



# Development Assessment Panel

## Business Paper

**date of meeting:** Wednesday 10 June 2015

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

**time:** 2.00pm

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

## **Development Assessment Panel**

### **CHARTER**

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#### **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 Paul Biron (alternate)	✓	✓	✓	A	✓
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 Paul Biron (alternate)	A	✓	✓	✓	✓
David Troemel Caroline Horan (alternate)	A ✓	A	✓	✓	✓

Member	22/04/15	13/05/15	27/05/15		
Paul Drake	✓	✓	✓		
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓		
David Fletcher Paul Biron (alternate)	✓	✓			
David Troemel Caroline Horan (alternate)	✓	✓	A ✓		

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



**PORT MACQUARIE  
HASTINGS**

# Development Assessment Panel Meeting

Wednesday 10 June 2015

## Items of Business

Item	Subject	Page
01	Acknowledgement of Country .....	<u>5</u>
02	Apologies.....	<u>5</u>
03	Confirmation of Minutes .....	<u>5</u>
04	Disclosures of Interest.....	<u>9</u>
05	DA 2015 - 0216 - Change of Use - Garage to Home Industry (Window Tinting) at Lot 1 DP 831306, No. 7 Lincoln Road, Port Macquarie .....	<u>13</u>
06	General Business	



**PORT MACQUARIE  
HASTINGS**

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

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

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

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**RECOMMENDATION**

That the apologies received be accepted.

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

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 27 May 2015 be confirmed.

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**PRESENT**

***Members:***

Paul Drake  
Dan Croft  
Caroline Horan

***Other Attendees:***

Clint Tink  
Chris Gardiner

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The meeting opened at 2.00pm.

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**01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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**02 APOLOGIES**

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CONSENSUS:

That the apologies received from David Troemel be accepted.

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**03 CONFIRMATION OF MINUTES**

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RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 13 May 2015 be confirmed.

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**04 DISCLOSURES OF INTEREST**

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There were no disclosures of interest presented.

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**05 DA2014 - 0123 DEMOLITION OF UNITS AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING (13 UNITS), INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) AND CLAUSE 4.4 (FLOOR SPACE RATIO) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011, AND STRATA SUBDIVISION AT LOT 101 DP1122606 NO. 3 CLARENCE STREET, PORT MACQUARIE**

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Speakers:

Leonie Brown (o)  
Kathy Hollis (o)  
Geraldine Haigh (applicant),  
Allister Hunziker (owner)  
Bill Amy (applicant)

The Chair tabled a submission from Alan Hill objecting to the proposal.

The Chair moved the following motion:

That it be recommended to Council that DA2014/123 be refused for the following reasons:

1. Non compliance with the Port Macquarie-Hastings Development Control Plan 2013 with respect to building side setbacks and landscaping
2. The proposal represents an overdevelopment of the site.

The Chair did not have a seconder.

The Chair put the recommendation contained in the assessment report to the Panel.

The Panel supported the recommendation unanimously.

**CONSENSUS:**

That it be recommended to Council that DA 2014 - 0123 for Demolition of Units and Construction of a Residential Flat Building (13 units), Including Clause 4.6 variation to Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) of the Port Macquarie-Hastings Local Environmental Plan 2011, and Strata Subdivision at Lot 101, DP 1122606, No. 3 Clarence Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**06 DA2015 - 0193 - ANCILLARY BUILDING (SHED) - LOT 3 DP354485, NO. 27 THE PARADE, NORTH HAVEN**

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The Chair tabled a submission from Raymond Orr objecting to the proposal.

**CONSENSUS:**

That the application be deferred to provide an opportunity for the applicant to resolve the issue of building a structure over the right of carriageway affecting the land.

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**07 DA2015 - 0231 - ADDITIONS TO DWELLING AND SWIMMING POOL - LOT 2 DP 849392, NO. 18 COMMODORE CRESCENT, PORT MACQUARIE**

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Speakers:

Betty Allman(o)

The Chair tabled a submission from Brad Allman objecting to the proposal.

**CONSENSUS:**

That DA 2015 - 0231 for additions to dwelling and swimming pool at Lot 2, DP 849392, No. 18 Commodore Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**08 GENERAL BUSINESS**

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Nil.

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The meeting closed at 3.17pm.



