



Development Assessment Panel

Business Paper

date of meeting: Wednesday 28 October 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

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	22/04/15	13/05/15	27/05/15	10/06/15	24/06/15
Paul Drake	✓	✓	✓	✓	✓
Matt Rogers					
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Fletcher Paul Biron (alternate)	✓	✓	resigned resigned	resigned resigned	resigned resigned
David Troemel Caroline Horan (alternate)	✓	✓	A ✓	✓	✓

Member	08/07/15	22/07/15	12/08/15	26/08/15	09/09/15
Paul Drake	✓	✓	✓	✓	✓
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓	✓	✓	✓
David Troemel Caroline Horan (alternate) Bevan Crofts (alternate)	✓	✓	✓	✓	✓

Member	23/09/15	14/10/15			
Paul Drake	✓	✓			
Dan Croft Patrick Gailbraith-Robertson (alternate)	✓	✓			
David Troemel Caroline Horan (alternate) Bevan Crofts (alternate)	✓	✓			

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



**PORT MACQUARIE
HASTINGS**

Development Assessment Panel Meeting

Wednesday 28 October 2015

Items of Business

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**PORT MACQUARIE
HASTINGS**

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

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

Item: 02**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

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

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 14 October 2015 be confirmed.

PRESENT

Members:

Paul Drake
Dan Croft
David Troemel

Other Attendees:

Clinton Tink
Ben Roberts
Pat Galbraith-Robertson

The meeting opened at 2.00pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 23 September 2015 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA2014 - 0729.2 MODIFICATION TO MEDICAL CENTRE- DESIGN CHANGES TO ANCILLARY BUILDING - LOT 1 DP 783122, NO 42 LORD STREET, PORT MACQUARIE

Speaker :

Colin Halls (o)

CONSENSUS:

1. That section 96(1A) modification to DA 2014 - 0729.2 for design changes to an ancillary building to a medical centre at Lot 1, DP 783122, No. 42 Lord Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.
2. That the matter be referred to Council's Regulatory Service section for investigation and action where deemed necessary.

06 DA2015 - 0406 ALTERATIONS AND ADDITIONS TO DWELLING-HOUSE - LOT 1 DP 22158 NO 15 ORR STREET, PORT MACQUARIE

CONSENSUS:

That DA 2015 - 0406 for alterations and additions to dwelling-house at Lot 1, DP 22158, No. 15 Orr Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

07 DA2015 - 0425 ADDITIONS TO DWELLING - LOT A DP 411801, NO 22 KENNEDY DRIVE, PORT MACQUARIE

CONSENSUS:

That DA 2015 - 0425 for a additions to dwelling at Lot A, DP411801, No. 22 Kennedy Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.

08 DA2015 - 0430 STAGED DEVELOPMENT COMPRISING COMMUNITY TITLE SUBDIVISION, RETENTION OF THE EXISTING DWELLING AND ERECTION OF FIVE DUAL OCCUPANCIES AT LOT 1 DP 609064, 32 CLEARWATER CRESCENT, PORT MACQUARIE

Speakers:

Robert Kemp (o)

Michael Summers (applicant)

Mark Robinson (applicant)

CONSENSUS:

That DA 2015 - 0430 for a staged development comprising community title subdivision, retention of the existing dwelling and erection of five dual occupancies at Lot 1, DP 609064, No. 32 Clearwater Crescent, Port Macquarie, be determined by granting consent subject to the recommended.

09 GENERAL BUSINESS

Nil.

The meeting closed at 2.50pm.

Item: 04
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

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

I, declare the following interest:

☐**Pecuniary:**

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

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

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

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

May participate in consideration and voting.

For the reason that:
.....

Signed: Date:

(Further explanation is provided on the next page)

Further Explanation

(Local Government Act and Code of Conduct)

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

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

Pecuniary Interest

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

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

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

Non-Pecuniary

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

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

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

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

Non Pecuniary – Significant Interest

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

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

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

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

Non Pecuniary – Less than Significant Interest

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

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

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

Councillor's Signature: Date:

Important Information

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

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

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

Item: 05

Subject: DA2015 - 0506 ALTERATIONS AND ADDITIONS TO DWELLING INCLUDING A CLAUSE 4.6 OBJECTION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) UNDER THE PORT MACQUARIE HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AND AN ANCILLARY SHED AT LOT 222 DP 208479, 42 ANDERSON STREET, PORT MACQUARIE

Report Author: Clint Tink

Property:	Lot 222 DP 208479, 42 Anderson Street, Port Macquarie
Applicant:	Jackson Rafferty Design
Owner:	D Scarlett
Application Date:	28 September 2015
Estimated Cost:	\$253,835
Location:	Port Macquarie
File no:	DA2015 - 0506
Parcel no:	545

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2015 - 506 for alterations and additions to dwelling including Clause 4.6 objection to Clause 4.3 (height of buildings) under the Port Macquarie Hastings Local Environmental Plan 2011 and an ancillary shed at Lot 222, DP 208479, No. 42 Anderson Street, Port Macquarie, be determined by granting consent subject to the recommended conditions .

Executive Summary

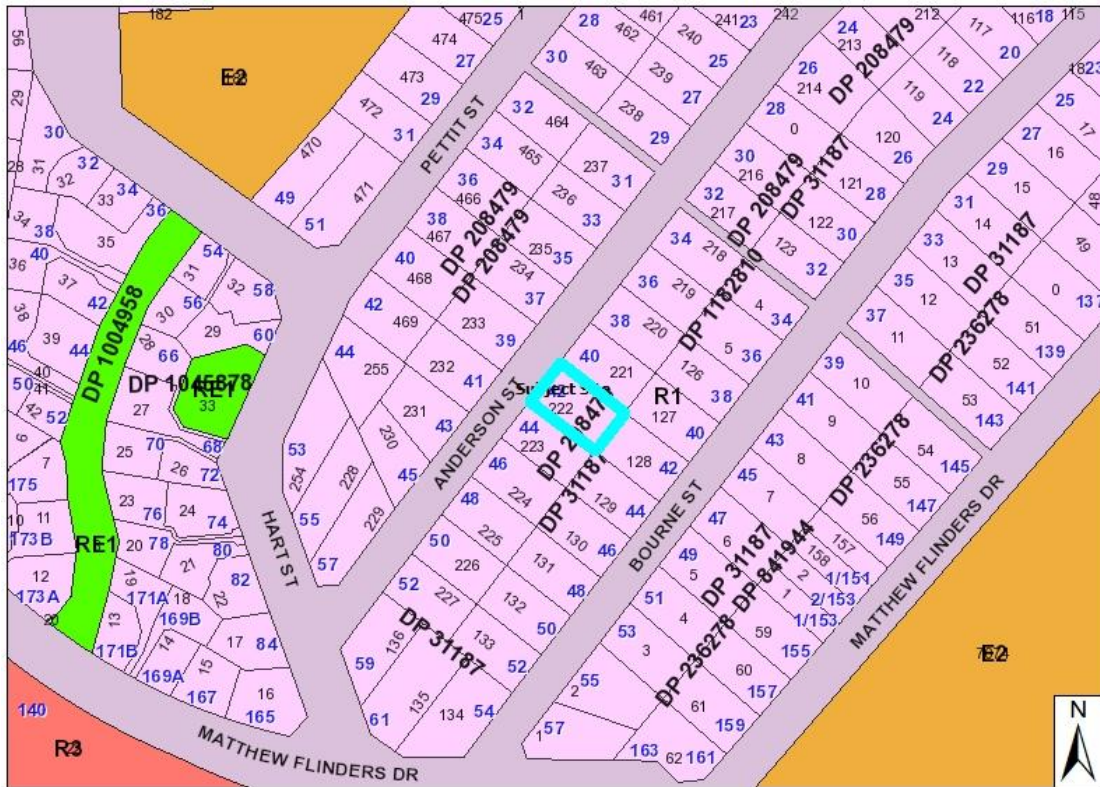
This report considers a development application for alterations and additions to dwelling including Clause 4.6 objection to Clause 4.3 (height of buildings) under the Port Macquarie Hastings Local Environmental Plan 2011 and an ancillary shed at the subject site.

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 was received.

1. BACKGROUND

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 two storey and erection of an ancillary storage shed. Following the proposed additions, the dwelling will change to contain a three storey component, due to the site already being cut in.
- Clause 4.6 variation is proposed to Clause 4.3 (Height of Buildings) of Port Macquarie-Hastings Local Environmental Plan 2011.

Refer to attachments at the end of this report.

Application Chronology

- 22/7/2015 - Application lodged with Council.
- 30/7/2015 to 12/8/2015 - Exhibition period.
- 31/7/2015 - Council staff requested additional information on height variation and proposed fencing.
- 31/7/2015 to 3/8/2015 - Discussion between Council staff and a neighbour regarding the proposal.
- 12/8/2015 - Council staff requested update from the applicant on status of the additional information. Applicant advised response was forthcoming.
- 13/8/2015 - Email sent to objector advising of the Development Assessment Panel process.
- 18/9/2015 - Council staff requested update from the applicant on status of the additional information.
- 18/9/2015 - Applicant advised response to additional information would be submitted in a couple of days.

- 28/9/2015 - Response to additional information received and discussion on timing of development assessment. Summary of submission provided on 29/9/2015.

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 are 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 A221853) 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

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 dwelling and ancillary storage shed are 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, 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 9.3m, 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. All planning objectives were thoughtfully considered during the design process, to meet and comply with the standard development codes to ensure minimal impact on adjoining properties. Working with existing structures can have its challenges, especially with changing planning requirements, meeting those requirements and achieving a functional design outcome. The second floor extension is the only area of work that pushes the boundaries of height, however still remains below the 8.5m limit. Bulk and scale is extremely important in achieving an attractive design, balanced proportions and is sympathetic to its environment. Here we have transitioned the building heights from front to rear following the natural topography of the site, to soften the facade on the street and create depth within the structure. There are varying eave lines, combined with selected cladding styles to control the overall sense of bulk and scale and minimise impact while still remaining compatible with height requirements.

