2015- submission received confirming objection to proposal.
- 14 April 2015 amended plans received.
- 26 April 2015 submission received in relation to amended plans.
- 31 April 2015 final plan for DAP received including further reduction to deck size. Plan forwarded to objector.

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

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

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

State Environmental Planning Policy 44 - Koala Habitat Protection

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

State Environmental Planning Policy 55 - Remediation of Land

Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

State Environmental Planning Policy 62 - Sustainable Aquaculture

Given the nature of the proposed development proposed it will be unlikely to have any adverse impact on existing aquaculture industries.

State Environmental Planning Policy 71 – Coastal Protection

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



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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

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

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

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

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

A BASIX certificate is not required for this development.

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 deck which is ancillary to 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 3.9m to the top of the privacy screen which complies with the standard height limit of 8.5m applying to the site.
- Clause 5.9 no trees listed in Table 2.6.1 Development Control Plan 2013 are proposed to be removed. A single palm tree is proposed to be removed. Note remaining palms within the footprint of the deck are to remain (see perspective) and the Banksia at the rear south western corner of the deck is to remain as shown on the plans.
- (ii) Any draft instruments that apply to the site or are on exhibition:

No draft instruments apply to the site.

(iii) any Development Control Plan in:



Port Macquarie-Hastings Development Control Plan 2013

	DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development				
	Requirements	Proposed	Complies		
3.2.2.1	Ancillary development: • 4.8m max. height • Single storey • 60m2 max. area • 100m2 for lots >900m2 • 24 degree max. roof pitch • Not located in front setback	The new deck has a floor area of 70m ² and the lot size is 752.5m ² .	See below		
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	1.5m	See below		
3.2.2.5	Side setbacks: • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m	Side setback = 1.5m. No overshadowing to primary outdoor open spaces	Yes		
3.2.2.6	35m2 min. private open space area including a useable 4x4m min. area which has 5% max. grade	Existing space provided adjoining rear of dwelling	Yes		
3.2.2.10	Privacy: • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m	1.5m high privacy screen provided to majority of rear elevation. Screen provides privacy to the kitchen window & pool/deck immediately outside the dwelling to the rear property. Properties to side boundaries are adequately screened by vegetation.	Yes		



DCP 20	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	No cut/fill	Yes			
2.6.3.1	Tree removal (3m or higher with 100m diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)	1 palm to be removed - not listed in Table 2.6.1	Yes			
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Bushfire prone land. Deck is > 10m from dwelling so no requirements under Planning for Bushfire Protection 2006	Yes			

The proposal seeks to vary Development Provision 3.2.2.1 that requires a maximum floor area of $60m^2$ for ancillary development. The proposal includes a deck with a floor area of $70m^2$.

The relevant objective is "To sustain certain development as ancillary development".

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

- The deck is detached from the main dwelling and is considered ancillary development. The deck will have a lower usage than a deck used as a primary outdoor living space and accessible directly from the living areas of the dwelling.
- The deck is an open structure (unroofed) with an 8m long privacy screen to the rear elevation so will have less an impact than a compliant garage (up to 4.8m high) at the same location.
- The deck floor area marginally exceeds the development provision of 60m² maximum.

The proposal seeks to vary Development Provision 3.2.2.4 that requires a minimum rear boundary setback of 4m (including decks). The proposal includes a deck with a rear setback of 4m however it is noted the deck is not attached to the dwelling.

The relevant objectives are:

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

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

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- The applicant's objective in constructing the deck is to provide for a level useable outdoor space to an area that is currently not useable due to the excessive slope.
- The structure will not impact light/ventilation to useable open space areas on the adjoining lots.
- The applicant proposes to build the deck around existing trees (predominantly palms) which will partly screen the deck when viewed from the dwelling at 66 The Summit Road.
- It is worthy to note that a shed may be erected with a rear boundary setback of 900mm and having a height of 4.8m as acceptable Development Provisions under the DCP.
- (iiia) any planning agreement that has been entered into under Section 93f or any draft planning agreement that a developer has offered to enter into under Section 93f:

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

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy

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

Demolition of buildings AS 2601 - Cl 66 (b)

Demolition not required/proposed.

v) any coastal zone management plan (within the meaning of the <u>Coastal Protection Act 1979</u>), 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 & 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.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Access, Transport & Traffic

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

Utilities

Telecommunication and electricity services are available to the site.

Stormwater

No easement to rear of property. No controls required as decking is spaced allowing storm water to disperse over ground.

Water Supply

Service available – not applicable.

Sewer

The location of the sewer main has been determined by camera inspection and the location marked on site. The deck is designed to cantilever 1m for the rear part which will allow for adequate separation between the sewer main and deck footings.

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 & Micro-climate

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

Flora & Fauna

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



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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 & Vibration

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

Bushfire

The site is identified as being bushfire prone. The proposed deck (Class 10a) is greater than 10m from the dwelling so does not require additional bushfire construction measures as permitted by Cl4.3.6(f) Planning for Bushfire Protection 2006.

Safety, Security & Crime Prevention

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

Social Impact in the Locality

Given the nature of the proposed development 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:

Following exhibition in accordance with DCP 2013, one submission was received. An additional submission was received from the same adjoining owner after revised plans were forwarded for comment.

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

Submission Issue/Summary	Planning Comment/Response
1.5m setback from rear boundary is inadequate.	The setback is considered satisfactory due to the deck size, height and anticipated infrequent use. Other larger structures (sheds) are permitted at a 900mm of a rear setback. Length of deck at 1.5m setback is 8.028m.
Deck will have an impact on privacy. The proposed privacy screen at 1.5m high will not provide adequate privacy.	A 1.5m high privacy screen has been provided in a position to protect privacy to the kitchen window & outdoor primary living area located at the rear of the dwelling. The privacy screen at 1.5m high is provided for casual screening as there is approximately 13m separation between the proposed deck and the closest part of the primary outdoor open space on the property to the rear.
Deck will be an eyesore	The applicant has kept vegetation at the rear boundary to reduce visual impact. Applicant has amended plans to reduced deck size, height and length along rear boundary.
Deck construction requires vegetation removal in contradiction to council requirements	The applicant proposes the removal of 1 small tree and has incorporated the remaining trees into the deck i.e. trees extend through the floor of the deck as shown on the perspective plan.

(e) The Public Interest:

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Development contributions are not required to be levied for this application.

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.

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Attachments

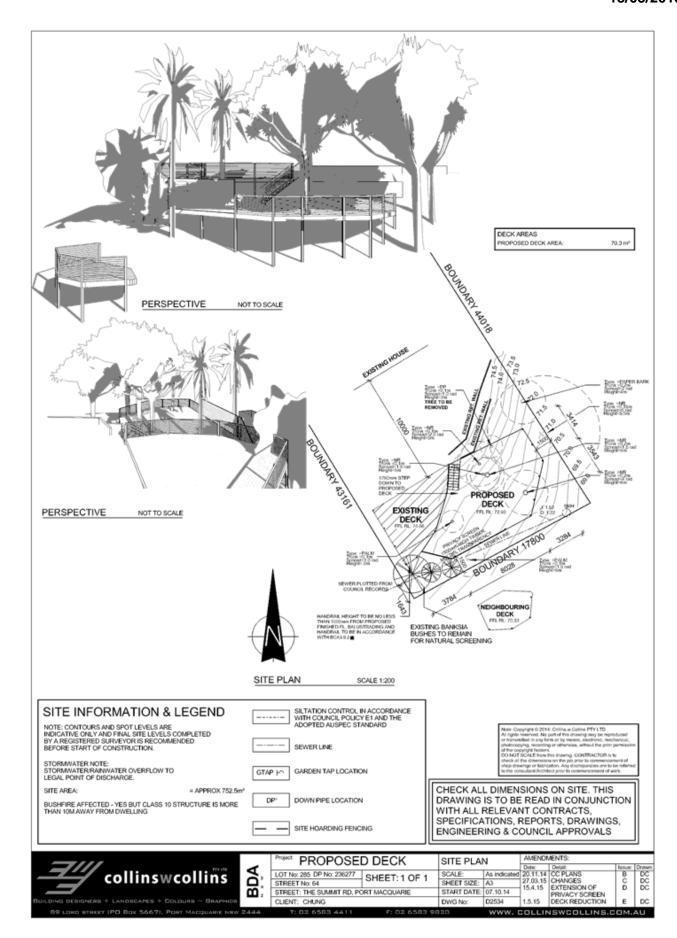
1<u>View</u>. DA2015 - 0962 Plan

2View. DA2014 - 0962 Recommended Conditions

3 <u>View</u>. DA2014 - 962 Submission - Snowdon 22012015

4View. DA2014 - 962 Submission - Snowdon 26042015





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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2014/962 DATE: 5/05/2015

PRESCRIBED CONDITIONS

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

A - GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Architectural Plans	64 The Summit Road, Port Macquarie DWG No D2534 Sheet 1	Collins w Collins	1 May 2015
SoEE	64 The Summit Road, Port Macquarie	Collins w Collins	N/A

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) (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;
 - 2. 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;
 - 4. 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.

(3) (A195) All trees noted on the approved plans as to be retained must be retained unless separate approval is obtained for their removal.

B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

nil

C - PRIOR TO ANY WORK COMMENCING ON SITE

nil

D - DURING WORK

nil

E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority
- (2) (E195) The privacy screen noted on the approved plan is to be erected prior to the issue of an occupation certificate.

F - OCCUPATION OF THE SITE

nil

CONDITIONS APPLYING TO JETTIES AND BOAT RAMPS

nil

ATTACHMENT

 From:
 Snowdon, Leonie

 To:
 Paul Biron

 Cc:
 Paul Biron

Subject: concerns re development submission for 64 Summit Rd, PMQ

Date: Thursday, 22 January 2015 10:44:46 AM

Dear Paul,

Re: 64 Summit Rd, Port Macquarie NSW Application for large deck at rear of property

Apologies for lateness of this email but I have misplaced the letter I received re the above development proposal & lost track of the deadline.

I have some concerns re the impact of the structure on my backyard in terms of privacy & aesthetics.

The proximity of the deck to the boundary, lack of privacy screen, & height & size of the structure are concerns, as is the impact on the existing vegetation.

The thought of looking up into the underside of a large deck of that height is unpleasant, as is the thought that in my own backyard I will no longer have any privacy and will be completely overlooked by that viewing area.

Can I please request a modification of the design to accommodate these concerns, or an opportunity to negotiate with those who submitted the proposal?

Kind regards, Leonie

Leonie Snowdon 4 Vendul Cres, Port Macquarie NSW 2444

This message is intended for the addressee(s) named and may contain confidential information. If you are not the intended recipient, please delete the message and any attachments and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of NSW Health or any of its entities.

From: Leonie Snowdon
Sent: Sunday, 26 April 2015 5:13 PM

To: Paul Biron Cc: Leonie Snowdon

Subject: FW: DA2014/962 - 64 the Summit Revised Plan

Dear Paul,

Apologies for delay again iin sending this. I have been to attending some family matters in Sydney for several days.

I have also thought more about the deck proposal & discussed it with some family, friends & neighbours.

I continue to think that 1.5m distance of the structure from the boundary is inadequate.

Any other building structure would need to be over 4m from the boundary, & in terms of human occupancy I don't see much difference between house & deck. As I look up it will still have significant impact on my privacy & will be an eyesore. I moved away from the city to the property here, with space & privacy & leafy outlook up the back (my only private outside area).

Additionally, the building of a deck still requires the same amount of vegetation clearance as a structure with roof &walls. To have that proportion of the land cleared of vegetation seems to be in contradiction to council requirements, & certainly in contradiction to the environmental aesthetics of this part of Port Macquarie in which we are fortunate to live.

The privacy screen at 1.5m ensures privacy to the deck owners. However since most adults are well above 1.5m tall it does not ensure privacy to me. They will still overlook my whole backyard. I suggest the privacy screen be 2m. The issue of view from the lower deck is diluted by the fact that there would be great views from house & exisiting deck.

While I sympathise with the desire to create level playing space for children, can I point out that most of us compromised & lived in places with level backyards and made use of parks etc until our children were older? It would be nice to 'have it all', and coming up with a creative solution is reasonable, but I don't see why I should lose the privacy & outlook that I treasure (and paid for) in order for the occupants to achieve that objective.

If the occupants put themselves in my shoes I'm sure they would also be deeply disturbed at the thought of the neighbours above them building such a structure overlooking their yard, deck & windows. If the land were less steep it would have less impact but as it is, the structure proposed so close to the boundary seems like a looming eyesore to me, & makes me feel worried & sad.

Personal issues are not the point here (and there is nothing personal from my point of view against the Cheungs. They seem like nice people, as am I). But I have a had some very significant personal & health losses over the past 2 years & my house & backyard is a precious place of retreat for me.

Thank you again for your consideration.

May I reiterate that I do not want to be unreasonable.

I recognise that the propposal has stirred up a degree of subjective response but I still think that there are objective reasons why it needs to be modified.

Kind regards, Leonie

Leonie Snowdon 4 Vendul Cres, PMQ

Item: 06

Subject: DA2014 - 988.1 - ADDITIONS TO HOTEL - SHADE STRUCTURE - LOT

3 DP 1040459, 2-6 HORTON STREET, PORT MACQUARIE

Report Author: Jesse Dick

Property: Lot 3 DP 1040459, 2-6 Horton Street, Port Macquarie

Applicant: All About Planning Pty Ltd
Owner: Royal Bayside Pty Ltd
Application Date: 24 December 2014

Estimated Cost: \$175,000

Location: Port Macquarie File no: DA2014 - 988

Parcel no: 39054

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2014 - 988 for Additions to Hotel (Shade Structure) at Lot 3, DP 1040459, No. 2-6 Horton Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a Development Application for the removal of an existing shade structure and the construction of a new shade structure 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 1167m².

The site is zoned B3 Commercial Core in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:





The subject site comprises two structures being the 'Royal Hotel' building dating from approximately 1877 and a more recent (c 2000) small two storey building located at the southern end of the site which is occupied by commercial premises. The Royal Hotel building currently comprises various uses including restaurants, shops, offices and 'The Beach House' bar. The Beach House has been operating from the subject premises since 2000 (approx) with approval being granted under DA1999 - 355.

Prior to this, the space occupied by The Beach House was used by the Riverview Bar & Restaurant which also utilised the outdoor dining area on the northern side of the building (i.e. abutting Town Green). It is noted that an awning was approved over the outdoor dining/bar area under BA1994 - 605, therefore confirming the use of this area as a covered outdoor dining/bar area for at least the past 20 years.

Abutting the subject site to the south is the Heritage Listed 'Macquarie Hotel'. Abutting the site to the east is the 'Rydges' residential flat building comprising apartments and holiday accommodation over 9 storeys, the ground floor contains various uses including 'Zebu' bar and grill and various shops. To the north and west of the site is the grassed open public recreation area known as the 'Town Green'.

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:

- Removal of the existing shade structure and supporting steel posts which are located over the outdoor dining area on the northern side of the building (abutting Town Green).
- Removal of several existing elements from the façade of the building including a canvas and metal valence panelling structure and roller blinds located under the verandah fascia.
- Construction of a new shade structure comprising retractable roof and wall panels and metal posts.

Refer to attachments at the end of this report for details and plans.

Application Chronology

- 24/12/2014 Application lodged with Council.
- 8/1/2015 Application referred to OEH under Clause 5.10 (7) of LEP.
- 14/1/2015 Submission received.
- 22/1/2015 Additional information requested from Applicant.
- 30/1/2015 Meeting held with applicant to discuss additional information request.
- 30/1/2015 Application forwarded to Essential Energy for their comment (comment sought on impacts of proposed development on sub-stations located adjacent to outdoor dining area).
- 10/2/2015 Council's Heritage Adviser reviewed DA & requested additional information from applicant.
- 11/2/2015 Comments received from OEH.
- 16/2/2015 Additional information requested from Applicant.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- 18/2/2015 Additional information received from Applicant.
- 19/2/2015 Additional information forwarded to Essential Energy.
- 19/2/2015 Additional information requested from Applicant.
- 23/2/2015 Comment received from Essential Energy.
- 24/2/2015 Meeting held with applicant, Planning Manager, Owners and Architects to discuss application.
- 3/3/2015 Information received from applicant on OEH Conditions and Acoustic Matters.
- 4/3/2015 Information sought from OEH on proposed conditions.
- 19/3/2015 Information received from OEH on proposed conditions.
- 1/4/2015 Additional information received from applicant including revised plans.
- 7/4/2015 Final plans forwarded to Essential Energy for their comment. Comments received.
- 14/4/2015 Council's Heritage Adviser reviewed final plans.

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

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

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

State Environmental Planning Policy No.55 – Remediation of Land

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

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries within the nearby Hastings River approximately 48m to the North of the site.

State Environmental Planning Policy No. 64 – Advertising and Signage

The proposed development included a proposed advertising signage in the form of business identification signage. However this sign was considered un-necessary and a detractor to the Heritage aesthetic and coherent historical appeal of the Royal Hotel building. The proposed sign was within close proximity to an existing awning sign which already advertises the operation of the business onsite. The sign was proposed to be located on Council owned land. For these reasons the signage is this application.

State Environmental Planning Policy 71 – Coastal Protection

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



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

The site is further identified as being within a sensitive coastal location in accordance with clause 18 of SEPP 71 (land within 100m of mean high water mark of an estuary bay - in this case, the Hastings River).

No Subdivision of the land is proposed therefore no Master plan is required, furthermore no Master plan waiver (issued by the Minister) is required.

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 2, 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 (see comments under DCP assessment below);
- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast(see comments under DCP assessment below);
- 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 (including Aboriginal / European) - (See comments under 'Heritage' heading below);
- g) reduce the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, landuse conflicts);
- h) adverse cumulative impacts of the proposed development on the environment;
- i) development within a zone to be consented to as if it were in a neighbouring zone.

In particular, the site is predominately cleared and located within an area zoned for commercial purposes.

Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2, the subject site is zoned B3 - Commercial Core.

In accordance with clause 2.3(1) and the B3 - Commercial Core zone landuse table, the proposed development for additions to a Commercial Premises - Food & Drink Premises is a permissible landuse with consent.

The objectives of the B3 - Commercial Core zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that new residential accommodation and tourist and visitor accommodation within the zone does not conflict with the primary function of the centre for retail and business use.
- To provide for the retention and creation of view corridors and pedestrian links throughout the Greater Port Macquarie city centre.

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.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- The proposal is considered to be a suitable land use that serves the needs of the local and wider community.
- The proposal retains an appropriate employment opportunity in an accessible location.
- The proposal will ensure a primary function (entertainment) within the commercial core is retained.
- The proposal does not remove or restrict any existing pedestrian links nor does it remove or restrict any significant view corridors.

•

In accordance with clause 4.1, the current lot size is (1167m²). No minimum lot size applies to the subject land. Further current lot size is not proposed to change as no subdivision is proposed under this application.

In accordance with clause 4.3, the maximum overall height of the proposed shade structure above ground level (existing) is 4.8m (approx) which complies with the standard height limit of 13.0m applying to the site.

In accordance with clause 4.4, the floor space ratio of the development is not subject to change as a result of this development.

In accordance with Clause 5.5 - Development within the coastal zone: relevant objectives of this clause are addressed by SEPP 71 section - see above. Relevant Climate Change & Coastal Hazard implications are addressed under Clause 7.3 below.

In accordance with clause 5.9, no listed trees under Development Control Plan 2011 are proposed to be removed.

In accordance with Clause 5.10 – Heritage: The site contains and also adjoins known heritage items or sites of significance (including archaeological significance). See comments under 'Heritage' heading below. Appropriate conditioning has been recommended with comments & conditions by the Office of Environment & Heritage being incorporated into the consent.

In accordance with clause 7.1, the site has class 3 potential acid sulphate soils. The proposed development does not include any excavation extending 1.0m below the natural surface level, therefore no adverse impacts are expected to occur to the potential Acid Sulphate Soils which may be found on site.

In accordance with clause 7.3, the site is land within a mapped "flood planning area" (Land subject to flood discharge of 1:100 annual recurrence interval flood event (plus 0.9m East of the Pacific Highway) 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 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.

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

In accordance with Clause 7.4 – Flood risk management – land between the flood planning area and the line that is shown as the probable maximum flood level on the Flood Planning Map and/or land surrounded by the flood planning area. The proposed development does not contravene the objectives of Clause 7.4.

In accordance with clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

Nil.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

Development Provisions	Proposed	Complies
Setbacks:	A zero metres setback to the	Yes
A zero metre setback to	northern property boundary is	
ground floor is preferred in all	proposed.	
business zone developments.		
Roof Form: Variations in roof form	The skillion roof shade structure is	Yes
including the use of skillions,	considered to be complementary to the design of the existing	
gables and hips are to be	building and also adequately	
provided in the development.	addresses the open space area	
provided in the development	surrounding the site.	
In an established street, roof	3	
form and materials shall be		
consistent or complementary		
to those developments in that		
street.		
Roof design shall generate an		
interesting skyline and be		
visually interesting when		
viewed from adjoining		
developments.		
Building Facades,	The roof of the awning shall use a	Yes
Materials & Finishes:	canvas and fabric membrane	
	which is complementary to the	
Variations in roof materials	galvanises iron used on the first	
shall be used.	floor verandah.	
	See comments under the	
Colours, construction	'Heritage' section below. The	Yes
materials and finishes should	colours, construction materials and	100
respond in a positive manner	finishes are considered to have	
to the existing built	desired architectural qualities	
Form, character and	which harmonizes well with the	
architectural qualities of the	streetscape, public open space	
street.	and the heritage building itself.	
	The proposed shade structure has	
	The proposed shade structure has	



	T	T
Building facades should be designed to reflect the orientation of the site incorporating environmental control devices, e.g. sun shades, ventilation vents, overhangs, building recesses, eaves, as an integrated design feature of the building.	been designed to be an integrated design feature of the building whilst also incorporating environmental control to ensure the comfort of patrons.	Yes
Where traditional frontages and facades set the architectural theme for parts of a Centre, infill buildings or alterations respect and reflect the architectural qualities and traditional materials of those buildings, but do not necessarily imitate historical architectural styles.	See comments under the 'Heritage' section below. The infill alterations respect and reflects the architectural qualities of the existing building, but does not necessarily imitate historical architectural styles.	Yes
Active ground floor uses are to be accessible and at the same level as the footpath.	The outdoor dining area is accessible from the footpath surrounding the subject site.	Yes
Restaurants, cafés and the like shall provide open able shop fronts to the footpath but must not encroach into footpath.	The outdoor dining area provides an interface between the building and the surrounding footpaths/open space area.	Yes
Awnings: Continuous shelter from the weather is to be provided for the full extent of the active street frontage.	The awning will provide a continuous shelter from the weather for the full extent of the active street frontage.	Yes
Any awnings are to be horizontal or near horizontal (maximum pitch of 10%).	The awning has a steeper roof pitch to complement the design of the heritage building to which it will attach. A 10% roof pitch is not considered to be a suitable roof pitch in this instance as it will create an awkward structure which will not be sympathetic with the aesthetic of the heritage building.	No, However this requireme nt is not considered appropriat e on a Heritage building which typically has roof pitches which exceed this pitch amount.
All contiguous awnings must be of consistent height and	The awning is a consistent height and depth and is comprised of	Yes

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

depth and of complementary design and materials.	complementary design and materials.	
Awning shall wrap around street corners and contribute to the articulation and focal design of corner buildings.	The awning does not wrap around the building however this is not necessary as the outdoor dining area does not extend around the corner of the building.	No, however considered acceptable
Materials shall ensure high quality design and amenity in the public domain.	The awning is considered to be a high quality design.	Yes
Under awning lighting shall comply with AS/NZS1158.	To be conditioned	Yes
Awnings are designed and constructed to encourage pavement dining in areas identified for pavement dining, along the foreshore and in piazzas.	The awning will encourage pavement dining along the foreshore.	Yes
Landscaping: A landscape plan shall be submitted with the development application and include: • Existing vegetation; and • Existing vegetation proposed to be removed; and • Proposed general planting and landscape treatment; and • Design details of hard landscaping elements and major earth cuts, fills and any mounding; and • Street trees; and • Existing and proposed street furniture including proposed signage.	No landscaping is proposed, however all existing landscaping is proposed to be retained. This has been conditioned.	Yes
Fencing for security or privacy shall not be erected between the building line and the front boundary of a site.	Fencing has been installed without consent on the site which surrounds the two Sub-stations at the eastern end of the subject site. However this fencing is considered appropriate in this circumstance as the fencing provides a visual barrier to the existing sub-stations so that they are no longer visible from Town Green. The fencing shall be approved under this consent, refer to conditions for details.	No, however considered acceptable
Where fences are erected,	Landscaping around the fence is	No,
landscaping of an appropriate height and scale shall be	not considered appropriate in this instance. The sub-stations are at	however considered



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

provided to screen the fence and achieve an attractive appearance to the development when viewed from the street or other public place.	risk of combusting as a result of the nature of their operation, therefore vegetation is not encouraged in this instance.	acceptable given utility function.
Gateways & Landmark Sites: The design of buildings on corner sites or at the ends of business or commercial zones, shall emphasise the importance of the corner as a focal point.	The design of the building is already considered to emphasize the importance of the corner as a focal point due to the inherent pleasing design of a two storey Victorian hotel structure.	Yes
Signage: Signage is provided at the entries to the development detailing the services available within the centre and where they are located.	Existing signage is currently located at the entries to the development which detail the services available. No additional signage is permitted under this application. See comments under SEPP 64 (Advertising & Signage) above.	Yes
Outdoor Dining: A minimum footpath clearance width (Note: Footpath clearance measurements are taken from the edge of the building (shoreline) or property boundary to the back of the chair (at a distance out from the table to equate with someone seated in the chair). An outdoor dining area includes all items such as umbrellas, tables and chairs, planter boxes associated with the use) of: 1.8m for high volume pedestrian areas; or 1.5m in all other circumstances; is to be maintained between the immediate front of the building (shoreline) and the proposed outdoor dining area.	All outdoor dining is proposed within the premises, no footpath dining is proposed. An outdoor dining area items includes tables, chairs etc are being maintained between the immediate front of the building (shoreline) and the proposed outdoor dining area.	Yes

Assessment Checklist for DCP 2013 - Part 5, Port Macquarie Town Centre, Block 3 Controls

The development is considered to meet both the short and long term strategic block controls for Block 2. The development meets the setback, articulation and landscaping requirements for this block and also interacts well with the public open space which surrounds this site.