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Item: 04  
Subject: DISCLOSURES OF INTEREST

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**RECOMMENDATION**

That Disclosures of Interest be presented

**DISCLOSURE OF INTEREST DECLARATION**

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

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

☐**Pecuniary:**

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

☐**Non-Pecuniary - Significant Interest:**

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

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

May participate in consideration and voting.

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

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

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

**Further Explanation**

(Local Government Act and Code of Conduct)

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

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

**Pecuniary Interest**

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

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

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

**Non-Pecuniary**

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

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

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

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

***Non Pecuniary – Significant Interest***

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

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

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

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

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

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

## SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

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

Councillor's Signature: ..... Date: .....

**Important Information**

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

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

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

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**Item: 05**

**Subject: DA 2015 - 0216 - CHANGE OF USE - GARAGE TO HOME INDUSTRY (WINDOW TINTING) AT LOT 1 DP 831306, NO. 7 LINCOLN ROAD, PORT MACQUARIE**

**Report Author: Chris Gardiner**

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<b>Property:</b>	<b>Lot 1 DP 831306, No. 7 Lincoln Road, Port Macquarie</b>
<b>Applicant:</b>	<b>T Fadljevic &amp; R M Conway</b>
<b>Owner:</b>	<b>T Fadljevic &amp; R M Conway</b>
<b>Application Date:</b>	<b>30 March 2015</b>
<b>Estimated Cost:</b>	<b>Nil</b>
<b>Location:</b>	<b>Port Macquarie</b>
<b>File no:</b>	<b>DA2015 - 216.1</b>
<b>Parcel no:</b>	<b>12439</b>

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#### **Alignment with Delivery Program**

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

#### **RECOMMENDATION**

**That DA 2015 - 0216 for a Change of Use - Garage to Home Industry (Window Tinting) at Lot 1, DP 831306, No. 7 Lincoln Road, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

#### **Executive Summary**

This report considers a development application for a change of use from a garage to a home industry (window tinting) at the subject site.