•

- Our development is not the first in the street and it won't be the last. The age of the existing house's is evident and several requiring major works due to deterioration. We have complied with all relevant planning codes to meet the objectives and design character within the area. The development is modern however fits within a design styles of Port Macquarie. It's only a matter of time before the remaining aged properties will need to be re developed, to fit and mould to current planning controls and the design styles of now and for future development.
2. Visual impact, disruption of views, privacy and loss of solar access were highly weighed, and the design intentional, to meet the clients brief and trustfully safeguarding a smooth development approval.
 -
 - The second floor addition (Bed 1, Ensuite, Walk in Robe) position was strongly considered during the design and we believe has no adverse impacts on neighbours. We have purposely positioned bedroom windows away from the adjacent properties or set the sill heights above eye line to eliminate any issues of loss of privacy or a visual connection into personal spaces. In addition windows located in the laundry, bathrooms and ensuite will be fitted with opaque or acid etched glazing. As indicated on drawing **DA07** a slatted privacy screen is nominated as required if within 3m of the boundary line for the deck adjacent to the northern boundary.
 -
 - Site view lines would clearly be directed towards the east (ocean). With the height of the finished floor level (FFL) of existing adjacent properties, natural topography and transitional fall of the street, I would be certain our addition would not impede on existing view lines. From our initial site analysis, we can confirm only a glimpse of the ocean is achievable from the top of the existing roof line and is limited to the south east only between the existing residences located in Bourne Street. Therefore if we can only achieve a minimal view from the top of our proposed addition it would be highly plausible the existing residences do not have a view at all.
 -
 - There will be no loss of solar access to adjacent properties due to the positioning of our second floor addition. The distance between the second floor addition and the east, south and west properties in my experience are too great to have any adverse effects and deprive them of their minimum 3 hours solar access. The northern residence will clearly have no effect in absorbing the north eastern sun due to our building being located on the southern side.
 -
 3. There are no adverse impacts on heritage conservation, due to the locality of the development not zoned as a heritage conservation area.
 -
 4. Building height and our design form is evident, providing a transition that works with the height of existing adjacent residences and creating a seamless connection within the street facade. The bulk of the design height has been kept to a minimum when working with existing levels and all dimensions in elevation are below the compliant 8.5m maximum building height. The roof pitch was a calculated design decision to both bring the northern sun into a residence that is currently starved of light and to follow the natural slope of the street. Therefore transitioning in build form while maintaining the land use intensity this development will compliment the street and become a asset
 - encouraging future development that meets planning objectives.
 -

- The variation in question relates to the base of measurement. Although the height measured from the existing cut level exceeds the 8.5m limit, the overall height in elevation is well below the maximum allowable. If we were to be building a new residence on a vacant block we would be entitled to an additional 0.5m in height measuring from the existing ground line increasing the overall bulk and scale.

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; the proposal is considered acceptable 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 existing dwelling 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) were 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. Ceiling heights and roof pitch are not excessive.
6. The aspect and separation of properties will ensure no adverse overshadowing.
7. Privacy will be retained by virtue of the limited number of windows facing side boundaries, use of screening, use of highlight windows and opaque glass.
8. The variation is minor comprising only 9.5% 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 determined 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 0.54:1.0 which complies with the maximum 1:1 floor space ratio applying to the site.

Clause 5.9, no listed trees in Development Control Plan 2013 are proposed to be removed.

Clause 5.10, 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

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: • 4.8m max. height • Single storey • 60m ² max. area • 100m ² for lots >900m ² • 24 degree max. roof pitch • Not located in front setback	The ancillary shed does not exceed 4.8m or 60m ² . Roof pitch is acceptable and the shed is located in the rear yard.	Yes
3.2.2.2	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 door not more than 6m or 50% of the width of the building. Driveway crossover maximum one third of the site and no greater than 5m	Garage is not setback 5.5m or 1m behind the frontage of the dwelling. While the garage does not comply, it was noted during the site inspection that there are a number of new and renovated dwellings already in the street with garages either in line or forward of the main dwelling. The	No, but acceptable.

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

	Requirements	Proposed	Complies
	wide.	proposed development is therefore consistent with the existing streetscape. The proposal also includes a driveway that runs along the southern side of the dwelling. This driveway would allow for visitor parking, which is a secondary requirement for the 5.5m dimension. Based on the above, the proposed garage setback is considered to be consistent with the street and objectives of the DCP.	
	Garage door not more than 6m or 50% of the width of the building.	The garage does not exceed 6m or 50% of the building width proposed driveway crossover.	Yes
	Driveway crossover maximum one third of the site and no greater than 5m wide.	The total driveway crossovers shown (including existing) will occupy over 6m and more than 50% of the frontage. This is considered excessive and will be conditioned to be reduced to 6m.	Yes
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space. 900mm rear setback for sheds.	Proposed dwelling is setback more than 4m from the rear boundary and the shed is setback more than 900mm. Private open space achieved - see comments below.	Yes
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	All single storey dwelling components are setback 900mm or more. The dwelling contains first floor and higher components less than 3m to side boundaries. In terms of the first floor setback to the southern boundary, the majority of the first floor component and associated setback is existing and unlikely to adversely change	Yes

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

	Requirements	Proposed	Complies
		<p>overshadowing.</p> <p>Furthermore, there is only one window proposed to a small study, which creates no adverse privacy issues.</p> <p>The encroachment is on the southern side of the adjoining property to the north (i.e. no overshadowing). In relation to the three storey component impacting the property to the south, calculations showed that the shadow cast from the existing two storey area spreads further onto the southern property than the new third storey.</p> <p>Limited windows, fencing, high sill windows, opaque glass windows and privacy screens will ensure privacy is retained to the northern property.</p> <p>The storage shed is setback less than 900mm to the southern side boundary. The height of the shed along the subject boundary is 2.6m.</p> <p>The minor difference between the 2.6m shed height and an exempt 1.8m high fence, plus the existing vegetation along the frontage, results in no adverse overshadowing.</p> <p>There are no unarticulated sections greater than 12m.</p>	
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The property retains 35m ² open space with 4m x 4m area directly accessible from a living area.	Yes
3.2.2.10	Privacy: <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent 	Living areas and decks are either separated by the required distance or will utilise privacy screening. A small section of the first floor deck is within 12m of the	Yes

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

	Requirements	Proposed	Complies
	dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m	southern elevation. However, the section of the deck is only 1.824m in width and unlikely to be used as a key living area. Furthermore, the separation to the southern boundary is still over 6m when measured from the end of the deck and looking across the site rather than to the more desired rear (eastern) boundary. Fencing will ensure privacy to ground floor areas.	

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. No concealment or entrapment areas created.	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)	Compliant parking proposed in garage.	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 - CI 66 (b)

To be conditioned to comply.

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

None relevant.

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

Context & 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 exhibition period, the issue of view loss was raised. In particular, 40 Bourne Street was concerned with the loss of a north west view.

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.

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: As can be seen on the aerial photo earlier in this report, the north west view corridor from 40 Bourne Street does not traverse 42 Anderson Street. The north west view is over 40 Anderson Street. Therefore, the development will not result in a view loss to the north west.

Part of the western view will be obscured but there is no iconic or water view in that direction.

Site inspection confirmed that no other property is likely to be impacted by any view loss.

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 from 40 Bourne Street to the west are enjoyed from a rear deck area from both standing and sitting positions.

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: As stated in Step 1, there will be no view loss to the north west from 40 Bourne Street. A partial view to the west will be obscured but is not known to contain any iconic or water views.

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, the development will impact a partial western view that does not contain any iconic or water views.

Based on the above, the proposed development is considered to achieve a suitable level of view sharing.

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

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 not identified as being bushfire prone.

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:

One written submission 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
Valuable views to the north west will be lost from 40 Bourne Street. The proposal should comply with building envelope controls to ensure views are not unnecessarily reduced or affected.	Refer to comments on View Sharing above in this report. In the event the concern is over privacy views, the separation of the two buildings will ensure privacy is maintained in accordance with Council controls.
North east side setback is non compliant as to is the height.	Refer to comments on side setbacks in Port Macquarie Hastings Development Control Plan 2013 assessment table and also comments on Clause 4.3 & 4.6 in the Port Macquarie Hastings Local Environmental Plan 2011 section of the above report. In particular, the side setback and height variations are addressed in the relevant sections of this report.

(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

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

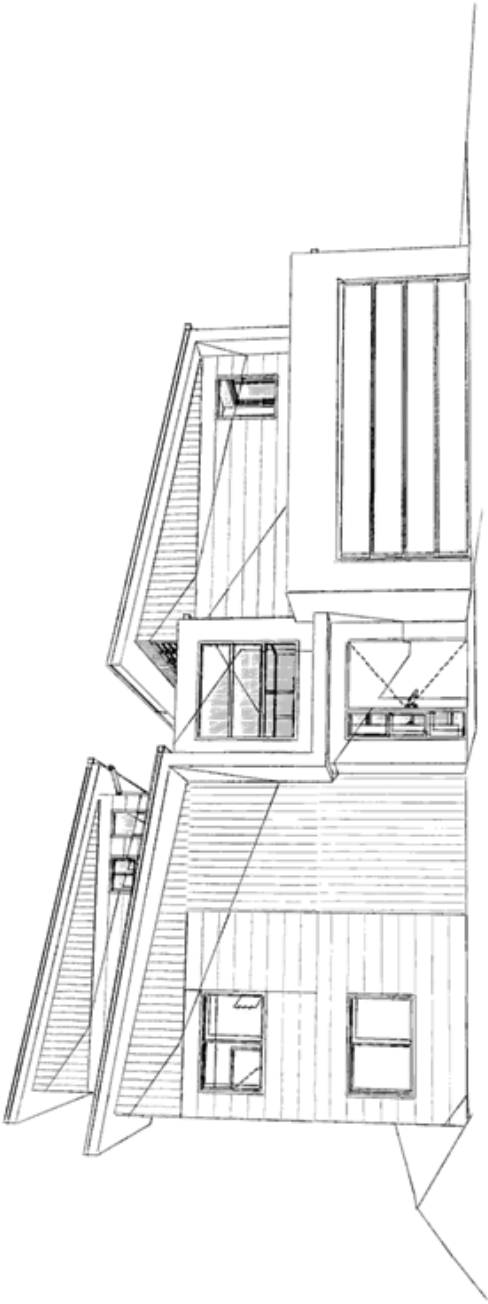
- 1 [View](#). 2015 - 0506 Plans
- 2 [View](#). DA2015 - 0506 Recommended Conditions
- 3 [View](#). DA2015 - 0506 Submission - Di-Costanzo