DCP 2013: General Provisions				
DCP Objective	Development Provisions	Proposed	Complies	
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline: • Casual surveillance and sightlines • Land use mix and activity generators • Definition of use and ownership • Lighting • Way finding • Predictable routes and entrapment locations	expected due to continuation of use and	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:

Nil.

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy

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

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

None are applicable to this site.

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

The proposed development is not considered to have any adverse impact on the locality with regards to the objectives of the Coastal Policy.

Demolition of buildings AS 2601 - CI 66 (b)

The proposed development is capable of being undertaken in accordance with this Standard and has been conditioned accordingly.

Context & Setting

The site has a general street frontage orientation to Horton Street & 'Town Green'.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

The subject site is located within the Town Green precinct. Adjoining the site to the east is an existing residential and commercial building (Rydges) comprising multiple units and commercial uses over 9 storeys. Adjoining the site to the south is the Heritage Listed Macquarie Hotel Building. Adjoining the site to the west is the Town Green & Horton Street.

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts.

There are no adverse overshadowing impacts.

The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

Access, transport and traffic

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

Water Supply Connection

Service available - no new connections required.

Sewer Connection

Service available - no new connections required.

Stormwater

The development proposes to connect new downpipes into Council's stormwater network located within Town Green. A Section 68 approval will be required for the proposed works. Details of compliance with recommended conditions will be required to be supplied prior to construction.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

Following a site inspection (and a search of Council records), no known items of Aboriginal heritage exist on-site. However items of European heritage significance exist on the property. A search of Council's archaeological mapping shows that the development site has the potential to contain archaeological items associated with the use of the site during the convict era.

Council's heritage advisor has assessed the application and raised no objection to the works proposed. All concerns regarding the visual impact of the proposed development on the 'Royal Hotel' building were addressed in the revised plans which were commissioned by the Applicant throughout the DA assessment process. The plans provided by *Hamilton Hayes Henderson Architects* were considered satisfactory and allowed the Heritage advisor to properly assess the visual



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

characteristics of the proposed shade structure. The Heritage Advisers comments on the proposed development were as follows:

The revised documentation shows a better resolved detailing of the proposal and a clear representation of the appearance of the shade structures fully extended and retracted.

The detailing shows guttering and downpipe configuration around the structure as well as the integration of light fittings and their mounting.

The revised proposal has incorporated what has been asked of by Council in past discussions/ site meeting and the documents provided give a higher degree of certainty as to what the impact of the shade structure will be.

Colour

While the Sunworker Burgundy fabric is complementary to the verandah roofing, and this is reinforced in the north elevation, the **Sunworker Iron is preferred**, so as to distinguish it from the core building colour scheme, but also to be a neutral intervention as opposed to "making a bold statement". The grey colour will also result in two benefits in the long term:

- The grey will not retain heat and re-radiate heat to the patrons below and
- Should a change in colour scheme be considered in the future, the grey will provide a neutral foil for any contemporary scheme.

Lights: Stainless steel light fittings, small and unobtrusive are preferred rather than introducing some look-alike "heritage" fittings.

The diagrammatic item shown in Detail 1 on drawing number TP 1006 amounts to what I would consider a non-intrusive fitting.

Signage: I agree that no additional signage is required on the building, particularly at the western end.

Timber: Comments in relation to new timber interventions being hardwood is agreed.

Paling Fence: The timber paling fence around the sub-station should be approved, however it should be painted in a light colour, similar to Dulux Clotted Cream or equivalent to the external wall colour of the Hotel.

The development was also referred to the NSW Heritage Council (a branch of the NSW Office of Environment & Heritage) who provided comments and conditions which were requested to form part of the consent. Of primary concern to the OEH was the potential for archaeological items of significance to be discovered as a result of the location of the proposed development which is within the Convict settlement precinct of the town centre. OEH recommended that conditions relating to excavation and ground penetration be incorporated into the consent. Appropriate conditioning has been incorporated into the consent in accordance with NSW Office of Environment & Heritage recommendations. As a result of these measures any adverse impacts to the archaeological significance of the site are anticipated to be minimized.

Other land resources

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

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Water cycle

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

Soils

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

Air and microclimate

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

Flora and fauna

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

Waste

No adverse impacts anticipated.

Noise

Due to the nature of the proposal (being a replacement shade structure only), there is not considered scope to require the proponent to provide any additional noise attenuation. The development does not involve a change to the operating hours or changes to the venue in terms of the operations on site.

Further, difficulty is posed by the pad mounted substations at the northern end of the site. For fire safety reasons no development can occur within 3.0m of the substations, preventing an awning over the sub stations. The removal of roof section which was proposed to extend over the sub stations has compromised any noise attenuation which may have been provided by the shade structure over this area.

No withstanding the above limitations, Council staff raised the matter of noise attenuation with the applicants throughout the assessment process in order to determine whether the venue is operating within the stipulated licence conditions for the venue. An extract of the acoustic assessment was received with the following relevant matters being summarised below:

'3 Introduction

The aim of the assessment was to undertake the field-calibration of the installed sound limiting system set to levels that would result in emitted noise levels in compliance with the venue's licence conditions.

10 Recommendations



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

The limiting threshold of the emitted noise levels monitored via the real-time monitoring system be maintained at 70 dB(A) after 2100 hours each day to take into account the quieter background noise in the area in the hours prior to midnight.

11 Conclusion

Amenity Acoustics has undertaken the field-calibration of the installed sound limiting system at The Beach House Café & Bar, set to levels that result in emitted noise levels in compliance with the venue's OLGR's standard LA10 noise licence conditions, notwithstanding a minor rounded non-compliance of less than 1 dB in the 31.5 Hz octave band.

The limiting threshold of the emitted noise levels monitored via the real-time monitoring system is to be maintained at 70 dB(A) for post-2100 hours operation each day to take into account the quieter background noise in the area in the hours prior to midnight.

The acoustic assessment confirmed that the venue met the Office of Liquor & Gaming (OLGR) requirements for noise levels and also met the venue's licence conditions for noise attenuation.

It is considered that as the subject application involves no change in use to the existing outdoor area and that the development is primarily the replacement of a shade structure with another, then noise is not technically triggered as a relevant assessment matter.

A condition has been recommended on the consent to restrict the placement of any speakers within the area covered by the shade structure. Further, an additional condition has been placed on the consent which requires the shade cover to be fully closed after 9.00pm, 7 days a week.

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.

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.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Construction

Whilst it is acknowledged that the potential for adverse impacts on neighbouring properties exists with the construction of the proposal, the impacts are considered acceptable due to the short term nature of the construction activities required on site.

Cumulative impacts

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

Natural Hazards

Councils Environmental Projects Officer has assessed the development and has not flagged any natural hazard concerns specifically regarding coastal erosion or flooding which would be prohibitive to the carrying out of the development.

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

It is considered that the proposed development is compatible with other development in the area. In this regard, the development is considered to broadly satisfy the planning controls for the area and is not expected to impact adversely on the wider public interest.

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

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

One (1) written submission was 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
Unconvinced about the	Refer to noise comments above.
acoustic effectiveness of the	A 190 I I I I I I
retractable shades to deal with the noise problem.	A condition has been placed on the consent requiring both layers of the shade cover to be fully closed by 9.00pm, 7 days a week.
There is the possibility that	
the 'acoustic layer' could be	
left in the open position at	
times leaving no noise	
protection.	
The DA plan appears to show	The eastern end of the shade structure is open due
the awning to be open on the	to the two pad mounted electricity substations which
eastern side This differs from	are located at the eastern end of the Royal Hotel
the Manager's comments	site. For fire safety and access reasons the shade
describing the eastern end to	structure has been left open at this end. Essential
be fully enclosed with a six	Energy have provided comment on the
foot wall and acoustic material	' ''
above.	are comfortable with the shade structure as shown

on the plans.

Throughout the assessment of this development application consideration was given towards the potential for the provision of a solid wall at the eastern end of the site. However given the building has considerable appeal of from Town Green and the building is also Heritage Listed it was considered that any structure which blocked the eastern end of the building was not appropriate for the building as it would compromise the historical aesthetic of the building and also be detrimental to the appeal of the building when viewed from Town Green.

It is noted that any previous discussions are not considered to be a matter for consideration in the determination of this development application. The development has been assessed based on the information proposed and has been considered to be an appropriate development given the constraints of the site.

Concern that the proposal is principally aimed at providing for the patron's protection from the sun and rain (currently 'open air') however will be inadequate to meet the very real problem of noise.

Refer to noise comments above.

A condition has been recommended on the consent to restrict the placement of any speakers within the area covered by the shade structure. Further, an additional condition has been placed on the consent which requires the shade cover to be fully closed after 9.00pm, 7 days a week.

Limitations be placed on their activation to ensure they are (both) kept fully extended during periods of darkness, and at all times if music is played externally. -I believe this would assist considerably in reducing the noise output. This request was considered reasonable given the nature of the shade structure being predominantly to be adjustable during daylight hours. As the shade structure will not be necessary to control the sun penetration during night times, the shade structure has been required to be closed during night hours.

Music being played outside during daylight hours will need to meet OLGR licence requirements. The shade structure has not been conditioned to remain closed when music is being played throughout the day.

A condition has been placed on the consent which requires the shade cover to be fully closed after 9.00pm, 7 days a week.

There may well be other areas that would assist in noise reduction that the experts involved could consider (without affecting the concept).

The application involves no change in use to the existing outdoor area and that the development is primarily the replacement of an existing shade structure. The proposal itself is not considered to result in an adverse noise impact.

(e) The Public Interest:

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

4. **DEVELOPMENT CONTRIBUTIONS APPLICABLE**

- Development contributions are not required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993 as no intensification or enlargement of the site is proposed.
- Development contributions are not required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings as the development does not contain any residential component or carparking shortfall.

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

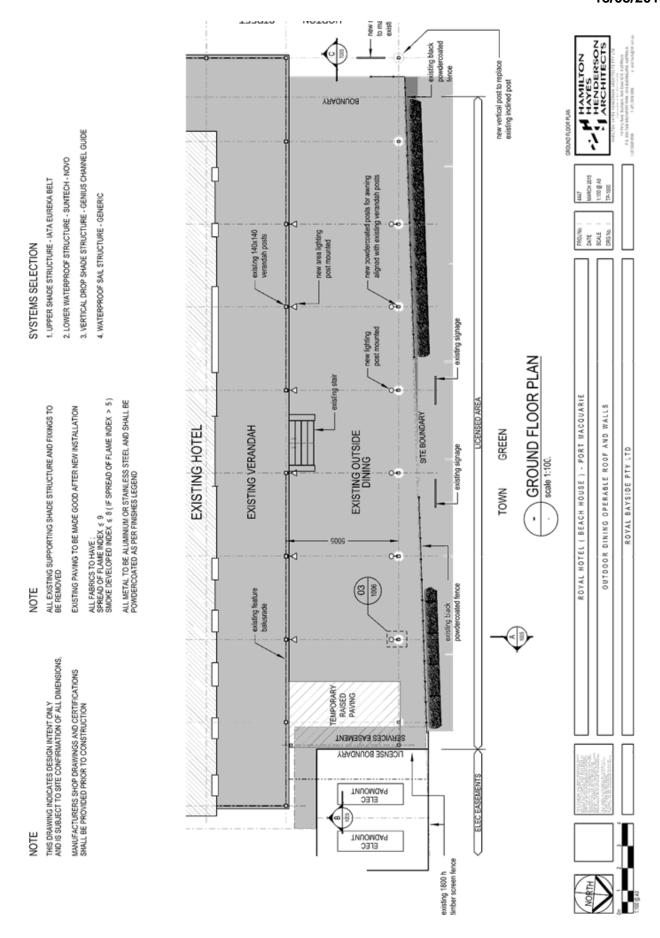
1View. DA2014 - 0988 Plans

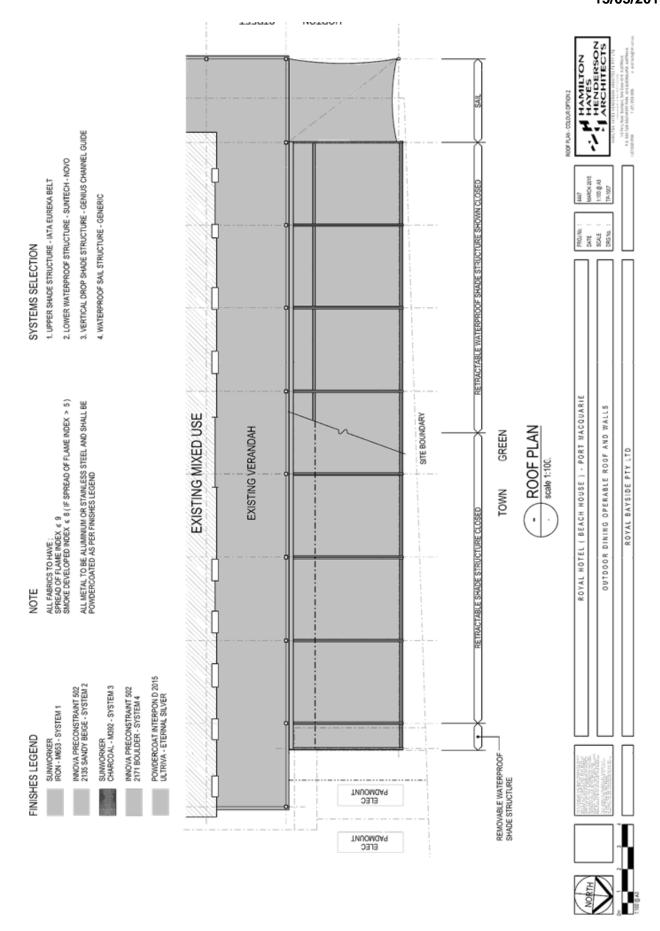
2View. DA2014 - 0988 Heritage Council Comments

3View. DA2014 - 0988 Recommended Conditions

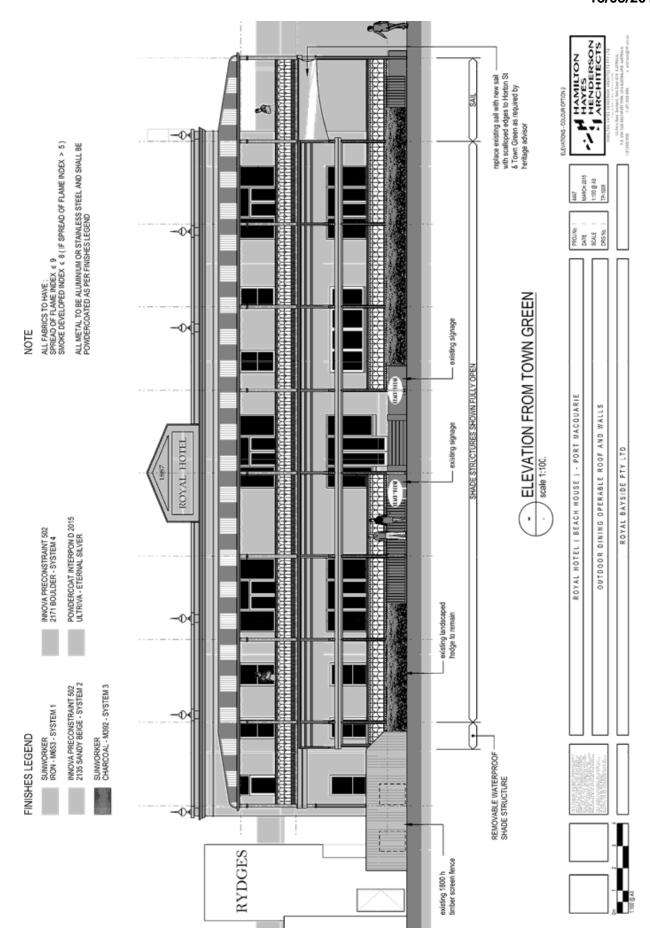
4View. DA2014 - 0988 Submission - Crowther



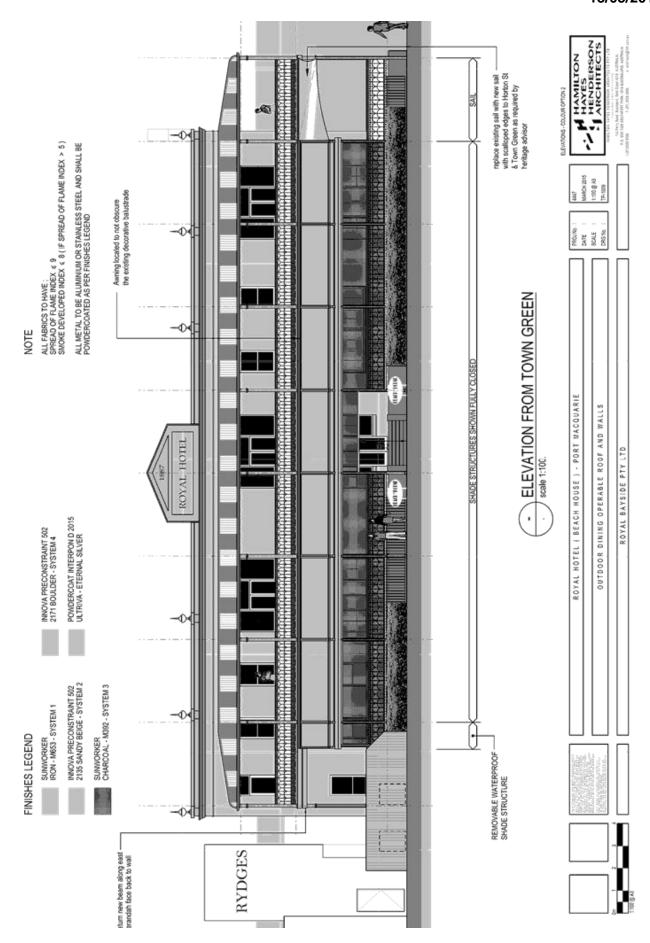




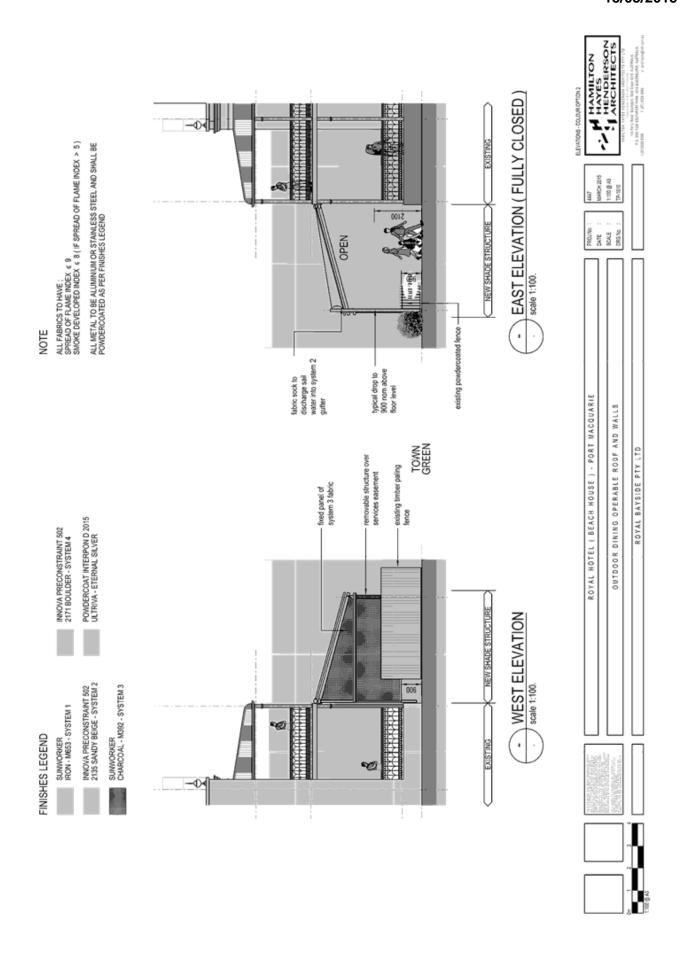
Item 06 Attachment 1 Page 49



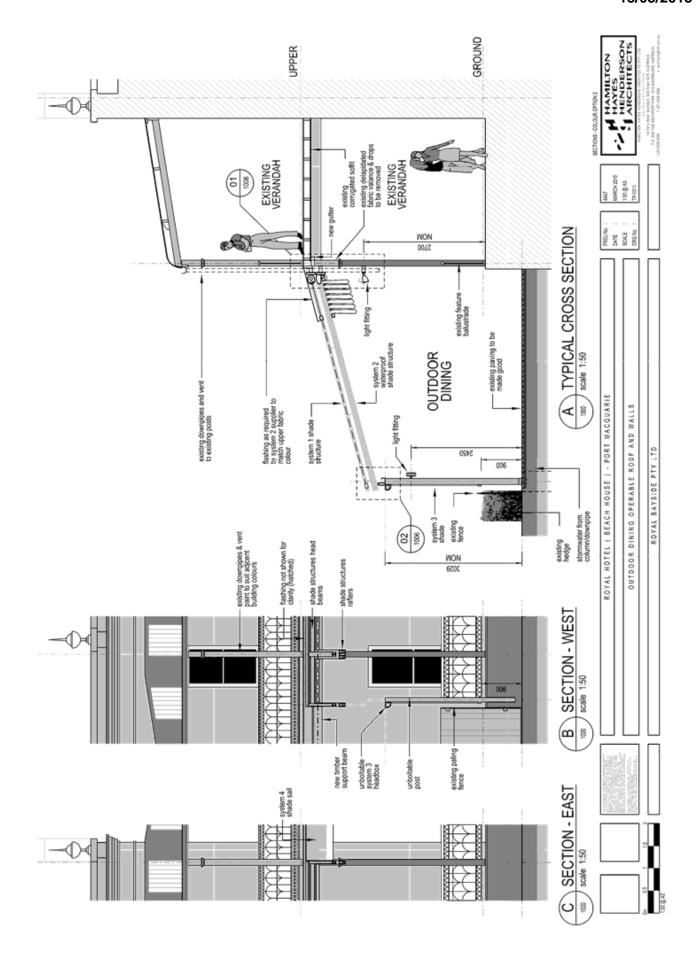
Item 06 Attachment 1 Page 50



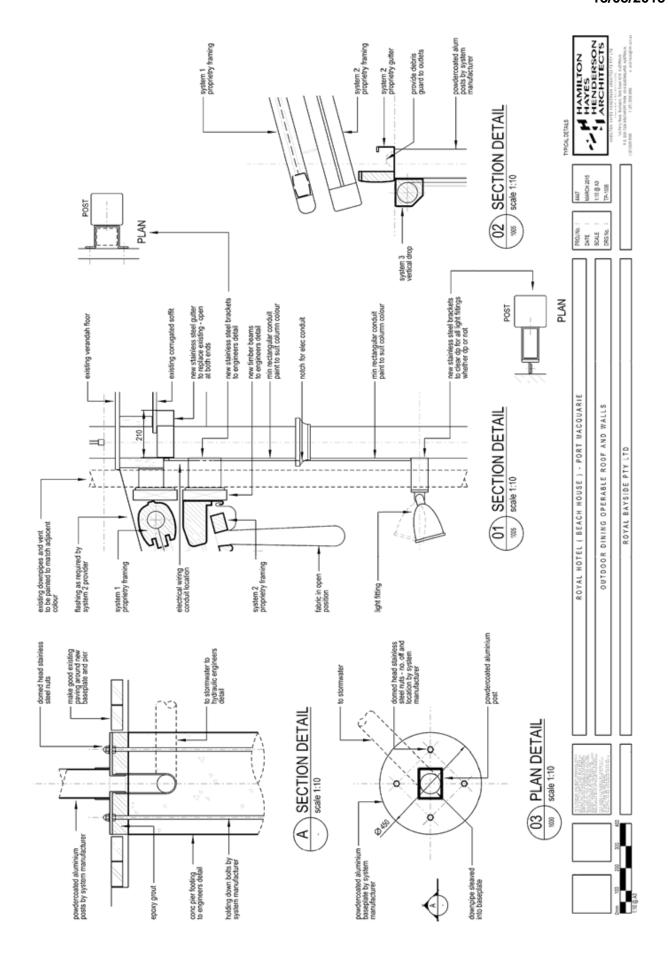
Item 06 Attachment 1 Page 51



Item 06 Attachment 1 Page 52



Item 06 Attachment 1 Page 53



Item 06 Attachment 1 Page 54



3 Marist Place Parramatta NSW 2150

Locked Bag 5020 Parramatta NSW 2124 DX 8225 PARRAMATTA Telephone: 61 2 9873 8500 Facsimile: 61 2 9873 8599

heritage@heritage.nsw.gov.au www.heritage.nsw.gov.au

Contact: Abi Cryerhall Phone: (02) 9873 8543

Email: Abi.Cryerhall@environment.nsw.gov.au

File No: EF15/1097 Job ID: DOC15/7897 Your Ref: 2014/988.1

Mr Jesse Dick Development Assessment Planner Port Macquarie Hastings Council PO Box 84 PORT MACQUARIE NSW 2444

Dear Mr Dick

RE: Heritage Council comments on Development Application No. DA 2014/988 — Additions to Hotel – Shade Structure, Lot 3 DP 1040459, 2-6 Horton Street Port Macquarie

I refer to your letter dated 8 January 2015 (received 12 January 2015) requesting comments from the Heritage Council of NSW (Heritage Council) regarding the above Development Application (DA).

