



PORT MACQUARIE-HASTINGS  
COUNCIL



# Development Assessment Panel

## Business Paper

**date of meeting:** Wednesday 9 May 2018

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

**time:** 2:00pm

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

## **Development Assessment Panel**

### **CHARTER**

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#### **1.0 OBJECTIVES**

To assist in managing Council's development assessment function by providing independent and expert determinations of development applications that fall outside of staff delegations.

#### **2.0 KEY FUNCTIONS**

- To review development application reports and conditions;
- To determine development applications outside of staff delegations;
- To refer development applications to Council for determination where necessary;
- To provide a forum for objectors and applicants to make submissions on applications before the Development Assessment Panel (DAP);
- To maintain transparency in the determination of development applications.

#### **Delegated Authority of Panel**

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.
- Vary, modify or release restrictions as to use and/or covenants created by Section 88B instruments under the Conveyancing Act 1919 in relation to development applications for subdivisions being considered by the panel.
- Determine Koala Plans of Management under State Environmental Planning Policy 44 - Koala Habitat Protection associated with development applications being considered by the Panel.

Noting the trigger to escalate decision making to Council as highlighted in section 5.2.

#### **3.0 MEMBERSHIP**

##### **3.1 Voting Members**

- Two independent external members. One of the independent external members to

- be the Chairperson.
- Group Manager Development Assessment (alternate - Director Development & Environment or Development Assessment Planner)

The independent external members shall have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, government and public administration.

### **3.2 Non-Voting Members**

- Not applicable

### **3.3 Obligations of members**

- Members must act faithfully and diligently and in accordance with this Charter.
- Members must comply with Council's Code of Conduct.
- Except as required to properly perform their duties, DAP members must not disclose any confidential information (as advised by Council) obtained in connection with the DAP functions.
- Members will have read and be familiar with the documents and information provided by Council prior to attending a DAP meeting.
- Members must act in accordance with Council's Workplace Health and Safety Policies and Procedures
- External members of the Panel are not authorised to speak to the media on behalf of Council. Council officers that are members of the Committee are bound by the existing operational delegations in relation to speaking to the media.
- Staff members shall not vote on matters before the Panel if they have been the principle author of the development assessment report.

### **3.4 Member Tenure**

- The independent external members will be appointed for the term of four (4) years maximum in which the end of the tenure of these members would occur in a cascading arrangement.

### **3.5 Appointment of members**

- The independent external members (including the Chair) shall be appointed by the General Manager following an external Expression of Interest process.
- Staff members of the Panel are in accordance with this Charter.

## **4.0 TIMETABLE OF MEETINGS**

- The Development Assessment Panel will generally meet on the 1st and 3rd Wednesday each month at 2.00pm at the Port Macquarie offices of Council.
- Special Meetings of the Panel may be convened by the Director Development & Environment Services with three (3) days notice.

## **5.0 MEETING PRACTICES**

### **5.1 Meeting Format**

- At all Meetings of the Panel the Chairperson shall occupy the Chair and preside. The Chair will be responsible for keeping of order at meetings.
- Meetings shall be open to the public.
- 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.

### **5.2 Decision Making**

- Decisions are to be made by consensus. Where consensus is not possible on any item, that item is to be referred to Council for a decision.
- All development applications involving a proposed variation to a development standard greater than 10% under Clause 4.6 of the Local Environmental Plan will be considered by the Panel and recommendation made to the Council for a decision.

### **5.3 Quorum**

- All members (2 independent external members and 1 staff member) must be present at a meeting to form a quorum.

### **5.4 Chairperson and Deputy Chairperson**

- Independent Chair (alternate, second independent member)

### **5.5 Secretariat**

- The Director Development & Environment is to be responsible for ensuring that the Panel has adequate secretariat support. The secretariat will ensure that the business paper and supporting papers are circulated at least three (3) days prior to each meeting. Minutes shall be appropriately approved and circulated to each member within three (3) weeks of a meeting being held.
- The format of and the preparation and publishing of the Business Paper and Minutes shall be similar to the format for Ordinary Council Meetings.

### **5.6 Recording of decisions**

- Minutes will record decisions and how each member votes for each item before the Panel.

## **6.0 CONVENING OF “OUTCOME SPECIFIC” WORKING GROUPS**



Not applicable.

## **7.0 CONFIDENTIALITY AND CONFLICT OF INTEREST**

- Members of the Panel must comply with the applicable provisions of Council's Code of Conduct. It is the personal responsibility of members to comply with the standards in the Code of Conduct and regularly review their personal circumstances with this in mind.
- Panel members must declare any conflict of interests at the start of each meeting or before discussion of a relevant item or topic. Details of any conflicts of interest should be appropriately minuted. Where members are deemed to have a real or perceived conflict of interest, it may be appropriate they be excused from deliberations on the issue where the conflict of interest may exist. A Panel meeting may be postponed where there is no quorum.

## **8.0 LOBBYING**

- All members and applicants are to adhere to Council's Lobbying policy. Outside of scheduled Development Assessment Panel meetings, applicants, their representatives, Councillors, Council staff and the general public are not to lobby Panel members via meetings, telephone conversations, correspondence and the like. Adequate opportunity will be provided at Panel inspections or meetings for applicants, their representatives and the general public to make verbal submissions in relation to Business Paper items.

## Development Assessment Panel

### ATTENDANCE REGISTER

Member	28/02/18	14/03/18	28/03/18	11/04/18	26/04/18
Paul Drake	✓	✓	✓	✓	✓
Robert Hussey	A	A	✓	✓	✓
David Crofts (alternate member)	✓	✓			
Dan Croft (Acting Director Development & Environment)					✓
Clinton Tink (Acting GM Development Assessment (alternates) - Director Development & Environment - Development Assessment Planner	✓	✓	✓	✓	✓

**Key:** ✓ = Present

A = Absent With Apology

X = Absent Without Apology

# Development Assessment Panel Meeting

Wednesday 9 May 2018

## Items of Business

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

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

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

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**RECOMMENDATION**

That the apologies received be accepted.

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

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 26 April 2018 be confirmed.

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**PRESENT**

**Members:**

Paul Drake  
Robert Hussey  
Clinton Tink

**Other Attendees:**

Dan Croft  
Ben Roberts  
Chris Gardiner  
Grant Burge

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The meeting opened at 2.10pm.

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**01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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**02 APOLOGIES**

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Nil.

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**03 CONFIRMATION OF MINUTES**

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**CONSENSUS:**

That the Minutes of the Development Assessment Panel Meeting held on 11 April 2018 be confirmed, subject to an amendment to the Consensus on Item 06, as tabled by Robert Hussey and seconded by Paul Drake as follows:

*The panel was unable to reach a consensus.*

*For: Paul Drake and Clinton Tink*

*That DA2018 – 48.1 for demolition of existing structures and erection of emergency services facility (ambulance station) and lot consolidation at Lot 26 & 27, DP 37531, No. 94 - 96 High Street, Wauchope, be determined by granting consent subject to the recommended conditions as amended in accordance with the agreement of the applicant:*

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Add Condition D(10) to state:

*D(10) Prior to occupation, a 1.5m high solid screen is to be erected along the outer edge kerb of the western exit driveway, commencing at the edge of the building and ceasing at the point, where the driveway changes and starts to narrow. The screen is to minimise vehicle headlight glare impacting on the adjoining neighbour to the west.*

*Robert Hussey disagreed with the majority decision for the following reasons:*

- 1. The application should be approved subject to a Deferred Commencement condition requiring the provision of a gravity disposal system for the stormwater, via a downstream easement, instead of the proposed mechanical pump-out system, particularly considering the lack of any Council Policy on mechanical pump outs.*
- 2. The visual impact of the bulk and scale of the skillion roof, which could be reduced on the southern elevation.*

The above amended minutes are to clarify that while a consensus was still not reached, Robert Hussey did not recommend refusal but rather disagreed with the majority decision.

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#### **04 DISCLOSURES OF INTEREST**

There were no disclosures of interest presented.

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#### **05 DA2017 - 1023.1 AGRICULTURAL PRODUCE INDUSTRY LOT 4 DP 738164, NO 511 FERNBANK CREEK ROAD, FERNBANK CREEK**

Speakers:

Debra King (objector)

Gary Cuttall (applicant)

CONSENSUS:

That DA 2017 – 1023.1 for agricultural produce industry (apple cider) at Lot 4 DP 738164 No. 511 Fernbank Creek Road, Fernbank Creek, be determined by granting consent subject to the recommended conditions as amended:

Add condition B(5) to state:

**B(5)** Prior to release of the Construction Certificate, a waste management plan dealing with waste water and solid waste, is to be submitted to Council for approval.

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**06 SECTION 4.55 MODIFICATION DA2010 - 577.4 - MODIFICATION TO  
SUBDIVISION LOT LAYOUT INCLUDING ADDITION OF ONE (1) TORRENS  
TITLE LOT - LOT 2 DP 1231106, NO. 72 LORNE ROAD, KENDALL**

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Speakers:  
Geraldine Haigh (applicant)

**CONSENSUS:**

Defer determination of the Section 4.55 modification to DA 2010 – 577, subject to the submission of stormwater management detail being provided to the Development Assessment Panel. The information is to show how stormwater impacts on the new Lot 8 and also whether the new Lot 8 impacts on the ability to deal with stormwater management for the overall subdivision.

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**07 DA2017 - 1125.1 TWO LOT SUBDIVISION AND ERECTION OF FOUR SEMI-  
DETACHED DWELLINGS WITH STRATA SUBDIVISION AND TWO JETTIES -  
LOT 1 DP 833585, 78 COMMODORE CRESCENT, PORT MACQUARIE**

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Speakers:  
Ian Little (objector)  
Andrew Dickson (applicant)

**CONSENSUS:**

That DA 2017 - 1125 for a two lot subdivision and erection of four semi-detached dwellings with strata subdivision and two jetties at Lot 1, DP 833585, No. 78 Commodore Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**08 DA2018 - 75.1 TWO (2) SEMI-DETACHED DWELLINGS AT LOT 132 DP  
1229250, 11 SANDY SHORES AVENUE, LAKE CATHIE.**

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Speakers:  
Pat Innes (objector)  
James Collins (applicant)

**CONSENSUS:**

That DA 2018 - 75.1 for two semi-detached dwellings at Lot 132, DP 1229250, No. 11 Sandy Shores Avenue, Lake Cathie, be determined by granting consent subject to the recommended conditions as amended:

Amend condition B(11) to state:

B(11) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance

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with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:

- a) The legal point of discharge for the proposed development is defined as the kerb and gutter of a public road.
- b) All allotments must be provided with a direct point of connection to the public piped drainage system. Kerb outlets are not permitted.
- c) The design requires the provision of interallotment drainage in accordance with AUSPEC D5.
- d) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
- e) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.

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**09 DA2017 - 1110.1 DEMOLITION OF DWELLING AND CONSTRUCTION OF NEW DWELLING - LOT 27 DP 20480, NO. 24 BUNDELLA AVENUE, LAKE CATHIE**

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Speakers:  
Nigel Swift (applicant)

CONSENSUS:

That DA 2017 – 1110.1 for demolition of dwelling and construction of a new dwelling at Lot 27, DP 20480, No. 24 Bundella Avenue, Lake Cathie, be determined by granting consent subject to the recommended conditions.

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**10 DA2017 - 1084.1 CLUBHOUSE - LOT 7054 DP 1074173, NO. 12 MARITIME LANE (OXLEY OVAL), PORT MACQUARIE**

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Speakers:  
Chris King (objector)  
David Brown (objector)  
Teale Bryan (applicant)

CONSENSUS:

That it be recommended to Council that DA 2017 – 1084.1 for a clubhouse at Lot 7054, DP 1074173, No. 12 Maritime Lane (Oxley Oval), Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**11 DA2017 - 1138.1 DWELLING AND SECONDARY DWELLING AT LOT 61 DP 1226839, NO. 33 SUMMER CIRCUIT, LAKE CATHIE**

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Speakers:  
Derek Collins (applicant)

**CONSENSUS:**

That DA 2017 – 1138.1 for a dwelling and secondary dwelling at Lot 61, DP 1226839, No. 33 Summer Circuit, Lake Cathie, be determined by granting consent subject to the recommended conditions.

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**12 SECTION 4.55 MODIFICATION DA2004 - 687.5 TO MODIFY THE HOURS OF OPERATION FOR EXISTING SAWMILL AT LOT 1 DP 1065577, OLD KEMPSEY ROAD, GUM SCRUB**

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Speakers:  
Gaylene Codd (objector)  
Kerry Graham (objector)  
David Bell (objector)  
Pat Kinnarney (objector)  
Sandra Ozolins (objector)  
Andrew Lister (applicant)  
Noel Atkins (applicant)  
Daryl Hayden (applicant)

**CONSENSUS:**

That the section 4.55 modification to DA 2004 – 687.5 for a modification of hours of operation of an existing sawmill at Lot 1, DP 1065577, No. 269 Old Kempsey Rd, Gum Scrub, be determined by granting consent subject to the recommended conditions as amended

Add condition A(17) to state:

A(17) Within three (3) months of the date of determination of modification five (5), a maintenance operating plan detailing the types of maintenance activities to occur onsite, is to be submitted to Council for approval (Note: the date of determination of modification five (5) is to be 26 April 2018 and the three (3) month due date will be 26 July 2018).

Amend condition F(9) to state:

F(9) (DDOCC00630) Hours of operation of the development are restricted the following times:

- a) Sawmill: 7am-6pm Monday to Friday
- b) General Maintenance: 6pm-9pm Monday to Friday and 8am-6pm Sundays.

No logging truck movements are permitted during general maintenance hours and there is to be no work on Saturdays or Public Holidays.

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The above amended times are approved for a trial period of twelve (12) months from the date of determination of modification five (5). Upon expiration of the twelve (12) month trial period, the hours of operation are to revert back to the previous approved hours of operation, unless a further modification is submitted and approved. A complaints register is also to be kept and detail any associated actions taken to rectify issues raised. The complaints register is to be provided to Council at the end of the twelve (12) month trial period. It should be noted that the date of determination of modification five (5) is to be 26 April 2018 and the twelve (12) month trial period for the amended hours of operation will cease on 26 April 2019.

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**13 DA2018 - 74.1 DWELLING - LOT 2 DP 1237933, NO 122B CAMDEN HEAD ROAD, DUNBOGAN**

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Emails from Bronwyn and Roy Davies (objector) were tabled for consideration.

Speakers:  
Nigel Swift (applicant)

**CONSENSUS:**

That DA 2018- 74.1 for a dwelling at Lot 2, DP1237933, No. 122B Camden Head Road, Dunbogan be determined by granting consent subject to the recommended conditions.

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**14 GENERAL BUSINESS**

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Nil.

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The meeting closed at 4.30pm.

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Item: 04  
Subject: DISCLOSURES OF INTEREST

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**RECOMMENDATION**

That Disclosures of Interest be presented

**DISCLOSURE OF INTEREST DECLARATION**

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

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

☐**Pecuniary:**

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

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

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

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

May participate in consideration and voting.

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

Name: .....

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

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

**Further Explanation**

(Local Government Act and Code of Conduct)

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

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

**Pecuniary Interest**

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

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

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

**Non-Pecuniary**

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

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

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

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

***Non Pecuniary – Significant Interest***

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

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

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

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

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

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

## SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

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

Councillor's Name: .....

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

**Important Information**

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

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

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



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Item: 05

Subject: DA2017 - 780.1 SHOP TOP HOUSING - LOT 1 DP 536032, NO. 4  
HASTINGS RIVER DRIVE, PORT MACQUARIE

Report Author: Fiona Tierney

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Applicant: Wayne Ellis Architect  
Owner: Gerranne Pty Ltd  
Estimated Cost: \$3,800,000  
Parcel no: 8383

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### Alignment with Delivery Program

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

### RECOMMENDATION

**That DA 2017 – 380.1 for shop top housing at Lot 1, DP 536032, No. 4 Hastings River Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

### Executive Summary

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

The application was previously reported to the Development Assessment Panel on 28<sup>th</sup> February 2018 at which the consensus was as follows:

#### CONSENSUS:

*That DA2017 – 780.1 be deferred to allow the applicant to address the deficiency in parking and how it can be accommodated either onsite or in the area.*

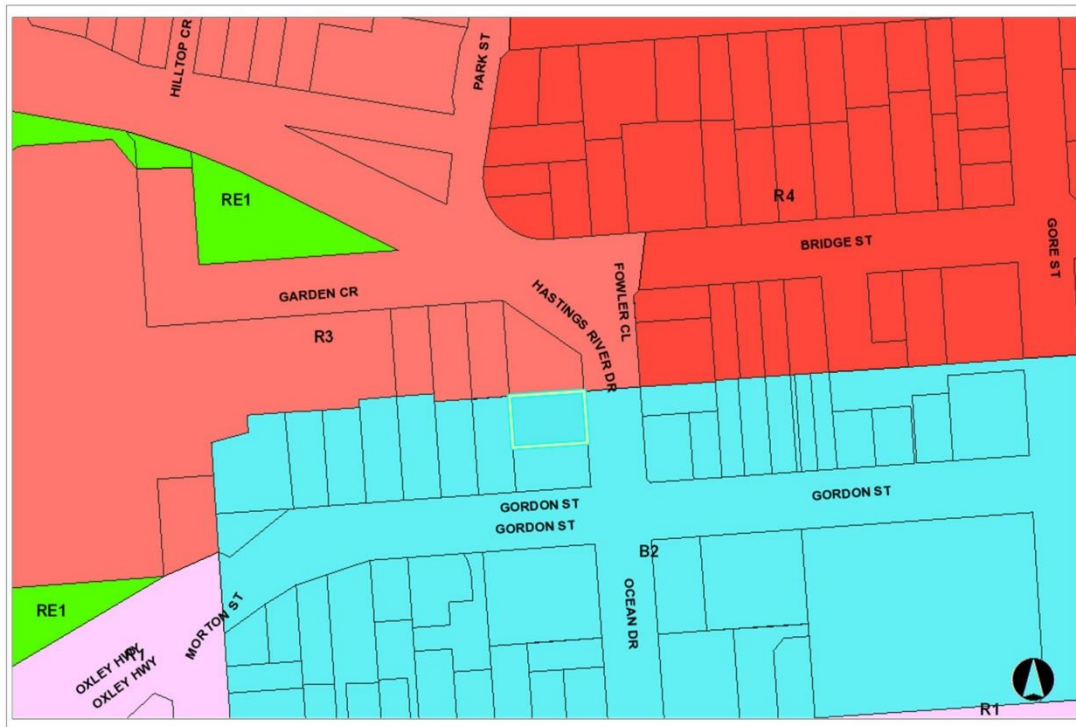
The applicant has addressed the concerns raised and submitted revised plans for consideration.

## 1. BACKGROUND

### Existing sites features and surrounding development

The site has an area of 1081m<sup>2</sup>.

The site is zoned B2 Local Centre 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:

- Four storey shop top housing with commercial floor space at ground level
- Ground floor car parking
- Twelve (12) x two (2) bedroom units and five (5) x one (1) bedroom units

Refer to attachments at the end of this report.

**Application Chronology**

- 4 April 2017 - Pre-lodgement meeting
- 4 September 2017 - Application Lodged
- 15 to 28 September 2017 - Neighbour notification
- 15 September 2017 - Heritage advisor comments
- 28 February 2018 – Application appeared before the Development Assessment Panel and application deferred to receive additional information relating to parking
- 13 March 2018 - Additional information received

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

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

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

**State Environmental Planning Policy 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.

**State Environmental Planning Policy No. 64 – Advertising and Signage**

There is no signage proposed as part of the application. Suitable condition has been recommended advising of consent requirements for future signage.

**State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development**

In accordance with clause 4, the subject SEPP applies to the proposal. It is noted that no Design Review Panel has been appointed by Port Macquarie-Hastings Council following amendments to this Policy in July 2015.