ALTERATIONS & ADDITIONS
LOT 222, D.P. 208479, 42 ANDERSON
STREET PORT MACQUARIE, 2444
FOR
DANIEL SCARLETT

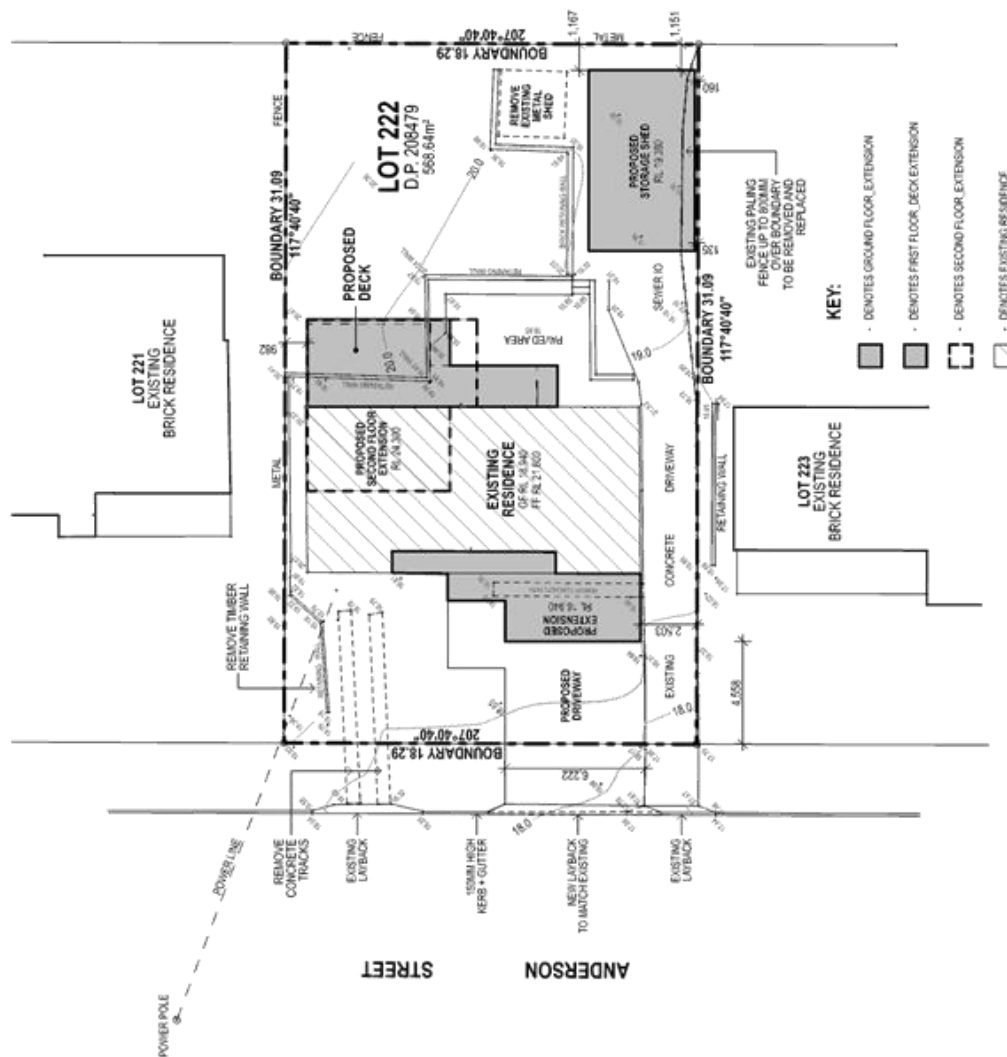
ARCHITECTURAL DRAWING INDEX:

LAYOUT No:	LAYOUT NAME:	ISSUE:
DA00	COVER PAGE	A
DA01	SITE PLAN	A
DA02	GROUND FLOOR DEMOLITION PLAN	A
DA03	FIRST FLOOR DEMOLITION PLAN	A
DA04	GROUND FLOOR PLAN	A
DA05	FIRST FLOOR PLAN	A
DA06	SECOND FLOOR PLAN	A
DA07	NORTH EAST + SOUTH EAST ELEVATIONS	A
DA08	NORTH WEST + SOUTH WEST ELEVATIONS	A
DA09	STORAGE SHED ELEVATIONS	A
DA10	SECTIONS A - A + B - B	A
DA11	SECTIONS C - C + D - D	A
DA12	SECTIONS E - E + F - F	A
DA13	SECTIONS G - G + H - H	A



**KEY:**

WM WATER METRE
PP POWER POLE
EP ELECTRICAL PILLAR
TP TELSTRA PIT
HYD HYDRANT

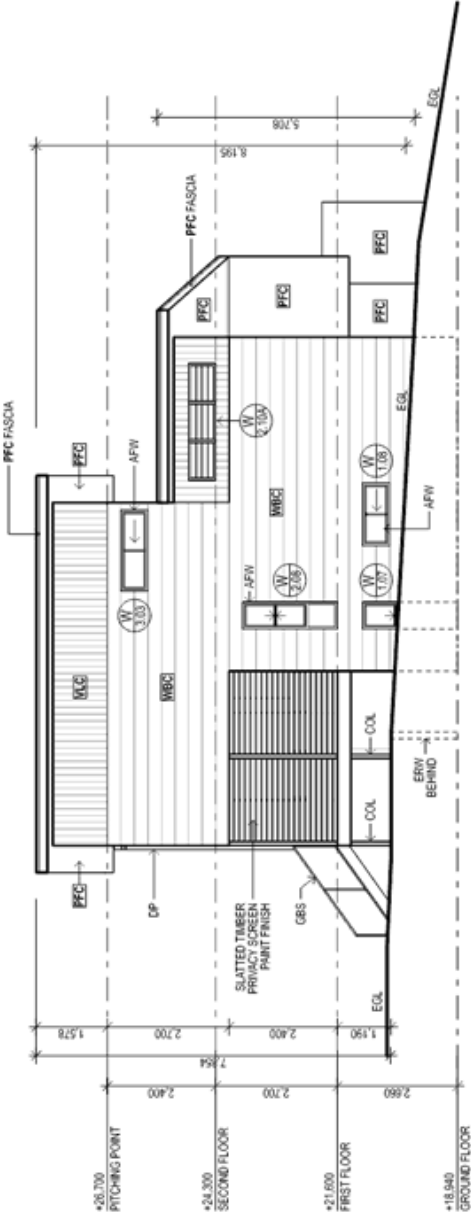


1 SITE PLAN
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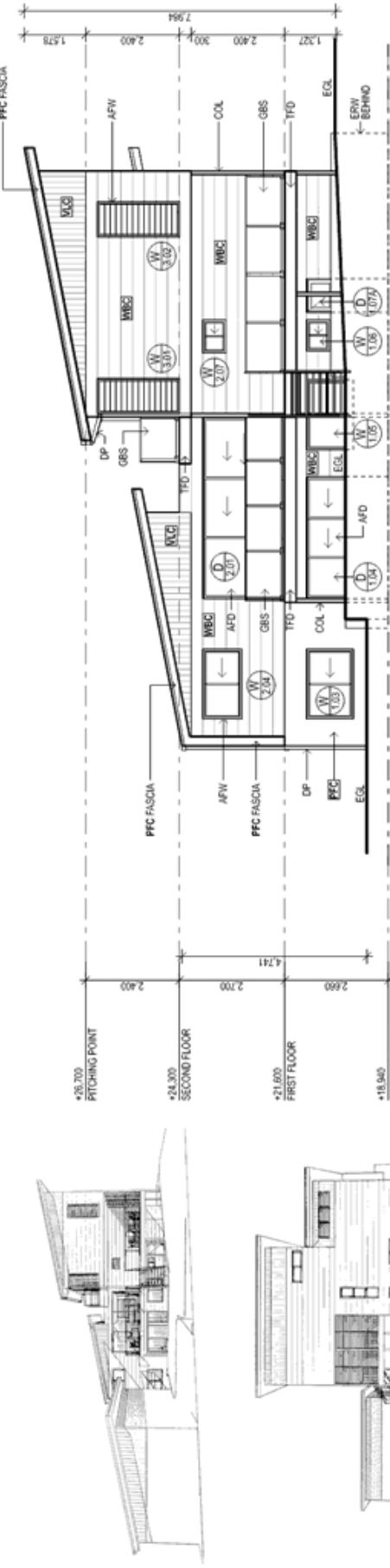
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LEGEND:

AFW	ALUMINIUM FRAMED WINDOWS
AFD	ALUMINIUM FRAMED DOORS
COL	COLUMN
DP	DOWN PIPE
D	DOOR LABLE
ERW	EXISTING RETAINING WALL
EGL	EXISTING GROUND LINE
GBS	GLAZED BALUSTRADE
TFD	TIMBER FRAMED DECK
PFC	PAINTED FIBRE CEMENT
RWG	RAINWATER GUTTER
WBC	WEATHERBOARD CLADDING
VLC	VERTICAL LINEA CLADDING
W	WINDOW LABLE