The DA has been referred under Clause 5.10 (7) of the Port Macquarie-Hastings Local Environmental Plan 2011 (LEP) as the site is identified in Schedule 5 (Environmental Heritage) as archaeological site AO39.

Included with your referral were the following relevant documents:

- development application form;
- engineer plans 'Beach House Hotel, proposed additions, Norton Street, Port Macquarie 2444', prepared by David R Johnson, Consulting Engineer, dated December 2014; and
- report 'Statement of Environmental Effects, replacement shade structure the Royal Hotel (Beach House), Nos. 2-6 Horton Street, Port Macquarie, Lot 3 on DP1040459' prepared by All About Planning, dated December 2014.

The site at 2-6 Horton Street is included in the Port Macquarie Archaeological Management Plan (AMP) by Higginbotham & Associates as Inventory No. 66 which is assessed as having historical or archaeological significance relating to the penal settlement and nineteenth-century development of Port Macquarie.

A review of the DA documents indicates the proposed development will include ground disturbance to construct concrete piers. It is noted that the archaeological site has not been identified within the DA supporting documentation and therefore the impact on potential archaeological 'relics' as defined by the *Heritage Act 1977* has not been assessed.

Helping the community conserve our heritage

Having considered the information provided, there is potential for the proposed works (particularly the ground disturbance) to impact archaeological relics within an area identified as an archaeological site. Therefore, as a delegate of the Heritage Council, it is requested that Port Macquarie Hastings Council include the following condition in their determination:

 Prior to works commencing, a baseline archaeological assessment must be undertaken by a suitably qualified archaeologist. Based on the results of this assessment, further approval from the Heritage Council of NSW may be required before development works can commence.

If you have any questions regarding the above advice, please contact Abi Cryerhall, Senior Archaeologist at the Heritage Division, Office of Environment and Heritage, on (02) 9873 8543 or via email at Abi Cryerhall@environment.nsw.gov.au.

Yours sincerely

Rochelle Johnston

Manager, Conservation Heritage Division

Office of Environment & Heritage

As Delegate of the Heritage Council of NSW

11 February 2015

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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2014/988 DATE: 22/04/2015

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
Ground Floor Plan	PROJ No: 4447 DRG No: TP-1000	Hamilton Hayes Henderson Architect	March 2015
Roof Plan	PROJ No: 4447 DRG No: TP-1007	Hamilton Hayes Henderson Architect	March 2015
Elevation from Town Green	PROJ No: 4447 DRG No: TP-1008	Hamilton Hayes Henderson Architect	March 2015
West & East Elevations	PROJ No: 4447 DRG No: TP-1010	Hamilton Hayes Henderson Architect	March 2015
Section & Cross Sections	PROJ No: 4447 DRG No: TP-1011	Hamilton Hayes Henderson Architect	March 2015
Plan & Section Details	PROJ No: 4447 DRG No: TP-1006	Hamilton Hayes Henderson Architect	March 2015

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
 - a. the appointment of a Principal Certifying Authority; and
 - b. the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
 - 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 neighbouring reserve has been obtained;
 - 4. 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 Office of Environment and Heritage The General Terms of Approval, Reference EF15/1097, DOC15/7897 and dated (enter 11th February 2015), 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) The development must be undertaken in accordance with section 4.8 of the Essential Energy Underground Design Manual CEOM7098 (24th July 2013) particularly sections 4.8.6, 4.8.7 & 4.8.10. The development must also be undertaken in accordance with AS2067-2008 Substations and High Voltage Installations Exceeding 1kV a.c. Particular attention should be given to clause 6.7.2 Fire and Explosion Risk Zones and Appendix C which shows detailed drawings for clarification.
- (7) The conditions set out in Memorandum 3820073 dated 19th May 1998 as referenced in the 88B instrument for Lot 3 DP 1169170 must be adhered to. The restrictions on activities within the easement are outlined in sections 8 and 9 of ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure (September 2012).
- (8) A suitable secondary entry/exit point in the timber paling fence surrounding the easement identified in the 88b Instrument & DP Plan for Lot 3 DP 1169170 must be provided to ensure the safety of persons within the easement. All openings/gates etc in the fence must not be locked unless using an Essential Energy approved lock.
- (9) No additional signage is permitted under this consent. Specifically, the sign proposed at the western end of the outdoor dining area is not permitted.
- (10) All new timber works (battens, fascias, etc) are to be hardwood. Pine, treated pine or similar is not to be used for any purpose on the new structure.

- (11) The timber paling fence must be painted Clotted Cream or a colour equivalent to the current external wall colour of the Royal Hotel.
- (12) The existing dilapidated fabric shade cloths and the metal framed canvas structure which is currently located below the verandah fascia must be removed entirely from the building.
- (13) The existing landscaping and metal boundary fencing must be retained. If damaged it must be re-instated so that it matches what is currently on site.
- (14) The existing metal boundary fencing at the western end of the outdoor dining area is currently located on Council land. This fence will need to be realigned so that it is located within or on the property boundary. Should the fence remain where it currently is an application for outdoor dining use on Council owned land must be submitted to Council for approval to use this area. A modification to this consent may be required. Note: this may result in additional contributions being payable including carparking contributions.
- (15) No speakers or sound production devices are permitted to be installed within the area covered by the shade structure.

B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - · Position and depth of the sewer (including junction)
 - · Stormwater drainage termination point
 - Easements
- (2) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (3) (B057) The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate.
- (4) (B070) Where augmentation is required on adjoining property, owner's consent shall be provided to Council with any Section 68 application and/or Construction Certificate application for works where augmentation is required on adjoining property including:
 - Public drainage infrastructure (i.e. Council drainage)

C - PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C008) No access through the reserve shall be allowed without first obtaining written approval from Council's Parks and Gardens Manager. No clearing or

damage to any vegetation on the reserve is permitted. No spoil, fill, waste liquids or solid materials shall be stockpiled on or allowed to move beyond the fence line for any period on the adjoining reserve during or after the development. In the event of accidental damage, the site must be remediated to the satisfaction of Council. Such approval would need to be undertaken in accordance with Council Policy.

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

D - DURING WORK

- (1) (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) (D022) The proponent is responsible for ensuring that the existing stormwater pipe traversing/adjoining the land is not damaged while performing any works. If the existing stormwater pipe is damaged during the course of performing the works, the proponent will:
 - a. notify Council immediately when the breakage occurs, and
 - repair the damage at no cost to Council
- (3) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: The Demolition of Structures. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

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

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

Safely disposing of asbestos waste from your home

Fibro & Asbestos - A Renovator and Homeowner's Guide

Asbestos Awareness

(4) (D046) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the Heritage Act 1977.

E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (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) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of

Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.

F - OCCUPATION OF THE SITE

 Both layers of the shade cover must be fully closed by 9.00pm, 7 days a week.



From: Graham Crowther

Sent: Wednesday, 14 January 2015 12:37 PM

To: Jesse Dick

Subject: Re: TRIM: DA2014 - 988.1 Additions to Hotel - Shade Structure, Noise Impact Enquiry

Jesse,

Thank you for your email with enclosed information relating to the Development Application for the Beach House.

My wife and I reside adjacent (behind) the Beach House and have been significantly affected (along with other apartment owners) by noise from BH music for some considerable time. Following my formal complaint last year these concerns have been taken up by the Office of Liquor Gaming and Racing.

I met with the Beach House Manager, David Capper a few days ago and he explained the proposal in some detail. He assured me that the lower of the two retractable layers is of a sound proofing material that should be adequate to overcome the noise problem that exists.

My concern focuses only on the current noise problem and in this regard I wish to comment as follows:

I am unconvinced about the acoustic effectiveness of the retractable shades to deal with the problem. The sound rating of the material to be used is a query, as is the possibility that the 'acoustic layer' could be left in the open position at times leaving no noise protection.

The DA plan appears to show the area to be open on the eastern side (though I have not seen an 'eastern elevation'). This differs from the Manager's comments describing the eastern end to be fully enclosed with a six foot wall and acoustic material above.

Over recent months the management has been placing the speakers inside the building after 9.00pm and the noise level has considerably reduced. It is clear, for the noise problem to be properly addressed that the live music (including speakers) needs to be in a fully enclosed building (sound-proofed where required). - It is of concern that the proposal is principally aimed at providing for the patron's protection from the sun and rain (currently 'open air') however will be inadequate to meet the very real problem of noise.

Sincerely, Graham Crowther

On 13 Jan 2015, at 11:38 am, Jesse Dick <Jesse.Dick@pmhc.nsw.gov.au> wrote:

Hi Graeme,

Thanks for your call earlier.

Please find attached information relating to the Development Application.

Have a look through the submitted info and if you still have any concerns please feel free to respond to this email outlining any issue you may have.

Please don't hesitate to contact me if you have any further questions in relation to this matter. cheers

Regards

Jesse Dick Environmental Projects Officer

Port Macquarie-Hastings Council PO Box 84 PORT MACQUARIE NSW 2444 (02) 6581 8629

Item: 07

Property:

Subject: DA2015 - 0075 - ADDITIONS TO DWELLING INCLUDING A CLAUSE

4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE HASTINGS LOCAL ENVIRONMENTAL PLAN

Lot 29 DP 31035, 14 Arakoon Avenue, Port Macquarie

2011 AT LOT 29 DP 31035, 14 ARAKOON AVENUE, PORT MACQUARIE

Report Author: Clint Tink

Applicant: J & E Miller (Builder) Pty Ltd

Owner: J B Naldrett
Application Date: 14 April 2015
Estimated Cost: \$188,000

Location: Port Macquarie File no: DA2015 - 0075

Parcel no: 642

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2015 - 0075 for additions to dwelling including a Clause 4.6 variation to Clause 4.3 (height of buildings) of the Port Macquarie Hastings Local Environmental Plan 2011 at Lot 29 DP 31035, No. 14 Arakoon Avenue, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for additions to 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 submissions were received.

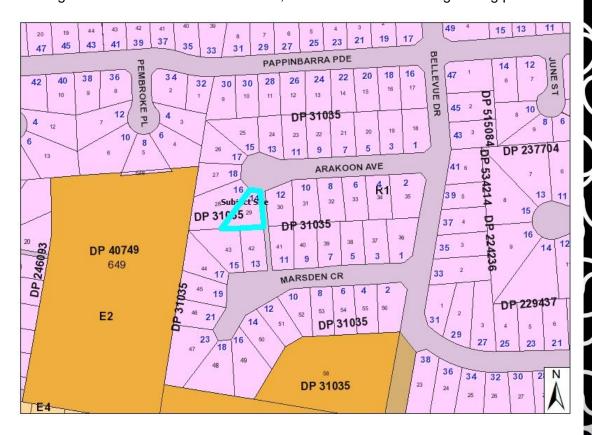
1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 594.4m².



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



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Additions to a dwelling that is currently single storey with a two storey component above a cut in garage. Following the proposed additions, the dwelling will change to two storey with a three storey component in the garage area.
- Clause 4.6 variation is proposed to Clause 4.3 (Height of Buildings) of Port Macquarie-Hastings Local Environmental Plan 2011.
- Two submissions received during exhibition period

Refer to attachments at the end of this report.

Application Chronology

- 10/2/2015 Application lodged with Council.
- 13/2/2015 Council staff requested the height be clarified and Clause 4.6 variation be submitted.
- 20/2/2015 Above request was resent to applicant.
- 25/2/2015 to 10/3/2015 Exhibition period.
- 6/3/2015 Exhibition material emailed to neighbour.
- 12-13/3/2015 Discussion between applicant and assessing officer regarding the previous request for additional information.
- 18/3/2015 Site inspection carried out. Site inspection revealed the submitted plans did not completely match the house erected onsite. As a result, Council staff requested revised plans. Existing roof profile was also requested to be shown on the plans to help understand changes in height.
- 18-31/3/2015 Discussion between Council staff and the applicant regarding the revised plans. Plans received 31/3/2015.
- 1/4/2015 Revised plans provided to objectors.
- 7/4/2015 Another site inspection was carried out to review the height and impact on views based on the revised plans. As a result of the inspection, applicant was requested to provide further detail on the impact on views.
- 14/4/2015 Site inspection was arranged with height poles installed on the dwelling.
- 15/4/2015 Discussion with applicant regarding height poles.
- 16/4/2015 Site inspection photos sent to the objector who could not attend site inspection.

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

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

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

State Environmental Planning Policy 44 - Koala Habitat Protection

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



State Environmental Planning Policy 55 – Remediation of Land

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

State Environmental Planning Policy 62 - Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its location; the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries.

State Environmental Planning Policy 71 – Coastal Protection

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

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

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

- a) any restricted access (or opportunities for access) to the coastal foreshore
- b) any identifiable adverse amenity impacts along the coastal foreshore and on the scenic qualities of the coast
- c) any identifiable adverse impacts on any known flora and fauna (or their natural environment)
- d) being 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.

In particular, the site is located within an area zoned and already developed for residential purposes. It is considered that the height and bulk of the proposed dwelling additions is consistent with others in the area and would blend in with the existing house forms.

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

In accordance with clause 6, a BASIX certificate (number A210790) 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 (LEP 2011)

Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the proposed development for additions to a single 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.

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

In accordance with clause 2.3(2), the proposal is consistent with the zone objectives, particularly as the proposal is a permissible landuse and is consistent with the established residential locality. The additions result in a house type and density that provides individual variations but is consistent with the overall bulk and scale of other surrounding houses.

Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.

Clause 4.3, the maximum overall height of the proposal from ground level (existing) is 8.86m, which does not comply with the standard height limit of 8.5m applying to the site.

Clause 4.6(3), consent must not be granted for a proposal that contravenes a development standard unless the consent authority has considered a written request from the applicant that justifies the variation by showing that the subject standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify the contravening of the standard.

As a result of the above, the applicant submitted a Clause 4.6 variation to the standard based on the following reasons:

- 1. Already reduced roof pitch adopted for the upper roof.
- 2. Minimum wall heights applied to upper levels.
- 3. Similar scale, bulk and height to that of surrounding dwellings.
- 4. No significant loss of views to neighbouring residences. This opinion is based on the height difference of the dwellings in question.
- 5. Not unduly affecting the amenity of neighbouring residences.
- 6. The current/new methods used to measure the Height of Buildings by Hastings Council from basement level rather than from existing ground levels give a false perception of the actual building height.
- 7. No specific definition as to the method used by Port Macquarie Hastings Council to measure height of buildings.

The objectives of Clause 4.3 of the LEP 2011 are noted as follows:

- (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development.
- (c) to minimise the adverse impact of development on heritage conservation areas and heritage items,
- (d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.

The definition of building height in LEP 2011 is noted as follows:

building height (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Having considered the application, objectives, definition and Clause 4.6 variation, not all the reasons listed by the applicant are supported. In particular, while the process to measure height may be unusual (see point 2 below) it is included in the Port

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Macquarie Hastings LEP 2011. Nonetheless, the proposal is considered acceptable overall for the following reasons:

- 1. The majority of the dwelling is below the height limit.
- 2. The area that does not comply is created by an anomaly with how height is defined and measured in the LEP. In particular, the LEP requires height to be measured from existing ground level. In a case such as this application, the basement/garage was cut into the natural ground when the original house was built. The cut in floor becomes the existing ground level for any future application works above such a point. In reality, if the current overall proposal (i.e. existing dwelling and additions) was applied for as one application and the ground had not been disturbed from the current dwelling; the proposal would comply.
- 3. The view impacts are considered acceptable. Refer to view sharing comments later in this report.
- 4. The bulk and scale of the development is consistent with other development in the immediate area.
- 5. While a flat roof would have reduced the height variation, the profile adopted is more consistent with the existing and surrounding dwellings.
- The north south aspect and separation of properties will ensure no adverse overshadowing. In addition, the land at the rear (south) slopes up, which ensures the southern properties sit predominately above the development and overshadowing.
- 7. Privacy will be retained by virtue of the limited number of windows proposed, the small window sizes and the windows being associated with low activity areas.
- 8. The variation is minor comprising only 4.23% of the standard.

As per Planning Circulars PS 08-003 & 08-014, Council has assumed concurrence for dealing with variations to height controls. Concurrence from the Department of Planning and Environment is therefore not required. The variation is also less than 10% of the standard and able to be determine by DAP. Should DAP determine the application, a report on the decision will need to be reported to a Council meeting at a later date for Council's information.

Based on the above, the development is consistent with the height control objectives and also the zoning objectives as discussed previously in this report. It is recommended that the Clause 4.6 variation to Clause 4.3 be supported.

Clause 4.4, the floor space ratio of the proposal is approximately 0.44:1.0 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. The site is already disturbed by virtue of the existing dwelling.

Clause 7.13, satisfactory arrangements are in place for provision of essential public utility infrastructure.

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

None relevant.

(iii) any Development Control Plan in:



Port Macquarie-Hastings Development Control Plan 2013

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

houses	houses & Ancillary development				
	Requirements	Proposed	Complies		
	Front setback (Residential not R5 zone): • 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	Front setback exceeds 4.5m.	Yes		
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Garage is existing and setback over 5.5m. While the garage is not setback 1m behind the front façade, such a setback already exists by virtue of the existing dwelling design. Furthermore, such a design element of garages being in line with the front façade is common for that era of housing and the surrounding area.	No, but acceptable.		
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	While the existing dwelling rear setback does not comply, no change is proposed at such a level/area. In terms of the additions, they will be setback in excess of the required 4m.	Yes		
3.2.2.5	Side setbacks: Ground floor = min. 0.9m First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. Building wall set in and out every 12m by 0.5m	The western side setback measures 1.6m. While this complies with the 900mm requirement, the western elevation presents as three storeys. It is noted that the existing dwelling is already two storeys facing the western boundary at the same 1.6m setback and that the three storeys is created by the garage	Yes		

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

	Requirements	Proposed	Complies
		being cut in. The proposed change in roof profile also allows the third storey to be included without overly increasing the bulk on the western elevation. As a result, the non compliance is not dissimilar to that of the existing dwelling. In addition to the above, the north aspect will ensure there is no adverse overshadowing of the neighbouring western property. There is a new living room proposed on the western elevation with windows facing the neighbouring property. However, the windows do not overlook a primary living/open space area (i.e. the window overlooks a driveway and front yard area). As a result, the setback does not create any adverse privacy issues.	
3.2.2.6	35m² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The property retains 35m² open space with 4m x 4m area directly accessible from a living area.	Yes
3.2.2.10	Privacy: • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or privacy screening which has 25% max. openings and is	Other than the new upstairs living area addressed in 3.2.2.5 above, there are no new living areas or potential conflicts created. All other windows/areas are either existing, face the street or are low use areas.	Yes

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

Requirements	Proposed	Complies
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 		

DCP 2013: General Provisions

DOI 2010. General Frovisions				
	Requirements	Proposed	Complies	
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available	Yes	
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Noted	
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Existing garage to be retained.	Yes	

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

None relevant.

iv) any matters prescribed by the Regulations:

New South Wales Coastal Policy

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

Demolition of buildings AS 2601 - Cl 66 (b)

To be conditioned to comply.

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



None relevant.

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

Context & Setting

- The 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 privacy impacts (refer to discussion under DCP section above and submission section below).
- 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.

View Sharing

During the public exhibition period, concern surrounding view loss was raised.

An inspection of neighbouring properties was carried out with the applicant installing height poles to indicate the height of the additions.

The following photos were taken from living areas within the adjoining properties when the height poles were in place. Standing photos would have been taken at a height of approximately 160-170cm above the floor. While there is nothing to say at what height photos should be taken, it is noted that the average height of an Australian male is 175cm and female is 162cm. Therefore, the height of the camera shot would be slightly above the eye line of the average Australian.



Photo 1: Standing shot from the living/kitchen area of 13 Marsden



Photo 2: Sitting shot from balcony off living area for 13 Marsden. View of Church becomes obscured.



Photo 3: Standing shot from balcony off living area for 13 Marsden





Photo 4: Standing shot from the dining area of 15 Marsden



Photo 5: Standing shot from the balcony off living area for 15 Marsden





Photo 6: Different angle to Photo 5 of standing shot from the balcony off living area for 15 Marsden



Photo 6: Sitting shot from balcony off living area for 15 Marsden. View of Point Plomer becomes obscured.

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



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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

Step 1

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

Comments: The view corridor from the two affected properties (13 & 15 Marsden Crescent) is orientated towards the north, north east and north west, toward the CBD area of Port Macquarie, ocean views and land water interface up the coast to Point Plomer. The key features within the view corridor include glimpses of the church buildings in the CBD of Port Macquarie and also Point Plomer. While not iconic on the scale of the Opera House, Harbour Bridge etc, the features would be considered to have high value in the local context.

Step 2

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

Comments: Views are enjoyed from both properties across the rear boundary. The views are enjoyed from both standing and sitting positions from various parts of the dwelling with the most prevalent being from upstairs living areas, kitchen and balconies.

Step 3

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

Comments: The extent of the impact upon the views enjoyed from 13 & 15 Marsden Crescent are considered to be acceptable for the following reasons:

- While sitting views will be more substantially impacted, the majority of existing views of the ocean, land/water interface and Point Plomer will be retained from key living areas when standing.
- While parts of the CBD and Town Beach buildings will be lost, the design will still retain sections of the CBD, including the church buildings.
- Only part of the view to Point Plomer will be lost depending on where one stands in the living room and balconies of 15 Marsden Crescent.
- Where views are impacted more substantially is from the lesser use areas of the houses (i.e. lower floor bedroom areas etc). In additions, views from lower floors would already be obstructed by the existing dwelling.

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- For the most part, the dwelling complies with relevant planning controls. As discussed previously, the Clause 4.6 variation to the height limit is more a result of the unusual way height is measured.
- The strip of vacant Council land running along the eastern edge of 13 Marsden Crescent helps retain views for that property.

Step 4

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

Comments: The proposal contains limited variations to Council's planning provisions. The main variation to the height is also created from the unusual way height is measured rather than an attempt to overdevelop the site. As detailed above, key views from the primary living area will still be retained from standing positions.

Based on the above, the proposed development is considered to achieve a suitable level of view sharing. The height of the additions will also be conditioned to be checked at the frame stage to ensure compliance with the plans submitted.

Access, Transport & Traffic

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

Utilities, Stormwater, Water, Sewer

The proposed development will not impact on existing services.

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 & Micro-climate

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

Flora & Fauna

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

Waste

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

Energy



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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

Noise & Vibration

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

Natural Hazards

The site is identified as being bushfire prone. The applicant has submitted a bushfire report, which recommends a Bushfire Attack Level (BAL) of BAL 19. Asset Protection Zones are provided either onsite or via adjoining properties, which is accepted practice in existing built up areas. The details provided are acceptable and to be reinforced via conditions.

Safety, Security & Crime Prevention

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

Social Impact in the Locality

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

Economic Impact in the Locality

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

Site Design and Internal Design

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

Construction

While there may be some standard short term impacts associated with a construction site (i.e. loss of off street parking due to construction workers, construction noise etc), no long term impacts to neighbouring properties will occur. In addition, standard conditions will be recommended to restrict hours of construction.

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:

It is considered that the proposal is consistent with other development in the area and will create no significant impact. The development satisfies relevant planning controls for the area and is not expected to impact adversely on the wider public interest.

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



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

Two written submissions were received following public exhibition of the application. A third email was received but it was from a planning consultant acting on behalf of one of the objectors.

Key issues raised in the submissions received (including the issues raised by the planning consultant) and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
Development will impact on views from adjoining properties.	Refer to comments on View Sharing above in this report.
The development will overshadow adjoining properties.	The development is well separated from the properties to the rear (south). In addition, the properties to the rear are located higher up on the hill, which limits the distance the shadow is cast. The proposed development was checked through Council's preliminary shadow diagram program and no significant overshadowing was to be created. This is especially so when shadows cast from existing boundary fences are factored into calculations.
The development will result in a loss of privacy to adjoining properties.	Privacy has been addressed in the DCP 2013 component of this report - see comments on 3.2.2.5 and 3.2.2.10.
Roof tiles to be non reflective.	To be conditioned.
The development will impact on the value of surrounding houses.	House values are not a matter for consideration under s79C.
The development should comply with the height limit.	The height variation has been addressed in the LEP 2011 component of this report - see comments on Clause 4.3 and Clause 4.6.
The plans are not correct and contain anomalies. Measurements are minimal on the plans to understand height etc. How is height measured?	Plans have since been clarified and were provided to the neighbours who put in a submission. The plans can also be scaled off to check measurements. Explanation on how height is measured was provided to objector and is detailed in the LEP 2011 component of this report - see comments on Clause 4.3 and Clause 4.6.
A flat roof should be adopted to reduce height and impact on views.	A flat roof would not match the existing design of the house or the majority of surrounding development.
The development may reduce sea breezes to adjoining properties.	The bulk of the building is consistent with surrounding development. In addition, the development and surrounding properties are located on a hill with each property stepping up and being located higher than the dwelling in front. This ensures adjoining properties retain access to breezes.