This report provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

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

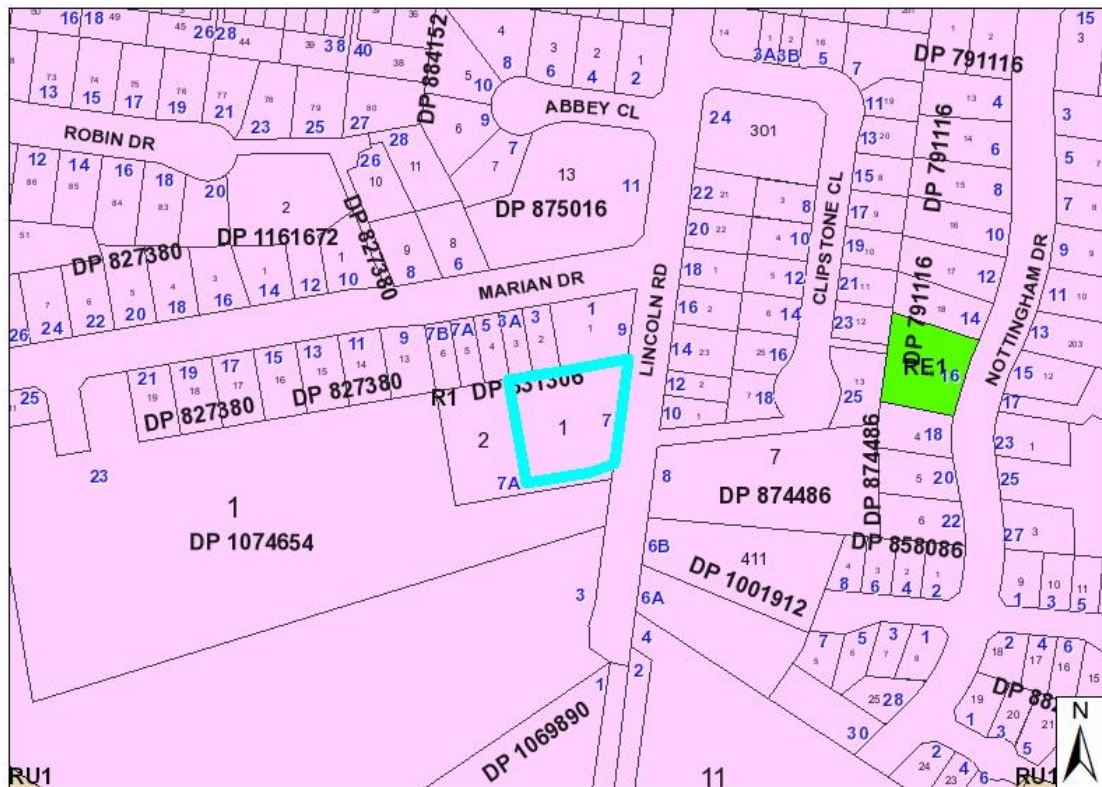
#### **1. BACKGROUND**

##### **Existing sites features and Surrounding development**

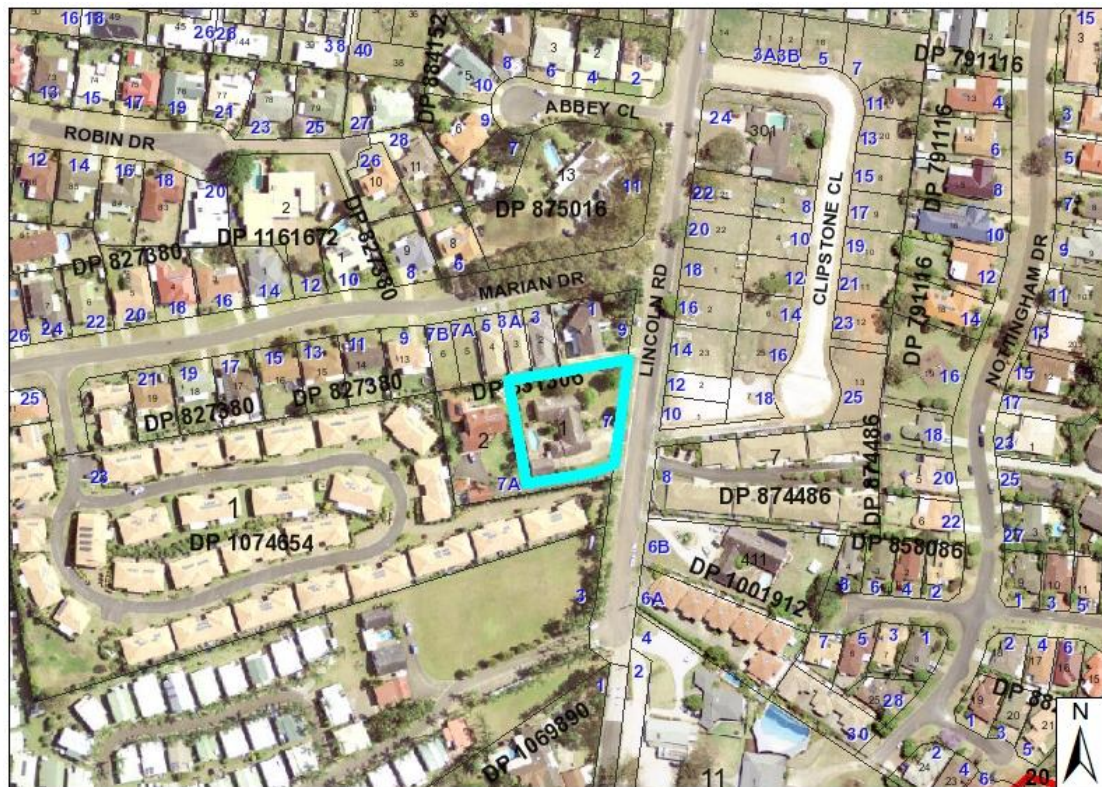
The site has an area of 2163m<sup>2</sup>.



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



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



**2. DESCRIPTION OF DEVELOPMENT**

Key aspects of the proposal include the following:

- Change of use of a detached double garage, study and WC to a home industry for tinting windows of motor vehicles.

Refer to attachments at the end of this report.

**Application Chronology**

- 30 March 2015 - Application lodged.
- 17 April 2015 to 30 April 2015 - Application publicly notified.
- 4 May 2015 - Site inspected by assessing officer.
- 4 May 2015 - Additional information requested from Applicant.
- 20 May 2015 - Additional information 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**

The site has an area less than 1 hectare and is not affected by a Koala Plan of Management. The SEPP is therefore not applicable to the proposed development.