1 NORTH EAST ELEVATION
Scale 1:100

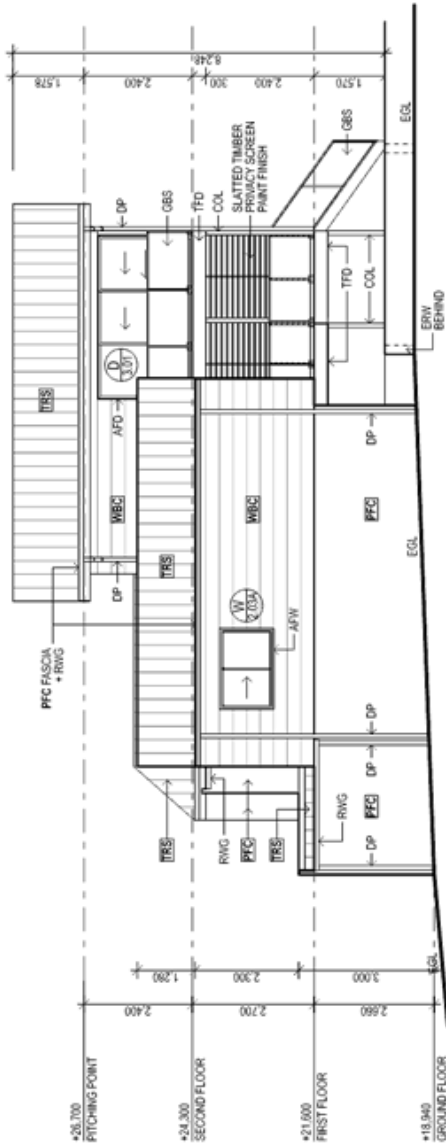
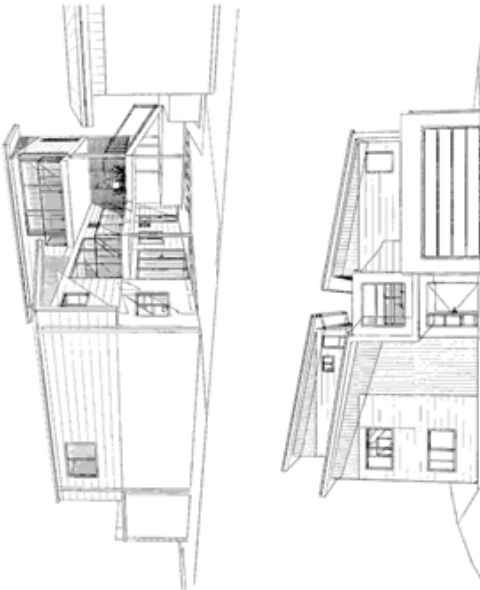
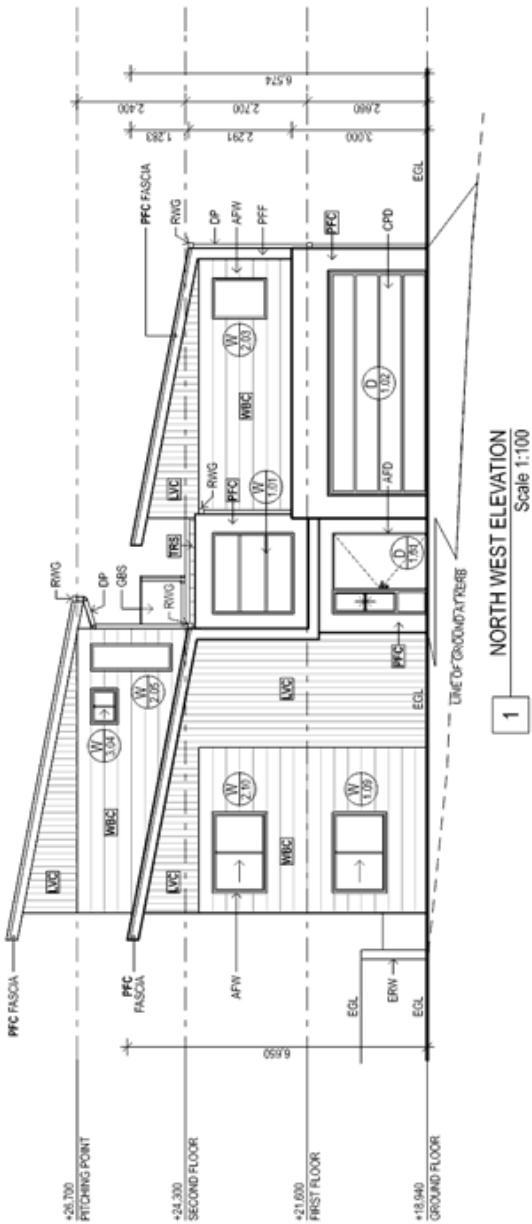


2 SOUTH EAST ELEVATION
Scale 1:100

Drawing Title NORTH EAST + SOUTH EAST ELEVATIONS		Drawing No. DA07	
Project ALTERATIONS & ADDITIONS LOT 222, D.P. 208479, 42 ANDERSON STREET PORT MACQUARIE, 2444		Date 18/07/15	
Drawn JUR	Scale AS SHOWN @ A3	Checked 1403	Project Number DA07
Firm Name JRD J THE MINDROOM PORT MACQUARIE, 2444 E P 08 850 00 00 00			
Client DANIEL SCARLETT		Development Application A 20.7.15	

LEGEND:

APW	ALUMINIUM FRAMED WINDOWS
AFD	ALUMINIUM FRAMED DOORS
COL	COLUMN
CPD	COLORADO PANEL LIFT DOOR
DP	DOWN PIPE
D	DOOR LABEL
ERW	EXISTING RETAINING WALL
EGL	EXISTING GROUND LINE
GBS	GLAZED BALUSTRADE
TFD	TIMBER FRAMED DECK
PFC	PAINTED FIBRE CEMENT
RWG	RAINWATER GUTTER
WBC	WEATHERBOARD CLADDING
VLC	VERTICAL LINEA CLADDING
W	WINDOW LABEL



Drawing Title		Project		Drawing Title	
NORTH WEST + SOUTH WEST ELEVATIONS		ALTERATIONS & ADDITIONS		NORTH WEST + SOUTH WEST ELEVATIONS	
DA08		LOT 222, D.P. 208479, 42 ANDERSON STREET		DA08	
140.3		PORT MACQUARIE, 2444		140.3	
Project Number		Client		Project Number	
AS SHOWN @ A3		DANIEL SCARLETT		AS SHOWN @ A3	
Scale		Development Application		Scale	
JUR		A		JUR	
Date 18/07/15		20.7.15		Date 18/07/15	
Checked		A		Checked	
Drawn		A		Drawn	

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**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2015/506****DATE: 20/10/2015****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		Jackson Rafferty	17/7/2015
Plans	Project Number 1403, Dwg No DA01-13	JRDesign	18/7/2015
BASIX	Certificate Number A221853	Daniel Scarlett	16/6/2015
Clause 4.6		JRDesign	28/9/2015

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:
- 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) (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;
3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
4. Building waste is to be managed via an appropriate receptacle;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

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

- (5) (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.
- (6) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
 - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
 - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

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

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-

Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:

- Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.
- Such works include, but not be limited to:
- Footway and gutter crossing
 - Functional vehicular access
- (3) (B195) Prior to release of the construction certificate, the plans are to be amended to show one crossover for the property and that the crossover does not exceed 6m in width.

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


- (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) (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.
- (3) (E010) Driveways shall be provided with a concrete 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).
- (4) (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.
- (5) (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.
- (6) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

F – OCCUPATION OF THE SITE

- (1) (F002) The shed is not to be used for habitable, commercial or industrial purposes.
- (2) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.

A & L Di-Costanzo
24 Clevedon Road
HURSTVILLE NSW 2220



11 August 2015

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

Re: 42 ANDERSON STREET PORT MACQUARIE (Application No: 2015/506)

Dear Sir/Madam,

I write to you as the owner of the property at **40 Bourne Street Port Macquarie**.

I have reviewed the available drawings and documents and object to the proposal in its current form.

We have valuable views from our house towards the north-west that will be affected by the proposal. We wish to ensure that the proposal is therefore compliant with the building envelope controls to ensure that our views are not unnecessarily reduced or affected.

It would appear from the documents that the north-eastern side setback of the proposal is not compliant. It also appears that the proposed building is excessive in height.

We seek your support to ensure that the appropriate controls are enforced so as not to affect the available views and outlooks from our property.

Yours sincerely,



¹ Tony Di-Costanzo

Item: 06

Subject: DA2015 - 0481 CONTINUED USE OF ADDITIONS TO DWELLING AT
LOT 1 SP 38802, 1/6 MAYWORTH AVENUE, PORT MACQUARIE

Report Author: Clint Tink

Property: Lot 1 SP 38802, 1/6 Mayworth Avenue, Port Macquarie
Applicant: P S & R S Rolls
Owner: P S & R S Rolls
Application Date: 23 September 2015
Estimated Cost: \$18,000
Location: Port Macquarie
File no: DA2015 - 0481
Parcel no: 13423

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2015 - 0481 for continued use of additions to dwelling at Lot 1, SP 38802, No. 1/6 Mayworth, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

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

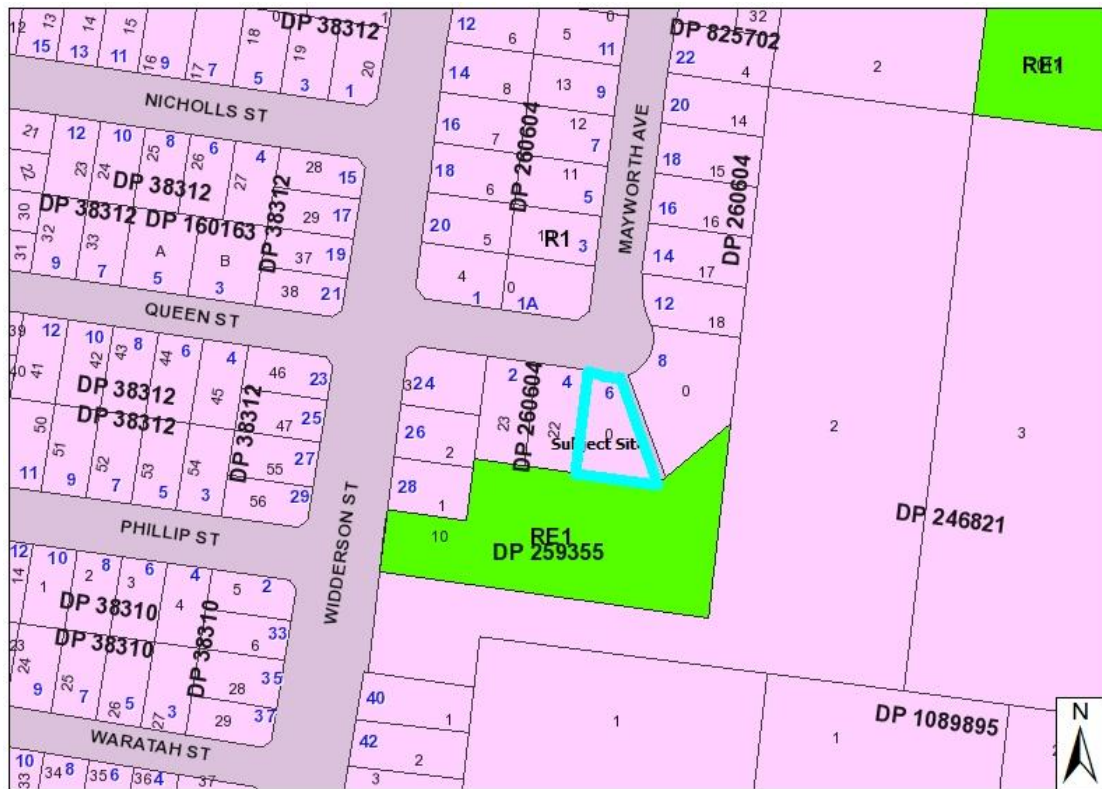
Following exhibition of the application, one submissions was received.