(e) The Public Interest:



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

There is an existing dwelling onsite with no additional dwellings or lots proposed. Therefore, contributions do not apply in this case.

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<u>View</u>. DA2015 - 0075 Plans

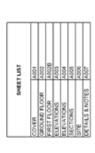
2View, DA2015 - 0075 Recommended Conditions

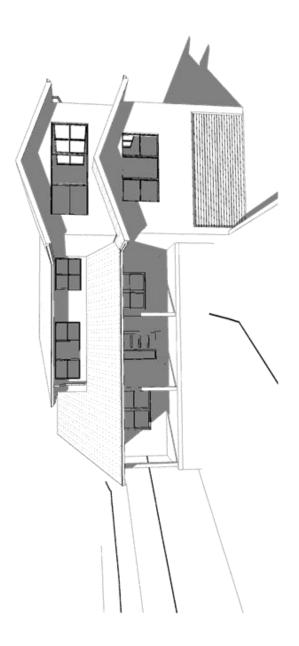
3View. DA2015 - 0075 Submission - Hine

4View. DA2015 - 0075 Submission - Fahey



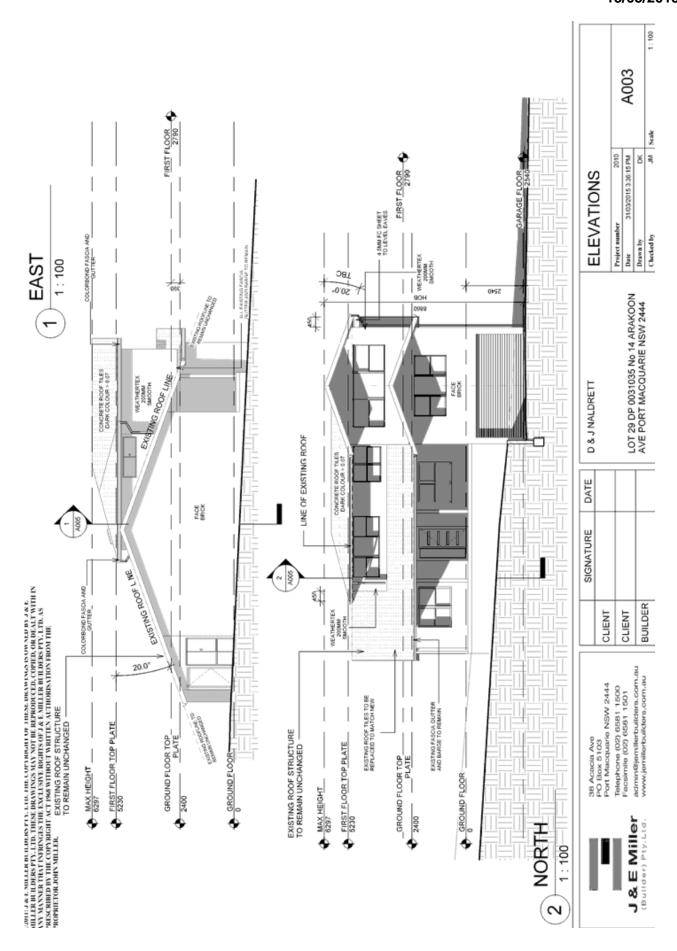
Σ
3-36-12
31/03/2015



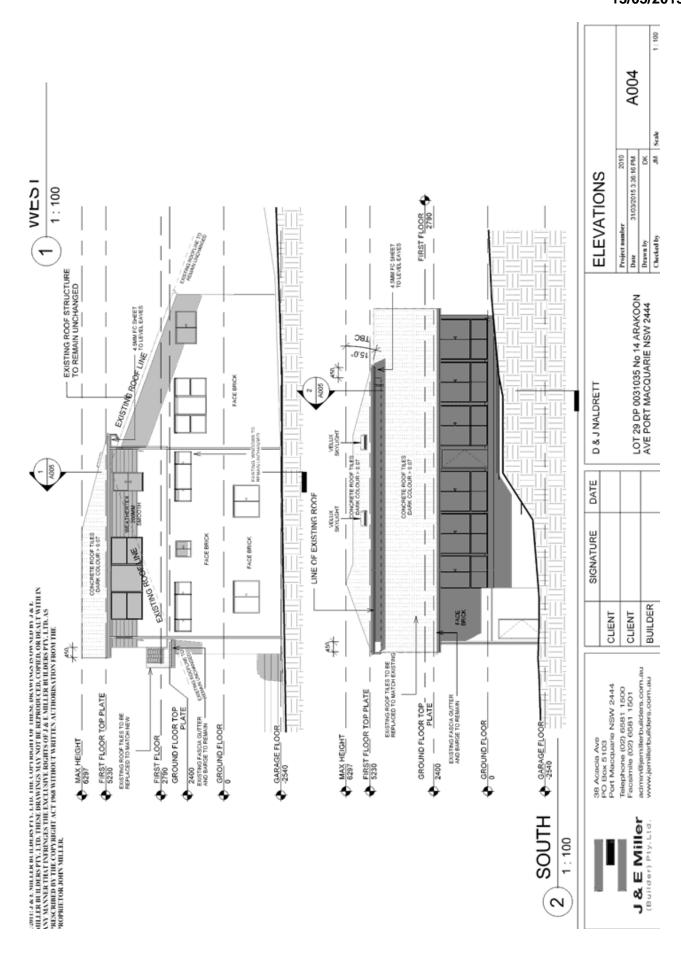


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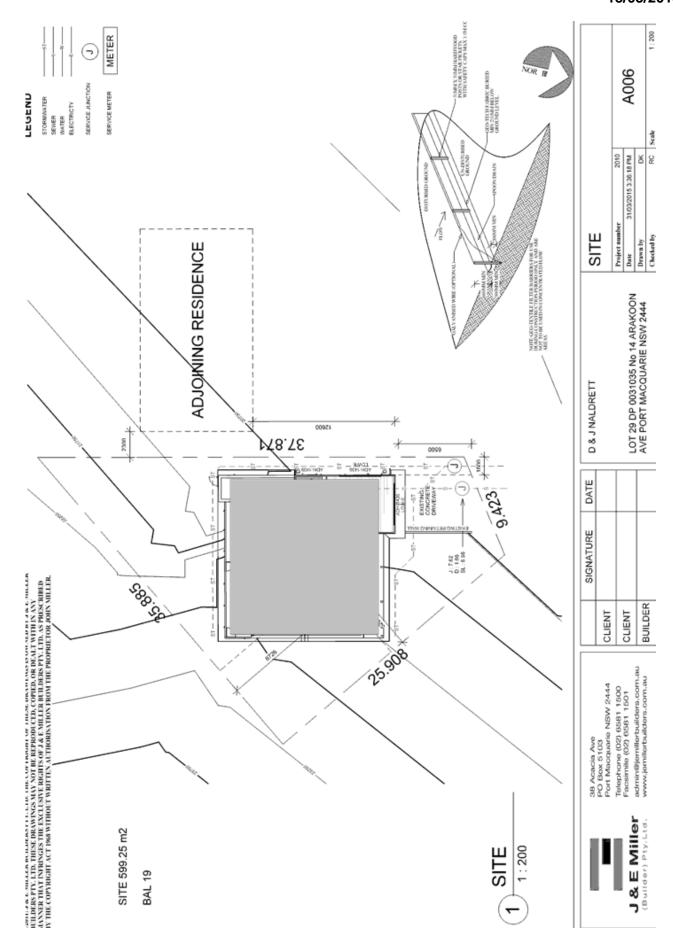
(1) COVER SHEET



Item 07 Attachment 1



Item 07 Attachment 1 Page 83



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2015/75 DATE: 6/05/2015

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 as amended		J & E Miller Builders	Unknown
Plans	Project No 2010 Sheets A001- A007 and A002B	J & E Miller (Builder) Pty Ltd	31/3/2015
BASIX Certificate	A210790	J & E Miller Builders	5/2/2015
Bushfire Hazard Assessment) '	David Pensini	5/2/2015

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
 - a. the appointment of a Principal Certifying Authority; and
 - b. the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.

- (3) (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) (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;
- 2. 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;
- 4. Building waste is to be managed via an appropriate receptacle;
- Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays'

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

B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out any water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - · Position and depth of the sewer (including junction)
 - · Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B046) The building shall be designed and constructed so as to comply with the Bush Fire Attack (BAL) 19 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.
 - Please note: Compliance with the requirements of Planning for Bush Fire Protection 2006 to prevail in the extent of any inconsistency with the Building Code of Australia.
- (3) (B195) A certificate from an approved practising chartered professional civil and/or structural engineer, certifying the structural adequacy of the existing building in terms of allowing the additional works/load is to be submitted to the PCA prior to the release of the Construction Certificate.
- (4) (B196) Prior to the release of the construction certificate, the plans are to be amended showing the roof will utilise non reflective materials.

C - PRIOR TO ANY WORK COMMENCING ON SITE

nil

D - DURING WORK

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

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

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

Safely disposing of asbestos waste from your home

Fibro & Asbestos - A Renovator and Homeowner's Guide

Asbestos Awareness

(2) (D195) The development is not to proceed past the frame stage, unless a survey has been submitted to Council confirming that the height of the development complies with the height nominated in the approved development application plans.

E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (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) (E015) Prior to occupation or issue of the Occupation Certificate, details of compliance with the bushfire risk assessment is to be provided to the Principal Certifying Authority.
- (3) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (4) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

F - OCCUPATION OF THE SITE

 (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation. Clinton Tink Development Assessment Planner Port Macquarie Hastings Council Port Macquarie 2444 16 03 2015

Dear Sir,

Re - Development application - Lot 29 DP/SP 0031035 - 14 Arakoon Ave Port Macquarie.

We advise that we are the owners of 13 Marsden Cresent Port Macquarie.

We object strongly to the above mentioned development due to the following factors,

We refer to the statement of environmental effects submitted by the applicants.

Item 4 – affect any neighboring residences by overshadowing or loss of privacy?

From our position the answer to this question is Yes.

The development will impact on our loss of privacy due to the southern windows appearing directly to our kitchen, dining room, & main bedroom. There will be significant over shadowing of our back yard, which will inhibit future gardening development.

Item 4 – result in the loss or reduction of views?

From our position the answer to this question is Yes

The development will result in a significant loss of views on the western side & reduction of views to the north.

We understand that the roof height is above the required limit. We ask that the plan complies with all council building requirements.

We request that the roof tiles be non reflective.

In summary,

The following fact should be considered.

We have now being advised by our agent that the development will impact on the value of our property reducing the value dramatically.

Yours sincerely,

Tim & Janet Hine.

9 March 2014 Leanne Fahey 15 Marden Crescent Port Macquarie NSW

Mr Clinton Tink

Development and Environmental Services.

Port Macquarie-Hastings Council

PO Box 84

Port Macquarie NSW 2444

Dear Mr Tink

PORT NACC THE P

Re: DA2015 - 75.1 Additions to Dwelling at 14 Arakoon Ave

I am in receipt of a letter from Council advising of the development proposed for 14 Arakoon Ave Port Macquarie. I have attended Council and was provide a copy of DA2015 – 75.1 Public Access.PDF forwarded from Mr Chris Gardiner Development Assessment Planner by email.

I wish to advise that I am not experienced in the Council regulations and gather from the letter received that the proposed addition is outside Council regulations.

I note that the material provided was not adequate disclosure to allow a detailed understanding of the impact of the development. Critically I am unable to assess the development proposal relevant to the structure of the existing property.

I refer you to Attachment A (J & E Miller Diagram A003) and note

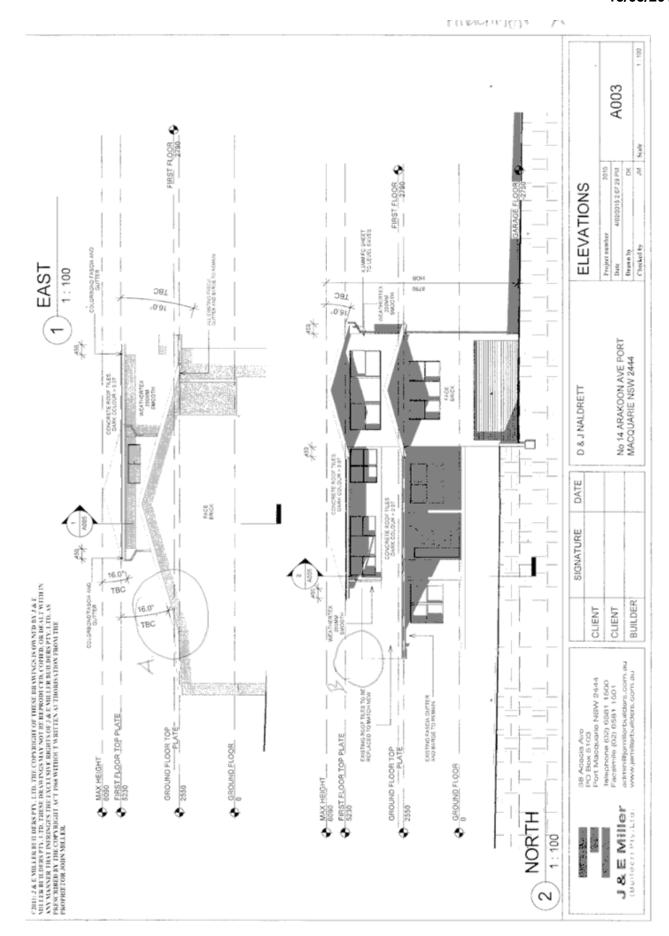
- a) On the attachment I have marked point A. Please refer to this mark. The existing roof line is straight from the gutter to the peak of the roof. The diagram East Elevation at the point marked A demonstrates an angle in the line of the roof. No information is provided advising that the pitch of the roof will be changed.
- b) Nowhere on the document is the existing roof height referenced so that an assessment can be made of the impact of the development.
- c) The document does not provide measurements of the length of the existing roof.
- d) The document does not provide measurements of the length of the proposed roof of the first floor addition.
- e) On the attachment I have marked point B. Please refer to this mark. The document does not provide a height for the ridge of this roof line. Has it changed relevant to the existing roof height?

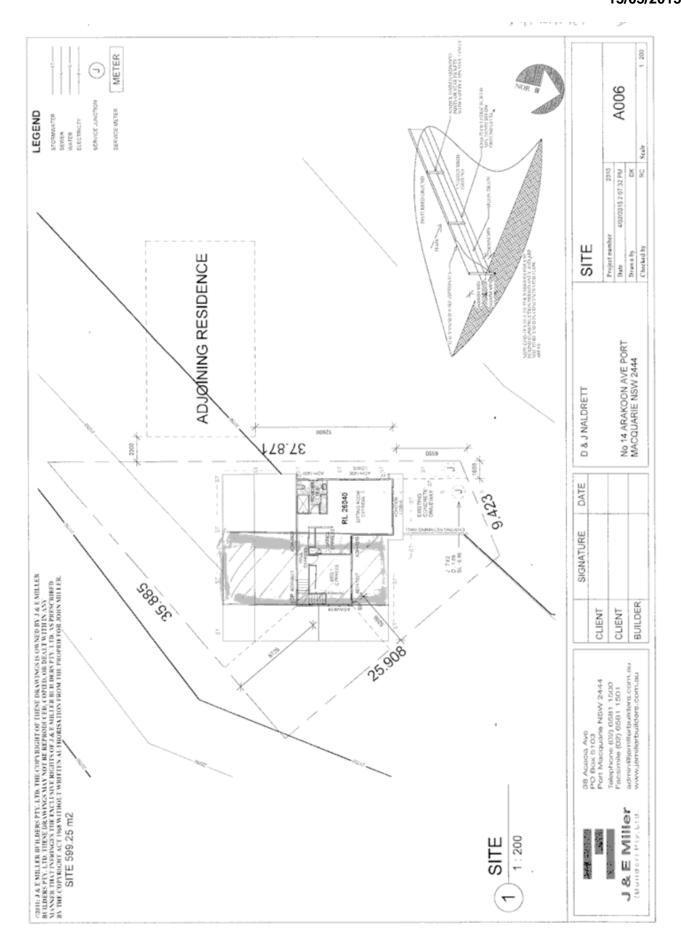
Based on the information that I have been provided, I wish to object to the proposed development at 14 Arakoon Ave on the following grounds:

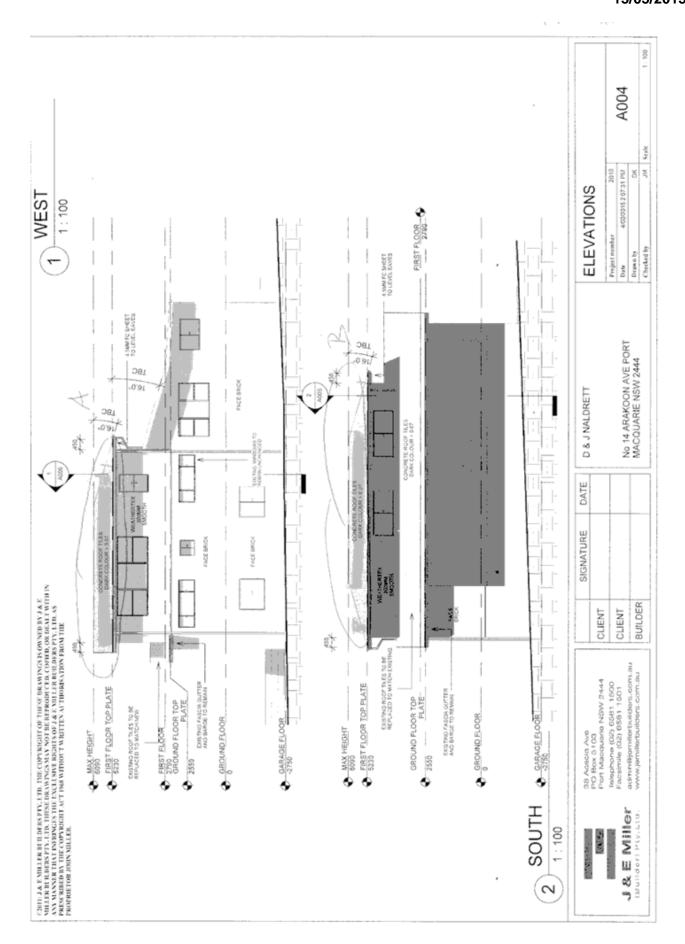
- a) The area is sensitive to a northerly view and experiences extensive northern views across Town Beach to Point Plomer/Queens Head. The proposed development application lacks consideration for the existing amenity and enjoyment experienced by the neighbours to the rear of the property. I note in particular the following alternatives:
 - a. Please refer to Attachment B (J & E Miller Diagram A006) and suggest that a similar floor space could be obtained with a narrower and longer front to rear space. Such a change in the proposal would lessen the impact and would allow for shared amenity of the views to the north.
 - b. Please refer to Attachment C (J & E Miller Diagram A004) and the areas marked A and B highlighted purple. I suggest that a flat roof instead of a pitched roof would allow for a reduction in the height of the proposal and lessen the impact of the development. This would improve the shared amenity of the views to the north without any impact on the space and amenity achieve internal to the proposed development.
- b) I am concerned that the height of the building and shape of the existing roof may reduce the sea breeze available to my home.
- c) Please refer to Attachment D (J & E Miller Diagram A004) and the proposed south elevation windows. For reasons that should remain confidential for the property owners, these windows should be screened or made of opaque glass so that no view into the proposed development is available from my home.

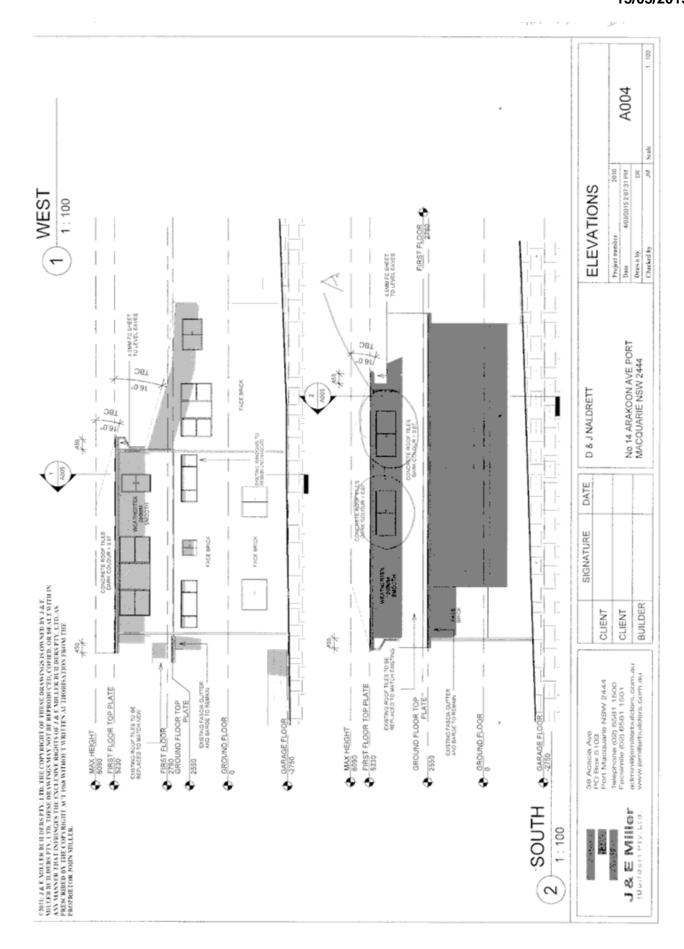
I request the applicant of DA2015 – 75.1 Additions to Dwelling at 14 Arakoon Ave provide the decision critical information listed earlier in this letter. This will enable an informed decision in respect of the proposal. On receipt of this information I reserve the right to consult with a person appropriately qualified to lodge a complete and thoroughly prepared addition to this submission.

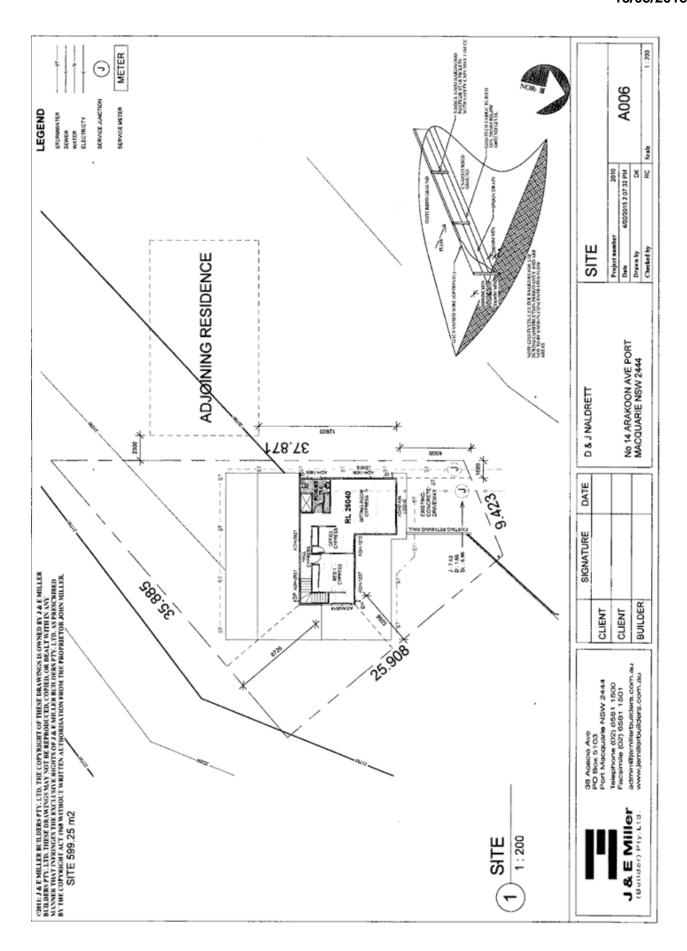












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ABN: 11 236 901 601

20 February 2015

L S Fahey 15 Marsden Crescent PORT MACQUARIE NSW 2444



Parcel Number: 642 Our Ref: DA2015.75.1

NOTIFICATION OF DEVELOPMENT PROPOSAL

Proposal: Additions to Dwelling Including Clause 4.6 Objection to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011

Property: LOT: 29 DP: 31035, 14 Arakoon Avenue PORT MACQUARIE

Application No 2015/75

Applicant J & E Miller (Builder) Pty Ltd

Consent Authority: Port Macquarie-Hastings Council

Integrated Development No
Designated Development No

Council has received a Development Application for the above work to be carried out. In keeping with Council's Policy to inform neighbours when applications are lodged, you are advised that the development application and accompanying documents are on public exhibition and may be inspected as follows:

At Council's Customer Service Centre, Chr Lord & Burrawan Streets Port Macquarie

During Hours: 3.30am - 4.30pm Mondays to Fridays (except Public Holidays)

Period: From 25/02/2015 until 10/03/2015

Any person may, during the above exhibition period, make a submission in writing to Council in relation to the development application. Where a submission is made by way of objection, the grounds of objection are required to be specified in the submission. Please be aware that any information provided by you is subject to the provisions of the Government Information (Public Access) Act 2009 which is based on the principle that all Government-held information should be accessible to the public and that information should only be withheld if it is necessary to do so in the public interest. Disclosure of a political donation or gift is required by a person or their associate when making a public submission about a development application. For further information visit Council's website at www pmhc nsw gov au/politicaldonations.