In accordance with clause 30(2), the proposal has demonstrated satisfactory consideration against the design quality principles contained in the Apartment Design Guide and the following table provides an assessment against these principles:

Requirement	Proposed	Complies
<p><b>Principle 1: Context &amp; Neighbourhood Character</b></p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character.</p> <p>Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The proposal is for a four storey shop top housing development. The area is characterised by a mixture of commercial, tourist and higher density developments. The area is currently undergoing rapid redevelopment with a number of higher density flat buildings, shop top housing and medical developments underway or proposed in the immediate area.</p> <p>Encouraging higher density in areas with close proximity to the CBD or business zones is desirable.</p> <p>The proposed building design is compatible with existing development and the desired future character of the area as stated in the relevant planning and design policies. It is considered the building will contribute to the identity of the area.</p>	Yes
<p><b>Principle 2: Built form and Scale</b></p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The height and bulk of the proposed building is considered to be acceptable in the streetscape and future desired character of the area.</p> <p>The building is considered to achieve an appropriate built form and incorporates interesting building elements and treatments that will complement the streetscape.</p> <p>The proposed internal unit layouts provide for internal amenity. The orientation of the block takes advantage of the northern outlook.</p>	Yes
<p><b>Principle 3: Density</b></p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposal is for a floor space ratio (FSR) of approximately 1.21:1, which complies with the maximum 1.8:1 FSR adopted in the LEP.</p> <p>The adopted FSR for the site is consistent with the objectives of the B2 zone and the height of buildings envisaged for the area.</p> <p>The proposed density is also considered to be sustainable having regard to availability of infrastructure and public transport, proximity to</p>	Yes



Requirement	Proposed	Complies
	services/community facilities and the environmental quality of the area.	
<b>Principle 4:Sustainability</b> Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation.	Most units contain a suitable level of north/north east facing balconies/aspect and opportunities for solar access and natural ventilation.  A BASIX certificate has been provided demonstrating that the design satisfies acceptable energy and water efficiency measures.	Yes
<b>Principle 5:Landscape</b> Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long term management.	Satisfactory landscaping. The soil depth and area available is consistent the Apartment Design Guide and provides for a variety of landscaping that incorporates medium sized trees and lower scale plantings that is considered acceptable for the site.	Yes
<b>Principle 6:Amenity</b> Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility.	Adequate storage and outdoor space provided throughout the building.  Accessibility is possible via ramps, stairs and lifts.  The layout of the units has taken advantage of the north/eastern orientation with an emphasis of natural sunlight and ventilation via predominantly north facing windows and balconies and access to external common areas.  The design and layout will provide a	Yes

Requirement	Proposed	Complies
	<p>good level of amenity.</p> <p>All units are accessible via a lift.</p> <p>Building depth is satisfactory.</p> <p>All units include a sufficient amount of private open space.</p> <p>Communal open space is satisfactory.</p>	
<p><b>Principle 7: Safety</b></p> <p>Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The various array of windows, doors and balconies throughout the building provide surveillance of the site and also the public domain.</p> <p>The proposal adequately addresses the principles of Crime Prevention Through Environmental Design.</p>	Yes
<p><b>Principle 8: Housing Diversity and Social Interaction</b></p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents.</p>	<p>The proposal provides 12 x 2 bedroom apartments and 5 x 1 bedroom. The units will suit a variety of budgets and housing needs.</p> <p>The proposal adequately addresses social requirements and housing affordability.</p>	Yes
<p><b>Principle 9: Aesthetics</b></p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The plans provide examples of the colours, textures and finishes.</p> <p>The colours and materials provided on the plans indicate a contemporary high quality design and finish. It is considered that the aesthetics of the building will respond appropriately to the surrounding environment and context of the existing and desired character of the locality.</p>	Yes

Clause 28(2), the proposal has adequately addressed the Apartment Design Guide. The following table provides an assessment against the relevant Apartment Design Guide criteria:

Requirement	Proposed	Complies
<b>3A site analysis</b>		
Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Suitable site analysis provided.	Yes
<b>3B orientation</b>		
Building types and layouts respond to the streetscape and site while optimising solar access within the development.	Ground floor commercial space with pedestrian and driveway entries respond to street.  Suitable solar access is available to the individual units throughout the year.  Overshadowing has been minimised to southern neighbours through increased setbacks to the southern boundary.	Yes
Overshadowing of neighbouring properties is minimised during mid-winter	Due to the orientation of the site the primary overshadowing impacts shall occur over the southern property. The development has been located to be sympathetic to this site with driveways located on the southern side to increase solar access. The southern property has their access via this northern side and is largely shaded by vegetation during the winter months. Balconies and living areas on the adjoining property are located to the south, which limits the overshadowing impacts to key north facing living areas. The proposal achieves compliance with sunlight criteria in that these areas will receive the minimum 3 hours direct sunlight between 9am and 3pm mid-winter.	Yes
<b>3C public domain interface</b>		
Transition between private and public domain is achieved without compromising safety and security	Overlooking of street available form front living areas and entry is well lit and activated.	Yes
Amenity of the public domain is retained and enhanced.	Street frontage is activated through setback to Hastings River Drive with ground floor commercial tenancies and landscaping. Landscaping has been incorporated into the design to soften the built form.  Mailbox location acceptable.	Yes



Requirement	Proposed	Complies
	<p>Substations, pump rooms, garbage storage areas and other service requirements will be located in the car park/out of view.</p> <p>Ramping for accessibility has been minimised by building entry locations and setting ground floor levels in relation to footpath levels.</p>	
<b>3D Communal and public open space</b>		
Communal open space 25% of the site.	276m <sup>2</sup> of area available for use, which exceeds 25%.	Yes
50% direct sunlight to useable communal open space for 2 hours mid-winter	>50% direct sunlight to communal open space area.	Yes
Communal open space is designed to allow a range of activities, respond to site conditions and be attractive and inviting.	The communal area is considered to allow for a range of activities for both the individual and groups in a user friendly and northerly orientated open space. More specific landscape details will be required prior to issue of a Construction Certificate.	Yes
Communal open space is designed to maximise safety.	The communal open space is directly accessible from the stairway and designed to maximise safety. Communal open space and the public domain should be readily visible from habitable rooms and private open space areas while maintaining visual privacy.	Yes
Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.	No public open space proposed.	N/A
<b>3E deep soil zones</b>		
<p>3m minimum dimensions required for deep soil zone and minimum 7% of site area.</p> <p>1. Deep soil zones are to meet the following minimum requirements:</p> <p>a) &lt; 650m<sup>2</sup>, no min dimension, 7% site area deep soil zone.</p> <p>b) 650-1500m<sup>2</sup>, 3m dimension, 7% site area deep soil zone.</p> <p>c) &gt;1500m<sup>2</sup>, 6m dimension, 7% site area deep soil zone.</p> <p>On some sites it may be possible to provide larger deep soil zones, depending on the site area and context:</p>	<p>Site is 1081m<sup>2</sup>.</p> <p>Deep soil planting proposed. A total of 228m<sup>2</sup> has been nominated as deep soil, which equates to 21% of the site.</p>	Yes

Requirement	Proposed	Complies
<ul style="list-style-type: none"> <li>- 10% of the site as deep soil on sites with an area of 650m<sup>2</sup> - 1,500m<sup>2</sup></li> <li>- 15% of the site as deep soil on sites greater than 1,500m<sup>2</sup>.</li> </ul> <p>Deep soil zones should be located to retain existing significant trees and to allow for the development of healthy root systems, providing anchorage and stability for mature trees. Design solutions may include:</p> <ul style="list-style-type: none"> <li>- basement and sub basement car park design that is consolidated beneath building footprints</li> <li>- use of increased front and side setbacks</li> <li>- adequate clearance around trees to ensure long term health</li> <li>- co-location with other deep soil areas on adjacent sites to create larger contiguous areas of deep soil.</li> </ul> <p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> <li>- the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)</li> <li>- there is 100% site coverage or non-residential uses at ground floor level.</li> </ul> <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.</p>		
<b>3F visual privacy</b>		
<p>Between habitable rooms and site boundaries:</p> <ul style="list-style-type: none"> <li>- 6m separation up to 4 storeys</li> <li>- 9m separation 5 and 6 storey</li> <li>- 3m separation non habitable up to 4 storeys</li> <li>- 4.5m separation non habitable up to 4 storeys</li> </ul>	Does not comply with setback specifications but alternative walls and screens have been utilised to maximise privacy. Considered satisfactorily addressed.	No, but acceptable.
<p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p>	<p>Natural screen wall plantings provide visual privacy without detrimentally impacting solar access and views.</p>	Yes

Requirement	Proposed	Complies
<b>3G Pedestrian access and entries</b>		
Building entries and pedestrian access connects to and addresses the public domain.	Multiple building entries are provided to ensure an activated street frontage is provided. Each access is clearly defined and articulated to the street.	Yes
Access, entries and pathways are accessible and easy to identify	The building access areas are clearly visible from the street and the ground floor is provided at grade in compliance with the relevant disability standards.	Yes
Large sites provide pedestrian links for access to streets and connection to destinations	Pedestrian connections to the public footpath running along Hastings River Drive are proposed in accordance with the design criteria.	Yes
<b>3H Vehicle Access</b>		
<p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes. Car park access should be integrated with the building's overall facade. Design solutions may include:</p> <ul style="list-style-type: none"> <li>- the materials and colour palette to minimise visibility from the street</li> <li>- security doors or gates at entries that minimise voids in the facade</li> <li>- where doors are not provided, the visible interior reflects the facade design and the building services, pipes and ducts are concealed.</li> </ul> <p>Car park entries should be located behind the building line.</p> <p>Vehicle entries should be located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.</p> <p>Car park entry and access should be located on secondary streets or lanes where available.</p> <p>Vehicle standing areas that increase driveway width and encroach into setbacks should be avoided.</p> <p>Access point locations should avoid headlight glare to habitable rooms.</p> <p>Adequate separation distances should be provided between vehicle entries and street intersections.</p> <p>The width and number of vehicle access points should be limited to the minimum.</p>	<p>The driveway entry is located via Hastings River Drive east of the site. Car park access satisfactorily integrated with the building's overall facades.</p> <p>Car park entry located behind the building line.</p> <p>Vehicle entry located at the lowest point of the site minimising ramp lengths, excavation and impacts on the building form and layout.</p> <p>Access point location avoids headlight glare to habitable rooms.</p> <p>The width of the vehicle access point is limited.</p> <p>Garbage collection, loading and servicing areas are screened.</p> <p>Considered acceptable.</p>	Yes

Requirement	Proposed	Complies
<p>Visual impact of long driveways should be minimised through changing alignments and screen planting.</p> <p>The need for large vehicles to enter or turn around within the site should be avoided.</p> <p>Garbage collection, loading and servicing areas are screened.</p> <p>Clear sight lines should be provided at pedestrian and vehicle crossings.</p> <p>Traffic calming devices such as changes in paving material or textures should be used where appropriate.</p> <p>Pedestrian and vehicle access should be separated and distinguishable. Design solutions may include:</p> <ul style="list-style-type: none"> <li>- changes in surface materials</li> <li>- level changes</li> </ul> <p>the use of landscaping for separation</p>		
<b>3J Bicycle and carparking</b>		
<p>On land within 400m of B3 or B4 mixed use or equivalent in a nominated regional centre the min. car parking requirements set out in the Guide to Traffic Generating Developments are to be provided. <i>the minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less</i></p> <p><i>The car parking needs for a development must be provided off street.</i></p> <p>Where a car share scheme operates locally, provide car share parking spaces within the development. Car share spaces, when provided, should be on site.</p> <p>Where less car parking is provided in a development, council should not provide on street resident parking permits</p> <p><u>Guide to Traffic Generating Developments</u></p> <p>Medium density residential flat buildings require:</p> <ul style="list-style-type: none"> <li>- 1 space per unit +</li> <li>- 1 space for every 5 x 2 bedroom unit +</li> <li>- 1 space for every 2 x 3 bedroom unit</li> </ul>	<p>Alternate parking calculation does not apply (ie the site is not located within 400m of a B3 or B4 zone). Utilise DCP rates, which are addressed later in this report.</p> <p>Car share or parking permits not utilised or available.</p>	N/A

Requirement	Proposed	Complies
<p>+</p> <p>- 1 space for 5 units (visitor parking).</p> <p>High density residential flat buildings for metropolitan sub-regional centres require:</p> <ul style="list-style-type: none"> <li>- 0.6 spaces per 1 bedroom unit</li> <li>- 0.9 spaces per 2 bedroom unit</li> <li>- 1.40 spaces per 3 bedroom unit +</li> </ul> <p>1 space per 5 units (visitor parking)</p>		
Parking and facilities are provided for other modes of transport	Site is centrally located within short walk of all facilities. The basement car park allows for vehicle spaces to be used for motorbikes etc. There are also storage areas available for bicycles	Yes
Carpark design and access is safe and secure	Safe and secure parking proposed.	Yes
Visual and environmental impacts of underground car parking are minimised	The proposed basement car park shall not be visible from the street.	Yes
<b>4A Solar and daylight access</b>		
<p>Living rooms and private open space areas of at least 70% apartments receive 3 hours of sunlight mid-winter</p> <p>Max. 15% of apartments receive no direct sunlight in mid-winter</p>	Proposed development provides suitable sunlight. All units have multiple aspects over multiple levels with a northern aspect meaning all units will achieve 3 hours sunlight midwinter.	Yes
Daylight access is maximised where sunlight is limited	It is considered that adequate daylight access is available to each of the proposed units due to their orientation.	Yes
Design incorporates shading and glare control, particularly for warmer months	Proposed development provides suitable shading.	Yes
<b>4B natural ventilation</b>		
<p>All habitable rooms are naturally ventilated.</p> <p>The building's orientation maximises capture and use of prevailing breezes for natural ventilation in habitable rooms.</p> <p>Depths of habitable rooms support natural ventilation.</p> <p>The area of unobstructed window openings should be equal to at least 5% of the floor area served.</p> <p>Light wells are not the primary air source for habitable rooms.</p> <p>Doors and openable windows maximise natural ventilation opportunities by using</p>	The depths of the proposed unit's habitable rooms are considered to support natural ventilation with suitable opportunities for cross ventilation due to multiple aspects.	Yes

Requirement	Proposed	Complies
<p>the following design solutions:</p> <ul style="list-style-type: none"> <li>- adjustable windows with large effective openable areas</li> <li>- a variety of window types that provide safety and flexibility such as awnings and louvres</li> </ul> <p>windows which the occupants can reconfigure to funnel breezes into the apartment such as vertical louvres, casement windows and externally opening doors</p>		
The layout and design of single aspect apartments maximises natural ventilation.	No single aspect units.	Yes
60% of apartments are naturally cross ventilated	Cross ventilation provided.	Yes
Overall depth of crossover or cross through apartments does not exceed 18m	<p>Proposal complies with width. Overall depth of cross-over or cross-through apartments do not exceed 18m, measured glass line to glass line.</p> <p>The building includes several dual aspect apartments, cross through apartments and corner apartments and limited apartment depths.</p>	Yes
<b>4C ceiling heights</b>		
2.7m habitable rooms ceiling height	<p>Proposal complies.</p> <p>Units generally have minimum 2.8m ceiling heights. Small area to rear of upper unit 17 is 2.559m due to skillion roof slope.</p>	Yes
Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms	Acceptable.	Yes
Ceiling heights contribute to the flexibility of building use over the life of the building	Acceptable.	Yes
<b>4D apartment size and layout</b>		
<p>Apartment size minimums to be comply with:</p> <p>Studio = 35m<sup>2</sup></p> <p>1 Bedroom = 50m<sup>2</sup></p> <p>2 Bedroom = 70m<sup>2</sup></p> <p><i>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m<sup>2</sup> each.</i></p> <p><i>A fourth bedroom and further additional</i></p>	<p>Apartment size minimums comply with the exception of unit 8. However, it is considered the northern orientation and balcony area/layout will provide sufficient amenity and provides for a variety of housing.</p> <p>Every habitable room has access to a window with compliant glass area.</p> <p>Kitchens are not part of hallways</p>	<p>No - however considered acceptable</p>



Requirement	Proposed	Complies
<p><i>bedrooms increase the minimum internal area by 12m<sup>2</sup> each.</i></p> <p><i>2. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</i></p> <p>Kitchens should not be located as part of the main circulation space in larger apartments (such as hallway or entry space).</p> <p>A window should be visible from any point in a habitable room.</p> <p>Where minimum areas or room dimensions are not met apartments need to demonstrate that they are well designed and demonstrate the usability and functionality of the space with realistically scaled furniture layouts and circulation areas. These circumstances would be assessed on their merits</p>	etc.	
Windows in habitable rooms with 10% of floor area	Windows provided and sufficient size.	Yes
<p>Environmental performance of the apartment is maximised</p> <p><u>Design Criteria</u></p> <p><i>1. Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</i></p> <p><i>2. In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</i></p> <p>Greater than minimum ceiling heights can allow for proportional increases in room depth up to the permitted maximum depths.</p> <p>All living areas and bedrooms should be located on the external face of the building.</p> <p>Where possible:</p> <ul style="list-style-type: none"> <li>- bathrooms and laundries should have an external openable window.</li> </ul> <p>main living spaces should be oriented toward the primary outlook and aspect and away from noise sources</p>	<p>Habitable room depths do not exceed 2.5 x the ceiling height.</p> <p>The open plan areas do not exceed 8m.</p> <p>Living areas and bedrooms are located on the external face of the building.</p> <p>Proposed design considered compliant.</p>	Yes
<p>Apartment layouts are designed to accommodate a variety of household activities and needs</p> <p><u>Design Criteria</u></p>	Master bedrooms comply with the 10m <sup>2</sup> minimum standard and other bedrooms comply with the 9m <sup>2</sup> standard.	Yes



Requirement	Proposed	Complies
<p>1. Master bedrooms have a minimum area of 10m<sup>2</sup> and other bedrooms 9m<sup>2</sup> (excluding wardrobe space).</p> <p>2. Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>3. Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> <li>• 3.6m for studio and 1 bedroom apartments</li> <li>• 4m for 2 and 3 bedroom apartments</li> </ul> <p>4. The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p> <p>Access to bedrooms, bathrooms and laundries is separated from living areas minimising direct openings between living and service areas.</p> <p>All bedrooms allow a minimum length of 1.5m for robes.</p> <p>The main bedroom of an apartment or a studio apartment should be provided with a wardrobe of a minimum 1.8m long, 0.6m deep and 2.1m high.</p> <p>Apartment layouts allow flexibility over time, design solutions may include:</p> <ul style="list-style-type: none"> <li>- dimensions that facilitate a variety of furniture arrangements and removal</li> <li>- spaces for a range of activities and privacy levels between different spaces within the apartment</li> <li>- dual master apartments</li> <li>- dual key apartments Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the Building Code of Australia and for calculating the mix of apartments</li> <li>- room sizes and proportions or open plans (rectangular spaces (2:3) are more easily furnished than square spaces (1:1))</li> </ul> <p>efficient planning of circulation by stairs, corridors and through rooms to maximise the amount of usable floor space in rooms</p>	<p>Bedrooms comply with 3m minimum dimension.</p> <p>Living rooms comply with 4m minimum dimension.</p> <p>Suitable separation of rooms exists via use of doors, walls etc</p> <p>Robes in bedrooms considered acceptable.</p> <p>Layouts contain flexibility.</p> <p>The proposal for dual key apartments has been removed.</p> <p>The lower door is to be removed and opening widened. Details are to be shown on the application for the construction certificate</p>	
<b>4E Private open space and balconies</b>		
2 bed min area 10m <sup>2</sup> and min depth 2m	Balconies do not comply with the minimum depth requirement of 2m. Currently 1.8m. The consent	Yes

Requirement	Proposed	Complies
	is to be conditioned to require the plans to be amended to provide a 2m depth.	
Ground floor min 15m <sup>2</sup> and min depth 3m	No residential units on ground floor.	N/A
Primary private open space and balconies are appropriately located to enhance liveability for residents.	The balconies for each of the proposed units are located off a bedroom and/or living area in a manner compliant with the design criteria.	Yes
Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	The balcony design is considered to integrate into the architectural form of the building whilst providing views across the site, passive surveillance of the street and maintaining visual privacy for occupants.	Yes
Private open space and balcony design maximises safety.	Design is considered compliant however details of dividing screens to be detailed on plans. To be conditioned.  Changes in ground levels or landscaping are minimised.  Design and detailing of balconies avoids opportunities for climbing and falls subject to also complying with the Building Code of Australia. Specific details will be required to be provided and addressed prior to the issue of a construction certificate	Yes
<b>4F Common circulation and spaces</b>		
Max. 8 units off a circulation core on a single level	Compliant	Yes
Common circulation spaces promote safety and provide for social interaction between residents	The proposed lift lobby will provide a short, direct entry to the lift with access to the units.  Direct and legible access is provided between vertical circulation points and apartment entries by minimising corridor or gallery length to give short, straight, clear sight lines.  Tight corners and spaces are avoided.  Circulation spaces are capable of being well lit at night and provided with appropriate signage.	Yes
<b>4G Storage</b>		
a) Min. storage requirements <i>Studio apartments = 4m<sup>3</sup>.</i>	Suitable storage provided and additional in garage areas.	Yes

Requirement	Proposed	Complies
<p>b) 1 bedroom apartments = 6m<sup>3</sup>.</p> <p>c) 2 bedroom apartments 8m<sup>3</sup>.</p> <p>d) 3+ bedroom apartments = 10m<sup>3</sup>.</p> <p>At least 50% of the required storage is to be located within the apartment.</p> <p>Storage is accessible from either circulation or living areas.</p>		
<b>4H Acoustic privacy</b>		
Noise transfer is minimised through the siting of buildings and building layout	<p>The use of separation, screening and having high use living areas face adjoining low use non habitable rooms (i.e. bathrooms) ensures no adverse acoustic issues. Living areas are also grouped throughout the levels of the building.</p> <p>Other acoustic provisions of ADG have been suitably implemented.</p>	Yes
Noise impacts are mitigated within apartments through layout and acoustic treatments.	Rooms with similar noise requirements are grouped together both internally within the apartments and between apartments. Internal walls between apartments shall be constructed so as to comply with the applicable noise and acoustic standards.	Yes
<b>4J Noise and pollution</b>		
In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings.	The subject site is not considered to be located within a noisy or hostile environment.	N/A
Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	The building is to be designed using appropriate construction materials to comply with acceptable noise criteria. Condition to be applied to ensure compliance.	Yes
<b>4K Apartment mix</b>		
A range of apartment types and sizes is provided to cater for different household types now and into the future.	The proposal is for a mixture of 1 & 2 bedroom units only. The mix is considered appropriate for the site and its position considering the distances to public transport, employment and education.	Yes
The apartment mix is distributed to suitable locations within the building.	Considered acceptable.	Yes
<b>4L Ground floor apartments</b>		
Street frontage activity is maximised where ground floor apartments are located	No ground floor units proposed.	N/A

Requirement	Proposed	Complies
Design of ground floor apartments delivers amenity and safety for residents.	No ground floor units proposed.	N/A
<b>4M Facades</b>		
Building facades provide visual interest along the street while respecting the character of the local area.	The proposed design provides a composition of varied building elements to ensure that the building is provided with variations in texture, material and detail. The proposal is considered compliant with the design criteria.	Yes
Building functions are expressed by the facade	The building entries are clearly defined from the street frontage via the provision of the access paths and variation of materials surrounding the entries. The proposal is considered compliant with the design criteria.	Yes
<b>4N Roof design</b>		
Roof treatments are integrated into the building design and positively respond to the street.	Although not visible from the street the proposal is considered compliant with the design criteria.	Yes
Opportunities to use roof space for residential accommodation and open space are maximised	None proposed.	N/A
Roof design incorporates sustainability features	No roof space proposed	Yes
<b>4O Landscape design</b>		
Landscape design is viable and sustainable	Suitable landscape plan provided that allows a range of plantings and potential for stormwater detention	Yes
Landscape design contributes to the streetscape and amenity	Suitable landscaping plan provided that will allow variation in species type and size conducive to the size of the development.	Yes
<b>4P Planting on structures</b>		
Appropriate soil profiles are provided	The soil depth is considered capable of accommodating trees, shrubs, ground covers and turf. The proposal is considered compliant with the design criteria.	Yes
Plant growth is optimised with appropriate selection and maintenance	The plant species will be chosen for their suitability for the local environment and tolerance to the existing and proposed site conditions. The proposal is considered compliant with the design criteria.	Yes
Planting on structures contributes to the quality and amenity of communal and	The proposal is considered compliant with the design criteria.	Yes