1. BACKGROUND

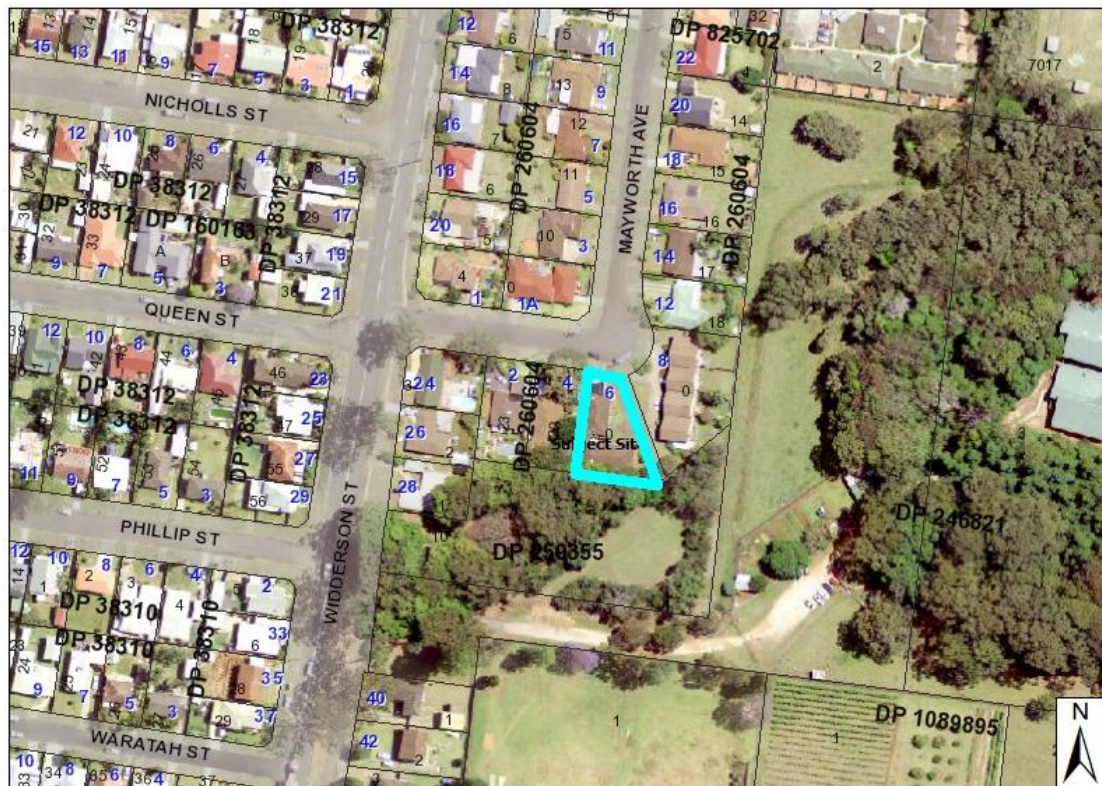
Existing sites features and Surrounding development

The site has an area of 834.4m² (overall strata) and 180m² (Lot 1 SP38802).

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:

- Continued use of additions to a dwelling, specifically awning areas to the front and side, a front fence and a portable spa.
- Removal of rear storage area.
- Sunroom awning area being moved 900mm off the western boundary.

Refer to attachments at the end of this report.

Application Chronology

- DA376/87 approved the strata complex in 1987.
- 13/7/2015 - Application lodged with Council.
- 23/7/2015 - Additional fees requested by Council staff.
- 24/7/2015 - Applicant paid additional fees.
- 28/7/2015 to 10/8/2015 - Exhibition period.
- 28/7/2015 - Exhibition material provided to neighbour upon request.
- 31/7/2015 - Council staff requested additional information on owners consent, elevations and compliance with Port Macquarie Hastings Development Control Plan 2013 (DCP 2013).
- 6/8/2015 - Council staff reiterated additional information with applicant.
- 23/9/2015 - Applicant responded to additional information request. Copy provided to original objector and one week extension allowed to submit any further comment.
- 1 to 7/10/2015 - Discussion with applicant regarding processing of application, submission and DAP.

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 additions are consistent with others in the area and would blend in with the existing house forms.

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

The works do not trigger the requirement for a BASIX certificate.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

It should be noted that none of the newly constructed awnings, sunroom, storage area or front fence fit within the exempt provisions of the SEPP. Furthermore, the portable spa is not located in the rear yard and cannot be undertaken as exempt development. DA2015 - 481 deals with the continued use of such structures.

Port Macquarie-Hastings Local Environmental Plan 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 additions to a dwelling are a permissible landuse with consent. While the works have already been done without approval, this application is for the continued use of the structures. A building certificate will also be required/conditioned.

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, 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) does not exceed the standard height limit of 8.5m applying to the site.

Clause 4.4, the floor space ratio of the proposal is approximately 0.34:1.0 which complies with the maximum 0.65:1 floor space ratio applying to the site. The floor space ratio calculation was for the whole strata and excluded single garages and non enclosed areas.

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

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.2	<p>Articulation zone:</p> <ul style="list-style-type: none"> • Min. 3m front setback • An entry feature or portico • A balcony, deck, patio, pergola, terrace or verandah • A window box treatment • A bay window or similar feature • An awning or other feature over a window • A sun shading feature 	<p>The proposed development contains an open awning structure within the articulation zone. Part of the awning extends to 2.26m from the front boundary. The encroachment/variation is partially created by the curve in Mayworth Avenue and results in the total area of the awning encroaching upon the 3m setback being 1.4m².</p> <p>In addition to the above variation, the awning occupies more than 25% (occupies approximately 50%) of the articulation zone.</p> <p>In considering the variation, it is noted that the existing front fence and vegetation partially screen the structure from the street. There is also a similar sized structure on the adjoining property to the</p>	No, but acceptable.

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

	Requirements	Proposed	Complies
		west. The development being located on a cul de sac type bend in Mayworth also helps distort the view of the encroachment. Based on the above elements, the encroachment is considered minor and does not adversely impact on the overall streetscape.	
3.2.2.2	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 door not more than 6m or 50% of the width of the building. Driveway crossover maximum one third of the site and no greater than 5m wide.	Garage location remains unchanged.	Yes
	Driveway crossover maximum one third of the site and no greater than 5m wide.	Driveway remains unchanged.	Yes
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space. 900mm rear setback for sheds.	The existing strata Lot 1 does not contain a 4m rear setback. Provision is not applicable to this development.	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.	The development contains single storey components less than 900mm from the western boundary. There is also a single storey storage area in the south western corner that is also built to	No but acceptable.

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

	Requirements	Proposed	Complies
	<ul style="list-style-type: none"> Building wall set in and out every 12m by 0.5m 	<p>and what appears to be over the boundary with Lot 2 SP 38802. The BCA report by David Pensini notes that this structure is to be removed and this will be reinforced via conditions.</p> <p>In relation to the encroachments on the western elevation, it is considered that the proposal will create no adverse privacy or overshadowing. In particular, the BCA report recommends the sun room component be setback 900mm, while the remainder contains either limited openings, is screened by fencing or adjoins non habitable areas on the property to the west.</p> <p>There are no unarticulated sections greater than 12m.</p>	
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The property retains 35m ² open space with 4m x 4m area directly accessible from a living area.	Yes
3.2.2.7	<p>Front fences:</p> <ul style="list-style-type: none"> 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 	<p>Front fence does not exceed 1.8m in height, 50% of the frontage or 6m in length.</p> <p>The fence contains a suitable level of transparency.</p>	Yes
3.2.2.10	<p>Privacy:</p> <ul style="list-style-type: none"> Direct views between living areas of adjacent dwellings screened when 	Views from living areas are either separated by the required distance or will be screened by fencing.	Yes

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

	Requirements	Proposed	Complies
	<p>within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. i.e. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</p> <ul style="list-style-type: none"> • 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

	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	Adequate casual surveillance available. No concealment or entrapment areas created.	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)	Compliant parking provided by existing garage.	Yes

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

None 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 - CI 66 (b)

To be conditioned.

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

None relevant.

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

Context & Setting

- The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be consistent with other residential development in the locality and adequately addresses planning controls for the area.
- There is no adverse impact on existing view sharing.
- There is no adverse privacy impacts.
- There is no adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

Access, Transport & 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.

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 vegetation.

Waste

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

Energy

The development will not change or create any adverse energy issues.

Noise & Vibration

No adverse impacts anticipated.

Natural Hazards

The site is not identified as being bushfire prone.

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

Construction

While there may be some short term impacts associated with re-construction of the sun room setback (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:

One written submission 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
The development was built without Council approval and for this reason should not be allowed. How can someone lodge a development application for works that have been completed.	Comment is noted. However, the planning legislation does provide a process where unauthorised work can be assessed and where deemed acceptable, authorised to continue via a development application and building certificate.
Development does not comply with Council controls in terms of setbacks. This creates impacts on the area as it restricts access to common property, reduced privacy and noise. Clause 4.6 should be required.	The issue of setbacks is considered and deemed acceptable in the Port Macquarie Hastings Development Control Plan 2013 assessment table above in this report. Clause 4.6 only applies to Local Environmental Plan standards to which the development complies. Clause 4.6 does not apply to Development Control Plan variations.
Concern that the works will impact on services.	The development does not impact on any services.
The works are within common property.	The applicant has provided evidence that the By Laws for the strata were changed earlier this year to allow the owner of Lot 1 to build such structures within common property. The only area not covered by the By Law is the storage area in the south west corner, which was acknowledged in the BCA report as being proposed to be removed. This is to be reinforced via conditions.
Has Council approved any other development onsite?	Other than the original approval for the building back in 1987, no other approved structures or uses were found on Council's record system.
Property is being used to conduct a business from the site. This creates impacts on neighbours such as loss of parking, traffic, noise etc.	The use of the property as a business has been assessed by Council staff previously and was again reviewed during the site inspection for this application. On both occasions there was insignificant evidence to conclude the property is being used as a business. It was noted that the property was being used to store some building equipment/tools but not too dissimilar from a normal house that would be owned by a tradesperson. This matter can be reviewed in the future if the need arises.
Concern over the standard of the unauthorised work and compliance with construction standards, specifications, pest treatment etc.	A BCA report has been submitted in support of the application. In addition, a condition of consent is proposed to require an engineer certify the work as being structurally sound. The above components will ensure the works are not signed off without a suitable standard of construction having been reached.
Concern raised over insurance of buildings having to be dealt with.	Insurance of buildings is a civil matter.

Does the spa comply with swimming pool regulations.	Spa is capable of compliance and this will be reinforced through proposed conditions of consent.
South elevation not shown.	South elevation included. It should be noted the south storage area is to be removed and would not be included on the plan.
Does the 10% rule sway the development.	Unsure of the context of the statement. There are a number of references to a 10% ruling in planning legislation. None have been used or are relevant to this proposal.
Proposal should not be approved until considered by the Builders Licence Board NSW and NSW Planning Minister.	Proposal does not require consideration by either party.