Please include your full name, postal or small address, and telephone number details with all written submissions so that your submission can be formally acknowledged and Council can keep you informed as to the progress of the matter. The process for making a submission is detailed overleaf. Please quote the development application number when making a submission.

Should you wish to discuss this application with Council staff, a duty planner is available at the Customer Services counter in the Port Macquarie office during the hours of 8 30am – 1 00pm, Monday to Thursday. Otherwise please contact the assessing officer Clinton Fink on telephone number 6581 8111 or email to council@pmhc.nsw.gov.au.

Clinton Tink
Development and Environmental Services



Item: 80

DA2015 - 0135 - BOUNDARY ADJUSTMENT - LOT 2 DP 802621 AND Subject:

LOT 2 DP 1056817, BERRYMAN ROAD, LOGANS CROSSING

Report Author: Clint Tink

Property: Lot 2 DP 802621 & Lot 2 DP 1056817, Berryman Road,

Logans Crossing

Applicant: King & Campbell Pty Ltd Owner: R F & J A Bowerman

Application Date: 3 March 2015

Estimated Cost: Nil

Location: **Logans Crossing** File no: DA2015 - 0135.1 Parcel no: 31488 & 39750

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2015 - 0135.1 for a boundary adjustment at Lot 2 DP 802621 and Lot 2 DP 1056817, Berryman Road, Logans Crossing, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for a boundary adjustment 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 was received.

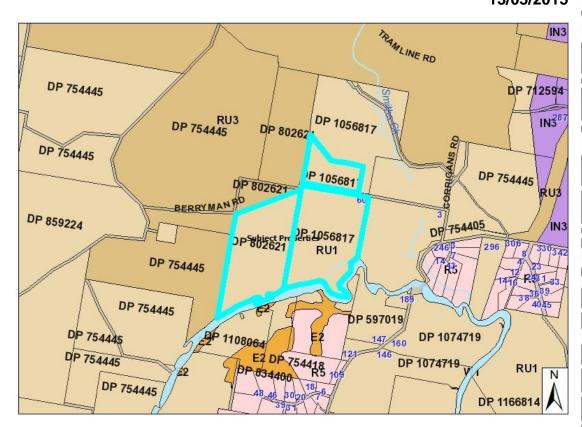
1. **BACKGROUND**

Existing sites features and Surrounding development

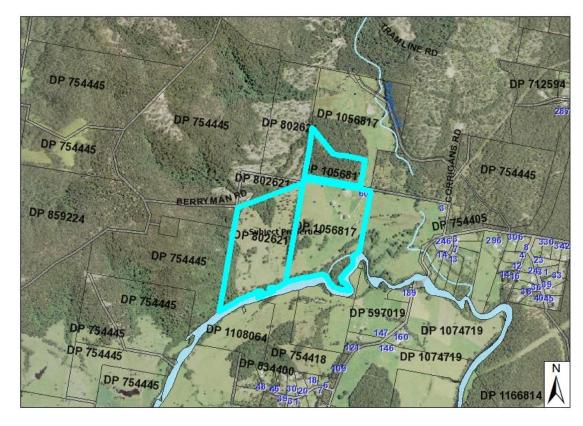
The lots have a combined area of approximately 80.72ha.

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:



Boundary adjustment between Lot 2 DP 802621 being 34.83ha and Lot 2 DP 1056817 being 45.89ha. The adjustment will create proposed Lot 1 being approximately 40.6ha in size and containing the existing dwelling. The adjustment will also create the vacant proposed Lot 2 being approximately 40.11ha in size.

Refer to attachments at the end of this report.

Application Chronology

- 15/1/2013 Proposal was presented to Council's Pre-Lodgement meeting for comment.
- 3/3/2015 Application lodged with Council.
- 20/3/2015 to 2/4/2015 Exhibition period.
- 13/3/2015 Application referred to NSW Rural Fire Service for a Bushfire Safety Authority.
- 23/3/2015 Upon request, a copy of the exhibition material was provided to a member of the public.
- 1/4/2015 Upon request, an update on the status of application was provided to the applicant.
- 22/4/2015 Discussion between Council staff and NSW Rural Fire service regarding plans. Bushfire Safety Authority received.

3. STATUTORY ASSESSMENT

Section 79C(1) Matters for Consideration

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

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

State Environmental Planning Policy 44 - Koala Habitat Protection

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

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

The application has demonstrated that no habitat will be removed or modified and therefore, no further investigations are required. The lots contain suitable area to enable establishment and maintenance of Asset Protection Zones without having to remove any significant vegetation.

State Environmental Planning Policy 55 - Remediation of Land

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



State Environmental Planning Policy 62 - Sustainable Aquaculture

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location/separation from waterways, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries.

State Environmental Planning Policy (Rural Lands) 2008

The following assessment table provides an assessment checklist against specific requirements of this SEPP:

Rural Subdivision Principles		
8(a) the minimisation of rural land fragmentation,	The development does not create any new lots or additional fragmentation. The development will retain agricultural use of the land.	Yes
8(b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,	The lots still retain suitable buffers to surrounding uses to ensure no conflict.	Yes
8(c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,	The development is consistent with the surrounding area and lot sizes.	Yes
8(d) the consideration of the natural and physical constraints and opportunities of land,	Physical constraints have been considered in this assessment report and deemed acceptable or manageable.	Yes
8(e) ensuring that planning for dwelling opportunities takes account of those constraints.	While no new dwelling is proposed as part of the application, it is considered possible that suitable area exists onsite for such a use/development (subject to separate development approval addressing relevant merit issues).	Yes
Matters to be considered in determining development applications for rural subdivisions or rural dwellings		
10(1) This clause applies to land in a rural zone, a rural residential zone or an environment protection zone. 10(2) A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:		Yes

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- (a) subdivision of land proposed to be used for the purposes of a dwelling,(b) erection of a dwelling.
- (b) erection of a dwelling.
- 10(3) The following matters are to be taken into account:
- (a) the existing uses and approved uses of land in the vicinity of the development,
- (b) 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,
- (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),
- (d) 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.
- (e) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).

- community
- is compatible with the area.

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 RU1 Primary Production. In accordance with clause 2.3(1) and the RU1 zone landuse table, the proposed development for a boundary adjustment/re-subdivision is a permissible landuse with consent.

The objectives of the RU1 zone are as follows:

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

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

- The proposal is a permissible landuse.
- The proposal will maintain the agricultural use of the land.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- The proposal will not create any additional lots or further fragmentation.
- The proposal will create no new conflict.
- Clause 4.1, the lot sizes within the proposed boundary adjustment range from 40.11ha to 40.6ha. All proposed lots comply with the minimum lot size standard of 40ha identified in the Lot Size Map relating to the site.
- Clause 4.2A, the existing dwelling will be retained on proposed Lot 1, being a lot that complies with the minimum lot size standard.
- Clause 5.9, no listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 5.10, the site does not contain or adjoin any known heritage items or sites
 of significance. In addition, there are no new lots or soil disturbance proposed as
 part of this application.
- Clause 7.3, the site contains sections of land within a mapped "flood planning area". No additional lots are to be created and the application does not seek approval for a dwelling. However, a dwelling entitlement will exist on the vacant proposed Lot 2 by virtue of the lot complying with the minimum lot size standard. 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. In particular, the proposed lots contain flood free land. Part of the road back to the Pacific Highway will be cut at times during flood events. This would need to be addressed in any future development application for a dwelling on the land.
 - A boundary adjustment can occur between two rural lots for the purposes of agriculture without a dwelling having to be built on the land. Given the property can be used for agriculture at the moment, the boundary adjustment does not change the situation. Regardless, a restriction will be placed on the title warning any future owners that an application for a dwelling on the property will require flooding and flood evacuation to be considered.
 - The proposal is not likely to significantly impact 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.
- Clause7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, on-site sewage management, stormwater drainage and suitable road access to service the development. Provision of electricity will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by a condition of consent.
- (ii) Any draft instruments that apply to the site or are on exhibition:



None relevant.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

The proposed development is consistent with the provisions of DCP 2013 in terms of notification, environmental and hazard management. Furthermore, the development is consistent with the subdivision provisions contained within 3.6 and more specifically 3.6.3.41-44. In particular, the application and a site inspection confirmed that the site has suitable area for a dwelling, access, bushfire protection, flood free land, onsite waste management etc.

(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 <u>Coastal Protection Act 1979</u>), that apply to the land to which the development application relates:

None relevant.

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

Context & Setting

The property is located in an area comprising rural farms, smaller rural residential lots/hobby farms and forestry. The proposal does not create any new lots and will continue to provide rural zoned land that could be used for similar purposes. As a result, the proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.

The proposal is also considered to be consistent with planning controls for the area.

Access, Transport & Traffic

The following diagram depicts the local roads used to access the site. The two subject lot boundaries are shown in light blue. Logans Crossing Road is to the east of the site (pictured in bottom right). The Corrigans Road reserve runs north-south from the intersection with Logans Crossing Road (shown in grey and yellow). Berryman Road intersects Corrigans Road and runs in an east-west direction to the subject lots. Both lots have direct frontage to the 'paper' Berryman Road reserve.





Logans Crossing Road is a sealed road of two-lane width without kerb and gutter, which is owned and maintained by Council. Council's records indicate that Logans Crossing Road has a 'Rural Local Major' AUS-SPEC classification. The proposal will result in an increase of one equivalent tenement (ET) as a result of the subdivision, or less than 7 vehicle trips per day on average, which is within the capacity of this road.

Corrigans Road, from Logans Crossing Road to the intersection with Berryman Road (as shown in grey above), is Council owned and maintained, with an AUS-SPEC classification of 'Rural Laneway'. It has a gravel formation of variable width. There are two existing dwellings which are served by this segment of Corrigans Road. With reference to the AUS-SPEC standard, the existing Corrigans Road formation is adequate for the proposed increase in traffic. Land zoned RU3 (Forestry) has been disregarded for this assessment, as traffic associated with this use is variable and other forestry roads also provide access to the area.

The portion of Corrigans Road north of the intersection, which is owned by the Crown Lands Department (shown as yellow above), is not affected by this development application.

Review of gazettal records indicate that Berryman Road, west of the intersection with Corrigans Road, is owned by Council. Records show it is being maintained by Council and has an AUS-SPEC 'Rural Laneway' classification. The bridge across Smiths Creek within Berryman Road is also Council's asset. This section of road is therefore also considered to have adequate capacity to cater for the proposed increase by one ET.

A submission on the development has queried the impact of the development on existing gates and fencing within the Berryman road reserve west of the private driveway to Lot 2 DP1056817 (owned by the Crown). As the new lot is to be accessed by private road connecting to the existing driveway, the development application does not affect that section of Council's public road reserve. Any works or structures west of the private driveway will require a Section 138 application to be lodged with Council.

The need for further upgrade of these local roads will be assessed with future DAs for dwellings and/or subdivision.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Vehicle access to the new lot is proposed though a right of access from the Berryman Road reserve across private property Lot 2/1056817. Access shall comply with Council AUS-SPEC and Australian Standards, and conditions have been imposed to reflect these requirements. A Construction Certificate for subdivision works will be required.

Utilities

Telecommunication and electricity services to be extended to the property at the applicant's expense.

Stormwater

Being a rural property, each lot contains suitable area to deal with stormwater runoff.

Sewer

The locality is not serviced by Council's sewer system at this time. At over 40ha, both lots contain suitable area to cater for an onsite waste management system.

Water

Reticulated water is not available to the site. Therefore, onsite water supply to be utilised.

Soils

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

Air & Micro-climate

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

Flora & Fauna

The proposed development 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. The proposed vacant Lot 2 contains suitable area for any future dwelling, should an application for such development be lodged. The bushfire report and Bushfire Safety Authority issued by the NSW Rural Fire Service indicate that each lot can sustain a dwelling/existing dwelling without having to remove any significant vegetation to achieve suitable asset protection zones within each lot.

Based on the above, 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



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

No adverse impacts anticipated.

Noise & Vibration

No adverse impacts anticipated.

Bushfire

The site is identified as being bushfire prone.

In accordance with Section 100B - Rural Fires Act 1997, the application proposes a boundary adjustment/re-subdivision of bush fire prone land that could lawfully be used for residential or rural residential purposes. As a result, the applicant submitted a bushfire report prepared by a suitably qualified bushfire consultant. The application and report were forwarded to the NSW RFS. The NSW RFS have since provided a Bushfire Safety Authority, accepting the proposal subject to conditions. The conditions of the Bushfire Safety Authority have been incorporated into the consent conditions.

Safety, Security & Crime Prevention

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

Social Impact in the Locality

Given the nature of the proposed development 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 subdivision of the land and work linked to such a proposal. For example, maintained employment and expenditure in the development 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 right of access proposed as part of the boundary adjustment.

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.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

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

One written submissions was 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
Documents describe the development as boundary adjustment and subdivision.	Boundary adjustments are considered a form of subdivision and this would indicate why both are referenced throughout the application and associated documents. The application is considered to sufficiently details the proposed development.
Entry fence, gate and grid design is to be installed and match adjoining properties. This will facilitate stock safety and security.	There is no specific need to impose a set design for the access to the property other than a standard rural access associated with linking the entrance into the proposed right of access. This will be covered by conditions. Overall, the development has legal access and frontage to a public road. The location of the entry will not impact on any adjoining privately owned land. In particular, should a gateway/entry be proposed, it will occur between the subject lot and adjoining public road reserve. Costs associated with installing the entry and any fencing is a matter for the land owner. It should also be noted that changes can also be made to the access and fencing at a later date under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 without the need for Council approval.
Concern is raised over the ability to erect a dwelling onsite due to terrain. The development should not pre-empt approval.	Noted. The application is for a boundary adjustment only. It is considered that the applicant does not have to show that a dwelling can be erected on the property. For example, the applicant may want to undertake the boundary adjustment for agricultural purposes. In this case, it is considered that the application has
	presented enough material to indicate that a dwelling may be possible on the site, subject to a more site specific assessment. While the terrain does present limitations in areas, it is not dissimilar from other rural properties throughout
	the local government area that have shown to be capable of sustaining a dwelling.
The bushfire report subdivision layout plan does not match the proposed subdivision layout plan. Proposed lot numbers are also different. The credibility of the bushfire report is questionable.	Noted that the plans/lot layouts are slightly different. Nonetheless, the subdivision plan can still be used and the bushfire report interpreted to identify key issues such as threat location, separation of the thereat from dwellings/building envelopes, ability to impose the required asset protection zones within each property etc. The above difference was also pointed out to the NSW Rural Fire Service, who still issued a Bushfire Safety Authority.
	Overall, the difference in the boundary has more of an impact on the dwelling envelope rather than the existing dwelling. Given the dwelling envelope is not locked in and can be adjusted, the issue is not critical to the assessment. In addition, construction levels of



	any future dwelling can be increased to reduce asset
How does the applicant know there are no land slip	protection zone sizes. In terms of the different lot numbers, this is also noted. While confusing at first, the bushfire report can still be understood and recommendations adjusted and applied to the lots in the subdivision plan. There is no creditability issue with the bushfire report. It is more a case that it would have been done upfront to help guide decisions on the subdivision and that the subdivision has changed after. The key is to determine if the bushfire report is still useable, which in this case it is. Noted. The application is for a boundary adjustment only.
issues without qualified civil engineering detail.	Site constraints relevant to achieving a dwelling on the property would need to be addressed with any future application.
A flora and fauna evaluation was not considered as part of the bushfire report and should have been. The failure to consider flora variety, oil content and combustibility results in the report being questionable.	The comment in the bushfire report that a flora and fauna assessment was not done has been taken out of context. A flora and fauna assessment is normally a separate assessment carried out by a suitably qualified person (usually an ecologist) to assess the impacts of the development on flora and fauna. Therefore, the comment should not be construed as the bushfire consultant having no regard to the flora onsite when assessing the bushfire threat, impacts etc. It is considered that the report has accurately identified the vegetation type/threat within the report.
Slope in the bushfire report is questionable.	Following a site inspection and review of contours, the slope identified in the bushfire report is considered accurate.
The ill defined vegetation description refers to a proposed dwelling site beyond the parameters of the application.	As stated previously, it is common to request a dwelling envelope be shown on any proposed vacant lot with a dwelling entitlement. Furthermore, following a site inspection it is considered that the vegetation has been accurately identified for the purposes of the bushfire assessment.
Survey needed to clarify APZ's achievable within each lot.	The bushfire report and plans can be utilised to check APZ's are achievable. In addition, the existing dwelling is easily able to comply with the APZ requirements within the new lot. The dwelling envelope also appears possible. The dwelling envelope also has the benefit in that it is not set in place and can be adjusted or moved later with any future dwelling application (subject to a separate assessment). The future dwelling can also be designed to have a higher level of construction, which reduces APZ sizes. Based on the above, a survey showing the proposed APZ's is not considered warranted in this case.
Based on the bushfire report, Council should consider its duty of care for any future dwelling	It is considered that the reports submitted with the application and the assessment of the application by Council staff; demonstrate that the boundary adjustment is acceptable. Furthermore, a dwelling

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

application for proposed	appears possible on the proposed vacant lot, but will
the proposed vacant lot.	be subject to a separate 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

Council records indicate that Lot 2 DP 802621 is below 40ha and was created from an acquisition. Prior to the acquisition, the property comprised a parish portion. Furthermore, the parish portion formed part of a larger holding that has since be broken up. Therefore, Lot 2 DP 802621 would not have a dwelling entitlement or any existing contribution credit. Contributions on the re-creation of the lot will therefore attract contributions.

In terms of Lot 2 DP 1056817, a refused DA 25/86 for subdivision acknowledged the existing dwelling onsite. A site inspection confirmed that the dwelling is still habitable. Contribution credit will therefore be provided on the re-creation of this lot.

Based on the above, contributions will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

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

5. CONCLUSION

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

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

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

Attachments

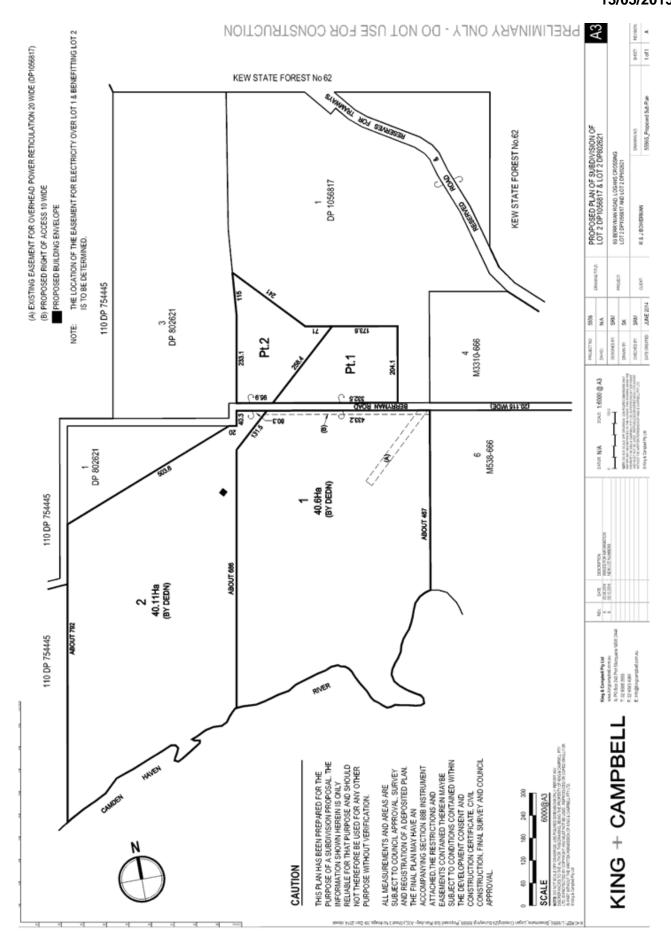
1View. DA2015 - 0135 Plan

2View. DA2015 - 0135 Recommended Conditions

3View. DA2015 - 0135 NSW Rural Fire Service Recommended Conditions

4View. DA2015 - 0135 Submission - Jennar





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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2015/135 DATE: 6/05/2015

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	Job 5556	King & Campbell Pty Ltd	February 2015
Proposed Plan of Subdivision	Drawing No 5556S_Proposed Sub Plan, Sheet 1, Revision B	King & Campbell Pty Ltd	5/12/2014
Bushfire Hazard Assessment		Midcoast Building and Environment	31/1/2013

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

- (2) (A004) An application for a Construction Certificate will be required to be lodged with Council prior to undertaking subdivision works and a Subdivision Certificate is required to be lodged with Council on completion of works.
- (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) (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;
 - 2. 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;
 - 4. 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.

- (5) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (6) (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 D15/0702 and dated 22 April 2015, are attached and form part of this consent.
- (7) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (8) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
 - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - 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,
 - remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

i. deposit with the Council, or

ii. an unconditional bank guarantee in favour of the Council.

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

B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
 - 1. Road works along the frontage of the development.
 - 2. New roads within the subdivision.
 - Stormwater systems.
 - 4. Erosion & Sedimentation controls.
 - Location of all existing and proposed utility services including:
 - Conduits for electricity supply and communication services (including fibre optic cable).
 - b. Water supply
 - c. Sewerage
 - d. Stormwater
 - Bridges/Major Culverts.
- (2) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

- Civil works
- Traffic management
- Work zone areas
- Hoardings
- Functional vehicular access
- (3) (B054) Where a vehicular access is provided, details (in the form of a longitudinal section) must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate demonstrating how the access will comply with Council's adopted AUSPEC Design and Construction Guidelines.
- (4) (A195) The Construction Certificate application for subdivision works is to include the following details:
 - Construction of the private right of access serving proposed Lot 2 over Lot 1, to AUS-SPEC 'Private Right of Carriageway' standard.
 - Upgrade of the driveway crossing within the Berryman Road reserve, which will be shared by both subdivision lots, to conform to AUS-SPEC Standard Drawing ASD 214.

Ongoing maintenance of the above works shall be a matter for the private landowners, at no cost to Council.

C - PRIOR TO ANY WORK COMMENCING ON SITE

(1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.

D - DURING WORK

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

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

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

E - PRIOR TO OCCUPATION OR THE ISSUE OF SUBDIVISION CERTIFICATE

- (1) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (2) (E008) Payment to Council, prior to occupation or the issue of the Subdivision Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
 - Hastings S94 Administration Building Contributions Plan
 - Hastings Administration Levy Contributions Plan
 - 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.
- (3) (E015) Prior to issue of the Subdivision Certificate, details of compliance with the Bushfire Safety Authority is to be provided to the Principal Certifying Authority.
- (4) (E034) Prior to occupation or the issuing of the Subdivision Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (5) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Subdivision Certificate or release of the security bond, whichever is to occur first.
- (6) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
 - The relocation of underground services where required by civil works being carried out.
 - The relocation of above ground power and telephone services
 - The matching of new infrastructure into existing or future design infrastructure
- (7) (E068) Prior to the issue of a Subdivision Certificate, written advice is to be submitted from the electricity authority confirming that its requirements for the provision of electricity services (including street lighting where required) have been satisfied and/or from the telecommunications authority confirming that its requirements for the provision of telecommunication services (including fibre optic cabling where required) have been satisfied.
- (8) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.
- (9) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (10) (E195) Registration of a right of access or equivalent easement on the plan of subdivision, over the proposed private right of access, benefitting proposed Lot 2.
- (11) (E196) Prior to release of the subdivision certificate, a restriction is to be placed on the title of proposed Lot 2 advising future owners that a development application will be required to build a dwelling on the property. The application for the dwelling will need to have regard for such matters as flooding and bushfire.

F - OCCUPATION OF THE SITE

nil



All communications to be addressed to:

Headquarters 15 Carter Street Lidcombe NSW 2141

Telephone: 1300 NSW RFS e-mail: csc@rfs.nsw.gov.au

Headquarters Locked Bag 17 Granville NSW 2142

Facsimile: 8741 5433



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

Your Ref: 2015/135 Our Ref: D15/0702 DA15031796170 DC

ATTENTION: Mr Clinton Tink 22 April 2015

Dear Mr Tink

Integrated Development for 2//802621 & 2//1056817 - 60 Berryman Road Logans Crossing 2439

I refer to your letter dated 13 March 2015 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:

The development proposal is to comply with the drawing titled 'Proposed Plan
of Subdivision of Lot 2 DP 1056817 & Lot 2 DP 802621' prepared by King &
Campbell, referenced 5556S_Proposed Sub Plan, Sheet 1 of 1, Revision A
and dated 20th June, 2014 as submitted in the 'Statement of Environmental
Effects Report' prepared by King & Campbell dated February, 2015.

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:

At the issue of subdivision certificate and in perpetuity, the land surrounding
the existing dwelling and structures within 10 metres on proposed Lot 1, to a
distance of 50 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'.

ID:96170/89767/5 Page 1 of 3

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:

- Any new electricity supply shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- 4. 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 1 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
 - Markers should be positioned adjacent to the most appropriate access for the water supply.

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 and search under 'Planning for Bush Fire Protection, 2006'.

Page 3 of 3

Page 1 of 10

2 April 2015

Mr Clinton Tink

Development and Environmental Services

Port Macquarie-Hastings Council

Submission in regard to:

Application No 2015/135

Applicant: King & Campbell Pty Ltd

Consent Authority: Port Macquarie-Hastings Council

Submission by:

Mr Scott & Mrs Karen JENNAR

Qualifications of Scott Jennar:

- 1. 'Diploma in Law' (LPAB), 2008 Bachelor of Laws Degree Equivalent
- 2. 'Graduate Diploma in Legal Practice', 2011 Australian National University
- 3. Currently in last year of a 'Masters of Laws, specialising in Environmental Law'
- 4. 'Diploma in Land Management', 2000 Orange TAFE

Qualifications of Karen Jennar:

1. 'Certificate III in Horticulture' (Parks And Gardens), 2003 - Hunter TAFE

Page 2 of 10

Dear Madam/Sir,

We would like to make comment in regard to Development Application (DA) No 2015/135.