Requirement	Proposed	Complies
public open spaces		
<b>4Q Universal design</b>		
Universal design features are included in apartment design to promote flexible housing for all community members	Universal design features are included in apartment design to promote some flexible housing for all community members in particular units.	Yes
A variety of apartments with adaptable designs are provided	The proposed apartments are considered to provide a layout and design that caters for adaptable apartments which include a high level of solar access.	Yes
Apartment layouts are flexible and accommodate a range of lifestyle needs	The proposed apartments contain open plan living, kitchen and dining areas which are considered to be suitable for a variety of adaptable uses.	Yes
<b>4S Mixed Use</b>		
Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement	Commercial ground floor street activation and residential above.	Yes
Residential levels of the building are integrated within the development, and safety and amenity is maximised for residents	Separate access and parking areas well defined.	Yes
<b>4T Awning and Signage</b>		
Awnings are well located and complement and integrate with the building design	Awnings are street aligned, well integrated into the building design and provide defined entry to commercial tenancy.	Yes
Signage responds to the context and desired streetscape character	To be proposed dependant on tenancy.	Yes
<b>4U Energy efficiency</b>		
Development incorporates passive environmental design	The proposal is considered to provide adequate passive solar design. BASIX provided.	Yes
Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer	The proposal is considered to provide adequate natural ventilation. BASIX provided.	Yes
Adequate natural ventilation minimises the need for mechanical ventilation	The proposal is considered to provide adequate natural ventilation. BASIX provided.	Yes
<b>4V Water management and conservation</b>		
Potable water use is minimised	BASIX certificate submitted which includes requirements for water reuse.	Yes
Urban stormwater is treated on site before being discharged to receiving waters	Refer to stormwater comments later in this report.	Yes

Requirement	Proposed	Complies
Flood management systems are integrated into site design	Suitable stormwater management systems are proposed to cater for any internal flooding of the basement parking area	Yes
<b>4W Waste management</b>		
Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents.	A common waste storage area is proposed within the ground floor parking area in a location suitable for collection via a private contractor.	Yes
Domestic waste is minimised by providing safe and convenient source separation and recycling.	Collection from the proposed building can occur via private collection.	Yes
<b>4X Building maintenance</b>		
Building design detail provides protection from weathering	The proposed design is considered to provide design solutions to be weather proof.	Yes
Systems and access enable ease of maintenance	Windows are considered to be able to be cleaned from inside.	Yes
Material selection reduces ongoing maintenance costs	The materials chosen for the proposed building are considered to be appropriate for the locality, robust and durable.	Yes

**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 noting clause 4 of the SEPP.

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

Having regard for clauses 2, 8 and 12 to 16 of the SEPP and clause 5.5 of the PMH LEP 2011, the proposed development will not result in any of the following:

- a) any restricted access (or opportunities for access) to the foreshore
- b) any adverse amenity impacts along the foreshore and on the scenic qualities of the coast;
- c) any adverse impacts on flora and fauna;
- d) the development being subject to any adverse coastal processes or hazards;
- e) any significant conflict between water and land based users of the area;
- f) any adverse impacts on any items of archaeological/heritage;
- g) reduction in the quality of the natural water bodies in the locality (due to effluent & stormwater disposal, construction impacts, landuse conflicts);
- h) adverse cumulative impacts on the environment;
- i) a form of development that is unsustainable in water and energy demands;
- j) development relying on flexible zone provisions. (refer to clause 5.3 of LEP 2011 - Development near zone boundaries unable to be undertaken when SEPP 71 applies).



The site is predominately cleared and located within an area zoned and substantially built out already with similar uses.

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

A BASIX/universal certification 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 (Infrastructure) 2007**

Clause 101 refers to development with frontage to a classified road. In this case, the development has frontage to a classified road. Hastings River Drive is identified as MR600. The development is of a type that is sensitive to traffic noise or vehicle emissions and the applicant is to include measures to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road. Overall, the noise issue is capable of being complied with and conditions have been imposed to address this issue at the construction certificate stage.

Clause 102 refers to noise and vibration impacts from a classified road on non-road development. The clause only applies to freeways, tollways and roads with an Annual Average Daily Traffic (AADT) of 40,000 vehicles. In this case, Hastings River Drive does not contain such traffic volumes and further consideration is not required.

The development does not trigger any of the traffic generating development thresholds of Clause 104.

Based on the above, the proposed development addresses relevant clauses in the SEPP and is unlikely to create any conflict in terms of traffic or noise.

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

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

- In accordance with clause 2.2, the subject site is zoned B2 Local Centre. In accordance with clause 2.3(1) and the B2 zone landuse table, the proposed development for shop top housing development is a permissible landuse with consent.

The objectives of the B2 zone are as follows:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.
- To encourage employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To ensure that new developments make a positive contribution to the streetscape and contribute to a safe public environment.

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

- The proposal is a permissible landuse.
- The proposal will provide a mixture of uses that will serve the area/locality.
- Encourage employment opportunities via the ground floor retail.



- By having reduced parking, the development will encourage a degree of walking and cycling within the area.
- The design provides a fresh building to enhance the streetscape.
- 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 building above ground level (existing) is 12.925m which complies with the standard height limit of 14.5 m applying to the site.
- Clause 5.9 - no listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 4.4, the floor space ratio of the proposal is 1.21:1, which complies with the maximum 1.8:1 floor space ratio applying to the site.
- Clause 5.10 – Heritage. The site does not contain but does adjoin a heritage item - see comments under Heritage heading later in this report.
- Clause 7.7 – Airspace operations - condition proposed to cover height of crane approval (if utilised).
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development..

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

No draft instruments apply to the site.

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

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

<b><i>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</i></b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
3.3.2.2	Satisfactory site analysis plan submitted.	Satisfactory site analysis plan submitted.	Yes
3.3.2.3	Statement addressing site attributes and constraints submitted.	Statement addressing site attributes and constraints submitted.	Yes
3.3.2.4	Streetscape and front setback: <ul style="list-style-type: none"> <li>• Within 20% of the average setback of the adjoining buildings.</li> <li>• 3m setback to all frontages if no adjoining development.</li> <li>• 2m setback to secondary frontages.</li> <li>• Max. 9m setback for tourist development to allow for swimming pool.</li> </ul>	Minimal setback proposed and the site is zoned B2 - Local Centre. Consistent with adjoining setbacks.	N/A – commercial zoned site

<b>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b>			
3.3.2.5	Balconies and building extrusions can encroach up to 600mm into setback.	N/A	N/A
	Buildings generally aligned to street boundary.	Buildings generally aligned to street boundaries.	Yes
	Primary openings aligned to street boundary or rear of site.	Primary openings aligned to street boundaries.	Yes
3.3.2.6	Side setbacks comply with Figure 3.3-1: <ul style="list-style-type: none"> <li>Min. Side setback 1.5m for 75% of building depth.</li> <li>Windows on side walls min. 3m from side boundary.</li> <li>3m minimum where adjacent to existing strata titled building.</li> </ul>	Side setback to the south greater than 3m and 3m minimum to adjoining strata titled building.	Yes
	Min. 6m rear setback (including sub basements)	1.486m to sub-basement- site adjoins an existing motel development. No balconies proposed in rear setback that allows for visual and acoustic privacy.	No, but acceptable.
3.3.2.11	Deep soil zones: <ul style="list-style-type: none"> <li>Extend the width of the site and have minimum depth of 6m.</li> <li>Are contiguous across sites and within sites (see Fig 3.3-4).</li> </ul>	228m <sup>2</sup> of deep soil zone or 21% of the site area is proposed. While not 6m in width, the dimensions are considered acceptable to meet the objectives of the DCP.  The location of the deep soil zone is satisfactory	No, but acceptable.
3.3.2.12	Deep soil zones accommodate existing advanced trees, and allow for advanced tree planting.	Deep soil zones can accommodate advanced tree planting.	Yes
3.3.2.13	Deep soil zones integrated with stormwater management measures.	Deep soil zones are capable to have integrated stormwater management measures.	Yes

<b>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b>			
3.3.2.14	<p>Sunlight to the principal area of ground-level private open space of adjacent properties should not be reduced to less than 3 hours between 9.00am and 3.00pm on June 22.</p> <p>Where existing overshadowing by buildings and fences is greater than this, sunlight should not be reduced by more than 20%.</p> <p>Buildings should not reduce the sunlight available to the windows of living areas that face north in existing adjacent dwellings to less than the above specification.</p>	Shadow diagrams have been submitted demonstrating compliance.	N/A
3.3.2.15	Internal clothes drying space provided (not mechanical).	No internal clothes drying space. Considered not mandatory.	N/A
	Ceiling fans provided in preference to air conditioning.	N/A – refer BASIX.	N/A
	Solar hot water systems (or equivalent technology) provided.	N/A – refer BASIX.	N/A
	Photovoltaic arrays installed where practical.	N/A – refer BASIX.	N/A
3.3.2.16	<p>Landscape plan provided including:</p> <ul style="list-style-type: none"> <li>• 35% soft landscaping with minimum width of 3m.</li> <li>• Existing vegetation and proposed treatment.</li> <li>• Details of hard landscaping.</li> <li>• Location of communal recreational facilities.</li> <li>• Species not to obscure doors, paths, etc.</li> <li>• Street trees in accordance with Council's list.</li> </ul>	Satisfactory concept landscape plan submitted. Condition recommended to required detailed landscaping plan to be submitted prior to issue of a Construction Certificate.	Yes
3.3.2.17	Existing vegetation to be retained and nutrient-rich water prevented from entering native gardens.	No existing vegetation to be retained on-site.	N/A
3.3.2.18	Landscape plan to	Satisfactory concept	Yes

<b>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b>			
	demonstrate how trees and vegetation contribute to energy efficiency and prevent winter shading on neighbouring properties.	landscaping plan submitted. Condition recommended to submit a detailed landscaping plan prior to the issue of a Construction Certificate.	
3.3.2.19	Street trees in accordance with Council's list.	A condition is recommended to require more details on landscaping prior to issue of a Construction Certificate	Yes - capable
3.3.2.22	Fencing or landscaping defines public/communal and private open space.	Fencing or landscaping defines public/communal and private open space.	Yes
3.3.2.23	Solid fences should be: <ul style="list-style-type: none"> <li>• Max. 1.2m high,</li> <li>• Setback 1m,</li> <li>• Suitably landscaped,</li> <li>• Provide 3m x 3m splay.</li> </ul>	N/A	N/A
	Where front fences higher than 1.2m: <ul style="list-style-type: none"> <li>• Max. 1.8m high,</li> <li>• Landscaped recesses for 50% of frontage, or length of fence not more than 6m or 50% of street frontage.</li> <li>• Min. 25% transparent,</li> <li>• 3m x 3m splay for corner sites.</li> <li>• 900mm x 900mm splay at vehicle driveways.</li> </ul>	None proposed.	N/A
3.3.2.24	Fencing materials consistent with or complimentary to existing fencing in the street.	Older timber fencing.	N/A
3.3.2.25	Fences constructed of chain wire, solid timber or masonry and solid street not permitted, even if consistent with existing fencing in the locality.	N/A	N/A
3.3.2.26	Building to be designed so that: <ul style="list-style-type: none"> <li>• Busy, noisy areas face the street.</li> <li>• Quiet areas face the side or rear of the lot.</li> <li>• Bedrooms have line of site separation of at least 3m from parking areas, streets and shared driveways.</li> </ul>	Building designed so that: <ul style="list-style-type: none"> <li>• Busy, noisy areas face the street.</li> <li>• Bedrooms have line of satisfactory site separation from parking areas, streets and shared driveways.</li> <li>• Acoustic certification will be required adjoining a classified road</li> </ul>	Yes
	Openings of adjacent dwellings separated by at least 6m.	Screen provided where appropriate	Yes

<b>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b>			
3.3.2.27	Building designed so noise transmission between apartments is minimised.	Building designed so noise transmission between apartments is minimised.	Yes
	Uses are to be coupled internally and between apartments i.e. noisy internal and noisy external spaces should be placed together. (See Figure 3.3-6).	Uses are to be coupled internally and between apartments.	Yes
3.3.2.28	Development complies with AS/NZS2107:2000 <i>Acoustic – Recommended design sound levels and reverberation times for building interiors for residential development.</i>	Condition of consent to be applied - adjoining classified road.	Yes – capable subject to conditions
3.3.2.29	Impact of noise from key public places to be considered.		
3.3.2.31	Developments to be designed in accordance with AS 1428.	Development capable of compliance with the design requirements of AS 1428. Specific details required to be submitted with the application for Construction Certificate	Yes
3.3.2.32	Barrier free access to at least 20% of dwellings provided.	Barrier free access available to all level 1 units.	Yes
3.3.2.33	Developments located close to open space, recreation, entertainment and employment.	The proposal is located on a site within close proximity to town centre.	Yes
	Where LEP permits FSR > 1:1, FSR not less than 1:1 should be achieved.	FSR greater than 1:1 proposed.	Yes
3.3.2.34	Variety of types - studio, 1, 2, 3 and 3+ bedroom apartments	A variety of dwelling types are proposed	Yes
	Studio and 1 bedroom apartments not > 20% of total number of apartments.	12 x 2 bedroom  Units 1-4,6,7,11,12 ( media room considered capable of use as a bedroom),13,15-17 ( 2 Bedroom) and 5 x 1 bedroom proposed- Units 5,8-10,14 (1 Bedroom). The 1 bedroom comprise 30% of total with a number of 1 bedroom units having media rooms that allow for flexibility in use. Considered that the mix is appropriate given location and demand for affordable housing/student	No, but acceptable.

<b>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b>			
		accommodation.	
	Mix of 1 and 3 bedroom apartments at ground level.	No ground level units – proposal is shop top housing, which requires shops/commercial at ground level.	N/A
3.3.2.35	Council's Affordable Housing Strategy to be considered for residential flat buildings.	A mix of dwelling types are proposed.	Yes
3.3.2.36	Lift over-runs and plant integrated within roof structures.	Lift over-runs and plant integrated within roof structures.	Yes
	Outdoor recreation areas on roof tops to be landscaped and incorporate shade structures and wind screens.	None proposed.	N/A
	Outdoor roof areas oriented to the street.	None proposed.	N/A
	Roof design to generate interesting skyline.	Roof design will generate an interesting skyline.	Yes
3.3.2.37	Facade composition should: <ul style="list-style-type: none"> <li>• Have balance of horizontal and vertical elements.</li> <li>• Respond to environmental and energy needs.</li> <li>• Incorporate wind mitigation.</li> <li>• Reflect uses within the buildings.</li> <li>• Include combination of building elements.</li> </ul>	Facade composition: <ul style="list-style-type: none"> <li>• provides a balance of horizontal and vertical elements.</li> <li>• responds to environmental and energy needs.</li> <li>• incorporates wind mitigation.</li> <li>• reflect uses within the buildings.</li> <li>• includes a combination of building elements.</li> </ul>	Yes
3.3.2.38	Building elements, materials and colours consistent or complimentary to those existing in the street.	Building elements, materials and colours consistent or complimentary to those existing in the street.	Yes
3.3.2.39	Entrances clearly identifiable from street level.	Entrances clearly identifiable from street level.	Yes
	Entries provide clear transition between public street and shared private circulation spaces/apartments.	Entries provide clear transition between public street and shared private circulation spaces/apartments.	Yes
	Entries provide clear line of sight between one circulation space and the next.	Entries provide clear line of sight between one circulation space and the next.	Yes
	Entries avoid ambiguous and publicly accessible small spaces in entry areas.	Entries avoid ambiguous and publicly accessible small spaces in entry areas.	Yes
	Entries sheltered and well lit.	Entries sheltered and well lit.	Yes



<b>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b>			
	Entries and circulation spaces sized for movement of furniture.	Entries and circulation spaces sized for movement of furniture.	Yes
	Lobby width minimum 2.5m wide and 3.0m high.	Lobby width > minimum 2.5m width however 2.8m height approximately. The compliant width caters for the minor variation to height. Objectives of DCP not compromised.	No, but acceptable.
	Corridor lengths minimised and avoid tight corners.	Corridor lengths minimised and avoid tight corners.	Yes
	Longer corridors articulated by: <ul style="list-style-type: none"> <li>• Changing direction and width.</li> <li>• Utilising series of foyers.</li> <li>• Incorporating windows.</li> </ul>	Longer corridors articulated by changing direction and windows are provided.	Yes
3.3.2.40	Minimum 1 balcony per apartment.	1 balcony per apartment.	Yes
	Main balcony accessible from living area.	Main balcony accessible from living areas.	Yes
	Balconies take advantage of favourable climatic conditions.	Balconies take advantage of favourable climatic conditions.	Yes
	Balconies and balustrades balance privacy and views.	Balconies and balustrades balance privacy and views.	Yes
3.3.2.41	Balconies include sunscreens, pergolas, shutters and operable walls.	Balconies include screens, shutters and satisfactory shading.	Yes
	Balconies recessed to create shadowing to facade.	Balconies recessed to create shadowing to facade.	Yes
	Solid balustrades discouraged.	Solid balustrades are discouraged but may be considered where it is demonstrated that outlook and privacy is achieved and that there is sufficient articulation or visual interest in the building facade to accommodate the solid element. Solid balconies are not proposed in this instance.	Yes
	Air conditioning units not visible from the street.	No air conditioning units proposed.	N/A
3.3.2.42	Secure open air clothes drying facilities that are: <ul style="list-style-type: none"> <li>• easily accessible,</li> <li>• screened from public domain and communal spaces,</li> <li>• located with high degree</li> </ul>	No outdoor clothes drying facilities.	N/A



<b>Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b>			
	of solar access.		
3.3.2.43	Mailboxes integrated into building design and sighted to ensure accessibility and security.	Mailboxes integrated into building design and sighted to ensure accessibility and security.	Yes
3.3.2.44	Public and private space clearly defined.	Public and private space clearly defined subject to more specific details on landscaping	Yes - capable
	Entrances: <ul style="list-style-type: none"> <li>oriented to public street,</li> <li>provide direct and well lit access between car parks, lift lobbies and unit entrances,</li> <li>optimise security by grouping clusters (max. 8) around a common lobby</li> </ul>	Entrances: <ul style="list-style-type: none"> <li>oriented to public street,</li> <li>provision of direct and capability for well lit access between car parks, lift lobbies and unit entrances,</li> <li>optimise security by grouping clusters around a common lobby</li> </ul>	Yes
	Surveillance facilitated by: <ul style="list-style-type: none"> <li>views over public space from living areas,</li> <li>casual views of common internal areas,</li> <li>provision of windows and balconies,</li> <li>separate entries to ground level apartments.</li> </ul>	Surveillance facilitated by: <ul style="list-style-type: none"> <li>views over public space from living areas,</li> <li>casual views of common internal areas,</li> <li>provision of windows and balconies,</li> <li>separate entries to ground level apartments.</li> </ul>	Yes
	Concealment avoided by: <ul style="list-style-type: none"> <li>preventing dark or blind alcoves,</li> <li>providing lighting in all common areas,</li> <li>providing graded car parking illumination (greater at entrances).</li> </ul>	Concealment avoided by: <ul style="list-style-type: none"> <li>preventing dark or blind alcoves,</li> <li>providing lighting in all common areas,</li> </ul>	Yes
	Access to all parts of the building to be controlled.	Access to all parts of the building to be controlled.	Yes
3.3.2.45	Accessible storage provided for tenants in basement car park or garages.	Accessible storage provided for tenants in basement car park or garages.	Yes
	One bike stowage space per dwelling provided.	Bicycle storage areas proposed in basement.	Yes
3.3.2.46	For developments of < 6 dwellings individual waste management permitted. Designated area to be provided for storage of bins: <ul style="list-style-type: none"> <li>not visible from street,</li> <li>easily accessible,</li> <li>not adjoining private or communal space,</li> </ul>	Communal bulk waste facilities integrated into development and located at basement level.	Yes

**Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development**

	windows or clothes drying areas, • on hard stand area, • close to street and a tap for washing, • maintained free of pests.		
	Communal bulk waste required where: • > 6 dwellings, or • Number of bins wouldn't fit in street frontage, or • Topography would make street collection difficult.	Communal bulk waste facilities integrated into development and located at basement level.	Yes
	Communal bulk waste facilities integrated into development and located at ground or sub-basement level. • Not visible from street, • Easily accessible, • Can be serviced by collection vehicles, • Not adjoining private or communal space, windows or clothes drying areas, • Has water and drainage facilities for cleaning, • Maintained free of pests.	Communal bulk waste facilities integrated into development and located at basement level.	Yes
	Evidence provided that site can be serviced by waste collection service.	Private waste collection proposed and required as a recommended condition of consent.	Yes
3.3.2.47	Common trenching of utility services where possible.	Services capable of being provided to proposal underground.	Yes
	Above ground utility infrastructure integrated with building design.	Above ground utility infrastructure required to be integrated with building design. Substation location details are to be provided with the application for construction certificate.	Yes - capable
	Site and individual units numbered.	Site and individual units can be appropriately numbered.	Yes - capable
	Common aerials and satellite dishes provided.	Common aerials and satellite dishes can be appropriately provided.	Yes - capable

**DCP 2013: General Provisions**

DCP Objective	Development Provisions	Proposed	Complies
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2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline: <ul style="list-style-type: none"> <li>Casual surveillance and sightlines</li> <li>Land use mix and activity generators</li> <li>Definition of use and ownership</li> <li>Lighting</li> <li>Way finding</li> <li>Predictable routes and entrapment locations</li> </ul>	The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls.	Yes
2.3.3.2	1m max. height retaining walls along road frontages	Approximate 1m max. height retaining walls along road frontages stepped to respond to topography.	Yes
	Any retaining wall >1.0 in height to be certified by structural engineer	Condition recommended to require engineering certification for project.	Yes
	Combination of retaining wall and front fence height	None proposed.	N/A
2.3.3.8 onwards	Removal of hollow bearing trees	No hollow bearing tree removal proposed.	N/A
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint)	One existing Black bean tree proposed to be removed.	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	Yes
2.5.3.2	New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical	New access proposed from Hastings River Drive	Yes
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing from Hastings River Drive maximising street parking.	Yes
2.5.3.3	Off-street parking in accordance with Table 2.5.1: <ul style="list-style-type: none"> <li>1 space = single dwelling (behind building line) and dual</li> </ul>	<u>Required:</u> 17 x 1 & 2 bedroom units = 17 spaces. Visitor parking 17/4 = 4.25 spaces. Commercial 60m <sup>2</sup> /30m <sup>2</sup> = 2 spaces or 1 office x 1.5 spaces = 1.5	No, but acceptable based on each dwelling/unit having a space onsite