**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.

**Port Macquarie-Hastings Local Environmental Plan 2011**

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

- Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the proposed development for a home industry is a permissible landuse with consent.

Home industry is defined in the LEP as follows:

***home industry*** means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) *the employment of more than 2 persons other than those residents,*



- (b) *interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,*
- (c) *the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,*
- (d) *the exhibition of any signage (other than a business identification sign),*
- (e) *the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,*

*but does not include bed and breakfast accommodation or sex services premises.*

The submitted application indicates that the development would be consistent with the above definition. However, conditions are recommended confirming the limitations listed above, to ensure that the scale of the use remains compatible with its residential location.

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 development is for a service to meet the needs of residents.
- Clause 5.4 – The proposed home industry has a floor area of 55.9m<sup>2</sup>, which complies with the maximum of 60m<sup>2</sup> permitted under this clause.
  - Clause 5.9 - No listed trees in Development Control Plan 2013 are proposed to be removed.
  - Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
  - Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, 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 force:**

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

<b>DCP 2013: General Provisions</b>			
<b>DCP</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>



Objective			
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline: <ul style="list-style-type: none"> <li>Casual surveillance and sightlines</li> <li>Land use mix and activity generators</li> <li>Definition of use and ownership</li> <li>Lighting</li> <li>Way finding</li> <li>Predictable routes and entrapment locations</li> </ul>	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.	Yes
2.3.3.8 onwards	Removal of hollow bearing trees	None proposed to be removed.	Yes
2.6.3.1	Tree removal (3m or higher with 100m diameter trunk and 3m outside dwelling footprint)	None proposed to be removed.	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. Existing accesses rationalised or removed where practical	Existing access to local road.	Yes
	Driveway crossing/s minimal in number and width including maximising street parking.	No new driveway crossovers proposed. No loss of existing street parking.	Yes
2.5.3.3	Off-street parking in accordance with Table 2.5.1. Reduction possible if supported by parking demand study.	<u>Required:</u> Dwelling requirements (1 space) plus 1 space for visitors, plus 1 space per 2 employees.  <u>Proposed:</u> Double garage for dwelling, plus stacked parking suitable for six vehicles between the building line of the dwelling and the front of the home industry.  The information submitted with the application suggests that the only	Yes

		employees will be the two residents and the majority of work involves the pick-up and delivery of vehicles from dealerships. There would not be multiple vehicles at the site waiting to be worked on. Proposed parking is considered adequate.	
2.5.3.7	Customer parking to be easily accessible.	Located directly in front of home industry.	Yes
	Parking in accordance with AS 2890.1.	Capable of complying	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.14	Sealed driveway surfaces unless justified	The site contains a bitumen sealed crossover, gravel internal driveway and concrete hardstand area forward of the existing garage. As the development would not result in a significant increase in traffic, it is not considered reasonable to require the existing gravel surface to be upgraded to a sealed surface.	No, but acceptable

(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:

#### Fire Safety and Other Considerations - Clause 93

Clause 93 of the Environmental Planning and Assessment Regulation 2000 requires consideration of the following:

- (2) *In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use.*
- (3) *Consent to the change of building use sought by a development application to which this clause applies must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.*

The Applicant has submitted a Fire Safety Upgrading Report prepared by David Pensini and dated 19 May 2015.

The following recommendations are made to ensure that the building can be made suitable for the proposed use in terms of fire protection and structural capacity.

- Portable fire extinguishers are to be installed throughout the existing building in accordance with the requirements of Clause E1.6 of the BCA and Australian Standard 2444 – 2001.
- The schedule of fire safety measures is to be displayed in a conspicuous location within the building and a fire safety certificate certified by a suitably qualified person as to the installation of fire safety measures in accordance with the fire safety schedule is to be provided to the Principal Certifying Authority.
- The fire safety measures are to be maintained in accordance with the annual maintenance requirements for same.
- All door latches which service exit doors must provide for single handed downward action and comply with the requirements of Part D2.21 of the BCA.
- An Emergency Evacuation Procedures Plan shall be developed and implemented within the subject SOU. The plan shall comply with the applicable requirements of AS 3745 – 2010.
- The exit doorway in the northern elevation of the building will need to be fitted with a device that is capable of holding the door in the open position when the building is occupied.
- All external access doors/gates within paths of travel from the subject building to open space/Lincoln Road must remain unlocked during the times at which the subject building is occupied.