1. Comment on proposed Boundary Adjustment

1.1 The proposal on the Notification states 'Boundary Adjustment', however the proposal as stated on page 8 at 3.1 'The Proposal', seeks consent for the 'subdivision' of the subject site so as to create two (2) separate Torrens title allotments of 40.6 ha (proposed Lot 1) and 40.11 ha (proposed Lot 2).

<u>Comment:</u> Part 4 of the <u>Port Macquarie-Hastings Local Environmental Plan 2011² provides guidelines for the principles to be applied with respect to development standards. Section 4.1 Minimum subdivision lot sizes, point (3); the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the <u>Lot Size Map</u> in relation to that land.</u>

1.2 The Applicant confirms that the minimum lot size for the subject site and surrounding land is identified as 40 Ha³, in line with Councils <u>Lot size Map</u> for RU1 Primary Production Land zoning under the provisions of the *Port Macquarie-Hastings Local Environmental Plan* 2011.

<u>Comment:</u> The proposal for a 'Boundary Adjustment' as detailed in the Applicant's Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP1056817 and Lot 2 DP802621 60 Berryman Road, Logans Crossing⁴ is considered reasonable.

¹ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 3.1, The Proposal, Page 8.

² Part 4; Principle development standards, S 4.1; Minimum subdivision lot size. *Port Macquarie-Hastings Local Environmental Plan* 2011. [3].

³ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 4.3.2 State Environmental Planning Policy (Rural Lands), Comment, Page 11.

⁴ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015.

Page 3 of 10

2. Comment on proposed Right of Access

2.1 The Applicant proposes to construct a gravel access driveway compliant with the provisions of the Rural Fire Service requirements to the frontage of proposed Lot 2⁵.

<u>Comment:</u> The proposed design and construction specifications of the access road to Lot 2 by the applicant are considered reasonable.

2.2 Provision: Minimum gate width of 3.6m should be provided to any property⁶.

The Applicant states that: No gate is proposed. However, it is noted that a frontage of 8.03m is proposed for Lot's frontage to Berryman Road and the application is therefore considered consistent with this provision.

Comment: It is not clear what the Applicant suggests by this comment? Following the purchase of Lot 1/1056817 in April 2006, we fenced our southern boundary and constructed an angled access to our property with double 12 Foot gates, incorporating a Cattle Grid off the right of carriageway at the end of Berryman Road. We also purchased and erected a 14 foot gate fronting the open carriageway to Berryman Road to assist with property stock control and to enhance asset security. This additional security gate will not be used, when living at the property permanently and may be removed in the future. Currently, there is a 12 foot gate situated on the western side of the carriageway, which is assumed will become the entrance to the proposed gravel access driveway. We suggest that a Cattle Grid should combine with the existing 12 foot gate, at the start of the right of access in keeping with the current 'Bowerman' and 'Jennar' property entry designs and facilitate improved stock safety and security.

⁶ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 4.6.1 DCP Chapter – 3.6 Subdivision, Comment, Page 13.

⁵ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 4.6.1 DCP Chapter – 3.6 Subdivision, Comment, Page 13.

Page 4 of 10

- Comment on the assumption that a Dwelling Approval will be granted for a proposed building envelope on the proposed Lot 2.
- 3.1 The Applicant states that: "This application does not seek consent for a dwelling. Any dwelling approval shall be the subject of a separate planning application."

<u>Comment:</u> We agree that a dwelling approval for the proposed Lot 2 will require a separate planning application. However, it is concerning to note, that the applicant suggests on numerous occasions that such an application will be straight forward.

- i. It is considered that the construction of a dwelling on proposed Lot 2 would not be inconsistent the character of the locality.⁸
- ii. It is considered that the granting of consent to the proposed subdivision will enable (subject to separate application) the construction of a similar dwelling on proposed Lot 2.9
- iii. The application seeks to create two lots above the minimum lot size of 40 ha and it is therefore considered suitable to contain a dwelling house, subject to separate planning approval.¹⁰
- iv. It is considered that the proposed subdivision will result in a lot layout and land area suitable for a dwelling to be located on proposed Lot 2 outside of the flood affected portion of the site.¹¹
- v. No detailed survey of the site has been undertaken in order to determine slopes across the site. From review of the contour mapping available online (six maps) it is considered that there are suitable grades available for a dwelling to be located within proposed Lot 2 (noting that any future dwelling is subject to separate planning approval).¹²
- vi. It is considered that proposed Lot 2 contains suitable area for future dwelling and a building envelope is demarcated on the attached Subdivision Plan.¹³
- vii. Any future dwelling will not encroach that area of the site identified as regionally significant.¹⁴

Item 08 Attachment 4

King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 2.4, Comment, Page 5.

⁸ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, Section 79C(1) "Matters for consideration", Comment, Page 10.

⁹ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 4.3.2 State Environmental Planning Policy (Rural Lands), Comment, Page 11.

¹⁰ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, Table 4.5.1 – Port Macquarie-Hastings Local Environmental Plan, Comment, Page 12.
¹¹ Ibid

¹² King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 4.6.1 DCP Chapter – 3.6 Subdivision, Comment, Page 13.

¹³ Ibid.

Page 5 of 10

<u>Additional Comment:</u> We do not consider it appropriate to pre-empt consent approval outside the parameters of the current application.

4. Comment on Bushfire Assessment

4.1 Please note that Midcoast's report refers to the lots differently to that shown on the proposed subdivision plan. <u>To remove confusion</u>, the below text refers to the lots as proposed on the attached subdivision plan. Proposed Lot 1 is the dwelling lot and proposed Lot 2 is the vacant lot.¹⁵

<u>Comment:</u> This section of the application contains significant errors. It is clear that incorrect Lot referencing has been inserted into this part. For example:

- i. "Any future development of proposed <u>Lot 1 (dwelling Lot)</u> will require the construction of a new property access road to any dwelling which is erected on <u>proposed Lot 1 (dwelling Lot)</u>. Future property access road/s constructed on <u>proposed Lot 1 (dwelling Lot)</u> are to comply with the relevant provisions of the property access road requirements of Section 4.1.3 of NSW Rural Fire Services, Planning for Bushfire Protection, 2006."¹⁶
- ii. "The construction of the proposed dwelling within the nominated building envelope on <u>proposed Lot 1</u> must comply with the relevant requirements of NSW Rural Fire Service, Planning for Bushfire Protection, 2006 particularly in relation to the provision of gutter and valley protection."¹⁷
- iii. "The construction of the proposed dwelling within the nominated building envelope on <u>proposed Lot 1</u> is to comply with the requirements of AS3959 – 2009 BAL 19 as amended by Appendix 3 of NSW Rural Fire Service, Planning for Bushfire Protection, 2006, refer to Appendix 4. This is based upon the provision of the required APZ's provided for in Table 8 of this report."

Additional Comment: Again, this application implies that a dwelling consent for the proposed vacant Lot will be straight forward and on the critical issue of Bushfire Assessment, the application is confused in referencing matters affecting the Dwelling Lot or Vacant Lot?

¹⁷ Ibid, P. 19

¹⁴ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 4.8.1 Mid North Coast Farmland Mapping Project, Comment, Page 15.

¹⁵ King + Campbell, Statement of Environmental Effects for Rural Subdivision (Boundary Adjustment) Lot 2 DP 1056817 and Lot 2 DP 802621 60 Berryman Road, Logans Crossing, Feb 2015, 4.8.2 Bushfire Hazard Assessment, Comment, Page 16.

¹⁶ Ibid. P. 17

¹⁸ Ibid, P. 19

Page 6 of 10

5. Bushfire Hazard Assessment Report - Midcoast Building and Environmental

5.1.1 It is proposed to undertake a boundary adjustment between the existing two (2) lots so as to continue to provide for two (2) separate rural allotments each which is capable of supporting separate residential occupation. It is also proposed to construct a new dwelling on proposed Lot 1, (the lot which would be vacant of residential occupation), whilst the existing dwelling and associated infrastructure is proposed to be located on proposed Lot 2.¹⁹

This report is confidential and the writer accepts no responsibility of whatsoever nature, to third parties who use this report or part thereof is made known. Any such party relies on this report at their own risk.²⁰

This report has been based upon the vegetation characteristics observed at the time of site inspection. No responsibility is taken where the vegetation characteristics of the subject site or surrounding areas is changed or modified beyond that which is presented within this report.²¹

<u>Comment:</u> The credibility of this report must be questioned, given the lack of 'duty of care' in respect to the incorrect Lot referencing and an upfront disclaimer on the report's content accuracy, accountability and liability.

5.1.2 Whilst areas of land slope which are greater than 18 degrees are present on the subject site, the nature and location of the proposed residential development is such that there are no issues of land slip significance.²²

<u>Comment:</u> On what basis is this statement made? Where is the supporting qualified civil engineering data to support this claim?

5.1.3 A fauna and flora evaluation has not been undertaken in conjunction with this bushfire hazard assessment and as such issues pertaining to fauna and flora are outside the scope of this report.²³

<u>Comment:</u> A Bushfire Report which ignores the on-site flora variety and in particular fails to consider oil content and combustibility of the localised plant matter may be judged questionable.

1

¹⁹ Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 1.0 Introduction, Comment, P. 5

²⁰ Ibid, P.5

²¹ Ibid, P.5

²² Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, Table 2 – Environmental and Heritage Features, Comment, P. 9

²³ Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 1.5 Fauna and Flora Issues, Comment, P. 10

Page 7 of 10

5.1.4 Slope is a major factor when assessing the bushfire hazard of the proposed subdivision and relocation of the ecotourism development. The topography area is undulating, however slope on the subject site is in the main dominated by a large hill the crest of which in the north-western aspect of the subject site. It is however noted that a large area of the subject site contains gentle to moderate west to east down slopes.24

Table 4 – Hazard Vegetation Slopes, provides details of the assessed slope angles at the existing dwelling location and a proposed dwelling location on the vacant lot.25

Comment: Lot referencing for the vacant lot is incorrect (stated lot 1, but should be lot 2) and the stated figures for vacant lot labelled: 'possible future residential dwelling' are challenged. Please refer to the attached topography area map on page 10 of 10, and in particular, please note the steepness to western and eastern side of the hill crest on the north east boundary of the proposed lot 2 and Lot 1, where the applicant refers to a 'suitable building envelope'.

5.1.5 Areas of grassland including Pasture Grasslands and horticultural activities are present over the majority of the subject site with scattered/clusters of trees present in conjunction with the Grasslands. Whilst some of the Grasslands areas are being actively used in conjunction with grazing and other horticultural activities a conservative approach has been adopted in relation to this assessment with a Grassland classification being adopted regardless of the opportunities which exist to classify areas as being managed vegetation.²⁶

Comment: This ill-defined vegetation description refers to a proposed dwelling site beyond the parameters of this application.

5.1.6 Table 5 - Summary of Vegetation Characteristics for Proposed Lot 1 (Proposed New Dwelling) and Proposed Lot 2 (Existing Dwelling).²⁷

Comment: Again, Lot referencing for the vacant lot is incorrect and the table refers to a proposed new dwelling, which is beyond the parameters of this application.

²⁶ Ibid, p. 12

²⁴ Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 2.3 Slope Assessment, Comment, P. 11-12

²⁷ Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 2.3.2 Vegetation on Adjoining and Adjacent Land to Subject Site, Table 5 - Summary of Vegetation Characteristics, Comment, P. 15

Page 8 of 10

5.1.7 Table 7 – Minimum Defendable Space/Assest Protection Zone Requirements (PfBP 2006) for Proposed Lot 1 (Proposed New Dwelling) and Proposed Lot 2 (Existing Dwelling).²⁸

<u>Comment:</u> Again, Lot referencing for the vacant lot is incorrect and the table refers to a proposed new dwelling, which is beyond the parameters of this application.

5.1.8 Table 8 – Asset Protection Zone requirements (isolated Rural Development) for Proposed Lot 1 (Proposed New Dwelling) and Proposed Lot 2 (Existing Dwelling).²⁹

<u>Comment:</u> Again, Lot referencing for the vacant lot is incorrect and the table refers to a proposed new dwelling, which is beyond the parameters of this application.

5.1.9 Given the size and shape of proposed Lot 1, it will be possible for any future residential building to be positioned within the nominated building envelope in a manner which allows for compliance with the APZ requirements of the NSW Rural Fire Service, Planning for Bushfire Protection, 2006.³⁰

<u>Comment:</u> Again, Lot referencing for the vacant lot is incorrect and the reference to a proposed new dwelling, is beyond the parameters of this application. Additionally, a credible and accurate survey would be required to satisfy this significant development restraint.

5.2.1 As proposed Lot 1 will not be serviced with reticulated mains water supply the erection of a dwelling on the proposed allotment will need to incorporate the provision of a minimum 20,000 litre water tank which is available for fire-fighting purposes. In this regard any pump used to supply water for fire-fighting purposes should be adequately shielded from bushfire hazard.³¹

<u>Comment:</u> Again, Lot referencing for the vacant lot is incorrect and the reference to a proposed new dwelling, is beyond the parameters of this application.

2

²⁸ Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 3.1.1 Defendable Space/Asset Protection Zones, Table 7 – minimum Defendable Space/Asset Protection Zone Requirements 9PfBP 2006), Comment, P. 16

²⁹ Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 3.1.2 Isolated Rural Development, Table 8 – Asset Protection Zone requirements (isolated Rural Development), Comment, P. 17

³⁰ Ibid, P. 18

³¹ Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 3.1.5
Services – Water, Gas and Electricity, Comment, P. 21

Page 9 of 10

5.2.2 It is considered that the proposed subdivision of Lot 2 DP802621 and Lot 2 DP1056817, 60 Berryman Road, Logans Crossing is at risk of bushfire attack; however it is in our opinion that that with implementation of the bushfire threat reduction measures and consideration of the recommendations in this report. the bushfire risk is manageable for the proposed development.32

Comment: Council should dismiss this report, due to the incorrect Lot referencing for the vacant lot and repeated referencing to a proposed new dwelling, which is beyond the parameters of this application. The accuracy of the surveys carried out is questionable and it is arguable that the bushfire threat reduction measures proposed do not mitigate the landform constraints presented on the proposed vacant lot.

6. Council's Duty of Care when exercising statutory powers or performing statutory duties.33

A public authority may be subject to a common law duty of care when it exercises a statutory power or performs a statutory duty.³⁴ Whether public authorities will be subject to a duty of care owed to a particular person or class of persons on the facts of a particular case, depends on the statutory framework, the nature of the harm caused (physical or economic). 35 Where the duty contended for is in relation to pure economic loss, then five principles need to be considered in determining whether there is a duty of care:36

- Reasonable foreseeability of harm; i.
- Indeterminacy of liability; ii.
- iii. Autonomy of the individual;
- Vulnerability to risk; and iv.
- The knowledge of the risk and its magnitude ٧.

Comment: While, the proposed Boundary Adjustment in Application 2015/135 does not present complication or significant issues, Council should carefully consider the context of their 'duty of care' in relation to the Bushfire risks associated with any future dwelling application for the proposed vacant lot 2.

35 Ibid.

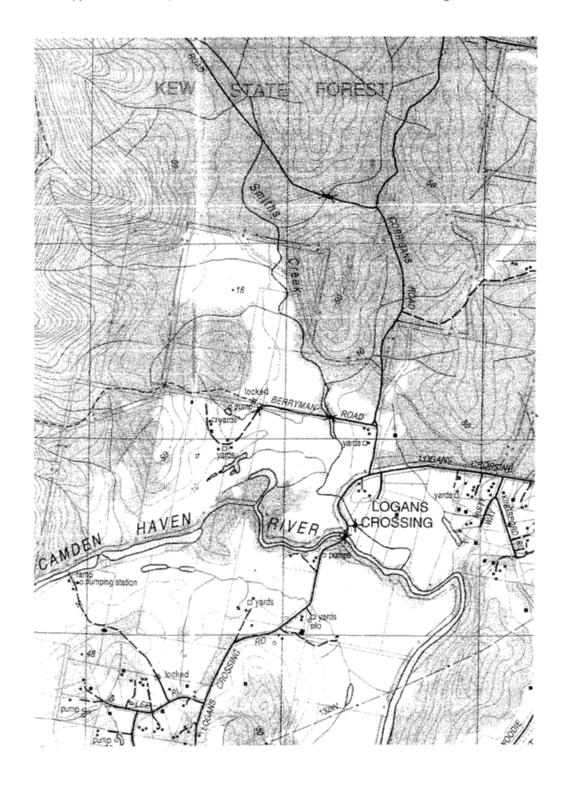
³² Mid Coast Building and Environmental, Bushfire Assessment 60 Berryman Road, Logans Crossing, 6.0 Conclusion, Comment, P. 26

College of Law Lecture, Sydney Jacobs, LL. M (Cambridge) Barrister, 13 Wentworth Chambers, Liability of Councils in tort and section 149 EP & A Certificates, March 2013.

Ibid, p. 3 [12].

³⁶ Per Preston CH in LEC in the WDD case, Woolcock street Investments Pty Ltd v CDG Pty Ltd (2004) 216 CLR

Page **10** of **10**



Item: 09

Subject: DA2015 - 94 - MULTI-DWELLING HOUSING COMPRISING 10

DWELLINGS AND STRATA SUBDIVISION - 15B RACEWYN CLOSE,

PORT MACQUARIE

Report Author: Patrick Galbraith-Robertson

Property: Lot 2 DP 1175919, 15B Racewyn Close, Port Macquarie

Applicant: Beukers and Ritter Consulting P/L

Owner: Tronmill Pty Ltd Application Date: 18 February 2015

Estimated Cost: \$1.7M

Location: Port Macquarie File no: DA2015 - 94

Parcel no: 62545

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2015 - 94 for multi-dwelling housing comprising 10 dwellings and strata subdivision at Lot 2, DP 1175919, No. 15B Racewyn Close, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

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

Following exhibition of the application, three (3) submissions have been received.

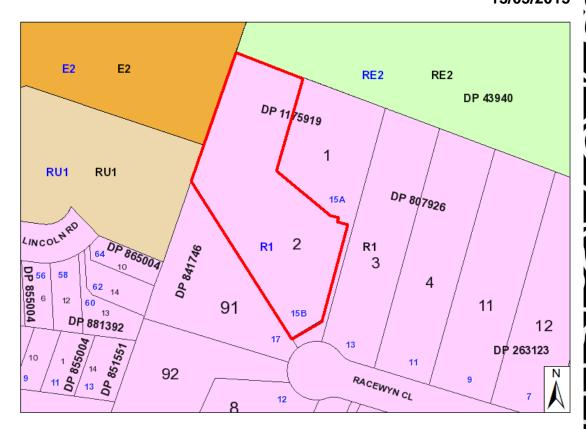
1. BACKGROUND

Existing sites features and Surrounding development

The site has an area of 5481m2.

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





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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

Construction of 10 x 3 bedroom single storey dwellings and strata subdivision

Refer to attachments at the end of this report.

Application Chronology

- 18 February 2015 DA lodged.
- 24 February 2015 Referral to the NSW Rural Fire Service
- 27 February to 12 March 2015 neighbour notification of proposal
- 26 March 2015 Bushfire safety authority issued by the NSW Rural Fire Service

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 14 - Coastal Wetlands

The mapped coastal wetlands are identified as being on the adjoining part E2 zoned Environmental Conservation land. The proposal will not have any identifiable adverse impacts on the existing nearby wetlands having regard to standard erosion and sediment control requirements and stormwater drainage management (refer comments later in report).

State Environmental Planning Policy No. 44 - Koala Habitat Protection

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

State Environmental Planning Policy No.55 – Remediation of Land

Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

State Environmental Planning Policy No. 62 - Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the Hastings River approximately 2.5 kilometres from the site.



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

A BASIX certificate (number 608468M) 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 proposed development for multi dwelling housing is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

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

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

- the proposal is a permissible landuse;
- the proposal will provide for a variety of suitable housing type at a medium density.
- Clause 4.1A Exceptions to min lot size in residential zone permitted for strata title.
- Clause 4.3, the maximum overall height of the building above ground level (existing) is approximately 5.3 m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.2:1.0 which complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 5.9 no listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 5.10 Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.1, the site is mapped as potentially containing class 3 acid sulfate soils.
 The proposed development includes works which will be unlikely to excavate more
 than 1m below the natural surface level. Therefore no adverse impacts are
 expected to occur to the acid sulphate soils found on site.
- Clause 7.3, the site is land within a mapped "flood planning area" (Land subject to flood discharge of 1:100 annual recurrence interval flood event (plus 0.9m East of the Pacific Highway) only partly on the western boundary. 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



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

- 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 and 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.
- o No freeboard flood levels required as site building pad levels are high enough.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

No draft instruments apply to the site.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
	Front setback (Residential not R5 zone): • 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	Min. 9.7m front setback	yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Garage door of garage 1 aligned on the back side of dwelling to internal driveway	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	45% driveway proportion of property frontage. Driveway minimal width as practically possible and collocated with second lot to rear which has benefit of same access point to cul-desac of Racewyn Close.	No - refer comments beside
3.2.2.4	4m min. rear setback.	Min. 5.6m rear setback	Yes

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
	Variation subject to site analysis and provision of private open space		
3.2.2.5	 Side setbacks: Ground floor = min. 0.9m First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. Building wall set in and out every 12m by 0.5m 	Min. 2.55m south side setback Min. 3.3m north side setback Considered no need for building walls to be articulated given generous side setbacks and drainage reserve on southern boundary. Dwellings are not all adjoining and single storey alongside boundaries.	Yes Yes No - refer comments beside
3.2.2.6	35m2 min. private open space area including a useable 4x4m min. area which has 5% max. grade	All dwellings have >35m2 private open space with usable grade with the exception of Unit 3 and 4 all have 4x4m areas. Units 3 and 4 have a minimum 3 and 3.3 - 3.6m areas however have space which exceeds the minimum 35m2 area by at 25m2 to approximately 60-70m2. These areas are considered useable and therefore meet the DCP objectives	Yes/No - minor variation refer comments beside
3.2.2.7	 Front fences: If solid 1.2m max height and front setback 1.0m with landscaping 3x3m min. splay for corner sites Fences >1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings 0.9x0.9m splays adjoining driveway entrances Front fences and walls to have complimentary materials to context 	No front fence within 5.7m of front boundary	n/a
3.2.2.8	No chain wire, solid timber, masonry or solid steel front	n/a	

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

	Requirements	Proposed	Complies
	fences		
3.2.2.10	 Privacy: Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m 	No 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.	yes

	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	Cut and fill ground level changes less than 1m change	yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.2	New accesses not permitted from arterial or distributor roads	n/a	



	Requirements	Proposed	Complies
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing minimal width as practically possible	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 10x1.5 spaces = 15 spaces 1 / 4 visitor = 3 visitor spaces	10x 3 bedroom dwellings (note multi-purpose rooms counted as bedrooms with cavity slider doors) 13 parking spaces within garages + 6 visitor 19 spaces total	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Indicative landscape plan satisfactory	Yes
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway proposed	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Driveway grades capable of compliance with Council standards	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	On-site detention proposed within driveways - refer comments later in report.	Yes
	Vehicle washing facilities – grassed area etc available.	Grassed areas available to wash vehicles on-site	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 relating to the site.

iv) any matters prescribed by the Regulations:

n/a

- v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates:
- No Coastal Zone Management Plan applies to the subject site.
- (b) The likely impacts of that development, including environmental impacts on both the natural and built environments, social and economic impacts in the locality:

Context & Setting

The site has a general south street frontage orientation to Racewyn Close. Adjoining the site to the north is the Port Macquarie Racecourse.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

The site is within a horse precinct which has historically evolved due to proximity to the Port Macquarie Racecourse. Racewyn Close in particular is primarily characterised as having residential zoned lots occupied by existing dwellings with several properties having horse stables and open space areas sectioned off for horses. Many of the properties have horses which regularly train at the adjoining racecourse.

Adjoining the site to the north-east is a residence with an existing shared accessway with the subject development site.

Adjoining the site to the east is a residence with large horse stables/shed located central within the site.

Adjoining the site to the south is a residence with large horse stables/shed located central within the site.

Adjoining the site to the west is rural and environmental protection zoned property occupied by an existing residence.

A recent approval DA2014-207 nearby approved 7 additional multi dwellings at No. 7 Tulloch Road in the location shown green below:



As part of the assessment of the nearby approved DA 2014 - 207 referred to above a specialist noise and odour assessment was submitted with that application. The Assessment concluded that the proposal is unlikely to be adversely impacted on by noise and odour associated with horse training. It is considered that a very similar outcome would apply to the subject site to not warrant refusal of the application on potential landuse conflict with odour or noise impacts. A copy of the assessment is attached to this report for reference.

The closest bedroom windows within the closest proposed dwelling (dwelling 1 and 6) to the nearest stables to the east are at a distance of approximately 20m with access driveways between this space both on the subject site and the adjoining site to the east. The applicant has stated that this will afford sufficient separation between

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

the stables and the dwellings to afford acceptable amenity. It is agreed that this is satisfactory also noting that the buildings are single storey and there is an existing full length 1800 boundary fence particularly between the eastern adjoining property and the site. The application is considered to not warrant refusal on these grounds.

Based upon the unlikely potential for any significant noise, odour or traffic conflict within the precinct identified, the proposal will be unlikely to have any identifiable 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.