	<p>occupancy</p> <ul style="list-style-type: none"> <li>• Medium density – 1 per 1 or 2 bed dwelling or 1.5 per 3-4 bed dwelling + 1 visitor/4 dwellings</li> <li>• Commercial 1 space per 30m<sup>2</sup> or 1.5 spaces per office (whichever is greater)</li> </ul>	<p>spaces. The 2 space requirement is the greater.</p> <p>Total required = 17 + 4.25 + 2 = 23.25 spaces (rounds to 24)</p> <p>(Note: the foyer area was not charged parking as it is considered ancillary to the residential units)</p> <p><u>Proposed</u></p> <p>Applicant proposes 22 spaces onsite. However, a space internally and externally will need to be converted to turning area, bringing the total number of spaces provided to 20 spaces. This represents a 4 space shortfall.</p> <p>Contributions are to be levied to cover the shortfall. In particular, there are opportunities to use contributions in the area to improve/increase public parking in the area. Refer to comments on Parking and Manoeuvring later in this report for further justification.</p>	<p>(which is the key issue) and contributions being levied on the remaining shortfall.</p>
2.5.3.5	On-street parking permitted subject to justification	On-street parking not reliant upon for required parking provision.	N/A
2.5.3.7	Visitor parking to be easily accessible	Visitor parking easily accessible in basement parking area.	Yes
	Parking in accordance with AS 2890.1	Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements. Due to the type of development, car park circulation is required to enable vehicles to enter and exit the site in a forward manner.	Yes - capable
2.5.3.9	Bicycle and motorcycle parking considered and designed generally in accordance with the principles of AS2890.3	Bicycle parking/storage is available within the basement. Motorcycles could be parked in this space.	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	Yes
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	No specific landscaping of parking areas as basement parking proposed.	N/A
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway surfaces required	Yes
2.5.3.15	Driveway grades for first 6m of 'parking area' shall be 5% grade (Note AS/NZS 2890.1 permits steeper grades)	Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.	Yes

2.5.3.16	Transitional grades min. 2m length		
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	The carparking areas are proposed within basement levels of the building. The access driveway is partly uncovered.	Yes
	Vehicle washing facilities – grassed area etc available.	No vehicle washing facilities are proposed as only encourage by the DCP.	N/A
	No direct discharge to K&G or swale drain	No direct discharge to K&G or swale drain	Yes
2.5.3.18	Car parking areas drained to swales, bio retention, rain gardens and infiltration areas	The carparking areas are proposed within basement levels of the building	N/A

**DCP 2013: Westport Precinct**

Development Provisions	Proposed	Complies
Residential flat buildings to have 24m frontage. Dual frontages may accept an 18m frontage.	Frontage is 27.095m The development is consistent with the relevant bulk and scale provisions of the LEP and DCP and as such the development potential is consistent with Councils vision for the development of the locality.	Yes
Development complies with: - Building height complies with LEP. - Setbacks and building alignments consistent with 4.2-4. - Controls on building height, commercial uses etc apply to Bridge, Gore and William Street.	Building height addressed in LEP section of this report. Ceiling heights for residential first floor are 2.8m. The height is acceptable given the building use is unlikely to change in the near future.	Yes
Setbacks and building alignments to be consistent with Figures 4.2-5 & 6 or 3m where no setback shown. Upper level to be setback.	Figure 4.2-5 allows a 0m setback to Hastings River Drive. Applicant has chosen a setback more conducive to the area and that required by section 3.3 of the DCP. Setback provides a good middle standard.	Yes
Side and rear setbacks to be: - 3m from side boundaries. - 6m from rear boundary. - South of Gordon Street 10m rear setback. - Party wall not appropriate.	The development is setback 3m from side boundaries.  It should be noted the property has a reduced rear setback but increased side setbacks provided for better acoustic outcomes for more sensitive receivers.	Yes.
Side and rear walls are to be articulated to provide privacy and separation with balconies of adjacent buildings by the following: - Up to 4 storeys or 12m = 6m	Where separation is compromised, the development contains no windows or has nominated privacy screens.	Yes

<p>habitable rooms/balconies and 3m non habitable.</p> <ul style="list-style-type: none"> <li>- Between 5 &amp; 8 storeys or 25m = 9m habitable rooms/balconies and 4.5m non habitable.</li> </ul> <p>Where separation does not exist, privacy screens or louvers may be utilised.</p>		
<p>Open space areas are:</p> <ul style="list-style-type: none"> <li>- 25% communal open space. Where 25% not possible due to constraints, 5m<sup>2</sup> per dwelling required.</li> <li>- 2 hours sunlight for communal area between 9am and 3pm.</li> <li>- Communal areas may be reduced where development contributes to public area.</li> <li>- Rooftop communal setback from edges and not overlook.</li> </ul>	<p>Communal open space complies with 25% requirement. The communal area receives a suitable mixture of sun and shade.</p>	<p>Yes</p>
<p>Deep soil to site area provided as follows:</p> <ul style="list-style-type: none"> <li>- &lt;650m<sup>2</sup> = 7%</li> <li>- 650m<sup>2</sup> to 1500m<sup>2</sup> = 10%</li> <li>- &gt;1500m<sup>2</sup> = 15%</li> </ul> <p>Min 6m width unless a constrained site</p> <ul style="list-style-type: none"> <li>- see DCP for what constitutes constrained. Constrained sites need to be 3m.</li> </ul> <p>10% paving allowed where tree growth can still occur.</p>	<p>Refer to comments in ADG assessment regarding deep soil zone areas.</p>	<p>No, but acceptable.</p>
<p>Fences and retaining walls to comply with the following:</p> <ul style="list-style-type: none"> <li>- Within 1m of front boundary be max 1.2m high.</li> <li>- Variations allowed where ground floor level is higher than ground level.</li> <li>- Fences greater than 1.2m should be 50% transparent above the 1.2m height.</li> <li>- Fences should step down sloping sites.</li> </ul>	<p>None proposed.</p>	<p>N/A</p>

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:****New South Wales Coastal Policy:**

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

**Demolition of buildings AS 2601:**

Demolition of the existing building on the site is capable of compliance with this Australian Standard and is recommended 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:**

- No Coastal Zone Management Plan applies to the subject site.

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

The site has a general easterly street frontage orientation to Hastings River Drive.

Adjoining the site to the north is an existing residential development.

Adjoining the site to the east are existing commercial development.

Adjoining the site to the south is an existing heritage listed Backpackers Establishment.

Adjoining the site to the west is an existing motel.

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 commercial/residential development in the locality and adequately addresses planning controls for the area.

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

The proposal does not have significant adverse lighting impacts.

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

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.

**Roads**

The site is bordered to the east by Hastings River Drive, a dual carriageway arterial road within a road reserve 30m wide. Hastings River Drive is owned and maintained



by Council, with the RMS having a concurrence role as it is a regional classified road – see the RMS heading below.

An upgrade of Hastings River Drive near the site was completed by Council in early 2016 providing a number of improvements, including:

- The northbound lane fronting the site now has a median island, forcing traffic access to the site to be left in / left out only. A roundabout 120m to the north along Hastings River Drive facilitates a safer turning movement for traffic heading in other directions.
- Concrete footpath was constructed along the frontage of the site. No further footpath augmentation is considered necessary in connection with this proposal.
- A kerbside parking lane was upgraded with new concrete pavement, upright (SA type) kerb, and a dish drain and stormwater pit.

### **Traffic and Transport**

The proposal has previously been presented to Council in a similar form under pre-lodgement meetings 2016/69 and 2017/51.

Previous DA 2004/819 for a 4-storey residential flat building also applies to the land, but as the development has not been completed, no credit in regard to parking or traffic generation has been assessed.

The site is currently occupied by a dwelling with a single vehicular access driveway to the road network. An estimate of existing vehicular trips would be in the order of 7-9 trips per day on average.

The RMS *Guide to Traffic Generating Development (2002)* provides a trip generation rate for Residential Flat Buildings of 4-5 average trips per day, which is expected to be appropriate for this proposal given the site's close proximity to the CBD. For the proposed 17 units (counting units 11b and 12b as separate occupancies and generators), this equates to around 90 trips per day, or an increase of 83 trips compared with the existing dwelling. 83 trips per day would generally amount to around 9 trips during each of the AM and PM peak (commuter) periods, assuming a peak factor of 0.1 which is typical.

Also provided in the RMS Guide is a peak hourly rate of 10 trips per 100sqm of office GFA, which for the 22sqm of body corporate floor area is 2.2 trips (i.e. per AM and PM commuter peak period), noting that this office floor area may later be used by a different type of business without the need for a change of use DA. 22 daily trips is expected to be conservative (high).

A traffic generation estimate for the retail floor area (60sqm) is less certain until the nature of the tenant business is known, but a simple rate of 15 trips per 100sqm is likely to be adequate with reference to the RMS Guide. Thus 10 trips per peak hour or 100 trips per day is expected to be a conservative (high) estimate.

The total increase in trip generation for this development is therefore expected to be in the order of 21 during each AM and PM peak hour and 205 trips per day. The site's location on Hastings River Drive (a four lane arterial road) and proximity to the Oxley Highway means the local road network will cater for the proposed minor increase with no significant impacts.

**Roads and Maritime Services (RMS)**

RMS referral is not required at the DA stage as none of the provisions of Schedule 3 of the SEPP (Infrastructure) 2007 are triggered by the development.

Details of any works within the Hastings River Drive road reserve will need to be referred to the RMS under s139 of the Roads Act as it is a designated Regional Road (linking the Oxley Hwy in the west to the Port Macquarie town centre, east). Works are expected to be minor (not affecting traffic lanes).

**Site Frontage & Access**

Vehicle access to the site is proposed through one access driveway. AS 2890.1 clause 3.2.2 stipulates that a driveway for this type of development must be provided with 5.5m width for at least the first 6m into the site, given the arterial road and blind corner proposed at the entrance to the carpark. This will ensure that two cars may pass without one being forced to wait within the road reserve, potentially impeding traffic flows, which is a key concern as the site is so close to the major intersection of Oxley Highway and Hastings River Drive.

Consent conditions will require the Roads Act (s138) construction details to reflect this. Otherwise the proposed access can comply with Council AUSPEC and Australian Standards, subject to detailed design.

**Parking and Manoeuvring**

While there is adequate area for three (3) parking spaces to be located outside the gated car park, one of these spaces is required to provide a dedicated turnaround area (no parking) to enable vehicles which enter the site to leave in a forwards-only direction if the gate is not opened (e.g. if they are visiting). Forwards-only exit is a requirement of AS 2890.1 and is particularly important for this site, given the high volume of traffic on Hastings River Drive and proximity to the intersection, increasing the risk of a collision if vehicles were required to reverse out of the site. A condition of consent has been recommended to this effect.

A dedicated turning bay will also be required within the gated car park area as it now contains a public/visitor parking component. Overall, site plans show adequate area is available for the internal access aisles and parking bays to comply with AS 2890.1 and conditions have been imposed to reflect these requirements.

Parking and access to and from has been designed to comply with AS/NZS 2890. In this regard the AS design requirements which are applicable to Category 1A parking facility have been applied to the proposed development.

It is noted that the Category 1 provisions of AS 2890.1 provide for a proposed access driveway width of 3m under certain circumstances. In this regard, the proposed development will generate peak hour traffic movements which will be well less than the 30-movement trigger, which is relevant to the provision of a minimum 5.5m wide two car driveway. The suitability of the proposed single width driveway is further supported by the existing on-street parking bay which is immediately adjacent to the subject site.

The design of the proposed development provides for forwards vehicle movements to and from the subject development. It is proposed with respect to the proposed commercial floor space within the proposed development. Reference to Table 2.5.1 of PMHC DCP 2013 indicates that stacked parking is not counted towards compliance unless staff parking spaces are separately identified and delineated (Clause 2.5.3.7(e) of the DCP). The development now provides that the commercial

car parking spaces will be separately identified and delineated and as such the tandem arrangement is suitable for use in relation to the commercial floor space.

In response to the issues raised at the DAP meeting, the design of the subject development has been amended as follows;

- 22 spaces proposed, albeit 2 spaces will be lost to turning spaces, bringing the total to 20 spaces. Council controls require 24 spaces, which results in a shortfall in parking of 4 spaces.
- The design of the ground floor car parking area has been modified so as to provide 19 spaces within the building. One of the 19 spaces will be lost to a turning space, leaving 18 spaces. The 18 spaces are sufficient to meet all residential requirements and part of the visitor car parking needs.
- The floor area of the ground floor commercial area has been reduced to a maximum of 60m<sup>2</sup> thereby reducing the associated car parking demand to 2 spaces.
- The driveway area has been redesigned so as to provide for two (2) stacked car parking spaces, which will meet the parking demand associated with the commercial floor space. The ground floor office area has been deleted with this area being utilized in conjunction with the residential use of the building (resident foyer). Whilst not ideal to utilise stack parking - use for commercial arrangements is considered acceptable for staff parking only.
- The provision of the additional car parking spaces on site is difficult to achieve and be financially viable given the spatial dimensions of the subject site.
- The location of the site to a busy intersection is likely to deter some visitors from accessing the site, which reduces demand.
- There is a designated 'on-street' car parking area directly in front of the building providing for two (2) spaces.
- A precinct parking plan has been submitted by the applicant demonstrating significant on street car parking opportunities are available within 150m of the proposed development. Bridge Street in particular provides for significant 'on street' parking due to its width and the low levels of usage of this road infrastructure. There is also a public car park located between Gordon and Bridge Street, within a walkable 215m.
- Safe pedestrian access is available throughout the locality, including to and from nearby car parks, residential and commercial developments etc. This overall accessibility is likely to reduce demand for cars and onsite parking.
- Contributions can be levied for the shortfall, which can be utilised to upgrade the existing public parking in the area.

It is considered that the development is appropriate in the area and that the combination of close proximity to all services by foot and the availability of car parking in the immediate area allows for concessions on site. The development is also consistent with encouraging higher density development that does not necessarily require residents to be reliant on vehicle usage.

### **Water Supply Connection**

Council records indicate that the existing development site has a 20mm metered water service from the 150mm AC water main on the same side of Gordon Street. Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as fire service and backflow protection requirements. The dwellings and commercial premises must be individually metered for water.

Detailed plans will be required to be submitted for assessment with the S.68 application.

**Sewer Connection**

If the proposed car park extension will encompass the existing sewer manhole then the manhole lid and surround will have to be replaced with heavy duty components.

As the dwellings are to be Strata Titled, a private sewer system can be adopted, connected.

The hydraulic designer is to confer with Council sewer section prior to submitting sewer design plans.

Detailed plans will be required to be submitted for assessment with the S.68 application.

**Stormwater**

The site naturally grades westwards towards the street and a stormwater pit was recently constructed adjacent to the site as part of the Hastings River Drive upgrade by Council. The legal point of discharge for the proposed development is defined as a direct connection to Council's stormwater network. A detailed site stormwater management plan will be required to be submitted for assessment with the S.68 application and prior to the issue of a Construction Certificate.

In accordance with Councils AUSPEC requirements, on site stormwater detention facilities must also be incorporated into the stormwater drainage plan to ensure that post-development peak flows from the site will not exceed pre-development flows. There is ample room within the site beneath paved surfaces to accommodate storage volume. Refer to relevant conditions of consent.

**Other Utilities**

Telecommunication and electricity services are available to the site.

Evidence of satisfactory arrangements with the relevant utility authorities for provision to each proposed lot will be required prior to Occupation Certificate approval for the separate domiciles.

**Heritage**

The adjoining property contains a heritage listed item. Following a site inspection Councils' Heritage Advisor has made the following comments:

*The design, whilst simple in overall planning adopts a complexity of form combining a number of materials and devices that detract from the potential simplicity and cohesiveness of the building.*

*A green wall is proposed over two levels on the Northern elevation facing the adjacent multi-unit dwelling. The southern elevation facing Elsinore is broken up by the central stairway and its louvred treatment and the flanking stairs on the east and west with similar external treatment.*

*External materials include glass shopfronts, Designer Series bricks, rendered brick, weatherboards, horizontal louvres and vertical louvres as well as a finish to the upper floor which is not stipulated by appears to be terracade or similar, but is nominated in the SOH1 as dark timber. The elevations are very busy in this way with their composite finishes especially alongside the heritage building.*

*The large Black Bean tree is being lost as a result of the proposal.*



*The set back from the heritage item is sufficient. The overall form of the building is considered to be reasonably well modulated and articulated, however a level of complexity has been introduced which is considered to be unnecessary.*

*It is accepted that the use of weatherboard is referential, however there needs to be further consideration of consistency of finish to simplify the elevational treatment.*

*A colour palette and finishes is to be submitted to the PCA with the application for the Construction Certificate that incorporates a simplified finishes proposal.*

The heritage item is isolated from other significant buildings and the precinct is a mix of 1960's and 70s construction. The proposed development replaces a red brick dwelling and is considered to establish a future desired character for the area. A condition of consent is proposed to submit a colour and material palette in accordance with the recommendations from the Heritage advisor.

**Other land resources**

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

**Water cycle**

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

**Soils**

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

**Air and microclimate**

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

**Flora and fauna**

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

**Waste**

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

**Energy**

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX or Section J of the Building Code of Australia. No adverse impacts anticipated.

**Noise and vibration**

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

Dwellings will be conditioned to be designed to address noise impacts from Hastings River Drive.

**Bushfire**

The site is not identified as being bushfire prone.

**Safety, security and crime prevention**

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

**Social impacts in the locality**

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

**Economic impact in the locality**

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

**Site design and internal design**

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

**Construction**

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

**Cumulative Impacts**

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

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

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

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

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

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

Submission Issue/Summary	Planning Comment/Response
Heritage Impact on adjoining heritage listed building and removal of significant Queensland Blackbean Tree	The site has been inspected by Council's Heritage advisor who has indicated a general acceptance of the proposal. The tree is no longer within the curtilage of the heritage item and so is difficult to retain.
Proposal out of scale with heritage listed building	The proposal has been provided with reasonable setbacks to the heritage item with the driveway access located adjoining the building. The proposal is considered acceptable.
Overshadowing	Shadow diagrams have been submitted which indicate compliance with the required hours of solar access to the living areas. The building has been designed to allow reasonable solar access.
Traffic impact and insufficient parking	See comments above in this report on Traffic and Transport, Parking and Manoeuvring and also DCP 2013 parking calculations. Overall, no adverse traffic or parking issues will occur. The applicant will also be required to pay additional s94 contribution in lieu of the 4 space shortfall.
Insufficient bin storage	A private bin collection service will be required.
Noise and vibration during construction	Standard conditions of consent will be applied to manage construction noise.
Noise and privacy due to increase in pedestrian activity	It is considered that the increase in activity will provide positive benefits to enhance the area and increase safety and security. It is not anticipated that the development will unduly create an unacceptable noise impact.
Deep soil zone	The site has proposed a number of areas suitable for planting of medium sized trees and the proposal complies with the required setbacks.
Privacy into adjoining communal areas	The development has been designed to consider privacy with provision of screens and walls to address immediate overlooking. The lower two levels have been provided with a natural screen and planting proposals. It is considered the upper levels will be higher and overlook the roof areas and the pool area is exposed to general overlooking by the multiple existing units.
Overdevelopment of the site	The application complies with the required Floor Space Ratio requirements of the site and addresses the future desired character of the precinct.

**(e) The Public Interest:**

The proposed development will be in the wider public interest with provision of appropriate additional housing.