(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

There is an existing dwelling onsite with no additional dwellings or lots proposed. The number of bedrooms also remains unchanged. 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.

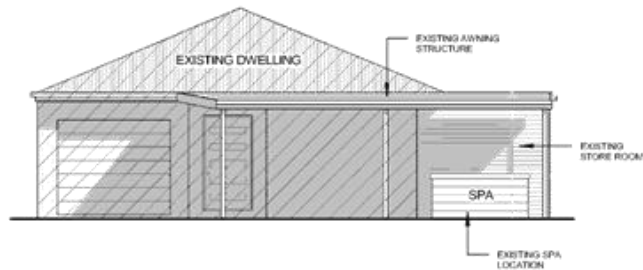
Attachments

- 1 [View](#). DA2015 - 0481 Plans
- 2 [View](#). DA2015 - 0481 Recommended Conditions
- 3 [View](#). DA2015 - 0481 Submission - Worthing

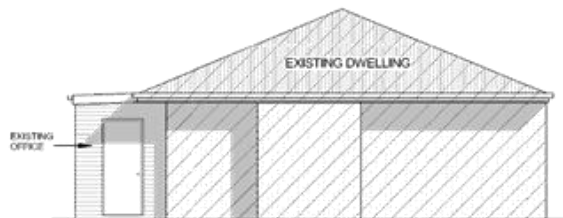


CHECK ALL DIMENSIONS ON SITE. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS, DRAWINGS, ENGINEERING & COUNCIL APPROVALS

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NORTH ELEVATION SCALE 1:100



SOUTH ELEVATION SCALE 1:100



WEST ELEVATION SCALE 1:100

 BUILDING DESIGNERS + LANDSCAPES + COLOURS — GRAPHICS	Project: EXISTING		ELEVATIONS		AMENDMENTS:	
	LOT No: 1	SP No: 38802	SCALE: 1:100		Date:	15.09.15
	STREET No: 1/6		SHEET: 1 OF 1		Detail:	EXISTING PLANS
	STREET: MAYWORTH AVENUE, PORT MACQUARIE		START DATE: 07.02.15		Issue:	A
CLIENT: ROLLS			DWG No: D2966		Drawn:	DS
B9 LORD STREET (PO Box 5667), PORT MACQUARIE NSW 2446		T: 02 6503 4411	F: 02 6503 9820		WWW.COLLINSWCOLLINS.COM.AU	

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2015/481****DATE: 21/10/2015****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 and Compliance Table	D2966_DCP2013 Compliance Table 2013	Collins W Collins Pty Ltd	
Plan	Job No 5056	Coastal Survey Solutions	28/2/2015
Elevation	Dwg No D2966 Sheet 1 of 1	Collins W Collins Pty Ltd	15/9/2015
BCA Report		David Pensini	29/6/2015

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) (A195) Unauthorised works that would have been checked as part of the construction certificate for this approval will require the submission and approval of a Building Certificate by Council within six (6) months of the date of this consent.
- (3) Prior to release of the Building Certificate, the following items must be addressed:
- The western sun room is to be amended to be setback 900mm off the western boundary.
 - The south western storage awning/works are to be removed.
 - Engineering certification for the unauthorised work/structures.
 - Confirmation that the portable spa complies with the current Swimming Pools Act and Regulation.
- (4) (A009) The development site is to be managed for the entirety of work in the following manner:

1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 2. Appropriate dust control measures;
 3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 4. Building waste is to be managed via an appropriate receptacle;
 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
 6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public 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

nil

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](#)

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

nil

F – OCCUPATION OF THE SITE

nil

28/10/2015

ast Kempsey 2440 NSW Port Macquarie - 2444 NSW.
 # August 2015
 Port Macquarie-Hastings Council AUG 2015 Parcel No - 13423
 O Box 84
 Port Macquarie 2444 NSW Your Ref - DA 2015.481.1
 X 7415 Received - 30/07/015-Dated 23/07/01

HASTINGS	
TRIM No	CRM No
Keyword	DA 2015.481.1
Activity	
Subject	
Folder	

Dear Mr Clinton Tink - Director of Development and Environment Services,
 Re: Request for "Extension in Response" to above application by Mr Rolls and
 his Rolls and further Documents by the applicant.

Under: NSW Polocys - Plans - DCP's - Sepps - PMH LEPs by Council - Governmer
 Authorities as Quoted or Requirements Per - Aust - Building Standards
 Associated Lic - or Requirements.

Thank you for Receiving our Request for "Extension of Time" and/or
 Questions and Documents over above Previous Consultations with your
 Officers at above Development at Council Chambers Recently.
 Say 28 Days + Postage - after the applicant has supplied further material
 to believed, Support his application herewith as a Priority - Interests.
 Prior.

Application of "Continued Uses" of "Present Additions" to Existing ~~Per~~-Existing
 Dwelling (Duplex) at 2 - Roof Connected - Believed in full use Prior and ~~now~~
 as Ongoing - by the Applicants. Also Strata's Believed Knowledge - approval
 Insurances - Plus Under Business Polocys - Insurances or Complying - Plans,
 State Polocys - Codes as Registered Documents Per - Managment - Stated on
 Plans by Authorities etc.

Therefore, Previous DA's - BA's - Liens - Engeneer Approvals or Surveyors
 at Say about 1981-82 at Construction's approvals then as a Believed
 important Part of this application as - R1 Only by the applicants doesn't
 or was Present or Commented On, to be able to give any merits at this
 stage, On Such Processes at Fairness, This all attachments for the Existi
 use of the Extensions or Variations listed to Such Prior Boundries or
 Common Registered Access grounds - Points at the whole Developer
 Site and Parking or Fencings - noise - then or Distances - Services.

Again, on waiting for his further Materials - over above the Extension of
 Time above, to Satisfy all Proposal Requirements - Concerns or Believed
 merits or Issues I feel any other neighbours for or against would
 appreciate similar to be just, herewith by the Council - Applicant's
 At this Stage I ask a Question: - As Per this application Filed - Received
 has Council Authorities Approved anything previously or for a Ongoing
 Temporary Application above Quoted - over issues or Governmer
 Authorities Require in NSW as above and Councils Processes?

We await your Reply - Extension for any Objection - materials to be forward
 in a Balanced Approach - Above address or PL - 6562 3797 or 6562553:

Yours Faithfully

0.0 m.m.t.in for H. Wirthin - Strata No-21269

-/1

Item: 07**Subject: DA2015 - 0661 SECONDARY DWELLING - LOT 1 DP 1080242, 3B
NEWPORT CRESCENT, PORT MACQUARIE****Report Author: Patrick Galbraith-Robertson**

Property:	Lot 1 DP 1080242, 3B Newport Crescent, Port Macquarie
Applicant:	GM & WE Smith
Owner:	GM & WE Smith
Application Date:	18 September 2015
Estimated Cost:	\$49,000
Location:	Port Macquarie
File no:	DA2015 - 0661
Parcel no:	46495

Alignment with Delivery Program

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

RECOMMENDATION

That DA2015 - 0661 for a secondary dwelling at Lot 1, DP 1080242, No. 3B Newport Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

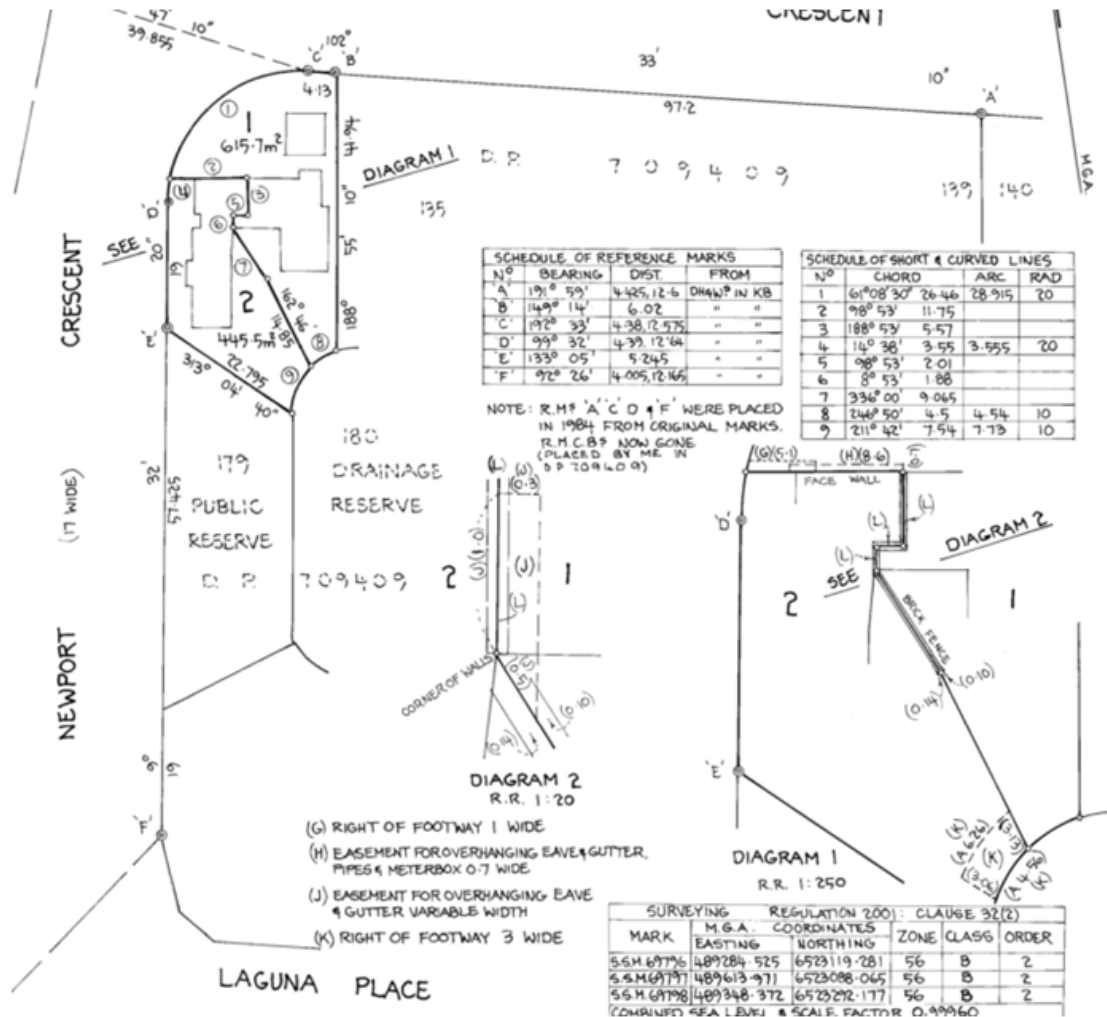
This report considers a development application for a secondary dwelling at the subject site and provides an assessment in accordance with the Environmental Planning and Assessment Act 1979.