The proposal does not have a significant adverse impact on any existing significant views.

The proposal will not result in any identifiable adverse lighting impacts.

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

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

Roads

The site has road frontage to Racewyn Close, a Council owned road with an AUS-SPEC classification of 'Local Street'. The carriageway has a width of approximately 10m between kerbs, and the kerbs are 'rollover' (SE) type. The site is at the end of a cul-de-sac.

The site is about 520 metres by road from the Oxley Highway / Lake Road roundabout, via Racewyn Close, then Tulloch Road, then Sherwood Road.

Traffic and Transport

A submission received in relation to the DA expressed concerns with the capacity of the Racewyn Close cul-de-sac and nearby local roads. In particular, the existing nearby properties include racehorse training facilities, and a number of trainers walk horses within Racewyn Close daily.

This residential development is likely to generate an average of 7 daily vehicle trips per dwelling, or 70 daily trips in total. Approximately 7-14 of these trips (10-20 percent) would be expected to be experienced in each peak hour. There are existing guidance signs within Racewyn Close and Tulloch Road informing traffic of the presence of horses on the road. The road currently has around 15 residential dwellings, most of which have horse facilities attached. This number of traffic generators is within the AUS-SPEC limits for a 'Local Street'.

The incremental increase in traffic associated with the development is within the capacity of the existing road network within the immediate locality.

Site Frontage & Access

Vehicle access to the site is proposed though a new single driveway crossover of 5m width, to be shared by the new residential strata development, as well as the existing dwelling on a separate Torrens title, using a reciprocal right of access. Considering



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

the warrants for two-way flow specified in AS 2890, the available sight lines, low speed environment, available turning area and the likely volume of traffic using the driveway, the driveway is not required to be widened for two-way flow. Access shall comply with Council AUS-SPEC 'heavy duty' standard and Australian Standards, and conditions have been imposed to reflect these requirements.

There is not enough frontage width at the kerbside for all garbage bins associated with the new residences, so collection by private contractor will be required by a condition of consent.

The driveway layback within the road reserve will need to be reconstructed to Council's ASD 202 standard to cater for the increased traffic flow. A 1.2m wide footpath shall be provided (for the minor length of the property frontage) to formalise pedestrian access across the driveway.

Parking and Manoeuvring

A total of 6 on-site parking spaces have been provided in addition to one or two-car garages for each proposed dwelling. Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890). A dedicated area for turning will be required at the (western) end of the access aisle on the site.

Conditions have been imposed to reflect these requirements.

Water Supply Connection

Council records indicate that the development site has an existing 20mm sealed water service from the existing 100mm ductile iron water main on the same side of Racewyn Close. The existing hydrant must be re-located clear of the proposed driveway. The water service plans attached to the development application are not acceptable in their present form.

Sewer Connection

Council records indicate that there is an existing 150mm sewer main that runs parallel to the South Western boundary of the site approximately 3.5m inside of the property. This main connects to two manholes within the property and one at the property frontage. There is an existing junction to the manhole at the property frontage and is connected to Lot 1. The supplied Sewer reticulation strategy is acceptable.

Stormwater

The site naturally grades towards the south and west where there is an easement and open swale for drainage of Council's road and adjacent properties. There is an existing inter-allotment drainage pipe through the development site, servicing the adjacent property at 15A Racewyn Close. This pipe is proposed to be retained.

The legal point of discharge for the proposed development is defined as a direct piped connection to Council's stormwater easement or a reserve to be dedicated as proposed.

Public submissions in response to the DA highlight concerns that the development should not worsen the drainage performance of the existing easement at the western end of Racewyn Close.



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

The proposal is to dedicate to Council the 3.5 to 4m wide strip of land which is currently the easement and existing swale along the southern boundary. Conditions of consent have been recommended to ensure hydraulic calculations and details of proposed public infrastructure works are provided with a Construction Certificate application to Council to show no negative impacts will result. Works will be required to ensure long term functionality, access and ease of maintenance by Council.

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

In accordance with Councils AUS-SPEC requirements, the following must be incorporated into the stormwater drainage plan:

- a) Hydraulic study confirming that onsite detention would have negligible beneficial impact on the downstream stormwater regime (being close to the tail waters).
- b) Water quality controls (Comment where development results in greater than 2500m2 impervious area)

Refer to relevant conditions of consent.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

Following a site inspection (and a search of Council records) no known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated.

Other land resources

The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

Water cycle

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

Soils

The proposed development will be unlikely to have any adverse impacts on soils in terms of quality, erosion, stability and/or productivity subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction.

Air and microclimate

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



Flora and fauna

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

Waste

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated. Standard precautionary site management condition recommended.

Energy

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

Noise and vibration

No adverse impacts anticipated. Refer context impacts addressed above. Condition recommended to restrict construction to standard construction hours.

Bushfire

The site is identified as being bushfire prone.

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

The Commissioner has assessed the development and has issued a Bushfire Safety Authority subject to conditions which will be required to be incorporated into the development consent.

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

No adverse impacts. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as expenditure in the area.



Site design and internal design

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

Construction

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

Cumulative impacts

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

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

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

Site constraints of bushfire risk and potential for landuse conflict have been adequately addressed and appropriate conditions of consent recommended.

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

Three (3) written submissions have been received following neighbour consultation of the application. It is noted that the owner's consent was provided from the owners of adjoining 15A Racewyn Close however an objection has been lodged.

The location of the objections received are identified as follows:



DEVELOPMENT ASSESSMENT PANEL 13/05/2015



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



DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Submission Issue/Summary	Planning Comment/Response
Length of notification timeframe not long	There may have been an issue with
enough with receipt of letter being 19	post taking time to deliver notification
days after date on letter.	letter. Submission has been received
days after date of fetter.	and is being considered in any case.
	No extension to submission timeframe
	was considered necessary as it is
	unlikely to identify additional issues. All
	submitters invited to Development
	Assessment Panel where further
	representations can be made.
With heavy rain very concerned with	Refer to comments earlier in this report
bottom of Racewyn Close which is like a	to address stormwater management.
big swimming pool water up to the gutter.	Conditions of consent are
Request that Council look at drainage	recommended to manage stormwater.
problem in this street.	recentificated to manage eterminates.
Racewyn Close is a horse training street	If horses being walked within the street
where horses work every morning by	to the nearby Racecourse becomes an
taking horses over to the Racecourse via	issue with potential conflict with
Racewyn Close. Council should look into	vehicles coming to and from the site
more signage in the street for horses.	then the horse owners have the option
With the extra amount of traffic in the	for loading horses into horse trailers
street it could get quite dangerous for	within their own site and transporting
horse and rider with people driving into	the horses by the horse trailers. It
the street that don't know anything about	should be noted that the proposal will
horses.	generate approximately 70 daily
Racewyn Close is also used by horses to	vehicle trips in total.
access the Port Macquarie Racecourse	The street is a cul-de-sac and is
and horses are on the street daily in the	considered to be low traffic speed
morning period up until 9.30am and	environment.
trainers use the street to walk their horses	There are existing guidance signs
of an afternoon.	within Racewyn Close and Tulloch
Additional traffic generated by a	Road informing traffic of the presence
residential dwelling of this nature is not	of horses on the road. Any additional
conducive to a safe environment for the	signage within the street could be
horses and workers as there will be an	investigated separately to this
increase in safety issues and potential for	application.
accidents.	
Concern with extra traffic in the street. For	
a cul-de-sac street it is always full of cars,	
trucks, horse floats and quite often horses	
etc always making it a very cautious	
journey up and down the street.	
The adjoining property is used for	The closest bedroom windows within
commercial purpose of training	the closest dwellings (dwelling 1 and
thoroughbred racehorses, as is the	6) to the nearest stables to the east
majority of Racewyn Close. My stable	are at a distance of approximately 20m
commences work at 4am daily and	with access driveways between this
operates seven day per week. We feel	space both on the subject site and the
that a residential development next door	adjoining site to the east. This will
will find these hours quite disturbing. In	afford sufficient separation between
our industry it is very hard to minimise	the stables and the dwellings. The
noise.	buildings are single storey and there is
	an existing full length 1800 boundary

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

	fence between properties.
	Given the Odour and Noise Assessment that was previously undertaken for the other multi - dwelling housing proposal approved in Tulloch Road, together with this buffer, it is considered that refusal of the application is not justified on these grounds.
The noise generated from a construction site would be detrimental for the rest period of the horses during the day and would then reflect on race performances and result in reduction of income to the stable.	Site construction management is to be managed by the Contractor/Builder for the project. Standard hours of construction will be required to be adhered to.
The increase in traffic during construction with trucks and earthmoving equipment will also create safety issues and resulting in potential Workers Compensation and Public Liability Claims.	The site construction management is to be managed by the Contractor/Builder for the project.
There is a storm water easement on the development property which my property and others are tapped into. I have concerns that damage may be caused because of this development and as a result, flooding to my property may occur. The drain at the front corner of the land to be developed collects stormwater from adjoining properties. Will this drain or its' pipes be effected in any way during construction. If so what will be done to ensure that the stormwater for the street will drain freely and the neighbours will not be left with any resulting problems.	The proposal is to dedicate to Council the 3.5 to 4m wide strip of land which is currently the easement and existing swale along the southern boundary. Conditions of consent have been recommended to ensure hydraulic calculations and details of proposed public infrastructure works are provided with a Construction Certificate application to Council to show no negative impacts will result. Works will be required to ensure long term functionality, access and ease of maintenance by Council.
As the majority of Racewyn Close is used for the stabling and training of a large number of thoroughbred racehorses. The development nature is not practical or suitable for this street.	The property and the remainder of the street are zoned residential. Multi dwelling housing is a permissible landuse with consent. No Council policy has been introduced to prevent consideration of such development.
Concern with how rubbish bins will be stored and collected. Living next door we would not appreciate having large amounts of bins being stored directly over the boundary fence.	It is proposed to arrange for private contract collection of individual unit bins, by small truck garbage contractor. The turning bay at the rear provides adequate manoeuvring. This will be provided under strata management. A condition is recommended in this regard.
Our house and land will potentially devalue by up to \$100,000 having this many villas next door. This is based on real	Investigating any impacts on property valuation is not a consideration for consideration under the planning

AGENDA

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

octato agents advice	logislation to which the proposal is
estate agents advice.	legislation to which the proposal is
	assessed under. The proposal
	complies with planning guidelines for
	the site as justified through this report.
Although perhaps short term, I hold	Builders and contractors are not
concerns for the construction period as a	permitted to block access to driveways
business run from home nearby and	to existing properties during the
clients frequent driveway to park at the	construction period unless permission
front door as street parking is rarely	is granted by the owner's of affected
available. Concern is raised that the	properties.
development will prevent our driveway	proportion.
from being accessible at all times. Even	
once construction is complete how it	
access guaranteed to be retained to	
nearby properties.	
Is there adequate off street parking	There are 6 visitor parking spaces
appointed to this development. There is	proposed on-site which complies with
no room for more cars to be parked in the	Council's development control
already overflowing street.	guidelines.

(e) The Public Interest:

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

The Applicant has requested a deferral of contributions payments by way of Caveat to be placed on the title to restrict sale rather than a bank guarantee. Refer to draft contribution schedule attached to this report and recommended conditions.

5. CONCLUSION

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

Issues raised during assessment and neighbour consultation 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 any identifiable 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.



AGENDA

DEVELOPMENT ASSESSMENT PANEL 13/05/2015

Attachments

1 View. DA2015 - 094 DA Plans

2View. DA2015 - 0094 Noise and Odour Assessment

3 View. DA2015 - 0094 Recommended Conditions

4View. DA2015 - 0094 Submission - Boag

5View. DA2015 - 0094 Submission - Graham

6View. DA2015 - 0094 Submission - Sprague



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PROPOSED 10xUNITS

FOR: HIBBARDS P/L

PORT MACQUARIE 15b RACEWYN CL

DRAWING No 9.75

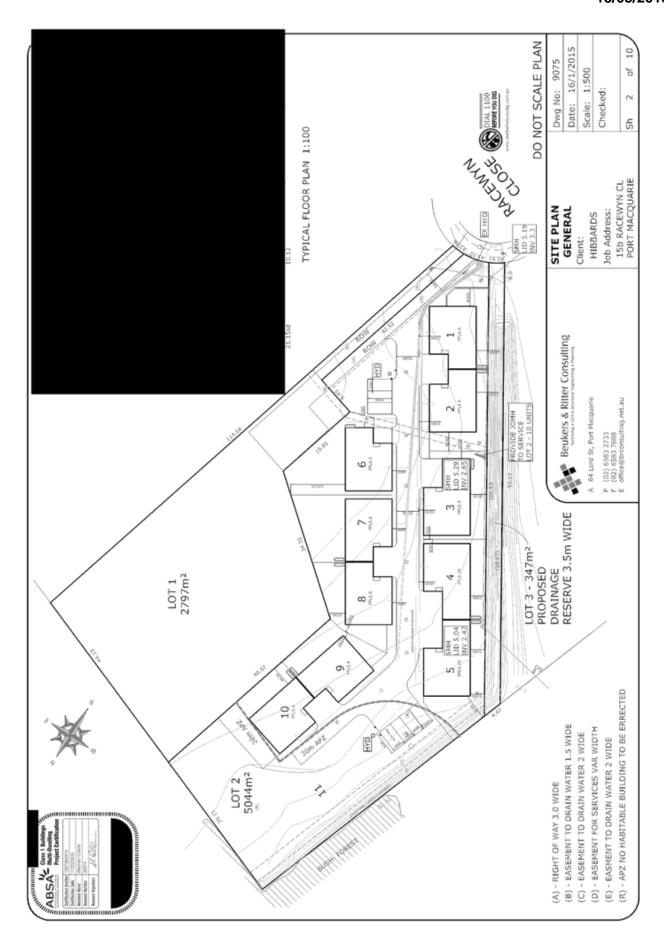
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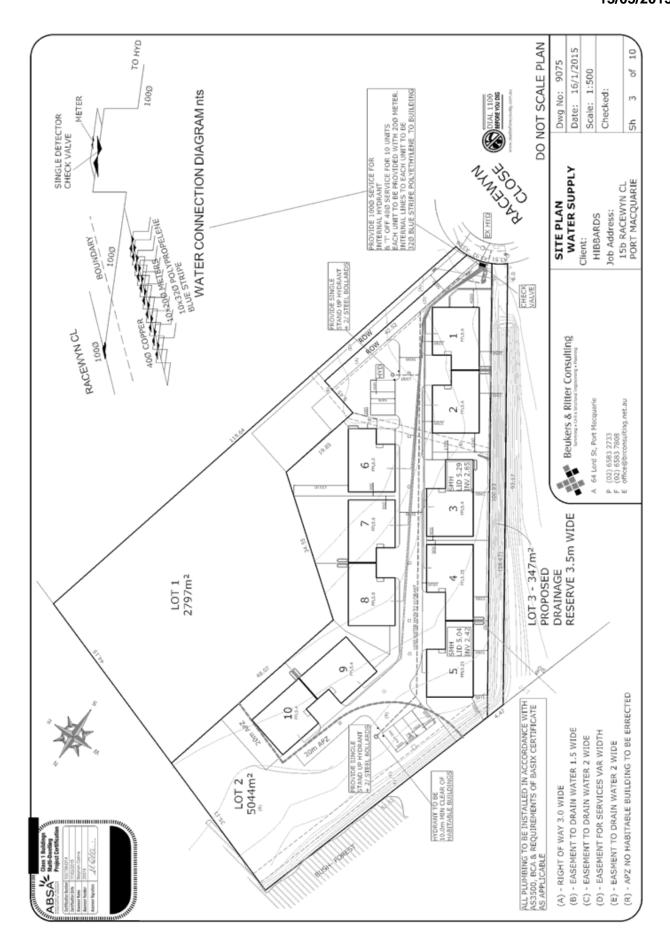
64 Lord St, Port Macquarie Ø а ш ш