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



**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

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

**5. CONCLUSION**

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

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

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

**Attachments**

- 1 [View](#). DA2017 - 780.1 Plans.
- 2 [View](#). DA2017 - 780.1 Amended Ground Floor Plan
- 3 [View](#). DA2017 - 780.1 Amended Site Plan
- 4 [View](#). DA2017- 780.1 Precinct Parking
- 5 [View](#). DA2017 - 780.1 Recommended DA Conditions
- 6 [View](#). DA2017 - 780.1 Submission - McVeagh
- 7 [View](#). DA2017 - 780.1 Submission - Vogel



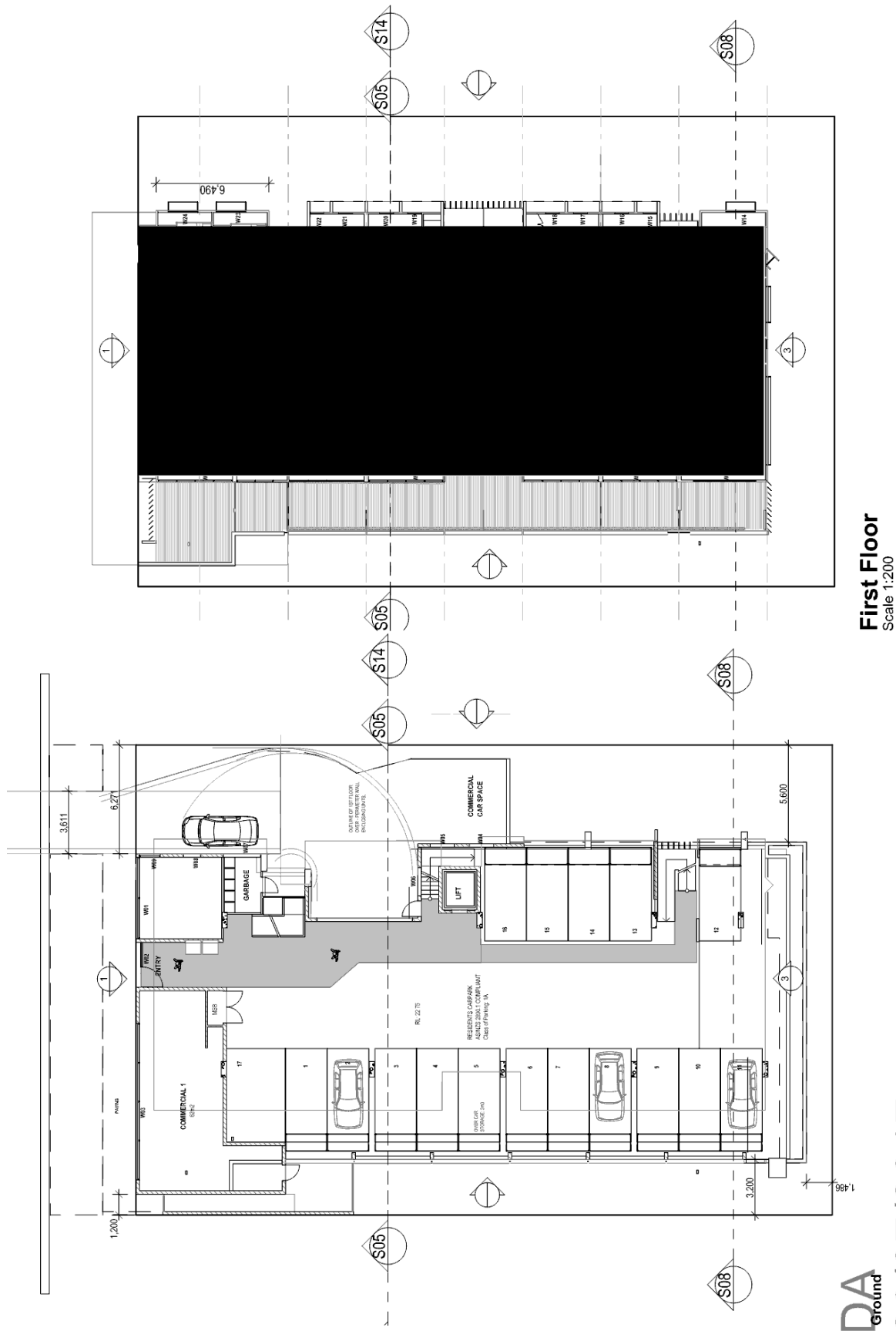
SITE AREA: 1082sqm  
ZONE: B2 Local Centre  
HEIGHT: 12.8m  
FSR: 1.2 : 1

**SITE PLAN**  
Scale 1:500



DA  
26/07/2017  
wayne ellis architect

Scale 1:500 @ A3  
Commo. Ref. 1616 CURRENT TODAY.dwg  
D01/  
Dwg No.  
Proj. No 1616  
GERANNE PL - PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIE  
P.O. Box 1892 Port Macquarie NSW 2444  
Unit 1003 Sandcastle 24 William St  
Port Macquarie NSW 2444  
B.Arch. B.A.I.A. NSW Reg No 4415  
B.Eng. 1616  
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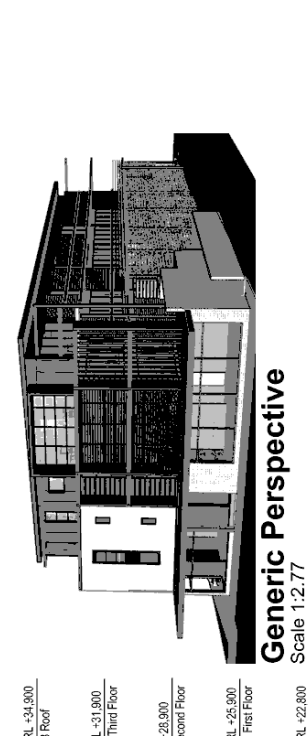
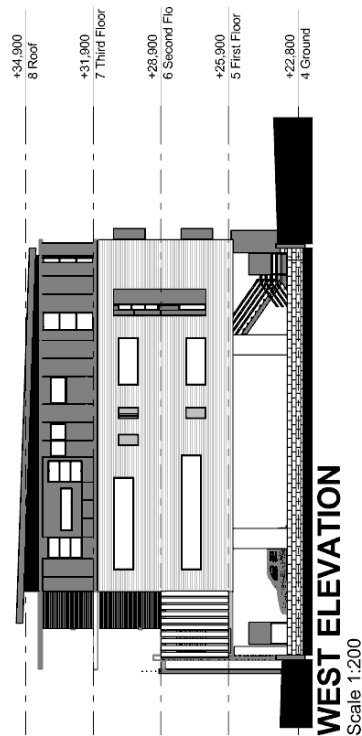
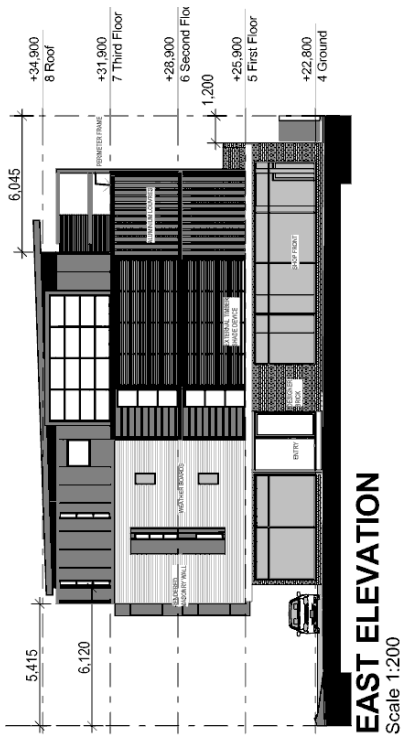
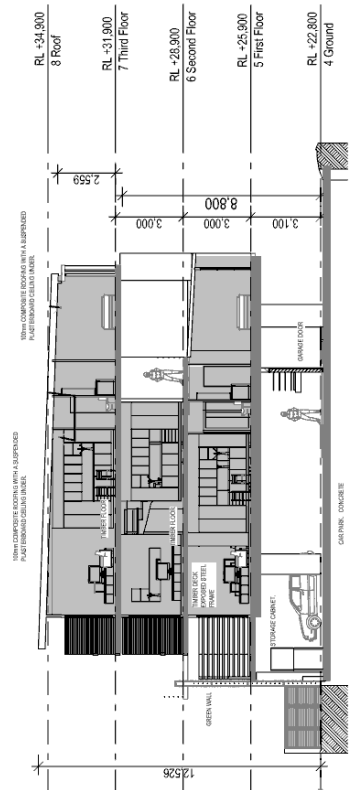


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Commo. Ref. 1616 CURRENT TODAY.dwg

Dwg No. 1616  
Proj. No. D02/

GERANNE PL - PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIE

P.O. Box 1892 Port Macquarie NSW 1555  
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Generic Perspective  
Scale 1:2.77

DA

26/07/2017

wayne ellis architect

P.O. Box 1892, Port Macquarie NSW 2444  
Unit 1003, Sandcastle 24, William St  
Port Macquarie NSW 2444  
t 0417 664 731GERANNE PL -  
PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIED04/  
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Comp. Ref. 1616 CURRENT TODAY.dgnProj. No 1616  
Dwg No.Item 05  
Attachment 1  
Page 64



3pm 21st JUNE



Noon 21st JUNE



9.00am 21st JUNE

DA  
26/07/2017  
SHADOW DIAGRAMS  
wayne ellis architect  
P.O. Box 1892 Port Macquarie NSW 2444  
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Proj. No 1616 Dwg No. D05/ Scale 1:500 @ A3  
Compo. Ref. 1616 CURRENT TODAY.dgn

GERANNE PL - PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIE



VIEW FROM GORDON STREET - LOOKING SOUTH



VIEW FROM HASTINGS RIVER DRIVE - LOOKING WEST



DA

26/07/2017 VIEW OF NORTH EAST CORNER

wayne ellis architect

B.Arch. R.A.I.A. NSW Reg No 4415  
e wayne@wayneellisarchitects.com.au  
t 0417 664 731GERANNE PL -  
PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIE

Proj. No 1616

Dwg No.

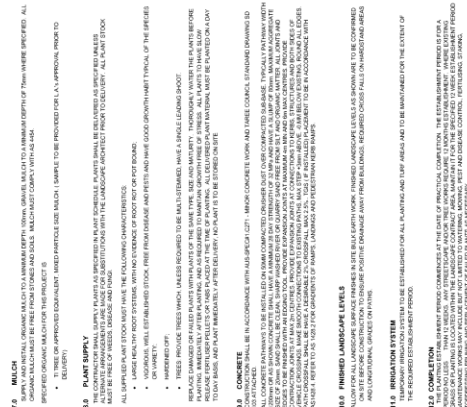
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Comp. Ref. 1616 CURRENT TODAY



## ISSUE DEVELOPMENT APPLICATION

**LOCALITY PLAN**  
(NTS)  
SOURCE: NEAR MAPS

[illegible][illegible]

**LLS** LANDSCAPE ARCHITECTURE

landscape documentation services

SHAWN ELLIS PH. 0435 842775  
 Email [se@lls.com.au](mailto:se@lls.com.au)  
 Australian Institute of Landscape Architects

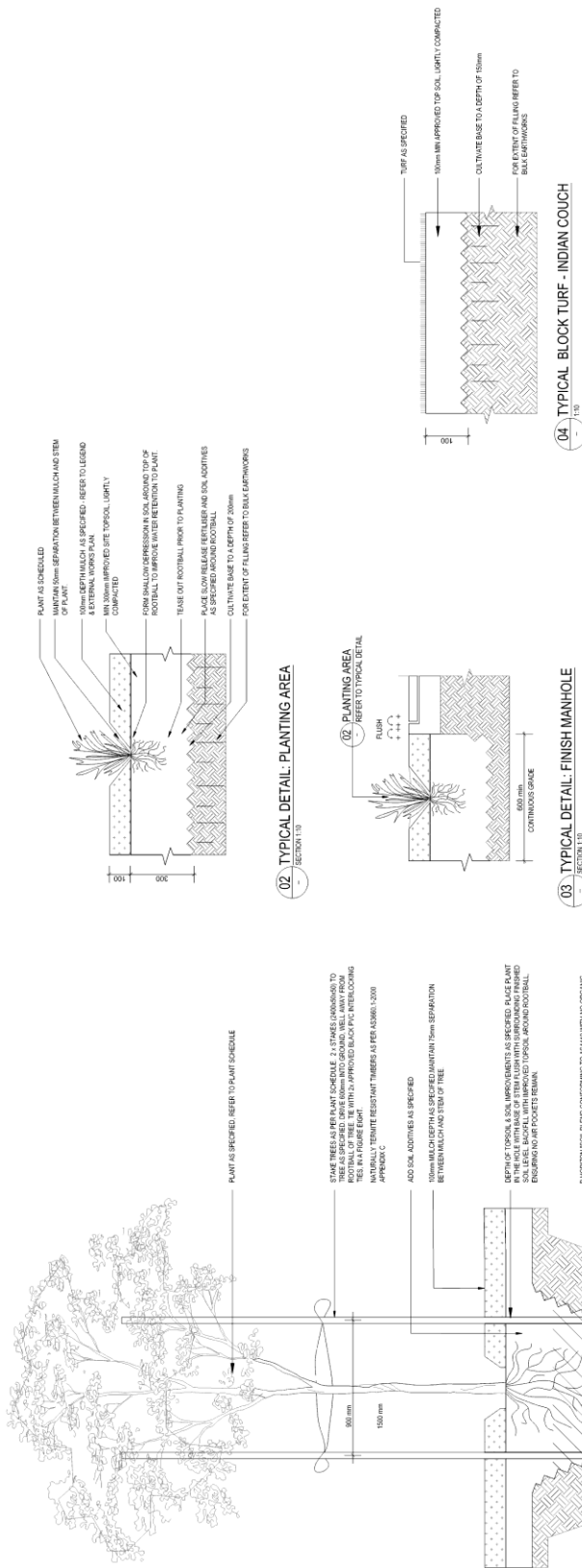
ARCHITECT WAYNE ELLIS ARCHITECTS

CLIENT: Geranne Pty. Ltd.

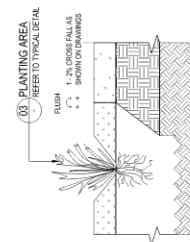
PROJECT	SHOP TOP HOUSING DEVELOPMENT	4 HASTINGS RIVER DRIVE PORT MACQUARRE NSW	Drawing Number: <b>1706-CD01</b>	TITLE:		Date:			
				COVER SHEET		05.07.2017			
				Issue:		A			
				Approved: _____		SE _____		The seal and statement of the Engineer is confined and not to be used for any other purpose without the written consent of the Engineer.	



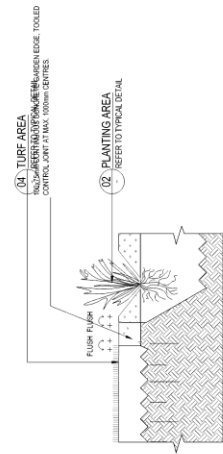




01 TYPICAL TREE PLANTING - 45 - 100 ltr



## 05 TYPICAL DETAIL: PAVEMENT IN PLANTING



## 07 TYPICAL DETAIL: CONCRETE GARDEN EDGE

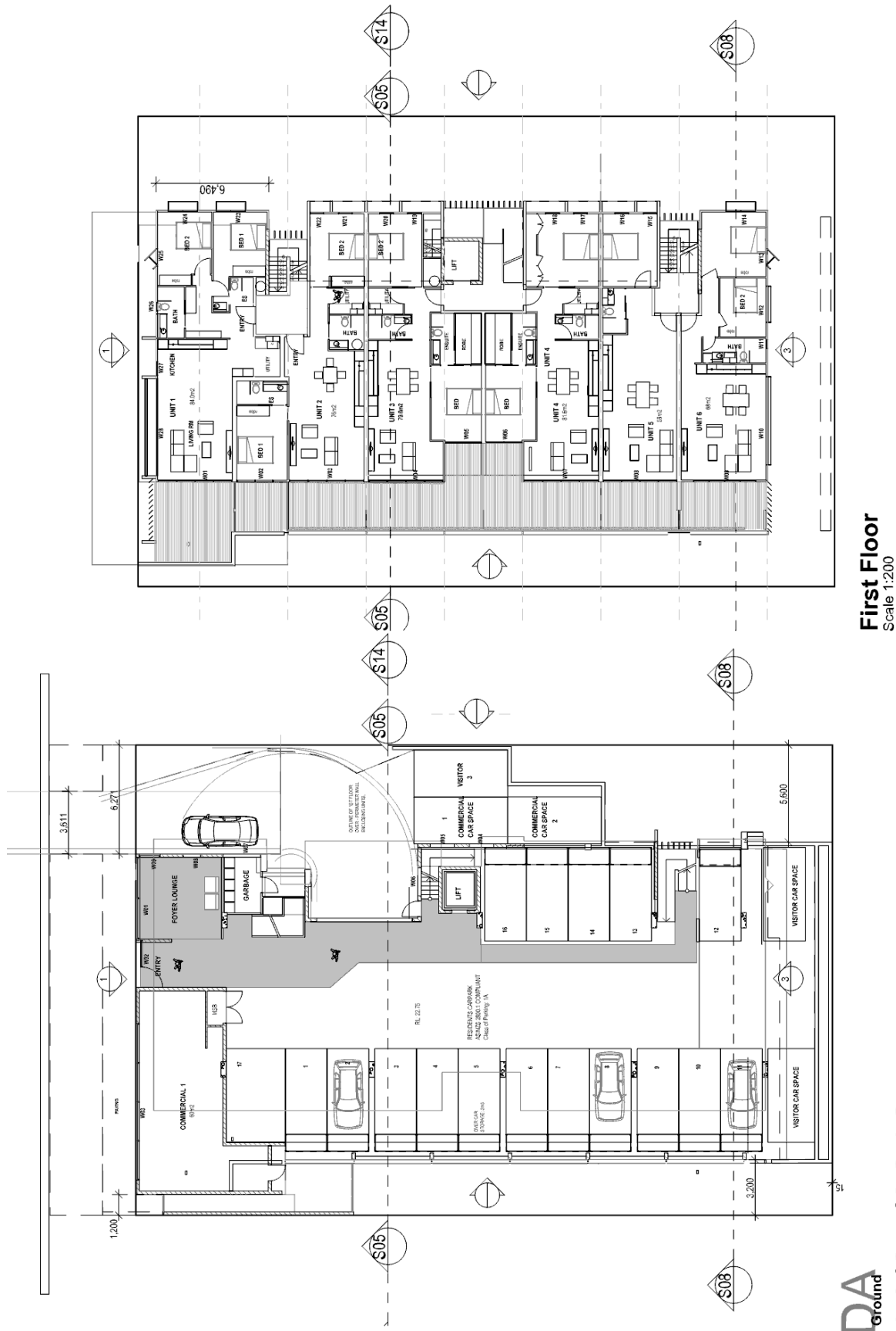
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 <p><b>LANDSCAPE ARCHITECTURE</b> landscape documentation services</p>	<p><b>ARCHITECT</b> <b>WAYNE ELLIS ARCHITECTS</b></p>
<p>SHAWN ELLIS    Ph. 0435 842775 Email    <a href="mailto:sellis@yaho.com.au">sellis@yaho.com.au</a> Australian Institute of Landscape Architects</p>	<p><b>CLIENT :</b> <b>Geranne Pty. Ltd.</b></p>

PROJECT	SHOP TOP HOUSING DEVELOPMENT	TITLE :
	4 HASTINGS RIVER DRIVE PORT MACQUARIE NSW	TYPICAL DETAILS
		Drawing Number:
		<b>1706-CD04</b>

Scale: AS SHOWN			
Approved	Drawn	Date	
SE	SE	05.07.2017	

**DO NOT SCALE DRAWINGS**  
**ALL DIMENSIONS TO BE VERIFIED & CHECKED ON SITE**  
 This drawing is for planning & construction only. It is not to be used for construction without the approval of the Engineer. The Engineer is not responsible for any errors or omissions in this drawing. Please contact LRS.



Scale 1:200 @ A3  
Comm. Ref. 1616 DA DEFERRED.jm

Proj No 1616 Dwg No. D02/A/

FEASIBILITY SITE PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIE

S Arch. B.A.L.A. NSW Reg No 4415 P.O. Box 1892 Port Macquarie NSW 2445  
E 0417 964 731 F 0417 964 731  
P.O. Box 1892 Port Macquarie NSW 2445  
Unit 003 Commercial 24 William St  
Port Macquarie NSW 2444

wayne ellis architect



SITE AREA: 1082sqm  
ZONE: B2 Local Centre  
HEIGHT: 12.8m  
FSR: 1.2 : 1

**SITE PLAN**  
Scale 1:500



DA  
14/03/2018  
wayne ellis architect

S Arch. B.A.L.A. NSW Reg No 4415  
P.O. Box 1892 Port Macquarie NSW 2444  
Unit 103 Sandcastle 24 Vill. St  
Port Macquarie NSW 2444  
t 0417 964 731

FEASIBILITY SITE PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIE

Proj. No 1616  
Dwg No. D01/A/  
Scale 1:500 @ A3  
Comp. Ref. 1616 DA DEFERRED.jm





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FEASIBILITY SITE PROPOSED SHOP TOP HOUSING  
4 HASTINGS RIVER DRIVE PORT MACQUARIE

Proj No 1616 Dwg No. D09/ Scale @ A3  
Commo Ref. 1616 DA DEFERRED.jm

wayne ellis architect

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2017/780****DATE: 5/02/2018****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

<b>Plan / Supporting Document</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
Architectural Plans and Specifications	Dwg no D01-D06 Proj 1616 & Amended D01-02/A	Wayne Ellis Architect	26/7/2017 amended 14/3/2018 as
SOEE		Wayne Ellis Architect	July 2017
BASIX	842256M	Concept Designs Australia	7 August 2017
LANDSCAPE	Dwg No 1706- CD01-04	Landscape Architecture	5 July 2017

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

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

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

- (3) (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) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.

- (5) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (6) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this consent) must be submitted to and approved by council prior to the erection or display of any such signs.
- (7) (A024) The list of measures contained in the schedule attached to the Construction Certificate are required to be installed in the building or on the land to ensure the safety of persons in the event of fire in accordance with Clause 168 of the Environmental Planning and Assessment Regulation 2000.
- (8) (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.
- (9) (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.

- (10) A separate Development Application shall be lodged with Council for the first use of the lower commercial tenancy and any associated signage.
- (11) This consent does not authorise any strata or torrens subdivision, which will require separate approval.

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply,

stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:

- Position and depth of the sewer (including junction)
- Stormwater drainage termination point
- Easements
- Water main
- Proposed water meter location

- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:

1. Public parking areas including;
  - a. Driveways and access aisles;
  - b. Parking bays;
2. Delivery vehicle service bays & turning areas
3. Sewerage reticulation.
4. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.
5. Retaining walls.
6. Stormwater systems.
7. Erosion & Sedimentation controls.
8. Location of all existing and proposed utility services including:
  - a. Conduits for electricity supply and communication services (including fibre optic cable).
  - b. Water supply
  - c. Sewerage
  - d. Stormwater
9. Traffic management control plan
10. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD, Port Macquarie-Hastings Council current version.

- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

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

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

- (4) (B010) Payment to Council, prior to the issue of the Construction Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:

- Hastings S94 Administration Building Contributions Plan
- Hastings Administration Levy Contributions Plan
- Community Cultural and Emergency Services Contributions Plan 2005
- Hastings S94 Major Roads Contributions Plan
- Hastings S94 Open Space Contributions Plan
- Hastings Contributions Plan 1993
  - Part C – Car Parking
- Hastings River Drive S94 Contributions Plan for Traffic Facility Works

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

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

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

- augmentation of the town water supply headworks
- augmentation of the town sewerage system headworks

- (6) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
- (7) (B037) The finished floor level of the building shall be at least 1050mm above the soffit of Council's sewer main. Details indicating compliance with this are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (8) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (9) (B039) Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting:

- earthworks that are more than 600mm above or below ground level (existing) and located within 1m of the property boundaries;
- earthworks that are more than 1m above or below ground level (existing) in any other location;

are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.

- (10) (B045) A schedule of existing and proposed fire safety measures is to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (11) (B048) Prior to the issue of a Construction Certificate, provision shall be made for the storage of garbage containers and containers for recyclable material in a designated garbage area. If an external area is used for the storage of putrescible material then the area shall be:
- a. Bunded with a minimum volume of the bund being capable of containing 110% of the capacity of the largest container stored, or 25% of the total storage volume, whichever is the greatest.
  - b. Provided with a hose tape connected to the water supply;
  - c. Paved with impervious material;
  - d. Graded and drained to the sewer system, and
  - e. Roofed to prevent the entry rainwater.
- (12) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
- a) The legal point of discharge for the proposed development is defined as the kerb and gutter of a public road.  
  