Conditions are recommended confirming the above requirements for upgrading the existing building.

- 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 eastern street frontage orientation to Lincoln Road.

Adjoining the site is a mix of detached dwellings and multi dwelling housing.

The proposal within a garage at the rear of the property would not alter the existing residential character of the area.

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

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts. Adequate building separation exists.

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 Lincoln Road.

Adjacent to the site, Lincoln Road is a sealed public road under the care and control of Council. Lincoln Road is a local road with a 10m formation within an 18m wide road reserve.

**Transport & Traffic**

The site is currently approved for residential use expected to generate 7 daily trips. This development proposes to generate approximately 8 additional daily trips based on the information provided (pick-up and delivery of 4 vehicles per day). The addition in traffic associated with the development is unlikely to have any adverse impacts to the existing road network within the immediate locality.

**Site Frontage & Access**

Vehicle access to the site is proposed through an existing individual driveway with direct frontage to Lincoln Road, being a Council-owned public road.

**Parking and Manoeuvring**

The proposal includes two spaces within the building for vehicles having window tinting carried out, and stacked parking for approximately 6 vehicles forward of the garage. Having regard to the proposed volume of vehicles stated in the application documents, the available parking is considered to be sufficient.

Due to the type of development, car park circulation is required to enable vehicles to enter and exit the site in a forward manner. Adequate area is available in the existing driveway for vehicles to turn and exit the site driving forwards.

**Pedestrians**

A 1.2m wide concrete footpath exists on the eastern side of Lincoln Road. Having regard to the nature of the proposed use, it is not expected that the development would significantly increase pedestrian activity in the area.

**Public Domain**

No public domain works proposed.

**Utilities**

Telecommunication and electricity services are available to the site.

**Stormwater**

The development does not propose any changes to the existing stormwater drainage arrangements, or any additional impervious area.

**Water**

The site has an existing water service and no new works have been proposed in the application.

**Sewer Connection**

The site has an existing sewer connection and no new works have been proposed in the application. The Statement of Environmental Effects does not propose any activities that would require trade waste approval.

**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 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. The window tinting process is understood to only involve the use of a spray water bottle and heat gun, which are not expected to generate any fumes or odour that would impact on the amenity of the locality.

**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.

**Waste**

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. The Applicant has indicated that they have an existing private contract for waste collection of a 240L bin on a needs basis. The development would not generate significant waste as the only waste product is the backing of the film and its packaging.

**Energy**

No adverse impacts anticipated.

**Noise & Vibration**

The window tinting process is understood to only involve the use of a spray water bottle and heat gun, which generates noise similar to a hair dryer. Other potential noise sources include the radio and telephone.

Condition recommended requiring the use to be carried out in a manner that does not generate offensive noise.

The proposed hours of operation for the business are 8.00am to 5.00pm Monday to Friday with occasional work carried out by appointment on Saturdays. A condition is recommended restricting hours of operation to 8.00am to 5.00pm Monday to Friday and 8.00am to 12.00pm Saturdays. These hours are considered to be reasonable for a residential environment.

**Natural Hazards**

No natural hazards identified that would affect the proposed development.



**Contamination Hazards**

See comments earlier in this report under SEPP No. 55 - Remediation of Land.

**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. A likely positive impact is that the development will provide employment for the residents of the building.

**Site Design and Internal Design**

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

**Construction**

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

**Cumulative Impacts**

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

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

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

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

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

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

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

Submission Issue/Summary	Planning Comment/Response
Potential for vehicles parking across nearby residential driveways and prevent reasonable access to property.	This is a regulatory matter. It is noted that the development provides sufficient off-street parking for the proposed use and is not expected to significantly contribute to unlawful parking in the public road.
Potential noise pollution.	See comments earlier in this report under Noise & Vibration.
Other potential nuisance.	The window tinting process is understood to only involve the use of a spray water bottle and heat gun, which are not expected to generate any fumes or odour that would impact on the amenity of the locality.
Loss of property value.	No evidence has been provided to support this claim.