(02) 6583 2733 (02) 6583 7808 office@brconsulting.net.au

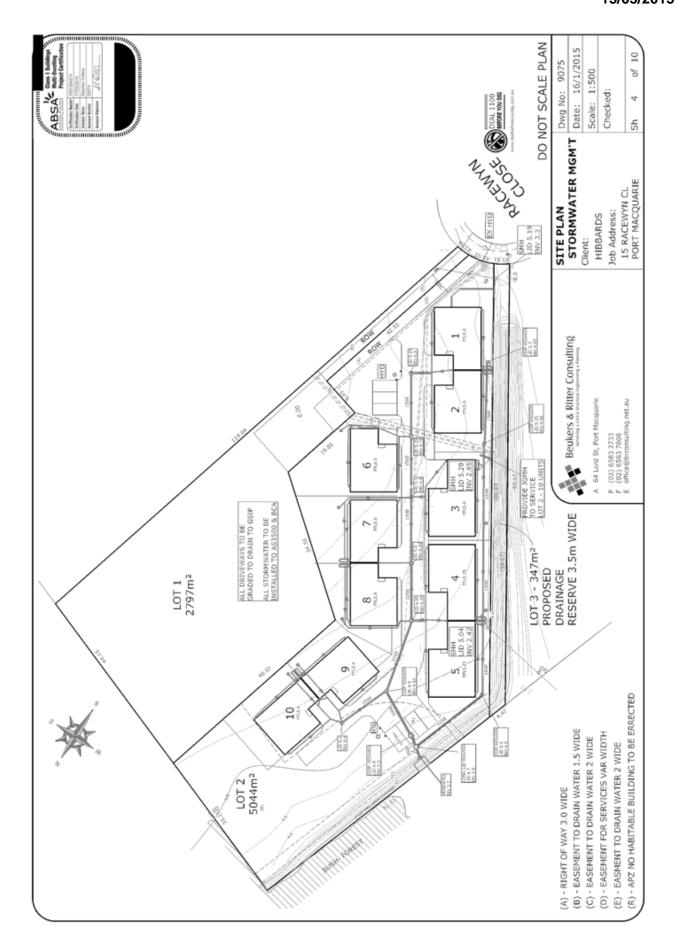
BUILDING/ENGINEERING DETAILS

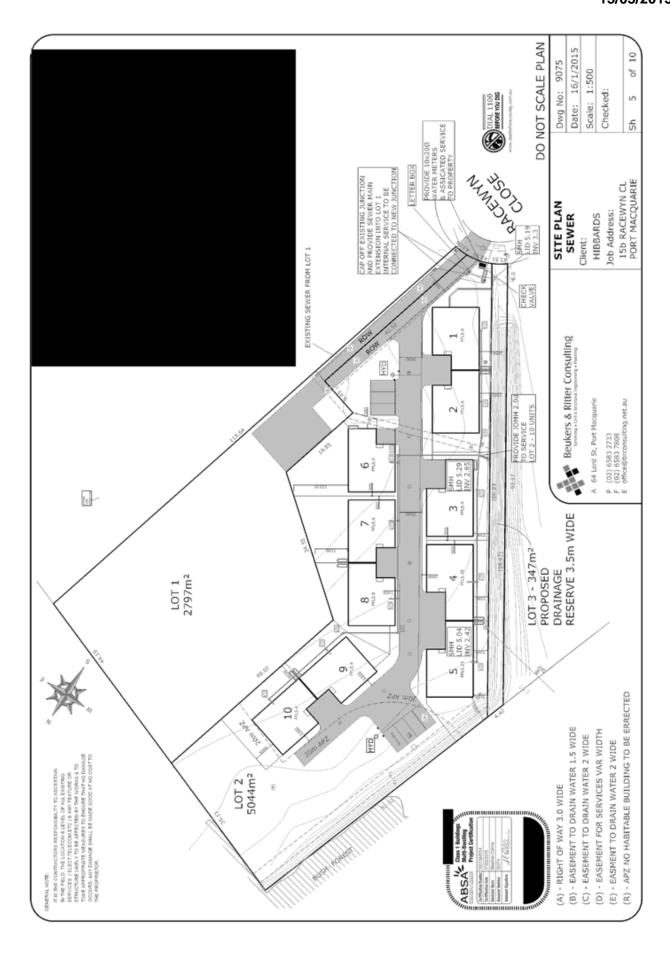


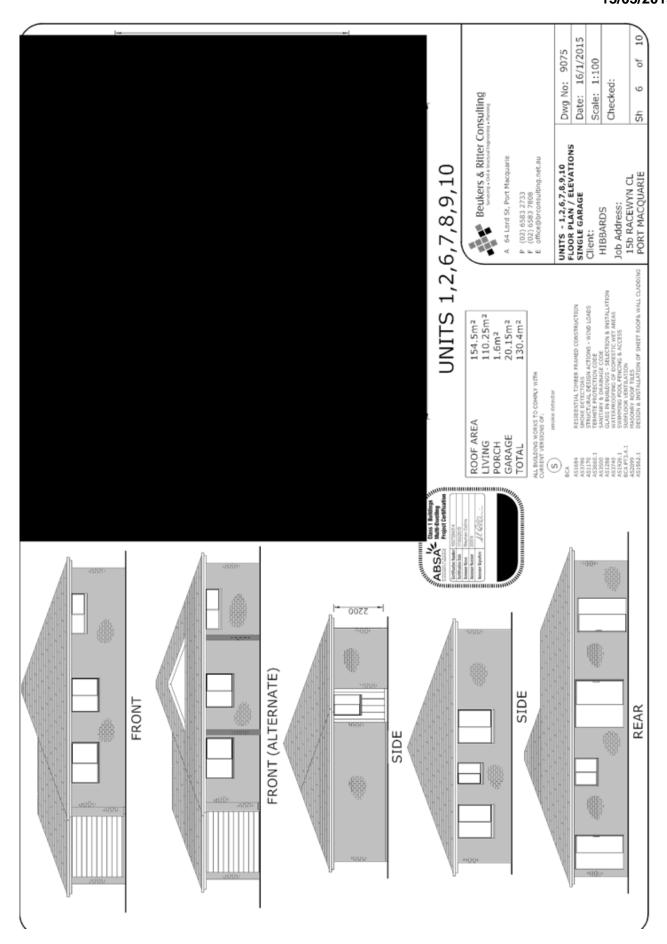




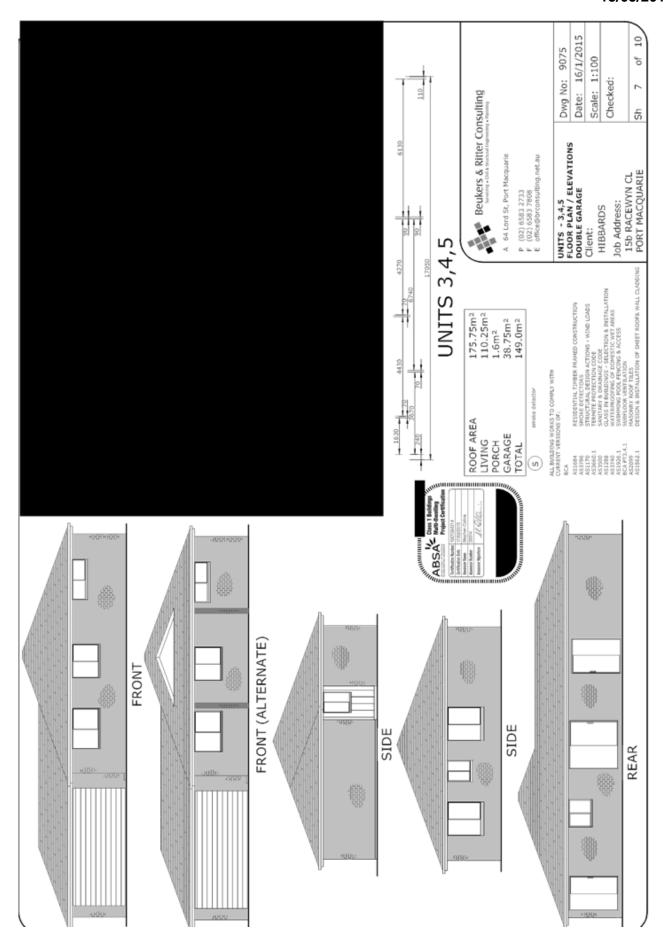
Page 152



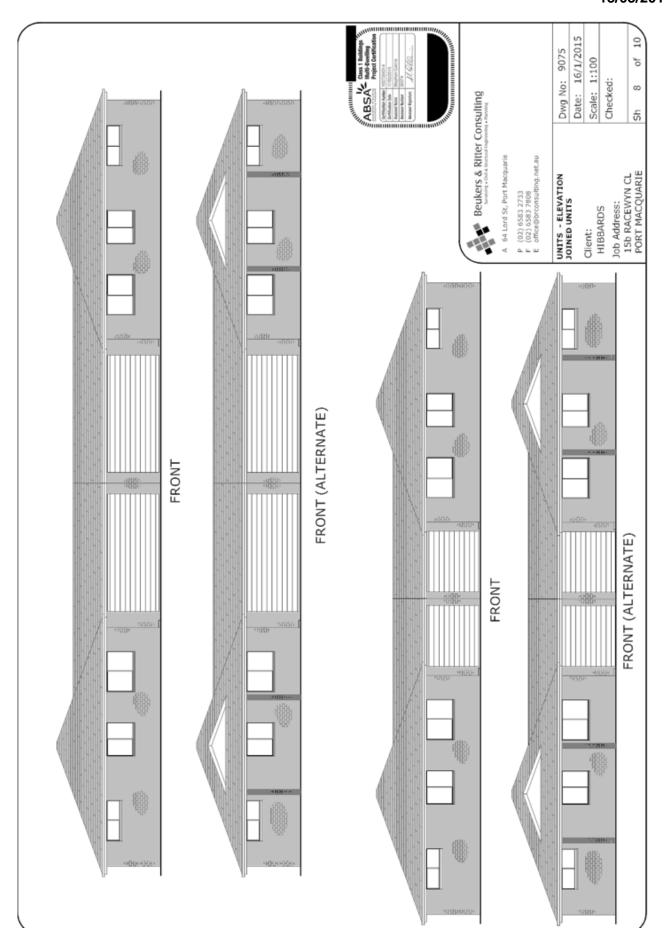




Item 09 Attachment 1 Page 155

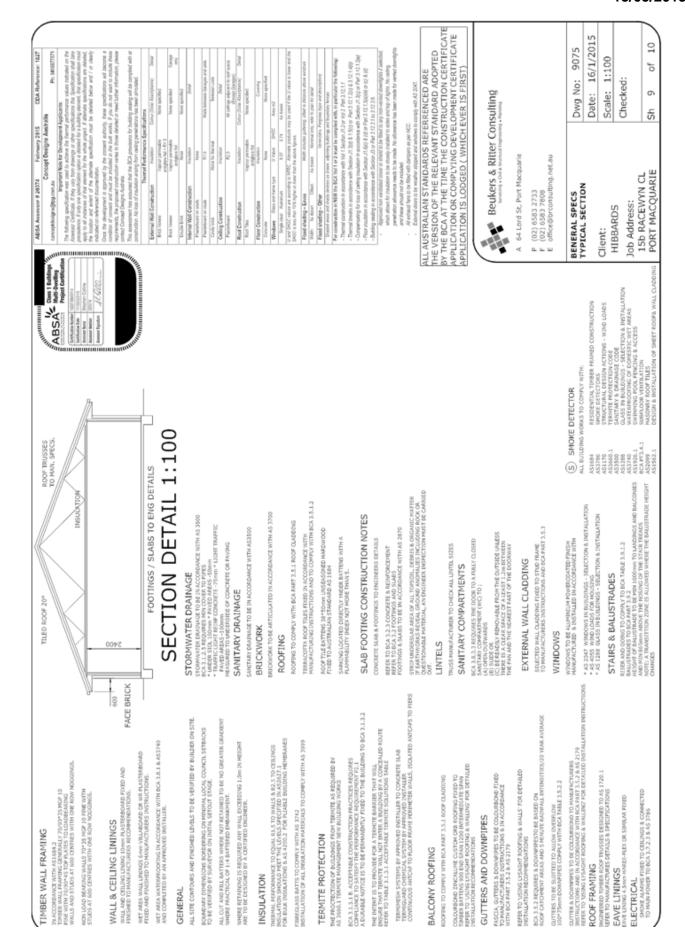


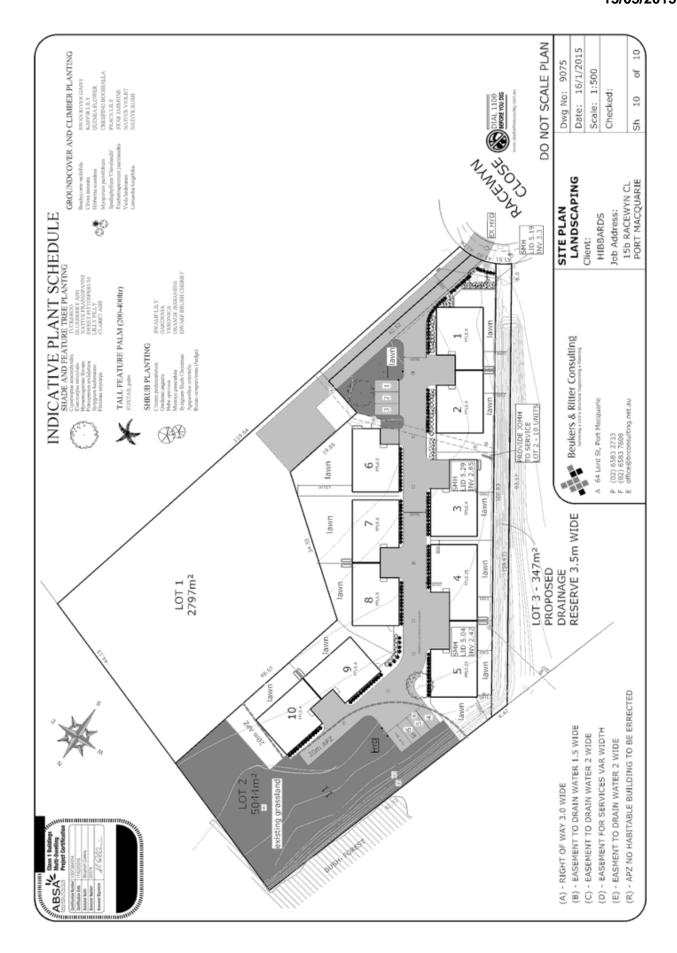
Item 09 Attachment 1 Page 156



Item 09 Attachment 1

DEVELOPMENT ASSESSMENT PANEL 13/05/2015





Page 159

DEVELOPMENT ASSESSMENT PANEL 13/05/2015



Damian Keep Drafting Services 11 Kooloonbung Close PORT MACQUARIE NSW 2444 Level 19, Tower B 799 Pacific Highway Chatswood NSW 2067 Australia t +61 2 9406 1000 f +61 2 9406 1004 coffey.com

11 October 2013

Attention: Damian Keep

Dear Damian

RE: Environmental Noise and Odour Assessment

1 Introduction

Coffey Environments Australia Pty Ltd (Coffey Environments) was commissioned by Damian Keep Drafting Services (Damian Keep) to undertake an Environmental Noise and Odour Assessment at the property located at 7 Tulloch Road, Port Macquarie. The assessment was undertaken on Thursday 1st August, 2013.

The Tulloch Road property, Lot 2 DP263123, has been earmarked for the future development of seven single storey townhouses. As part of the development application (DA 210.2013.18) process, it is understood that the Port Macquarie-Hastings Council requires a baseline noise and odour assessment to ensure the amenity of any persons who may inhabit the proposed residential development adjacent to the racecourse.

2 Methodology

Environmental noise monitoring was undertaken using a Cirrus Optimus Green CR171C (Type 1) Sound Level Meter (SLM) (Serial Number: G066280). In field calibrations were conducted using a Cirrus CR515 Acoustic Calibrator (Serial Number: 65179). A windsock was fitted to the SLM microphone during measurements, which were taken from 1.2 metres above the ground level, using a tripod, at each location for a period of 15 minutes. The monitoring methodology was consistent with the requirements stipulated in the NSW Industrial Noise Policy (2000). Refer to Appendix A - Photographs for microphone positioning and Appendix B – Site Plan with Monitoring Locations.

The odour assessment was undertaken using a St Croix Nasal Ranger odour olfactometer. The Nasal Ranger was used to determine the presences and strength of odours by using objective ambient odour values (as Dilution-to-Threshold (D/T) ratios) with the aid of specified odour monitoring data sheets. The Nasal Ranger creates a calibrated series of discrete dilutions by mixing the odorous ambient air with odour-free (carbon) filtered air.

3 Noise and Odour Criteria

The following noise limits have been referenced based on the zoning of the Tulloch Road property. Currently, the site is zoned R1 (General Residential) by the Port Macquarie-Hastings Council. Refer to Appendix B - Zoning Map Reference.

Coffey Environments Australia Pty Ltd ABN 65140765902 ENAURHOD06239AA - R01 Based on the 'General Residential' zoning of the site, and its suburban location, the following environmental noise criteria from the NSW Industrial Noise Policy (2000) have been adopted to provide recommended guideline levels. These criteria apply to a suburban, residential receiver.

Table 1: Recommended Noise Levels

Time of Day	Recommended Noise Level (L _{Aeq} dB)		
	Acceptable	Recommended Maximum	
Day (6am-6pm)	55	60	
Evening (6pm-10pm)	45	50	
Night (10pm-6am)	40	45	

In the absence of clearly established odour criteria, odour guidelines derived from the NSW Department of Conservation (now Office of Environment and Heritage) "Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales" (2005) have been referenced.

Table 2: Impact assessment criteria for complex mixtures of odorous air pollutant

Population of affected community	Impact assessment criteria for complex mixtures of odorous air pollutants (OU)
~500	3.0

The Nasal Ranger measures concentrations as Dilution to Threshold (D/T). Based on current research and calculations, it has been established that Dilution to Threshold is approximately equal to Odour Units i.e. DT≈OU. Refer to the Odour Research Laboratories Australia "Nasal Ranger Field Olfactometer – Technical Paper 1-06: OU vs. D/T" (2006) on the St Croix Media Publication Centre website for more detail.

Results and Conclusions

Table 3: Environmental Noise Results

Location	Time of Day	Measured Noise Levels	Recommended N	Recommended Noise Level (Lave dB)
		LAng	Acceptable	Recommended
Location 1: North/North-East	Day	49	55	09
Boundary of site	Evening	44	45	90
	Night	42	40	45
Location 2: South/South-West	Day	48	99	09
Boundary of site	Evening	42	45	50
	Night	44	40	45
Location 3: Racewyn Close -	Day	2	99	09
offsite	Evening	45	45	50
a sa againgtion of	Night	44	40	45

Coffey ENAURHOD06239AA - R01 11 October 2013

Location	Time of Day	Averaged Dilution to Threshold (D/T)	Referenced Odour Guideline (D/T)
Location 1: North/North-East	Day	\$	e
Boundary of site	Evening	2	3
	Night	8	8
Location 2: South/South-West	Day	8	3
Boundary of site	Evening	8	m
	Night	8	6
Location 3: Racewyn Close -	Day	8	8
offsite	Evening	٧	m
	Night	8	က

Coffey ENAURHOD06239AA - R01 11 October 2013

ATTACHMENT

Based on the recorded results, all of the measured noise levels were below the maximum recommended noise levels for a suburban residential premise.

Despite horses being present on adjacent properties, no odours were detected at concentrations greater than 2 D/T. This means the odours were not detectable by the Nasal Ranger but, may be detected by the human nose. However, the odour levels did not exceed the referenced odour guideline.

This concludes the Environmental Noise and Odour Assessment.

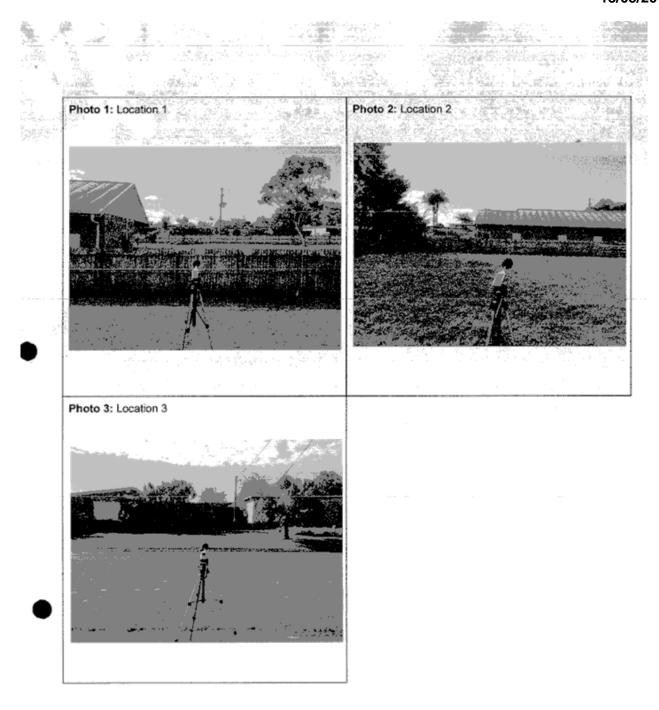
Yours sincerely,

Haysam Elhassan Occupational Hygienist Tim Anderson Principal, WHS

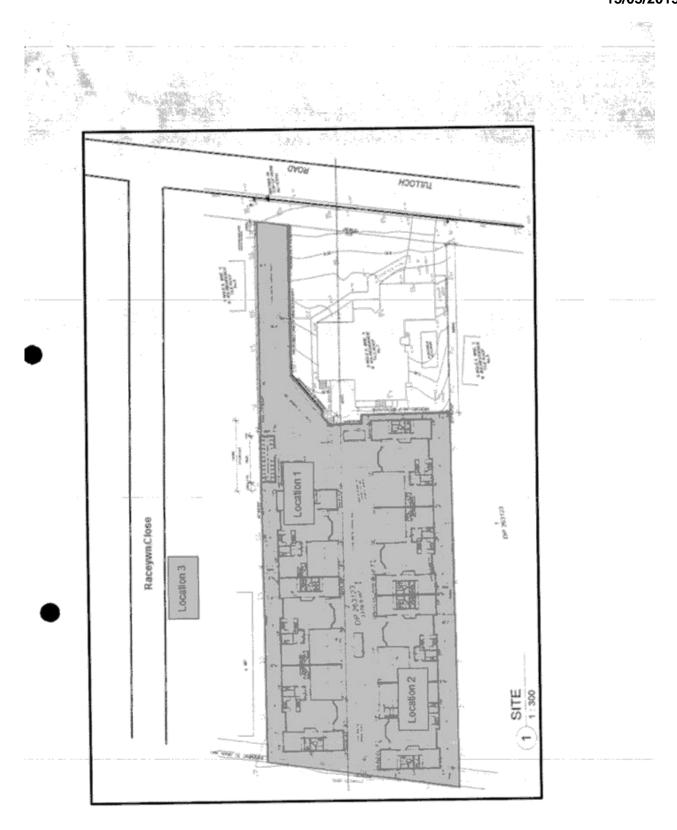
Attachments: A) Photographs B) Site Plan with Monitoring Locations C) Zoning Map D) Calibration Certificates

Coffey ENAURHOD06239AA - R01 11 October 2013

Appendix A Photographs



Appendix B Site Plan with Monitoring Locations



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

NOTE: THESE ARE DRAFT ONLY

DA NO: 2015/94 DATE: 6 May 2015

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
Building/engineering details	Sheets 1 to 9	Beukers and Ritter Consulting	16 January 2015

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
 - a. the appointment of a Principal Certifying Authority; and
 - 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) (A003) The proponent shall submit an application for a Subdivision Certificate for Council certification with all relevant documentation.
- (4) (A005) This consent allows the strata-subdivision of the dwellings, subject to the submission of an application for a Strata Certificate.
- (5) (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.
- (6) (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:

- 4. 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.

- (7) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (8) (A012) This consent does not provide for staging of the development. Any staging will require a separate consent or an amendment to this consent.
- (9) (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 D15/0522 and dated 26 March 2015, are attached and form part of this consent.
- (10) (A029) The provision, at no cost to Council, of concrete foot paving for the full street frontages of the development. For a 1.2 metre wide footpath is required with design details in accordance with AUSPEC and Council Standard drawing. The design plans must be approved by Council pursuant to Section 138 of the Roads Act.
- (11) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (12) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (13) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
 - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - 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,
 - remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

i. deposit with the Council, or

ii. an unconditional bank guarantee in favour of the Council.

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

- (14) (A057) The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.
- (15) (A195) An infrastructure Construction Certificate application shall be submitted to and approved by Council showing details of all works on Council land or works to become public infrastructure, including sewer mains and manholes, prior to release of a Construction Certificate for building work.
- (16) (A196) Prior to dedication of the proposed drainage reserve to Council, works shall be completed to the satisfaction of Council's Director of Infrastructure. The works, and dedication of the land in fee simple, shall occur at no cost to Council. Details shall be submitted to and approved by Council in an Infrastructure Construction Certificate application and shall include:
 - a) Provision of piped connections to private properties and Council's existing piped infrastructure where required,
 - Hydraulic modelling to demonstrate that sufficient capacity will be provided within the final reserve configuration, including overland flows,
 - c) Regrading to desirable maximum 25% (1 in 4) batter slopes for ease of access and maintenance, and
 - d) Removal of weeds and debris and revegetation with suitable low maintenance species.

B - PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - Position and depth of the sewer (including junction)
 - · Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DOS:
 - Sewerage reticulation.

- Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.
- 3. Stormwater systems.
- Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD, Port Macquarie-Hastings Council current version.
- Provision of a 1.2m concrete footpath across the full road frontage of the property.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

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

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

- (4) (B010) Payment to Council, prior to the issue of the Construction Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
 - Hastings S94 Administration Building Contributions Plan
 - Hastings Administration Levy Contributions Plan
 - Community Cultural and Emergency Services Contributions Plan 2005
 - Hastings S94 Major Roads Contributions Plan
 - Hastings S94 Open Space Contributions Plan

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

(5) (B011) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Construction Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:

- · augmentation of the town water supply headworks
- · augmentation of the town sewerage system headworks
- (6) (B016) Provision to each lot of a separate sewer line to Council's main. All work will need to comply with the requirements of Council's adopted AUSPEC Design and Construction Guidelines and Policies. Any abandoned sewer junctions are to be capped off at Council's sewer main.
 - Construction details are to be submitted to Port Macquarie-Hastings Council with the application for Construction Certificate.
- (7) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
- (8) (8053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890.1. Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
- (9) (B054) Where a vehicular access is provided, details (in the form of a longitudinal section) must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate demonstrating how the access will comply with Council's adopted AUSPEC Design and Construction Guidelines.
- (10) (B057) The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate.
- (11) (B071) Prior to the issue of any Construction Certificate, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (12) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
 - a) The legal point of discharge for the proposed development is defined as a piped connection to Council's drainage easement.
 - b) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
 - c) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
 - d) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
 - e) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
 - f) On-site stormwater detention facilities shall be included, unless the hydraulic design demonstrates that the development will have negligible negative impacts on the downstream flow regime (considering the proximity

to the tail waters of the catchment). The proposed site stormwater discharge shall be compared with pre development flow rates for all storm events up to and including the 100 year ARI event. Note that pre development discharge shall be calculated assuming that the site is a 'greenfield' development site as per AUSPEC requirements.

- g) If on-site detention is not proposed, the Section 68 application details shall include substantial reuse of stormwater onsite.
- (13) (B196) Council records indicate that the development site has an existing 20mm sealed water service from the existing 100mm ductile iron water main on the same side of Racewyn Close. The existing hydrant must be re-located clear of the proposed driveway. The water service plans attached to the development application are not acceptable in their present form.
- (14) (B197) The Construction Certificate plans shall include a dedicated area for vehicles to turn around within the site at the (western) end of the access aisle, using a 3-point turn or better.

C - PRIOR TO ANY WORK COMMENCING ON SITE

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

D - DURING WORK

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
 - a. at completion of installation of erosion control measures
 - b. at completion of installation of traffic management works
 - when the sub-grade is exposed and prior to placing of pavement materials;
 - d. prior to the pouring of concrete for sewerage works and/or works on public property;
 - e. during construction of sewer infrastructure;

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

(2) (D002) Fill material shall not raise the existing surface level within the dedicated easement/s. (3) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (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) (E002) A final report on any archaeological site excavations prepared by the archaeologist shall be submitted to Council and the Heritage Council prior to the occupation of any new development on the land.
- (3) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (4) (E010) Driveways, access aisles and parking areas shall be provided with a bitumen sealed surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (5) (E030) Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use.
- (6) (E034) Prior to occupation or the issuing of the Final Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (7) (E036) Certification by a suitably qualified consultant is to be submitted to Council that the construction of the car park and internal accesses is to be in accordance with Council's Development Control Plan 2013 and Australian Standard 2890.1 prior to occupation or issue of the Occupation Certificate.
- (8) (E039) An appropriately qualified and practising consultant is required to certify the following:
 - a. all drainage lines have been located within the respective easements, and
 - any other drainage structures are located in accordance with the Construction Certificate.
 - c. all stormwater has been directed to a Council approved drainage system
 - all conditions of consent/ construction certificate approval have been complied with.
 - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (9) (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.
- (10) (E053) All public works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.
- (11) (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.

- (12) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
 - The relocation of underground services where required by civil works being carried out.
 - b. The relocation of above ground power and telephone services
 - c. The relocation of street lighting
 - d. The matching of new infrastructure into existing or future design infrastructure
- (13) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.
- (14) (E076) The plan of subdivision and Section 88B instrument shall establish the following restrictions, easements and/or covenants; with Council having the benefit and the sole authority to release, vary or modify each restriction, easement and/or covenant. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
 - Restriction as to user in respect of strata lots for a private garbage service to be in place requiring the collection of all domestic waste by private contractors.

Details are to be submitted to Council prior to issue of the Subdivision Certificate.

- (15) (E080) The applicant is required to make provision in the application for a Subdivision Certificate:
 - a. registration of a reciprocal right of carriageway and easement for services and maintenance over those parts of the lots common to both.
- (16) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (17) (E195) A Certificate of Compliance under the provisions of Section 307 of the Water Management Act must be obtained prior to the issue of any occupation or subdivision certificate. The application for the certificate is to include an acceptable Work-As-Executed plan for water and sewer mains and services from a Professional Engineer or Registered Surveyor.

F - OCCUPATION OF THE SITE

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

March 11, 2015

Mr & Mrs P. Boag 15A Racewyn Close Port Macquarie NSW 2444

Ref: DA2015.94.1

To whom it may concern:

TE: CRM NO
1 2 MAR 2015

We have a few points of objection we like to bring to your attention in regards to the above development.

- Firstly, and most importantly, is the potential extra traffic frequenting our already busy street. For a cul de sac street, it is always full of cars, trucks, horse floats, and quite often horses etc, always making it a very cautious journey up or down the street. We are very concerned at how much extra traffic this new development will cause on a daily basis.
- Rubbish collection is also anther concern. We realise there is not enough street frontage for normal rubbish collection, so how will this take place? We are also concerned as to where all the bins for this development will be stored? Living next door, we would not appreciate having a large amount of bins being stored directly over our boundary fence.
- Our house and land will potentially de-value up to \$100, 000 having this many villas next door. We have sort more than one real estate opinion on this matter.
- Although perhaps short term, I hold concerns for the construction period as I run a business from home, and my clients frequent our driveway to park at the front door (as street parking is rarely available). As this development is next door, you can appreciate my worry as to our driveway being accessible at all times. Even once construction is complete, how do I ensure we always have full access?
- Is there adequate off street parking appointed to this development? As mentioned, there is no room for more cars to be parked in our already overflowing street.
- The drain at the front corner of the land to be developed collects our storm water, amongst other neighbours. Will this drain, or its pipes, be effected in anyway during construction? If so, what is being done to ensure our storm water will drain freely, and we will not be left with any resulting problems?

Thank you for your time, please do not hesitate to contact us for any further information.

Peter & Louise Boag

Parcel Number: 62545 Your Reference: DA2015.94.1

5 March 2015

Mr Patrick Galbraith-Robertson Development and Environmental Services Port Macquarie Hastings Council PO Box 84 PORT MACQUARIE NSW 2444

Dear Patrick

Proposal: Multi Dwelling Housing and Strata Subdivision

Property: Lot 2 DP 1175919, 15B Racewyn Close PORT MACQUARIE

Application Number: 2015/94

I refer to the abovementioned proposed Development Application and wish to formally lodge an objection on the following grounds:

- The adjoining property is used for commercial purpose of training thoroughbred racehorses, as is the majority of Racewyn Close. My stable commences work at 4am daily and operates seven day per week. We feel that a residential development next door will find these hours quite disturbing. In our industry it is very hard to minimise noise.
- Racewyn Close is also used by horses to access the Port Macquarie Race Course and horses are on the street daily in the morning period up until 9.30am and trainers use the street to walk their horses of an afternoon.
 - Additional traffic generated by a residential dwelling of this nature is not conducive to a safe environment for the horses and workers as there will be an increase in safety issues and potential for accidents.
- The noise generated from a construction site would be detrimental for the rest period of the horses during the day and would then reflect on race performances and result in reduction of income to the stable.
- The increase in traffic during construction with trucks and earthmoving equipment will also create safety issues and resulting in potential Workers Compensation and Public Liability Claims.
- There is a storm water easement on the development property which my property and others are tapped into. I have concerns that damage may be caused because of this development and as a result, flooding to my property may occur.
- As the majority of Racewyn Close is used for the stabling and training of a large number of thoroughbred racehorses, I really do feel that a development nature is not practical or suitable for this street.

ATTACHMENT

I thank you for taking the time to review my objections and if you require further information I am more than happy to discuss.

Kind regards

Jenny Graham

Jenny Graham Racing 13 Racewyn Close PORT MACQUARIE NSW 2444

ATTACHMENT

From: Karen Sprague

Sent: Friday, 6 March 2015 3:43 PM

To: Council

Subject: Application No 2015/94...

I live in Racewyn Close Port Macquarie and yesterday in the mail box was a letter re a development application letter for 15B Racewyn Close Port Macquarie. The letter was dated 24 February 2015 and we received it <u>yesterday</u>. If we have any objections re this development we have between 27/2/15 – 12/03/15 so receiving this letter does not give you much time to check this out and write out any objections, which I don't think is very fair at all. We have live in Racewyn Close for 6 years and in that time when we have very heavy rain, the bottom of Racewyn Close is like a big swimming pool water up to the gutter. So I hope the Council is going to look at the drainage problem in this street. Also Racewyn Close is a horse training street. We work our horse every morning, by taking the horses over to the Racecourse via Racewyn Close. I think the Council will have to look into more signage in the street re horses. With the extra amount of traffic that is going to be in the street it could get quite dangerous for horse and rider with people driving into the street that don't know anything about horses. I hope the Council will look in these points that I have made.

Thank You Karen Sprague



Karen Sprague

PO Box 22 Laurieton NSW 2443

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