In this regard, Council's piped drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 2.4m lintel) must be installed, to allow direct piped connection from the development site into the public drainage system.  
  
The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.
  - b) The design is to be generally in accordance with the stormwater drainage concept plan.
  - c) All allotments must be provided with a direct point of connection to the public piped drainage system. Kerb outlets are not permitted.
  - d) The design shall incorporate on-site stormwater detention facilities to limit site stormwater discharge to pre development flow rates for all storm events up to and including the 100 year ARI event.
  - e) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
  - f) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
- (13) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6). Certification of the design by a suitably qualified consultant is to be provided to



the Principal Certifying Authority prior to release of the Construction Certificate.

- (14) (B054) Where a vehicular access is provided, details (in the form of a longitudinal section) must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate demonstrating how the access will comply with Council's adopted AUSPEC Design and Construction Guidelines.
- (15) (B062) The tree identified on the adjoining property may be structurally compromised by the development. Tree protection measures are to be implemented and advice sought by a qualified arborist. Prior to release of the Construction Certificate, the location of the tree is to be clearly marked on the plans and a management plan submitted to preserve the tree.
- (16) (B071) Prior to the issue of any Construction Certificate, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (17) (B085) The location of electricity substations are to be clearly illustrated on the Construction Certificate plans. All substations are to remain on private property unless otherwise agreed to by Port Macquarie-Hastings Council.
- (18) (B195) Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as fire service and backflow protection requirements.
- (19) (B196) The commercial and residential components of the development must be individually metered for water supply. A single domestic meter can be provided for the apartment units which can be further broken down into separate meters for each unit.
- (20) (B197) Council records indicate that the development site is connected to sewer via junction to the existing sewer line that runs outside the eastern property boundary. The proposed development must drain to an existing or proposed sewer manhole.
- (21) (B198) As part of the details of any Roads Act (s138) application to Council, the driveway crossover shall be made a minimum 5.5m wide from the kerb line to the property boundary and for the first 6m within the site, to allow two cars to pass without impacting public traffic
- (22) A detailed colour and materials palette is to be submitted with the application for the construction certificate. The number of materials is to be reduced and simplified to provide a greater level of accord with the adjoining heritage item. The palette is to be prepared in conjunction with and approved by Council's Heritage Advisor.
- (23) A certifying authority must not issue a construction certificate for the residential flat development unless the certifying authority has received a statement by the qualified designer verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles. Details shall be submitted with the application for construction certificate with a statement by the qualified designer verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles under State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.
- (24) The units are to comply with *AS/NZS2107:2000 Acoustic – Recommended design sound levels and reverberation times for building interiors for*

*residential development.* Details of compliance will be required prior to the release of the construction certificate.

- (25) The balcony depths are to be amended to comply with the Apartment Design Guide. In this instance a minimum depth of 2m is required to be provided. Privacy screen/dividers on the balconies separating private areas are also to be detailed on plan. Details of compliance are to be demonstrated at the Construction Certificate stage.

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

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C004) Where a sewer manhole exists within a property, access to the manhole shall be made available at all times. Before during and after construction, the sewer manhole must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.
- (3) A controlled activity approval shall be obtained from the airport operator for any crane that may be used during the construction phase that would penetrate the Obstacle Limitation Surface (OLS). To avoid any doubt as to whether an approval is required, applicants should check with the airport operator at the earliest possible stage.

#### **D – DURING WORK**

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

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

- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (3) (D007) A survey certificate from a registered land surveyor is to be submitted to the Principal Certifying Authority at footings and/or formwork stage. Such certificate shall set out the boundaries of the site, the actual situation of the buildings and include certification that siting levels comply with the approved plans.
- (4) (D010) Reduced levels prepared by a registered Surveyor must be submitted to the Principal Certifying Authority at the completion of the roof framework and include certification that building heights comply with the plans approved with the development consent.
- (5) (D011) Provision being made for support of adjoining properties and roadways during construction.
- (6) (D023) During all phases of demolition, excavation and construction, it is the responsibility of the applicant and their contractors to:

- a. Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works.
- b. Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
- c. Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease and the Certifying Authority and Council must be contacted immediately for advice.

Any damage caused to Council's stormwater drainage system must be immediately repaired in full and at no cost to Council.

- (7) (D025) The sewer junction shall be capped off with an approved fitting in conjunction with demolition works and Council notified to carry out an inspection prior to backfilling of this work.
- (8) (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/SUBDIVISION  
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) (E016) Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (3) (E030) Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use. The stacked parking spaces are to be linemarked for staff use only.
- (4) (E036) Certification by a suitably qualified consultant is to be submitted to the Principal Certifying Authority (PCA) confirming that the car park and internal accesses have been constructed in accordance with Port Macquarie-Hastings Development Control Plan 2013 and Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6) prior to occupation or issue of the Occupation Certificate.
- (5) (E039) An appropriately qualified and practising consultant is required to certify the following:
  - a. all drainage lines have been located within the respective easements, and
  - b. any other drainage structures are located in accordance with the Construction Certificate.
  - c. all stormwater has been directed to a Council approved drainage system
  - d. all conditions of consent/ construction certificate approval have been complied with.
  - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (6) (E040) Each onsite detention system is to be marked by a plate in a prominent position which states:

"This is an onsite detention system. It is an offence to reduce the volume of the tank or basin or interfere with any part of the structure that controls the outflow".

This plate is to be fixed into position prior to occupation or the issue of the Occupation or Subdivision Certificate.
- (7) (E046) Prior to the issue of an Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to maintain the on-site stormwater detention facilities on the property.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a. The Proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities ("OSD").
- b. The Proprietor shall have the OSD inspected annually by a competent person.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures in or upon the said land which comprise the OSD or which convey stormwater from the said land; and recover the costs of any such works from the proprietor.
- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor or successor must bear all costs associated in the preparation of the subject 88E instrument. Evidence of registration with the Lands and Property Information NSW shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- (8) (E050) Prior to Council accepting new stormwater infrastructure, a CCTV inspection of all new and modified stormwater assets must be undertaken in accordance with the Conduit Inspection Reporting Code of Australia WSA 05.

A copy of the CCTV inspection footage and inspection report prepared and certified by a suitably qualified person shall be provided to Council prior to the acceptance of works into the nominated 'into maintenance period'.

- (9) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (10) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation Certificate or release of the security bond, whichever is to occur first.
- (11) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation certificate.
- (12) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (13) (E068) Prior to the issue of a Occupation Certificate, evidence to the satisfaction of the Certifying Authority from the electricity and telecommunications providers that satisfactory services arrangements have been made to the lots (including street lighting and fibre optic cabling where required).
- (14) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.
- (15) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the

Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.

- (16) (E195) Prior to any release of the Occupation Certificate, a positive covenant shall be registered on the title in favour of Council requiring the owner(s) to maintain a private waste collection service for all waste generated onsite. All wastes are to be collected as separate waste streams comprising (at a minimum) general waste (rubbish), recycling and food and garden organics.
- (17) A certifying authority must not issue an occupation certificate to authorise a person to commence occupation or use of the development unless the certifying authority has received a statement by the qualified designer verifying that the development achieves the design quality of the development as shown in the plans and specifications in respect of which the construction certificate was issued.
- (18) Privacy screens/dividers are to be provided between private balcony areas prior to the issue of the occupation certificate.
- (19) Prior to the issue of the Occupation Certificate or occupation of the building (whichever occurs first), certification from suitably qualified and practicing consultants is to be submitted to the Principal Certifying Authority, certifying that:
  - the building complies with *AS/NZS2107:2000 Acoustic – Recommended design sound levels and reverberation times for building interiors for residential development*;
  - the building construction complies with relevant Building Code of Australia (BCA) requirements for noise and vibration transmission

#### F – OCCUPATION OF THE SITE

- (1) (F004) The dwellings are approved for permanent residential use and not for short term tourist and visitor accommodation. Dual key operation of units is not permitted.
- (2) Units 1,2,3,4,6,7,11,12,13,15,16,17 have been assessed as 2 bedroom units. Any change to the number of bedrooms will require development consent.
- (3) Units 5,8,9,10,14 have been assessed as 1 bedroom units. Any change to the number of bedrooms will require development consent.
- (4) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (5) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (6) (F011) Each required fire-isolated exit shall have displayed in a conspicuous position adjacent to each access doorway, a notice in accordance with the Environmental Planning and Assessment Regulation 2000.
- (7) (F012) The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.



- (8) (F013) All garbage areas are to be screened from the street, create no adverse odour impact on adjoining properties and be kept free of pests at all times.
- (9) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (10) (F195) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development, with the following modifications:
  - a) A total of 20 spaces are to be provided onsite;
  - b) A dedicated turnaround bay (no parking) shall be provided both inside and outside the gated carpark, to facilitate forwards-only exit from the site; and
  - c) An onsite space shall be allocated to each residence.
  - d) The stacked parking is for use by staff associated with the commercial use only.

**From:** [REDACTED]  
**To:** Council  
**Subject:** Submission for development proposal 2017/780  
**Date:** Tuesday, 26 September 2017 2:46:29 PM

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## **Submission**

**Tony McVeagh**  
**Port Macquarie Backpackers**  
**2 Hastings River Drive, Port Macquarie NSW 2444**  
[REDACTED]

**Application No. DA 2017.780.1**

To the General Manager

We object to the development proposal for 4 Hastings River Drive on the following grounds:

### **2.3.2. Soil and Vegetation**

The property has a Queensland Blackbean Tree on it, planted by the Hibbard Family. Elsinore, our heritage building on 2 Hastings River Drive, is heritage listed because it was build by the Hibbard Family.

### **2.3.5. Flora and Fauna**

The gumtree on our northern boundary is often used by koalas as a safety tree. We believe that the development would either excessively damage the trees root system so it would die or the would have to be removed to start with for the development to go ahead which is unacceptable. It is an added bonus to have koalas in our tree regularly as the tourists we accommodate come to Australia to see them.

### **Principle 1**

The development is not a sympathetic design that will enhance John Hibbards house.

### **Principle 2**

The scale of the proposed development is far to big and not in keep with the heritage house next door.

### **Principle 4**

Continuous shading through the day will result in higher costs for Port Macquarie Backpackers.

### **Table 4/sepp 71 compliance**

- k) A building of this size and structure is not an improvement to the natural scenic quality of the surrounding area.
- n) This proposed building will have a negative effect on the heritage house to the south due to continuous shading through the day.

## **Part 4 - Principle development standards**

### *4.3 Height of buildings*

The sheer size of this proposed development will dwarf the heritage house on 2 Hastings River Drive.

*5.9 Preservation of trees and vegetation*

The tree on the property was planted by the Hibbard family.

*5.10 Heritage conservation*

It is not a sympathetic design

**2.5 Transport, Traffic management, access and car parking**

Parking provision - There is not enough parking spaces supplied for the proposed units. There is no parking adjacent to this site as stated in the development proposal.

**2.6 Tree management**

The Queensland blackbean tree on the property has significant heritage value as it was planted by the Hibbard's.

**Part 3.3 Residential Flat development***Energy, Conservation and Solar access*

Overshadowing from the proposed development will have a large negative impact on the solar power gain of our Backpackers at 2 Hastings River Drive. Our solar will be in shade most of the day and also our cloth line will be shaded all day long. Being an accommodation business and doing our laundry internally, we wash up to ten loads of washing a day and hang it out to dry. If this building proposal goes forward our clothes lines are unusable and we will have to use the cloths drier. This will have a large economical impact on us and is also negative for the environment.

*Laundry and Cloth drying Facilities*

The lack of external cloth lines of the proposed development will make every occupant having to use their cloth dryer contributing to significant monetary cost for power for them and have an unnecessary negative impact on the environment.

*Waste management*

Room provided for waste bin storage is not big enough to accommodate bins for the proposed 17 units and the shops.

**5.5 Heritage**

The proposed development will have a major impact on Elsinore on 2 Hastings River Drive as it will be always shaded.

**5.13 Noise and vibration**

The scale of this proposed building will be very disrupting and possibly crippling during the build to our accommodation business at 2 Hastings River Drive. I have learned in the past that major projects around Port Macquarie Backpackers (for example the conversion from roundabout to traffic lights on the corner of Gordon Street and Hastings River Drive) have a detrimental impact on the business and mean a loss of revenue up to \$100,000. If the building goes forward as it is proposed there will be a significant impact on the noise level in the bedrooms on the northern side of the Backpackers by cars coming and going. We also see issues with privacy for our guests as the units have windows on the southern side and occupants can overlook our pool area and bedrooms

We would like to present our objections to council and request an extension so we can get professional representation.

With thanks

Tony McVeagh

Port Macquarie Backpackers

Submission

Vogel Investments Pty Ltd  
26 Hibbard Drive  
Port Macquarie  
NSW 2444

22 September 2017

PROPOSED SHOP TOP HOUSING DEVELOPMENT  
AT  
LOT 1 DP 536032,  
4 HASTINGS RIVER DRIVE,  
PORT MACQUARIE

Application No. 2017/780

To the General Manager,

we have recently been advised of the Proposed Development Application @ No. 4 Hastings River Drive, Port Macquarie.

Whilst we agree the proposal is mostly compliant, we feel that a few areas could have the potential to adversely affect the neighbouring stakeholders and do not comply with the Councils DCP.

Our main concern is car parking or lack thereof. Whilst the Statement of Environmental effects claims to almost be compliant, almost is not compliant.

The DCP calls for 1 car space per unit and 1 car space per 4 units for visitor parking (or part there-of). At this ratio there should be a requirement for:

Residential flats	17 Spaces
$17/4 = 4.25$ therefore	5 visitor spaces
Commercial 1 per 30m <sup>2</sup>	
$66/30 = 2.2$ therefore	3 spaces
Giving a total of	25 spaces

I would be interested to see how the allocation that has been used in this instance and would suggest that the provided 1 visitor car space is grossly inadequate for a complex of this size.

We would also suggest that the "body corporate" area which I assume is the 22m<sup>2</sup> on the street frontage would be exempt from the calculations, I would suggest that this area is earmarked for 'potential' commercial use in the future and should be included in the car parking calculations (1). This would take the car parking requirements to 26 spaces and a deficit of 8 spaces not the 4 stated.

Furthermore and without more detailed drawings it is a little hard to ascertain but the car parking modules numbered 11,12,13 and 16 don't appear to have provision for the blind aisle distance addition as per AS 2890 Off street parking code.

We would suggest that having a deficit of 8 spaces out of the required 26 is a large percentage (almost 30%) to be short given the limited on street opportunities, high volume of traffic on a main road, coupled with neighbouring local businesses having their spaces already allocated. The Statement that designated on street parking is available, is open to interpretation, our understanding is that you cannot 'designate' on street parking to an off street development. The availability of the on street parking is also very limited with the spatial requirements for driveways etc. and the tapering parking lane approaching the bend towards the roundabout this would leave the potential for one maybe two spaces which are occupied on a very high percentage of the time as it is without this development. It would be unfair to consider these spaces as part of the allowance for the Development. This has the potential to cause conflict should residents / visitors be using spaces nearby allocated for other businesses / residents.

Also of concern is the Deep soil zone reduction. If the 6m deep soil zone is not applied this could have the potential to disadvantage neighbouring stakeholders and their development potential into the future, this being a side boundary for the adjoining property to the west. As well as having the implication on the height of the buildings to the rear boundary and most importantly reducing the amenity for residents with regard to having an appropriately sized communal space available onsite.

This greatly reduces the m2 available for residents to access a communal garden or the like, An appropriately sized communal area should be a priority in a development this size particularly when it is sited on the busiest roads in Port Macquarie.

Privacy concerns also exist primarily to the north elevation where large quantities of glazing is proposed with direct views into neighbouring units to the north and there primary communal area (yard and pool). Whilst we accept the setbacks and understand the orientation for solar access etc.. we suggest that with such a large portion of glazing more consideration be given to the existing units to the north with adequate screening, in particular to the units on the upper levels and the potential for more solid handrails to the balcony's to limit visual intrusion.

We are not Anti-development by any ways or means and understand the council's position in creating a variety of housing choices for the community, however, we are Anti-Overdevelopment at the expense of the communities' amenity and the surrounding stakeholders. If the car parking, deep soil requirements and privacy concerns can't be met potentially the site is being 'over developed' and not in keeping with the councils DCP.

This Proposal will be a definite contender for 'who can shoe-horn the most number of units onto a single site' at the 2017 awards.

In conclusion we ask that the development be re-considered to more adequately meet or exceed the Local Councils DCP requirements and neighbour's concerns.

Regards,



Bill Vogel



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Item: 06

Subject: SECTION 4.55 MODIFICATION DA2010 - 577.4 - MODIFICATION TO SUBDIVISION LOT LAYOUT INCLUDING ADDITION OF ONE (1) TORRENS TITLE LOT - LOT 2 DP 1231106, NO. 72 LORNE ROAD, KENDALL

Report Author: Patrick Galbraith-Robertson

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Applicant: Jojeni Investments Pty Ltd CARE GEM Planning Projects  
Owner: Jojeni Investments Pty Ltd  
Estimated Cost: N/A  
Parcel no: 66659

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#### Alignment with Delivery Program

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

#### RECOMMENDATION

That Section 4.55 modification to DA 2010 - 577 for a modification to subdivision layout including addition of one (1) torrens title lot at Lot 2, DP 1231106, No. 72 Lorne Road, Kendall, be determined by granting the modified consent subject to the recommended conditions.

#### Executive Summary

This report considers a Section 4.55(2) modification of consent application at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Being a Section 4.55 modification, the modified proposal has only been assessed against the legislation and related planning guidelines in place at the time of the original assessment.

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

The proposal has been amended during the assessment of the application.

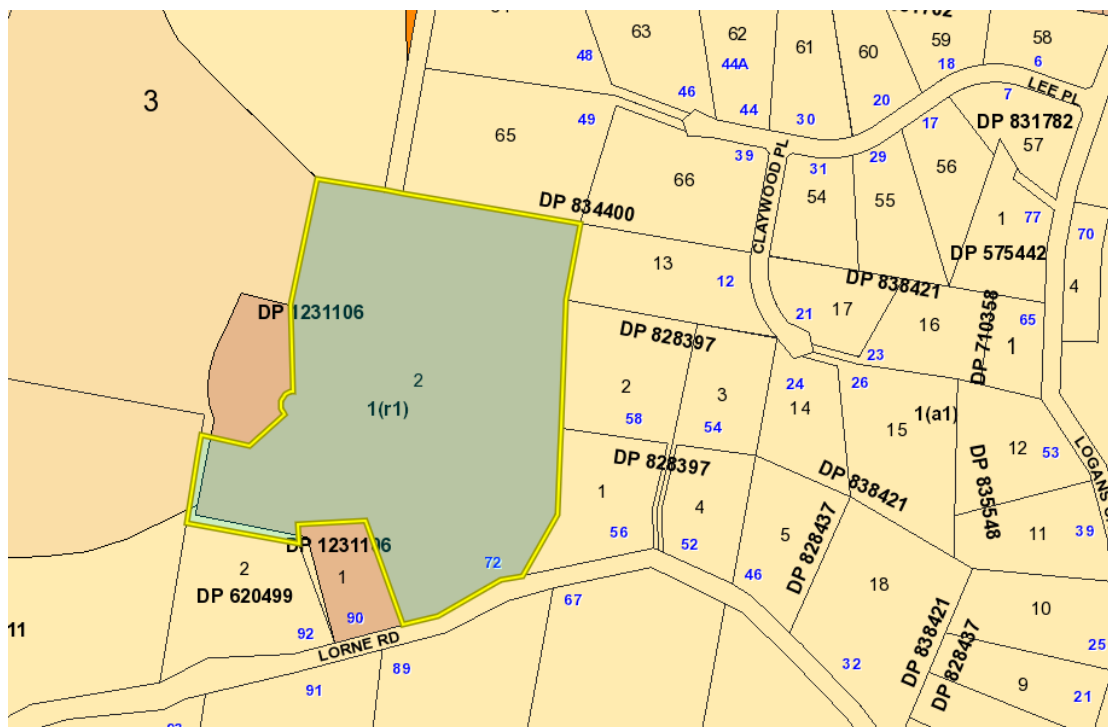
This DA has been previously considered by the Development Assessment Panel on 26 April 2018 where the following resolution was made:

*Defer determination of the Section 4.55 modification to DA 2010 – 577, subject to the submission of stormwater management detail being provided to the Development Assessment Panel. The information is to show how stormwater impacts on the new Lot 8 and also whether the new Lot 8 impacts on the ability to deal with stormwater management for the overall subdivision.*

## 1. BACKGROUND

The site has an area of 13.11 hectares.