**(e) The Public Interest:**

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

**Ecologically Sustainable Development and Precautionary Principle**

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

The four principles of ecologically sustainable development are:

- the precautionary principle,
- intergenerational equity,
- conservation of biological diversity and ecological integrity,
- improved valuation, pricing and incentive mechanisms.

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.

Refer to recommended conditions.

**5. CONCLUSION**

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

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

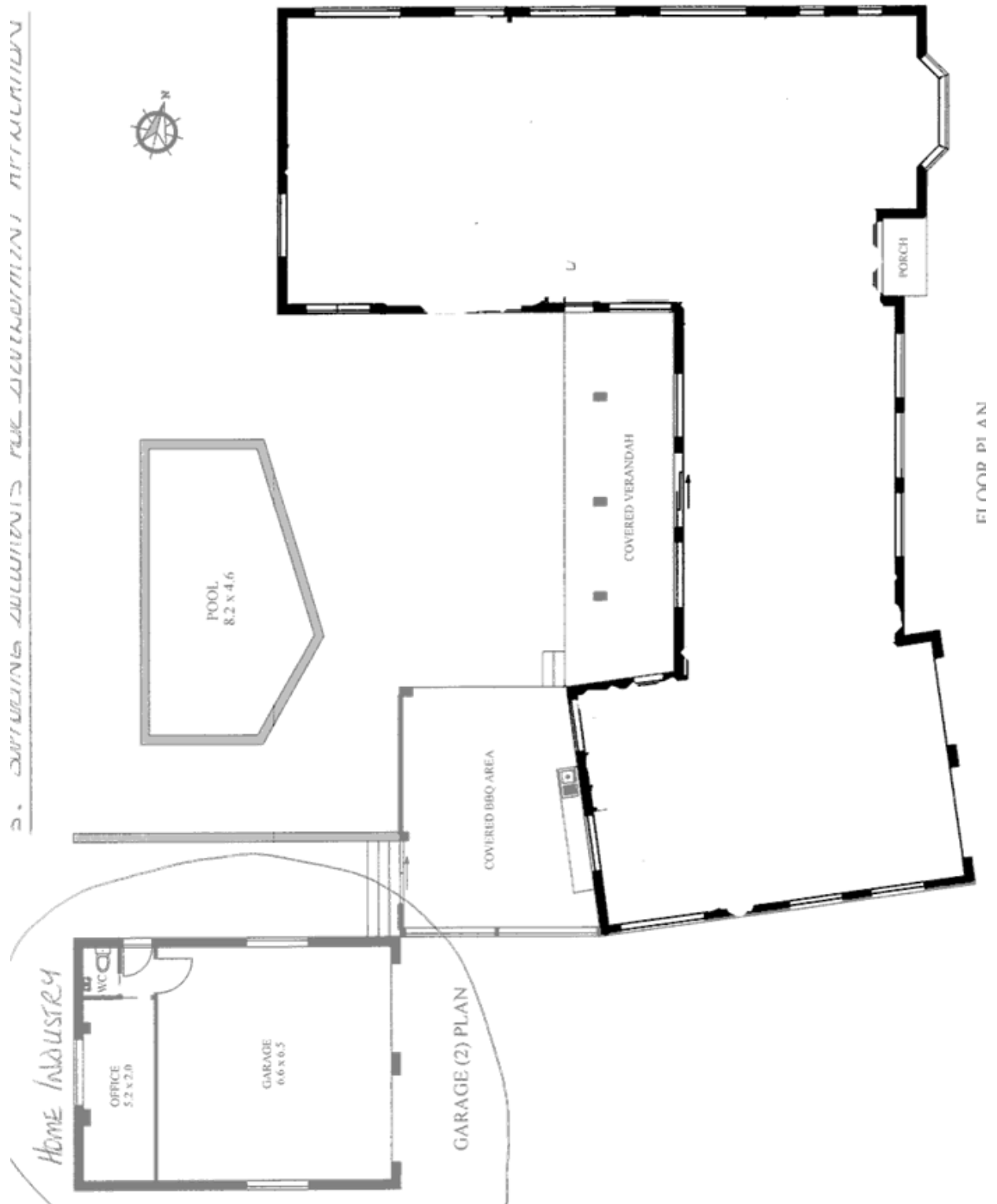
The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment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