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

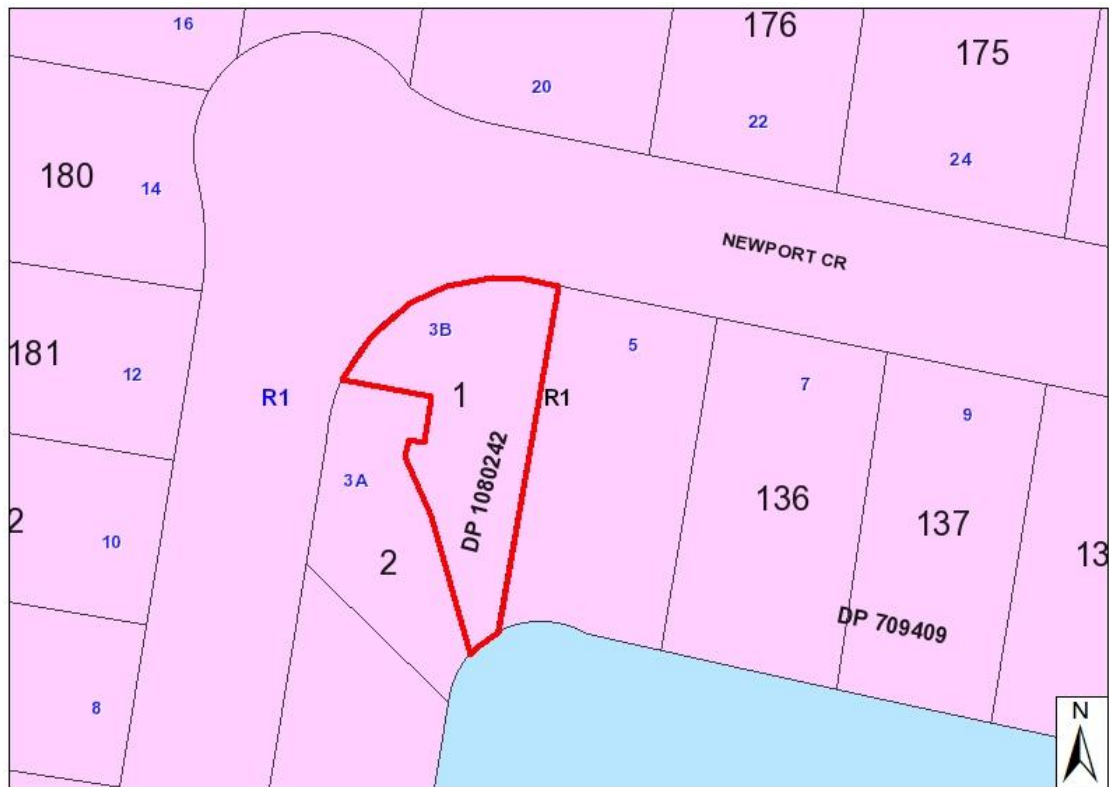
1. BACKGROUND**Existing sites features and Surrounding development**

The site has an area of 615.7m².

There is an existing right of footway access and easement for overhang affecting Lot 1 (the site) as per below.



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 (2012 and note cadastre does not line up with aerial photo):



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Construction of a single storey secondary dwelling and 1.6m high front fence. No additional parking spaces are proposed.

Refer to attachments at the end of this report.

Application Chronology

- 18 September 2015 - DA lodged.
- 24 September - 7 October 2015 - neighbour consultation.

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

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

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

State Environmental Planning Policy No. 44 - Koala Habitat Protection

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

State Environmental Planning Policy No.55 – Remediation of Land

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

State Environmental Planning Policy No. 62 – Sustainable Aquaculture

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries within the Hastings River approximately 550m from the site.

State Environmental Planning Policy No. 71 – Coastal Protection and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011

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

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

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

- a) any restricted access (or opportunities for access) to the coastal foreshore

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

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

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

A BASIX certificate (number 666613S) 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.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Division 2; the floor area of the dwelling is less than 60m² and therefore no additional parking spaces are required to be provided for the secondary dwelling under the SEPP.

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 secondary dwelling (or ancillary structure to a dwelling) is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

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

• In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse, will offer an alternative form of residential accommodation and is consistent with the established residential locality,

- Clause 4.3, the maximum overall height of the building above ground level (existing) is approximately 4 m which complies with the standard height limit of 8.5 m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.34:1.0 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 is on land that has been filled as part of the canal development and will not include works which will be 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 the applicable climate change allowance and relevant freeboard) In this regard, the following comments are provided which incorporate consideration of the objectives of Clause 7.3, Council’s Flood Policy (2015); the NSW Government’s *Flood Prone Lands Policy* and the NSW Government’s *Floodplain Development Manual* (2005):
 - The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change;
 - The proposal will not result in a significant adverse affect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties;
 - The proposal incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
 - The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses;
 - The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding;
 - A condition is recommended to specify a flood freeboard for the finished floor level to comply with Council flood policy.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services.

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

No draft instruments apply to the site.

(iii) any Development Control Plan in:

Port Macquarie-Hastings Development Control Plan 2013

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> • 4.8m max. height • Single storey • 60m² max. area • 100m² for lots >900m² • 24 degree max. roof 	The ancillary front fence is permitted in the front setback	Yes

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

	Requirements	Proposed	Complies
	pitch <ul style="list-style-type: none"> Not located in front setback 		
3.2.2.2	Articulation zone: <ul style="list-style-type: none"> Min. 3m front setback An entry feature or portico A balcony, deck, patio, pergola, terrace or verandah A window box treatment A bay window or similar feature An awning or other feature over a window A sun shading feature 	A porch is proposed to a minimum 2.3m at the closest point from the curved property frontage of Newport Crescent.	No*
	Front setback (Residential not R5 zone): <ul style="list-style-type: none"> Min. 6.0m classified road Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot Min. 3.0m secondary road Min. 2.0m Laneway 	Min. 3.282m to Secondary frontage considered for front boundary due to the alignment consistent with interpretation under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	No change	n/a
	6m max. width of garage door/s and 50% max. width of building		
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width		
	Garage and driveway provided on each frontage for dual occupancy on corner lot		
3.2.2.4	4m min. rear setback.	n/a - corner block	

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: <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	1m south side setback Existing dwelling on east side between subject dwelling and east boundary Building wall length under 12m proposed at 8m	Yes
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	Approx. 27m ²	No*
3.2.2.7	Front fences: <ul style="list-style-type: none"> • If solid 1.2m max height and front setback 1.0m with landscaping • 3x3m min. splay for corner sites • Fences >1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings • 0.9x0.9m splays adjoining driveway entrances • Front fences and walls to have complimentary materials to context 	1.6m height solid rendered fence for approximately 15% (9m length) of the frontage	No*
3.2.2.8	No chain wire, solid timber, masonry or solid steel front fences	Solid fence proposed not dissimilar to other fences in broader locality	Yes
3.2.2.10	Privacy: <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of 	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.	

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

	Requirements	Proposed	Complies
	adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed <ul style="list-style-type: none"> • 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

	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	Fill expected to be minimal for flood planning freeboard	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	No additional parking required under SEPP affordable rental housing	N/A

The proposal seeks to vary Development Provision relating to a minimum 3m front setback for an articulation zone. The proposal has a pole for a porch with a front setback of approximately 2.3m.

The relevant objective is:

- *Front setbacks should support an attractive streetscape.*

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

- The site is located on a bend of Newport Crescent which is considered to be a corner allotment (using definitions in SEPP Exempt and Complying Codes) - secondary frontage setback potential.
- The encroachment is very minor and only on a corner of porch with a post and the structure is open.
- The porch adds interest to the building on the corner.
- The linear alignment of the new building is set behind the neighbouring 3A Newport Crescent dwelling and the dwelling on the subject site.
- A 1.5m front setback is permitted under Schedule 1 of the SEPP Affordable rental housing for complying development to a primary road.

The proposal seeks to vary Development Provision relating to private open space being less than 35m². The proposal provides for approximately 27m² of private open space.

The relevant objective is:

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

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

- The dwelling is a single bedroom dwelling and not anticipated to house a large family.
- A minimum 24m² private open space area is permitted under the SEPP Affordable rental housing.

The proposal seeks to vary Development Provision relating to requiring a break up of solid front fencing with recesses where over 6m in length up to a maximum 1.8m in height. The proposed front fence is 1.6m in height and is approximately 9m in length.

The relevant objectives are:

- *To define the edge between public and private land and to provide privacy and security.*
- *To ensure the adequate sight lines are provided for vehicles leaving the site.*
- *To ensure front fencing does not impact on the public domain.*
- *To encourage surveillance of the street and other public places.*

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

- The fence is lesser than the maximum 1.8 maximum at 1.6m in height.
- The length of fence is 1/3 of the proportional length of the front boundary.
- There are no safety issues identified with the front fence to warrant refusal of the application.
- The objectives are satisfied.

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

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

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

iv) any matters prescribed by the Regulations:

NSW Coastal Policy 1997

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

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

None applicable.

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

Context and setting

- The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be consistent with other residential development in the locality and adequately addresses planning controls with variations appropriately justified for the area.
- There is no adverse impact on existing view sharing.
- There is no adverse privacy impacts.
- There is no adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

Access, transport and traffic

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

Water Supply

Service available – details required with S.68 application.

Sewer

Service available – details required with S.68 application.

Stormwater

Service available – details required with S.68 application

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

This site does not contain or adjoin any known heritage item or site of significance.

Other land resources

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

Water cycle

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

Soils

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

Air and microclimate

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

Flora and fauna

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

Waste

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

Energy

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

Noise and vibration

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

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

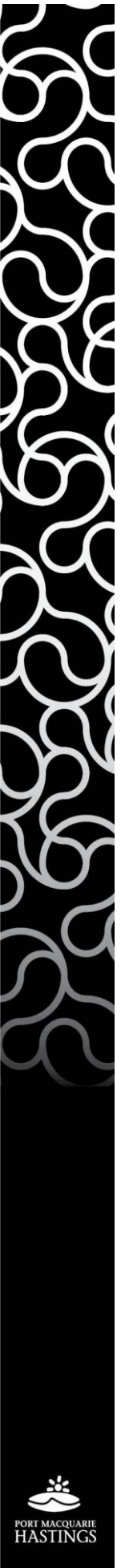
No adverse impacts. Likely positive impacts can be attributed to the construction of the development and associated flow on effects (i.e. increased expenditure in the area).