The section of the site to which the modification application relates to is zoned 1(r) Rural Residential in accordance with the Hastings Local Environmental Plan 2001 (as in force at the time), 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:



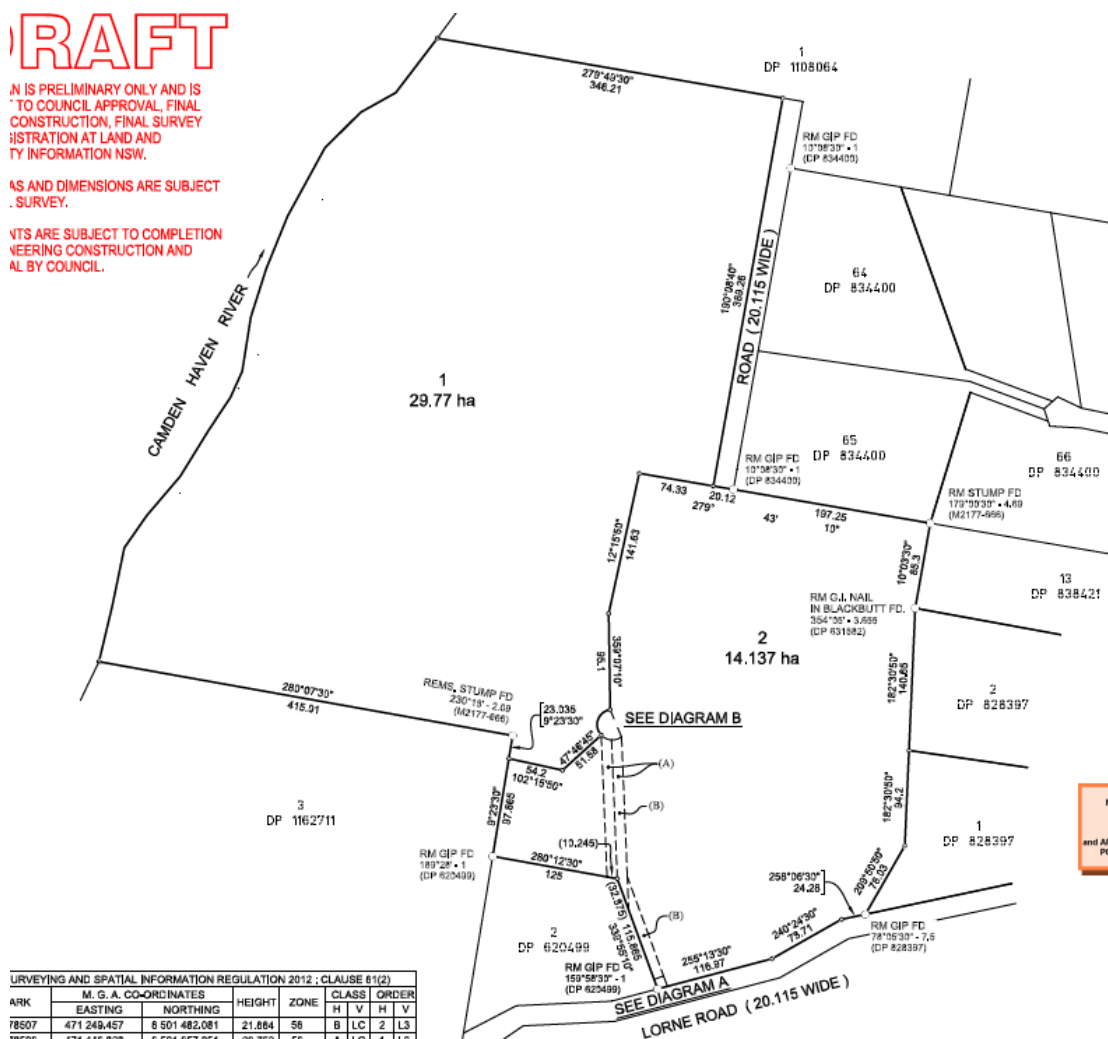
**Item 06**  
**Page 93**

**DEVELOPMENT ASSESSMENT PANEL**  
**09/05/2018**

THIS IS PRELIMINARY ONLY AND IS  
 SUBJECT TO COUNCIL APPROVAL, FINAL  
 CONSTRUCTION, FINAL SURVEY  
 INFORMATION AT LAND AND  
 SURVEY INFORMATION NSW.

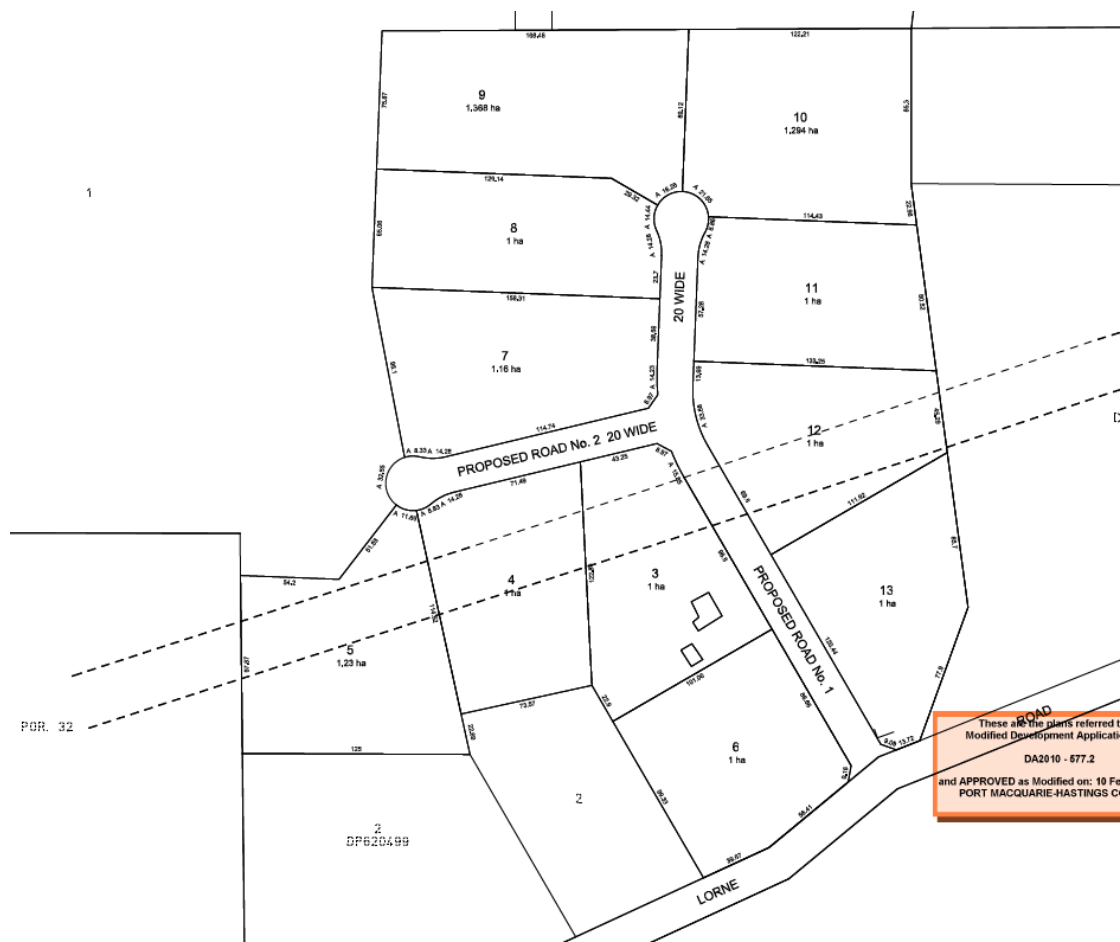
AS AND DIMENSIONS ARE SUBJECT  
SURVEY.

UTS ARE SUBJECT TO COMPLETION  
NEERING CONSTRUCTION AND  
AL BY COUNCIL.



SURVEYING AND SPATIAL INFORMATION REGULATION 2012 : CLAUSE 61(2)								
ARK	M. G. A. CO-ORDINATES		HEIGHT	ZONE	CLASS		ORDER	
	EASTING	NORTHING			H	V	H	V
78507	471 248.457	8 501 482.081	21.884	56	B	LC	2	L3





The development is physically commenced with Lots 1 and 2 already created/released.

Key aspects of the modification proposal include the following:

- Modify previous approved staged subdivision to realign boundaries and add an additional one (1) allotment at the northern end of the subdivision (where Lot 9 and 10 are shown above). This will increase the total lot numbers from 13 to 14.

The proposal has been also amended during the assessment of the application to incorporate compliant cul-de-sac sections of road with a 12m radius. This has also resulted in minor changes to boundaries to retain compliant minimum 1 hectare lot sizes.

Refer to attachments at the end of this report.

### Application Chronology

- 7 December 2017 – Modification application lodged with Council
- 13 December 2017 – Referral of modification application to NSW Rural Fire Service
- 18 December 2017 to 12 January 2018 - Neighbour notification of proposal
- 12 February 2018 – Additional information requested – submission issues and on-site sewage capacity
- 19 February 2018 – NSW Rural Fire Service issued Bushfire Safety Authority

- 20 February 2018 – Clarification sought on cul-de-sac radius required by NSW Rural Fire Service
- 13 March 2018 – Confirmation of 12m radius on cul-de-sac required
- 16 March 2018 – Updated on-site sewage management report received
- 24 March 2018 – Updated on-site sewage management report forwarded to submitter for consideration
- 12 April 2018 – Amended plans received including enlarging radius of cul-de-sac head to comply with 12m radius required by the NSW Rural Fire Service
- 26 April 2018 – Consideration of DA by the Development Assessment Panel. Resolution to defer consideration of DA until further information is received. Revised information since received.

### **3. STATUTORY ASSESSMENT**

#### **Section 4.15(2) 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) Is the proposal substantially the same?***

Section 4.55 of the Environmental Planning and Assessment Act 1979 enables the modification of consents and categorises modifications into three categories - S.4.55(1) for modifications involving minor error, mis-description or miscalculation; S.4.55(1A) for modifications involving minimal environmental impact; and S.4.55(2) for other modifications. Each type of modification must be considered as being substantially the same to that which was originally consented to.

The subject application is being considered under the provisions of Section 4.55(2).

The Applicant has submitted the following details to justify that the proposal is substantially the same development:

- *The proposal seeks to modify minor aspects of the approved subdivision but does not alter the servicing capacity, the environmental principles nor the character of the approved development.*
- *One additional x 1 ha allotment will result in the northern location and it does alter the intersection location or road access principles.*
- *The modified proposal conforms to the requirements of existing Rural Fire Service S100B authority.*

Having regard to the above, the proposed modification is not considered to alter the fundamental essence of the original development and is considered to be substantially the same to the original development and therefore within the scope of a modification application.

##### ***(b) Are there any condition(s) of consent imposed by a Minister, government or public authority that require modification?***

The application has been referred to the NSW Rural Fire Service (RFS). The RFS have reviewed the proposal and issued an amended Bushfire Safety Authority for the modified proposal. The Applicant has also submitted amended plans to provide details of the required minimum 12m radius cul-de-sacs required by the RFS.

***(c) Does the application require notification/advertising in accordance with the regulations and/or any Development Control Plan?***

Neighbour notification has been undertaken in accordance with the DCP.

***(d) Any submissions made concerning the modification?***

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

The issues raised in the submission received have been forwarded to the Applicant during the assessment of the application.

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

<b>Submission Issue/Summary</b>	<b>Planning Comment/Response</b>
Concerns relate to the onsite sewage management of this modification referring specifically to the three blocks 9, 10 and 11 having common boundary with our property Lot 65.	The Applicant has submitted additional specialist information during the assessment of the application to address site specific on-site sewage management for the proposed additional lot and boundary reconfiguration. A copy of this report is attached.
The latest proposed modification of the subject site could significantly increase environmental effects such as potential for seepage/runoff to our creek immediately adjacent to our South boundary, any contemplation that another method of disposal of septic waste, secondary or not, within the 40 metre zone would mean leakage into our creek.	The additional report submitted has been assessed by Council Staff as being satisfactory.
Concerns of how overland stormwater runoff will be channelled away from this development considering the slope characteristics of the site and in particular regard to the proposed roads 1 and 2.	Refer to the comments provided later in this report to address stormwater.

***(3) Any matters referred to in section 4.15/79C (1) relevant to the modification?***

Taking into consideration of the reasons for approval of the original development, the following areas of the original assessment impacted by the changes or with revised comments are addressed below:

**North Coast Regional Environmental Plan**

In accordance with clause 2, the modified proposal remains consistent with the aims of this REP.



In accordance with clause 12, the modified proposal is unlikely to adversely impact on the use of any nearby adjoining or adjacent agricultural land and the proposed subdivision will be unlikely to result in a significant loss of prime crop or pasture land. In particular, given the section of the site had a previous zoning change (that has occurred) to become 1(r1) now known as R5 Large Lot residential.

In accordance with clause 43, the modified proposal remains satisfactory with regard to:

- the density of the proposed lots has been maximised without adversely affecting the environmental features of the land,
- the proposed road widths are not excessive for the function of the road, and

### **Port Macquarie-Hastings Local Environmental Plan 2001**

The above LEP was in place at the original time of assessment and determination of this DA.

In accordance with clause 9, the subject site (in total) is zoned part 1(a1) Rural, 1(a3) Rural – Agricultural Protection, 1(r1) Rural Residential and 7(h) Environment Protection - Habitat. The modification to the remaining subdivision lots to be constructed and released are entirely within the 1(r1) zoned section of the site.

The objectives of the 1(r1) zone are as follows:

#### *Zone 1 (r1) Rural Residential*

##### *Zone objectives*

- (a) To enable the development of land within this zone for rural residential purposes.*
- (b) To enable appropriate development where allowed with consent.*

The proposal is consistent with the zone objectives, particularly as the proposal will not result in any unnecessary land fragmentation and based upon appropriate conditions recommending fencing off the 7(h) zoned land.

In accordance with clause 13, satisfactory arrangements are available for water supply and facilities for removal/disposal of on-site sewage and drainage to the proposal (as amended).

Note that Stage 1 will not require/propose extension of water supply servicing to proposed Lot 2 within Stage 1.

In accordance with clause 17, the Lot sizes proposed within the 1(r1) zoned part of the site remain compliant with the minimum 1 hectare land area requirement, will provide for satisfactory land area to enable on-site disposal of effluent and bushfire risk has been satisfactorily addressed.

The requirements of this LEP are therefore satisfied.

### **Development Control Plan 17 – Subdivision Code**

The modified proposal remains to comply with all applicable development provisions relating to recommended lot servicing and design requirements of this DCP.

### **Context and setting**

The modified proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.

The desired character for the site has been set by the change in zoning to rural residential and with the 1 hectare lot size adopted. The modified proposal is considered to be consistent with the desired character for future and existing rural and rural residential development in the locality and adequately addresses planning controls for the area.

There are no identifiable adverse impacts to neighbouring properties.

**Access, transport and traffic**

The subject property has frontage to Lorne Rd which is a dedicated bitumen sealed rural road maintained by Council. Lorne Rd carriageway is approximately six (6) metres wide.

The proposed subdivision has already been approved to produce 91 additional daily trips, the addition of one extra allotment will not have any significant effect on the proposed development or the surrounding road network.

**On-site sewage management**

The Applicant has submitted additional specialist information during the assessment of the application to address site specific on-site sewage management for the proposed additional lot and boundary reconfiguration. A copy of this report is attached. The additional report submitted has been assessed as being satisfactory.

**Stormwater**

The proposal does not include a stormwater management plan and instead notes that the subdivision will be constructed in accordance with the plan prepared as part of the rezoning of the site. The original assessment raised no objections towards this approach in principal noting that detailed design and remodelling of all elements will be required to be undertaken prior to the issue of a Construction Certificate.

There is a Stormwater Management Plan dated March 2007, which includes the use of infiltration trenched/basins and buffer strips on private property, appropriate easements and positive covenants/restrictions as to user will be required to be placed on relevant lots at time of subdivision and maintenance access/rights are provided.

Such instruments will also be required to be created over flowpaths through the properties to both enable future access and to alert purchasers/landowners to their rights and obligations with respect to the flow of waters through the site.

There is a condition already imposed to create a positive covenant for maintenance of the existing overland flowpath over the site.

Stormwater analysis has been submitted demonstrating that the pre development flows within the existing watercourse are 5.81 cu.m/s with a water level of 11.37m AHD adjacent to Proposed lot 7. The post development flow will be 5.83 cu.m/s within the realigned overland flowpath with the water level maintained at 11.37m adjacent to Lot 7. The depth of flow within this flowpath is to remain at 370mm as per pre development.

The proposed building platforms on proposed lots 8 & 9 are well in excess of any required freeboard and an appropriate restriction has been conditioned to ensure any future building on Proposed lot 7 is constructed an appropriate level.

Based on the above, the proposed development will create no adverse impacts on stormwater and visa versa.

**Water**

Water Supply for this modified development can remain to be provided from the 100mm AC water main on the same side of Lorne Road.

Fire service coverage to the building envelope of each lot to AS 2419 is to be provided wherever there is reasonable prospect of coverage from a street hydrant.

The subdivision plans with suitable Section 88B instruments are to show building envelopes that can be covered by street hydrants to AS 2419. This information is to be shown on the engineering plans for assessment by Water Supply Section before linen release but is deemed capable of complying.

**Water cycle**

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

**Bushfire**

The site is identified as being bushfire prone. The Applicant has submitted a revised bushfire report, which was forwarded to the NSW Rural Fire Service. The NSW Rural Fire Service have assessed the application and issued an amended Bushfire Safety Authority for the modified development. A copy is attached to this report.

The proposal has been also amended during the assessment of the application to incorporate compliant cul-de-sac sections of road with a 12m radius. Section H of the development consent is recommended to be deleted and replaced with a more current standardised condition to reference the amended bushfire authority.

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

- Additional development contributions for the additional lot will be required towards augmentation of local water supply head works under Section 64 of the Local Government Act 1993.
- Additional development contributions for the additional lot will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

**5. CONCLUSION**

The application has been assessed in accordance with Section 4.55 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.

The site is suitable for the proposed modified 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](#). DA2010 - 577.4 Plans
- 2 [View](#). DA2010 - 577.4 Stormwater Report
- 3 [View](#). DA2010- 577.4 Stormwater Plan
- 4 [View](#). DA2010 - 577.4 Buffers Sewage Management Onsite
- 5 [View](#). DA2010 - 577.4 Onsite Report
- 6 [View](#). DA2010 - 577.4 Recommended Amended Conditions.
- 7 [View](#). DA2010 - 577.4 NSW Rural Fire Service Recommendations
- 8 [View](#). DA2010 - 577.4 Submission - Guy



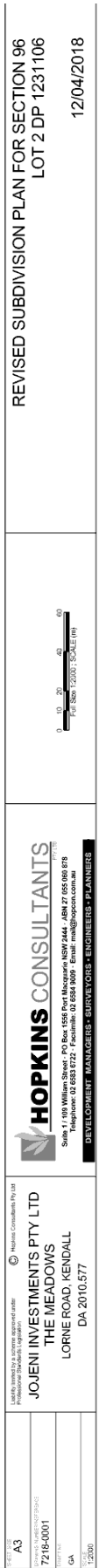
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7218-0001  
DA

JOENI INVESTMENTS PTY LTD  
THE MEADOWS  
LORNE ROAD, KENDALL  
DA 2010.577

**HOPKINS CONSULTANTS**  
Suits 1/100 William Street PO Box 1556 Port Macquarie NSW 2444 ABN 27 555 066 878  
Telephone: 02 6557 1212 Facsimile: 02 6557 0607 Email: info@hopkins.com.au  
DEVELOPMENT MANAGERS • SURVEYORS • ENGINEERS • PLANNERS

0 10 20 30 40 50 60  
METRES

SUBDIVISION OF LOT 2 DP 1231106  
AERIAL OVERLAY  
12/04/2018





# HOPKINS CONSULTANTS

PTY LTD

1<sup>st</sup> May 2018

Our Ref: 7218  
Your Ref: DA 2010/577

General Manager  
Port Macquarie Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 244

Attn: Mr Clinton Tink



**WINNER**  
2009

#### Directors

**MICHAEL S MOWLE**  
B E Civ (Hons)  
Chartered Engineer

**GEOFFREY E HILL**  
B Surv  
Registered Land Surveyor

**DANIEL J BAKER**  
B Surv  
Registered Land Surveyor

**DARREN J BOOTH**  
B Surv  
Registered Land Surveyor

## Re: THE MEADOWS (DA2010.577) – PRELIMINARY STORMWATER REPORT

I refer to the PMHC DAP meeting dated 27<sup>th</sup> April 2018 where the panel deferred the assessment and requested additional information regarding overland flow and stormwater. This preliminary stormwater report and attachments is submitted for inclusion in the next DAP meeting to be held on 9<sup>th</sup> May 2018.

### Topography & Site Conditions


The subject site is cleared, undulating farmland located on the North side of Lorne Road approximately 1km West of Kendall. The site grades naturally from South to North with the dominant drainage feature being a defined natural gully that directs all stormwater into the larger creek running across the Northern boundary.

An important element of this preliminary assessment is the relationship between the peak storm event water level and the proposed building site pad levels where the gully bi-sects Lots 7 & 8. Refer to the attached plan & Cross-Section.

### Proposed Roads & Drainage Layout

The proposed subdivision layout is shown on the attached plan. Road #1 is centred on the main ridge with a cul-de-sac head serving Lots 7, 8 & 9. Road #2 runs to the West serving Lots 3 & 5 and provides access to the neighbouring property.

The existing gully will be the main drainage path for all stormwater from the developed site. Culverts will be sized and located approximately as shown under Road #2 and the access handle to Lot 7. The road, cul-de-sac head and table drain levels will be designed to direct flows into the gully on the West side of Road #1 and well clear of any building envelope.



ABN 27 055 060 878  
Suite 1, 109 William St  
PO Box 1556, Port Macquarie 2444 NSW  
Telephone: 02 6583 6722 Facsimile: 02 6584 9009  
Email: mail@hopcon.com.au

Liability limited by a scheme approved under Professional Standards Legislation  
S:\Projects\7218 The Meadows\Corro\stormwaterreportMay18.docx



**Stormwater Analysis**

A DRAINS 2016 AR&R analysis demonstrates that 1:100 Pre-Development flows = **5.81 cu.m/s** resulting in a water level of RL11.37AHD adjacent Lot 7 (depth of flow in channel = 370mm).

A Post development analysis demonstrates flows = **5.83 cu.m/s** resulting in a water level of RL11.37 AHD adjacent Lot 7 (depth of flow in channel = 370mm).

**Notes:**

1. There is a minimal difference (0.02cum/s) between pre-development & post development flows. Both scenarios result in the same water level & this is due to modelling sensitivity ie. not enough variation in discharge to alter flow depths.
2. The similarity between pre & post development discharges is due to the modelling of major storm events (after initial losses) creates a surface saturation which is effectively an impervious catchment in both scenarios. Hence the impact of houses, sheds, road pavements & hard surfaces etc. becomes negligible in the post-development modelling scenario.

See attached DRAINS output for 1:100 ARI pre & post development.

**Building Envelope Assessment**

The proposed building site on Lot 7 has natural surface levels ranging from RL 11 to RL 12.5. This indicates that to achieve a finished floor level with a freeboard of 500mm or greater would require site filling in the order of 500mm to 1m. The building envelope and approximate fill requirements to provide for a site pad level of RL12.5m AHD are noted on the attached plan. A more detailed site regrading plan will be submitted with CC documentation.