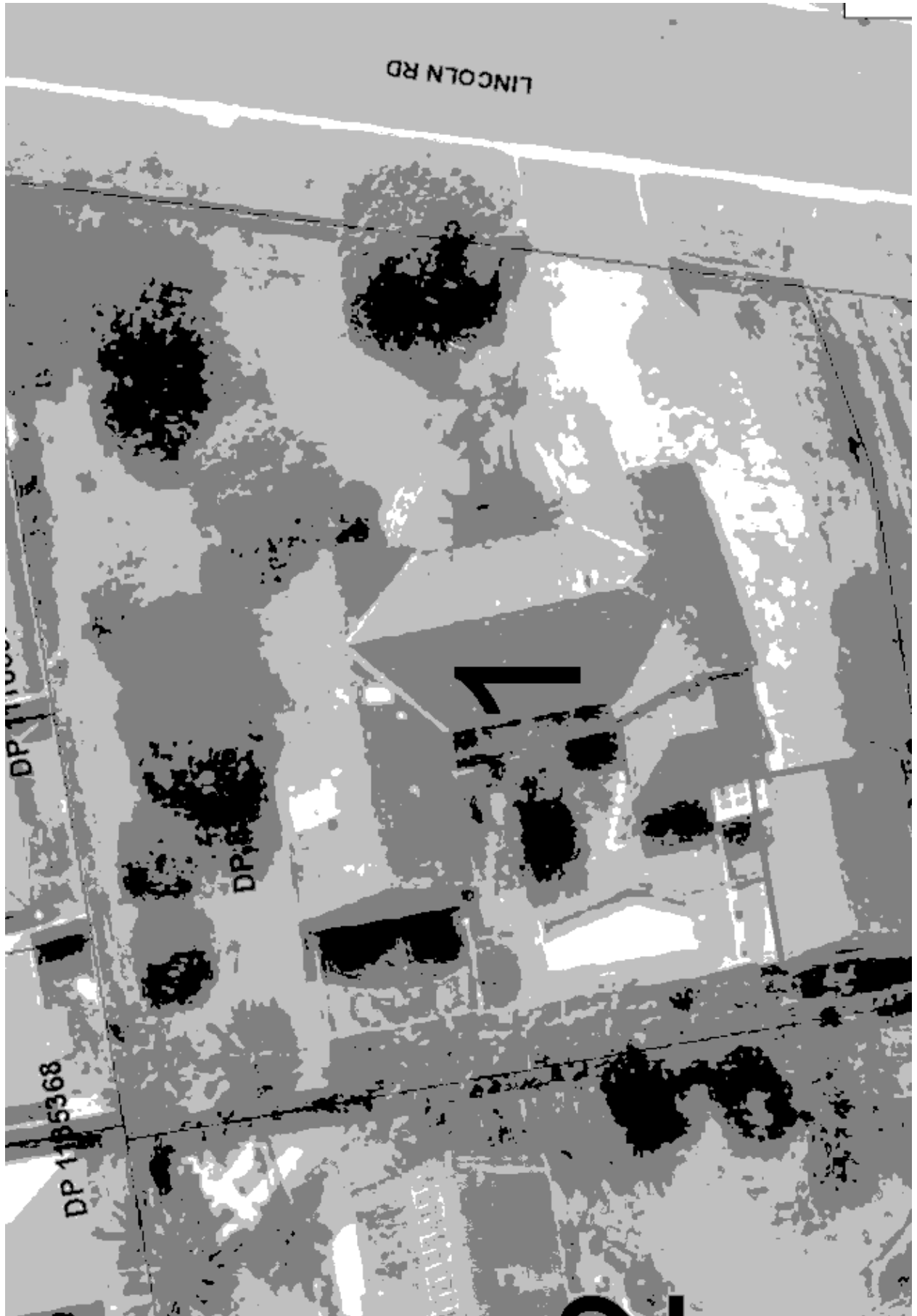
**Attachments**

- 1 [View](#). DA2015 - 0216 Plans
- 2 [View](#). DA2015 - 0216 Recommended Conditions
- 3 [View](#). DA2015 - 0216 Submission - Callachor



3. OUTLINE DEVELOPMENT FOR DEVELOPMENT APPLICATION





**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2015/216****DATE: 2/06/2015****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
Floor Plan and Site Plan	7 Lincoln Road	Applicant	Undated
Statement of Environmental Effects	-	R Conway	30 March 2015
Fire Safety Upgrading Report	7 Lincoln Road, Port Macquarie	David Pensini	19 May 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) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Appropriate dust control measures;
  2. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
  3. Building waste is to be managed via an appropriate receptacle;
  4. 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.
  5. 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) (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.