Bushfire risk

The property is not identified as being subject to any known bushfire risk.

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.

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

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

Two (2) written submissions have been received following public exhibition of the application.

The location of the two objections received is identified below with (blue dots):



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

Submission Issue/Summary	Planning Comment/Response
3A Newport Crescent	
The proposed dwelling will restrict our	There are existing restrictions and

access to the north facing wall of our garage limiting our ability to adequately maintain the side of our house.	easements as detailed earlier in this report. Access will be maintained. This has been in place since 2005.
Access to our electricity box will be limited and restricted by the proposed dwelling.	
Light to our garage will be reduced significantly.	No adverse impacts to warrant refusal. Direct sunlight to a garage is generally not a planning consideration.
The square footage of the land does not allow for high density occupation.	The proposal is not for high density development. A secondary dwelling is permitted in the R1 general residential zone applying to the site.
The tenants of 3B have previously made noise complaints with regards to the common wall in the garage, with the addition of an extra dwelling within such close proximity to our home, in particular to our front door we feel that our right to live a normal existence will be severely and seriously impacted.	No adverse impacts identified. There are no windows on the south elevation in closest proximity - 1m side setback.
The tenants have previously without notice or discussion destroyed the plants/hedge that was had been situated along the easement resulting in a 'Keep Out Notice' being applied to the wall of the garage.	This is considered to be a civil matter. The easements and restrictions only provide for access and do not infer a right to plant vegetation. This has been in place since 2005.
Access to the proposed dwelling will be directly facing the corner verge of Newport Crescent severely disrupting the view when attempting to reverse our vehicle from our driveway.	The front fence is permitted. No adverse impacts identified. The fence is setback 1m from the garage in question.
Our privacy will be impacted with the addition of an extra dwelling within such close proximity to our front door with the property being over developed for the proposed site.	There is no windows looking in on next door and a 1.6m height boundary fence is proposed.
The proposed dwelling will severely devalue our property due to the overcrowded appearance of the property on such a small parcel of land.	Impacts on property values is not a consideration in planning assessment of development applications particularly where a landuse is permissible.
The boundary of our two properties will be an ongoing issue particularly if the tenants continue their behaviour with regards to their inconsiderate and wilful destruction to the existing hedges which grow along the boundary line.	This is civil matter however the plants/hedge would have been on the proponent's property and would be permitted to be removed. The easements and restrictions only provide for access.
An additional dwelling on the proposed site will result in parking issues on a dangerous corner.	There are no safety issues identified with the front fence to warrant refusal of the application. The speed limit is 50 kilometres an hour.
Our ability to ensure that the gutters and drains are maintained will no longer be	There are existing restrictions and easements as detailed earlier in this

available to us due to the close proximity of the dwelling to our garage wall.	report. Access will be maintained. This has been in place since 2005.
18 Newport Crescent	
We have no objections to the approval being granted, but ask that consideration be given to provision for adequate vehicle parking wholly within the property.	Separate matter to this application. Parking is available to use on-site. The secondary dwelling does not require any additional parking to be provided.
There is a situation currently in place whereby the resident of No.3A Newport Crescent parks a large 4wd vehicle partially within his driveway but with the rear half protruding out across the footway area. This occurs outside working hours, generally in the evening when visibility is not good. It creates a hazard to pedestrians using the footway and is exacerbated by the towbar neck of the vehicle. Council's infringement inspector could take up this matter and have the vehicle moved before a pedestrian falls into the vehicle which could result in injury and litigation for Council.	

(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

- No development contributions applicable.

5. CONCLUSION

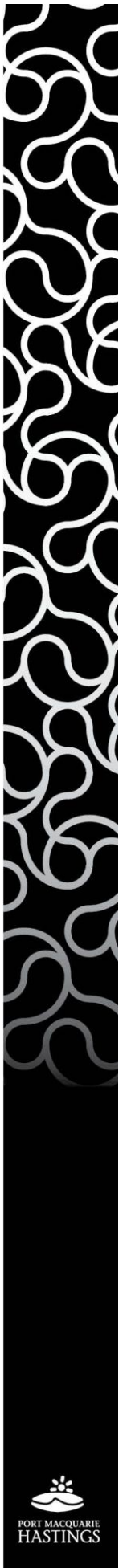
The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

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

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

Attachments

- 1 [View](#). DA2015 - 0661 Plans
- 2 [View](#). DA2015 - 0661 Recommended Conditions
- 3 [View](#). DA2015 - 0661 Submission - Pitt
- 4 [View](#). DA2015 - 0661 Submission - Cordell



Sheet #

1

Drawn By:

DEAN SCHNEIDER

Date:

18/09/2015

Scale:

GRAHAM AND WENDY SMITH

ISSUE: DA

38 NEWPORT CRESCENT, PORT MACQUARIE

DS design

38 OCEAN DRIVE

PORT MACQUARIE

MOB: 0402074356

CLIENT: GRAHAM AND WENDY SMITH

PROJECT: PROPOSED GRANNY FLAT

@ 3 NEWPORT CRESCENT PORT MACQUARIE



NOTE: ALL DRAWINGS HAVE BEEN PREPARED WITH

CLIENT SUPPLIED DOCUMENTATION



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2015/661****DATE: 21/10/2015****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
Plans and BASIX	Sheets 1 to 8	DJS design	18 September 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:

- the appointment of a Principal Certifying Authority and
- the date on which work will commence.

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

- (3) (A009) The development site is to be managed for the entirety of work in the following manner:

- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
- Appropriate dust control measures;
- Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
- Building waste is to be managed via an appropriate receptacle;
- Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

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

- (4) All parts of the structure below the applicable Flood Planning Level (1 in 100 flood level including climate change plus the relevant freeboard) shall be constructed from flood compatible materials compliant with the ABCB Standard for Construction of Buildings in Flood Hazard Areas. Consideration should also be given to the relevant provisions contained with the Hawkesbury-Nepean Floodplain Management Steering Committee document *Reducing Vulnerability of Buildings to Flood Damage (2007)*.

B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) The floor level of all habitable areas is to be a minimum of 500mm above the 1 in 100 year flood level including the applicable climate change allowance. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.24m AHD. Prior to release of the Construction Certificate floor levels satisfying this
- (3) Prior to release of the Construction Certificate a practising chartered professional structural engineer is to provide certification to the PCA that the building is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur for a range of floods up to and including the 1 in 100 year flood including climate change and the relevant freeboard level of 500mm. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.24m AHD. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1 in 100 year flood including climate change plus freeboard. For the purpose of this requirement, the velocity for the 1 in 100 flood including climate change may be assumed to be 0.02m/s

C – PRIOR TO ANY WORK COMMENCING ON SITE

Nil

D – DURING CONSTRUCTION

Nil

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the

site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

- (3) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (4) (E044) The applicant will be required to submit prior to occupation or the issue of the Occupation Certificate, certification by a Registered Surveyor that the development has met the necessary flood planning levels specified in this consent.

F – OCCUPATION OF THE SITE

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

The Development and Environmental Services Office

Port Macquarie Hastings Council

PO Box 84

Port Macquarie 2444

6th October, 2015

46495

PORT MACQUARIE HASTINGS	
TRIM No	CRM No
- 8 OCT 2015	
Keyword	
Activity	
Subject	
Folder	DA 2015. 661. 1

Development Proposal: 3B Newport Crescent, Port Macquarie

Dear Mr Patrick Galbraith-Robertson,

I am writing on behalf of my son, Andrew the owner of No 18 Newport Cres which is located directly opposite the site of the proposed development. He is currently overseas and has asked me to submit comments on his behalf.

I have examined the plans currently on display at the Council chambers and discussed the proposal with him. We have no objections to approval being granted, but ask that consideration be given to provision for adequate vehicle parking wholly within the property.

In this regard, I want to bring to Council's attention the situation currently in place whereby the resident of No 3A Newport Cres parks a large 4wd vehicle partially within his driveway but with the rear half protruding out across the footway area. This occurs outside working hours, generally in the evening when visibility is not good. It creates a hazard to pedestrians using the footway and is exacerbated by the towbar neck of the vehicle.

Perhaps Council's infringement inspector could take up this matter and have the vehicle moved before a pedestrian falls into the vehicle which could result in injury and litigation for Council.

Thank you,


Carl Pitt

Unit 1, 4 Riverpark Road


Port Macquarie 2444



Sharon and Peter Cordell
3a Newport Crescent
Port Macquarie
NSW 2444



46495

 PORT MACQUARIE HASTINGS	
TRIM No	CRM No
30 SEP 2015	
Keyword	
Activity	
Subject	
Folder	

DP 2015/661

Dear Mr Galbraith-Robertson

The purpose of this letter is to raise our objections for the proposed DP: 1080242 submitted by the GM Smith & W E Smith.

Our objections are outlined below:

1. The proposed dwelling will restrict our access to the north facing wall of our garage limiting our ability to adequately maintain the side of our house.
2. Access to our electricity box will be limited and restricted by the proposed dwelling.
3. Light to our garage will be reduced significantly.
4. The square footage of the land does not allow for high density occupation.
5. The tenants of 3B have previously made noise complaints with regards to the common wall in the garage, with the addition of an extra dwelling within such close proximity to our home, in particular to our front door we feel that our right to live a normal existence will be severely and seriously impacted.
6. The tenants have previously without notice or discussion destroyed the plants/hedge that was had been situated along the easement resulting in a **Keep Out Notice** being applied to the wall of the garage.
7. Access to the proposed dwelling will be directly facing the corner verge of Newport Crescent severely disrupting the view when attempting to reverse our vehicle from our driveway.
8. Our privacy will be impacted with the addition of an extra dwelling within such close proximity to our front door with the property being over developed for the proposed site.
9. The proposed dwelling will severely devalue our property due to the **overcrowded** appearance of the property on such a small parcel of land.
10. The boundary of our two properties will be an ongoing issue particularly if the tenants continue their behaviour with regards to their inconsiderate and wilful destruction to the existing hedges which grow along the boundary line.
11. An additional dwelling on the proposed site will result in parking issues on a **dangerous** corner.
12. Our ability to ensure that the cutters and drains are maintained will no longer be available to us due to the close proximity of the dwelling to our garage wall.

Due the number of issues that we have raised we request that further time be made available to us to pursue our options through the land and environment court.

Without prejudice