- (4) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development) must be submitted to and approved by Council prior to the erection or display of any such signs.

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

nil

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

nil

**D – DURING WORK**

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

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

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E009) 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 occupation or the issue of an Occupation 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
- (3) (E016) Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (4) (E195) Prior to occupation or the issue of an Occupation Certificate the following fire safety provisions shall be completed and certification provided to the Principal Certifying Authority.
- a) Portable fire extinguishers are to be installed throughout the existing building in accordance with the requirements of Clause E1.6 of the BCA and Australian Standard 2444 – 2001.
  - b) All door latches which service exit doors must provide for single handed downward action and comply with the requirements of Part D2.21 of the BCA.
  - c) An Emergency Evacuation Procedures Plan shall be developed and implemented within the subject Sole Occupancy Unit. The plan shall comply with the applicable requirements of AS 3745 – 2010.
  - d) The exit doorway in the northern elevation of the building will need to be fitted with a device that is capable of holding the door in the open position when the building is occupied.

**F – OCCUPATION OF THE SITE**

- (1) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (2) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (3) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (4) (F013) All garbage areas are to be screened from the street, create no adverse odour impact on adjoining properties and be kept free of pests at all times.
- (5) (F015) All work associated with the window tinting shall be carried out within the building.
- (6) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (7) (F025) Hours of operation of the development are restricted to the following hours:
  - 8.00 am to 5.00 pm – Mondays to Fridays
  - 8.00 am to 12.00 pm – Saturdays
  - No work is to be carried out on Sundays and Public Holidays
- (8) (F195) The business shall not involve the employment of more than 2 persons other than the residents of the dwelling.
- (9) (F196) The business shall not involve the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the building.
- (10) (F197) All external access doors/gates within paths of travel from the subject building to open space/Lincoln Road must remain unlocked during the times at which the subject building is occupied.

P O Box 950  
PORT MACQUARIE 2444

22 April 2015

The General Manager  
Port Macquarie Hastings Council  
DX 7415  
PORT MACQUARIE

Dear Sir,

RE: DEVELOPMENT PROPOSAL – APPLICATION NO: 2015 / 216  
T. FADLIEVIC & R.M. CONWAY


I refer to your Notification of Development Proposal of 14<sup>th</sup> April, 2015 (copy enclosed for your information).

My Property, for the past few years, has been subjected to constant daily noise, nuisance, traffic congestion, interruptions and great inconvenience caused by:-

- low loaders
- earthmoving equipment
- backhoes
- jack hammers
- concrete trucks
- hardware, brick and timber trucks
- overhead cranes
- large numbers of various builders and other tradesmen
- blockages of my driveway and street access to my property
- radios blaring
- shouting, coarse language and on occasions foul language
- constant “beeping” from reversing safety lights on equipment and trucks
- tradesmen starting before 7.00a.m.
- and other distractions associated with land filling of the site opposite, dumping of fill over a lengthy period (thanks for the dust), the reinstallation of the drainage and sewerage on the site and then the Subdivision into a “smurf” village, followed by the painfully slow erection of multiple dwellings upon the numerous new home sites.

2/.....

12439.

 PORT MACQUARIE HASTINGS	
TRIM No	CEM 70
23 APR 2015	
Keyword .....	
Activity .....	
Subject .....	
Folder 0A2015-216.	

- 2 -

Accordingly, assuming that the Applicants will not cause vehicles to be parked across my driveway, or prevent reasonable access to my property, or subject me and my Family to ongoing noise pollution, blaring radios and bad language, or cause any ongoing other nuisance problems, or reduce the value of my property, any further by their business operation, then I have no objection to the proposal.

Even if I did have an objection, I doubt seriously that Council would take any notice in any event.

Yours faithfully,



MRS. JANET A. CALLACHOR.



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