The proposed building site on Lot 8 has natural surface levels ranging from RL 13 to RL 15. On the low side of the site this exceeds 1.5m freeboard above the modelled 1:100 ARI stormwater levels.

The proposed building site on Lot 9 has natural surface levels ranging from RL 16 to RL 20. This is well above the modelled 1:100 ARI stormwater levels.

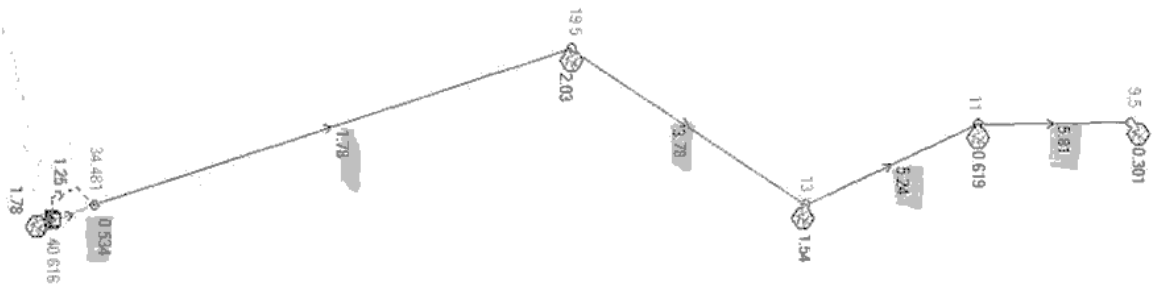
**Conclusion**

The proposed subdivision layout & building envelopes are clear of any overland flow or stormwater flow paths. Preliminary stormwater analysis demonstrates that the proposed lots have potential building areas clear of flood impacts from stormwater.



**Michael Mowle**  
MIEAust, CPEng

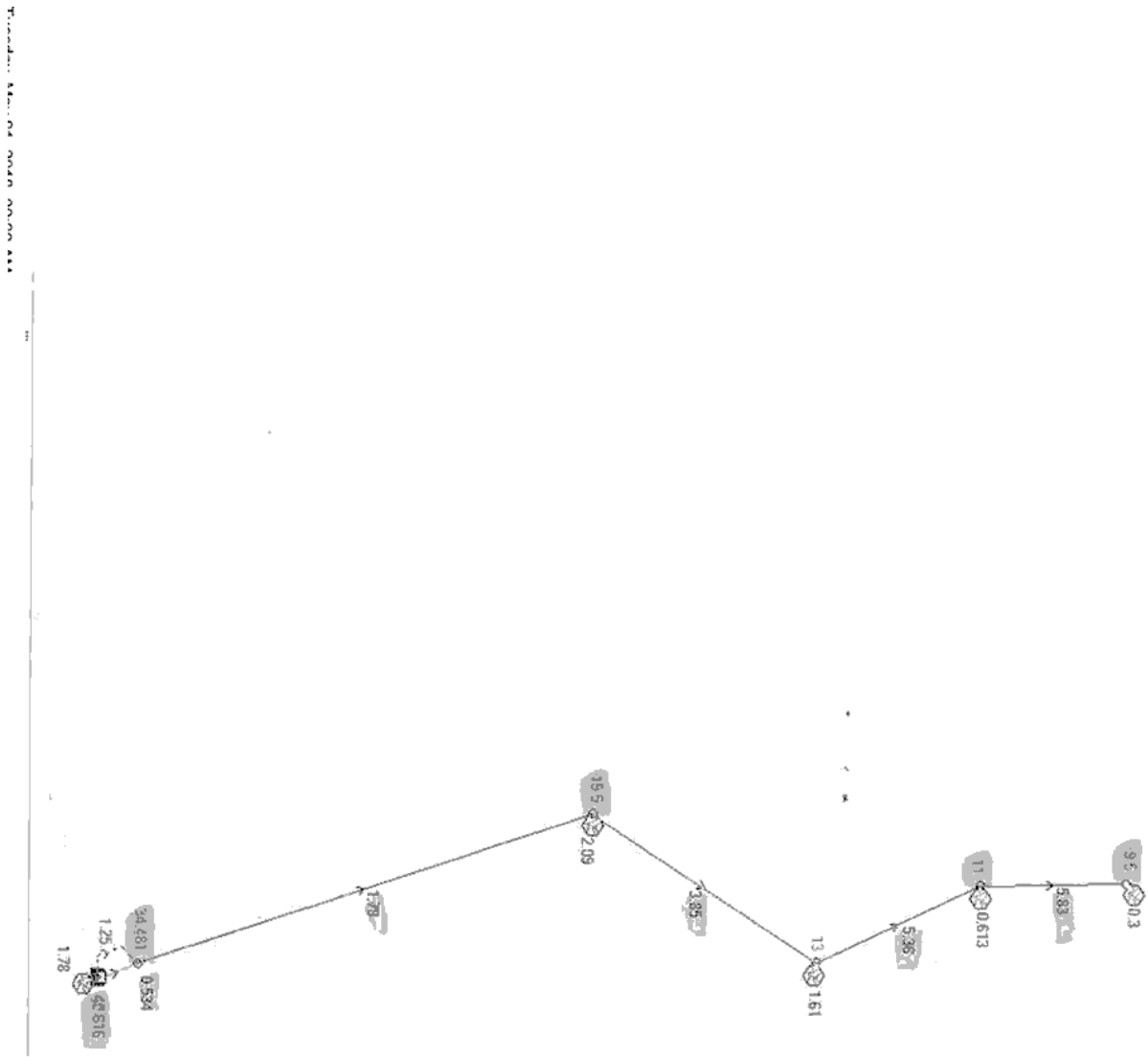
Thursday, May 04, 2017 10:04 AM



PRE  
100yr

N.S. R.L.

DISCHARGE/FLOW



POST  
100yr

N.S. R<sub>L</sub>

Flow  $m^3/s$

Name:

Total length (m) from upstream node to downstream:

Manning's n Values

LOB	0.035
Channel	0.02
ROB	0.035

Main Channel

Left bank X coordinate	17
Right bank X coordinate	58
Contraction coefficient	0.1
Expansion coefficient	0.3

Cross-Section

X (m)	RL (m)
1	0
2	17
3	32
4	44
5	58
6	59
7	...
8	...

Scale of Length

Peak XSect

Help

Cancel

Save and Close

Long Section Data

Upstream IL	11
Downstream IL	9.5

Note: A single representative cross section will be used in the standard and premium hydraulic models. It will be adjusted up or down to match the Upstream and Downstream ILs specified here.



Post  
100yr.

PEAK  
water RL

FLOW  
m<sup>3</sup>/s

Name: 5.4.1

Total length (m) from upstream node to downstream: 68

Manning's n Values

LOB	0.035
Channel	0.02
ROB	0.035

Main Channel

Left bank X coordinate	17
Right bank X coordinate	58
Contraction coefficient	0.1
Expansion coefficient	0.3

Cross-Section

	X (m)	RL (m)
1	0	11.9
2	17	11.82
3	32	11.58
4	44	11
5	58	11.88
6	59	11.9
7		
8		

Scale off Length

Paste Xsect

Help

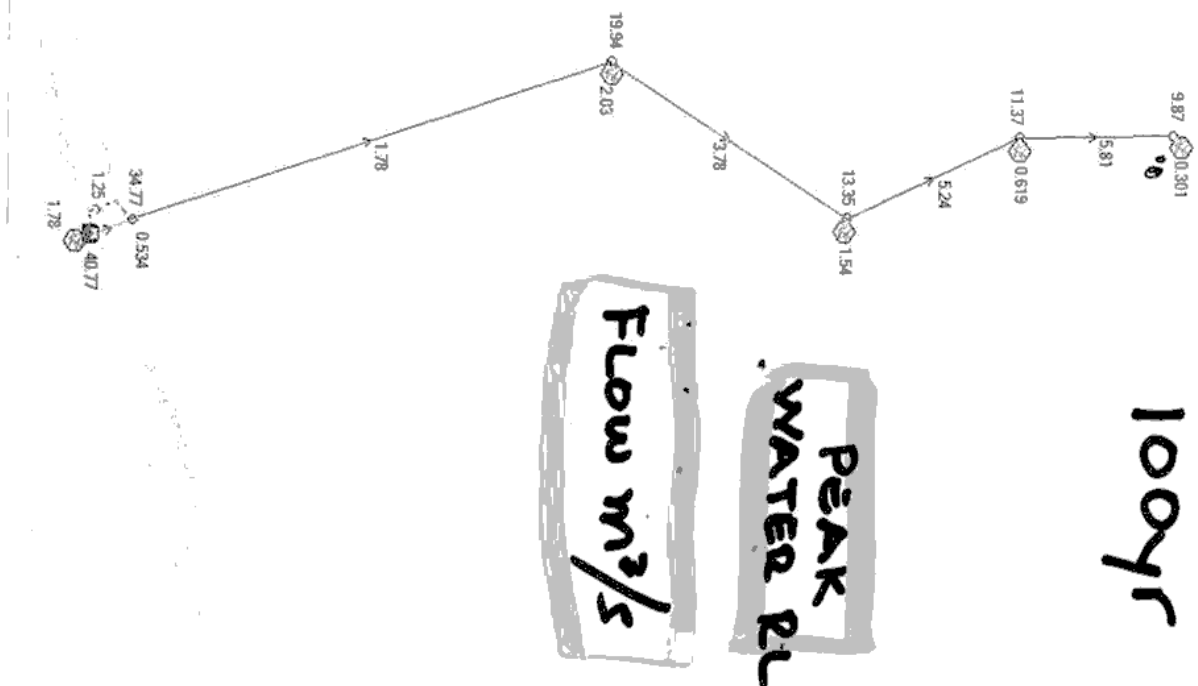
Cancel

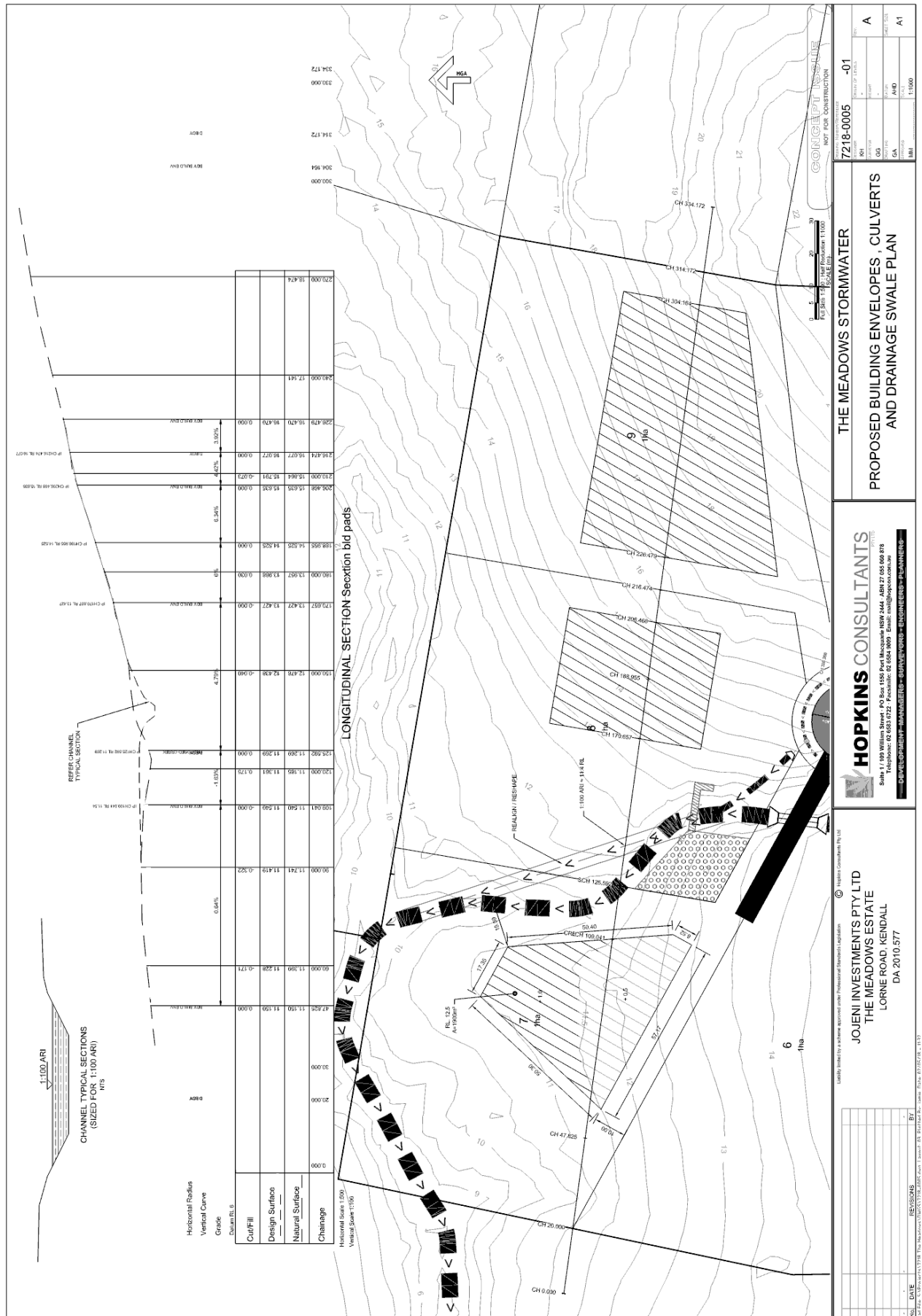
Save and Close

Long Section Data

Upstream IL	11
Downstream IL	9.5

Note: A single representative cross section will be used in the standard and premium hydraulic models. It will be adjusted up or down to match the Upstream and Downstream ILS specified here.





Midcoast  
Building and  
Environmental31<sup>st</sup> May 2011Port Macquarie – Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444

Attention: Patrick Galbraith-Robertson

Dear Patrick,

**Re: Onsite Sewage Management – Proposed Rural Residential Subdivision of Lot 4  
DP631582 Lorne Road, Kendall (Development Application 2010/577).**

I refer to your emailed request for additional information regarding onsite effluent disposal in relation to the proposed rural residential subdivision of the subject property.

Following your request the issue of the implications of the recommended 40m buffer to the intermittently flowing creek/gullies which have been identified on the subject site has been the subject of further detailed investigation and review. This has involved the identification of intermittently flowing creeks and the determination of the extent of the recommended 40m buffer zone using survey information. It is also noted that the proposed infilling of existing farm dams has also been taken into account in determining the application of the 40m buffer zone.

Please find attached a plan which identifies the constraint to onsite effluent disposal which is posed by the recommended 40m wide buffer zone. This approach has allowed for a more accurate determination of those areas of each of the proposed lots which is constrained by the 40m buffer zone. In this regard the following areas of each of the proposed lots remain unconstrained by the 40m buffer zone;

PROPOSED LOT	AREA OF LAND OUTSIDE OF 40m BUFFER ZONE
Lot 1	5975m <sup>2</sup>
Lot 2	4147m <sup>2</sup>
Lot 3	6442m <sup>2</sup>
Lot 4	2458m <sup>2</sup>
Lot 5	3694m <sup>2</sup>
Lot 6	8371m <sup>2</sup>
Lot 7	6911m <sup>2</sup>
Lot 8	5733m <sup>2</sup>
Lot 9	3173m <sup>2</sup>
Lot 10	1.290 hectares
Lot 11	9291m <sup>2</sup>
Lot 12	1 hectare
Lot 13	1 hectare



Having regard to the above table and the attached plan it is considered that under worst case conditions appropriately sized and located areas are available within each of the proposed lots in which to achieve sustainable onsite sewage management.

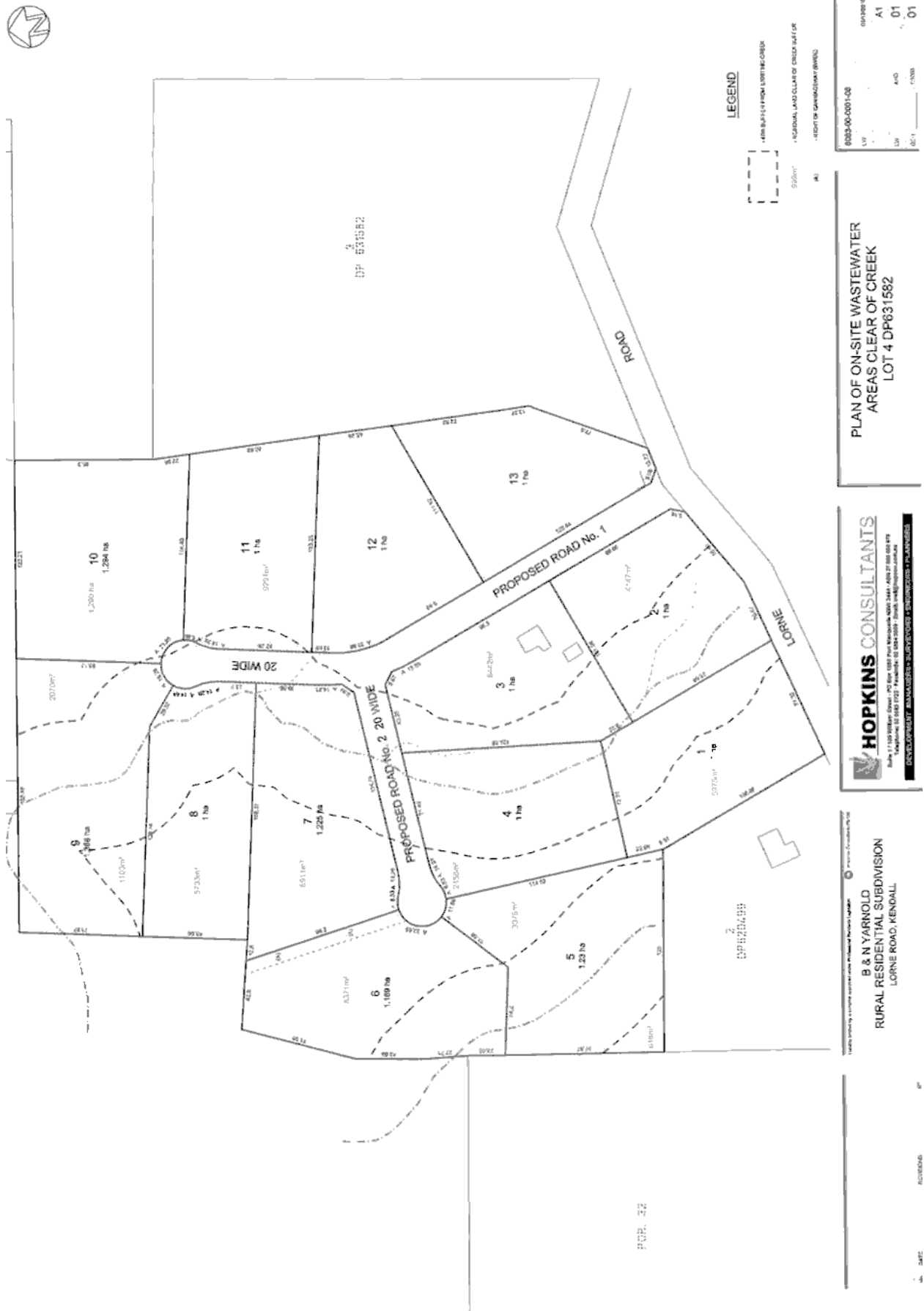
It is also noted that as the recommended 40m buffer zone only applies to the location of onsite disposal areas a significant level of flexibility exists within each of the proposed lots in which to position a dwelling and supporting infrastructure without compromising the availability of buffer free land in which to undertake onsite effluent disposal.

As provided for in the Onsite Sewage Management Assessment Report prepared by Midcoast Environmental Services, dated April 2011, it will be necessary for the development of each of the proposed allotments to be the subject of a further detailed onsite sewage management assessment. This further assessment will take into account lot specific features such as the size and positioning of the proposed dwelling together with site specific onsite sewage management conditions, constraints and opportunities. For example it maybe possible to reduce the footprint of the 40m buffer through a detailed consideration of topography and the determination of actual surface water overland flow paths.

Notwithstanding the above the information which has been submitted to Council demonstrates that having regard to the site and soil conditions and constraints which exist and the extent of onsite effluent disposal technology which is available that sustainable long term onsite sewage management is achievable on each of the proposed rural residential lots.

Regards

David Pensini



DAVID PENSINI  
Building Certification and  
Environmental Services

16<sup>th</sup> March 2018

GEM Planning Projects  
PO Box 2068  
PORT MACQUARIE NSW 2444

Attention: Geraldine Haigh

Dear Geraldine,

**Re: Onsite Sewage Management – Proposed Rural Residential Subdivision of Lot 2  
DP 1231106, 72 Lorne Road, Kendall (Development Application 2010/577).**

I refer to your email request for additional information regarding onsite effluent disposal in relation to the proposed modifications to the layout of the approved rural residential subdivision of the subject property. In this regard it is noted that the proposed modified layout provides for an additional lot to be created adjacent to the northern boundary of the subject site, (the already approved subdivision plan provides for two (2) lots along the northern aspect whilst the proposed modification provides for three (3) lots – proposed Lots 9, 10 and 11).

In particular I note concerns raised by adjoining residents to the north of the subject site regarding the achievement of the 40m wide buffer zone between areas suitable for onsite sewage management and the intermittently flowing creeks/gullies which have been identified on and adjacent to the subject site.

Following your request the issue of the implications of the recommended 40m buffer to the intermittently flowing creeks/gullies which have been identified on and off the subject site in relation to the residential occupation and use of proposed Lots 9, 10 and 11 has been the subject of further review. This has involved the identification of intermittently flowing creeks and the determination of the extent of the recommended 40m buffer zone as applied to the proposed modified lot layout.

Please find attached a plan which identifies the constraints to onsite effluent disposal which are imposed by the recommended 40m wide buffer zone. This approach has taken a conservative approach to the determination of those areas of each of the proposed lots which is constrained by the 40m buffer zone and other property boundary setbacks which maybe applicable to the installation of onsite sewage management systems. In this regard the following areas of each of the proposed lots remain unconstrained by the 40m buffer zone;

PROPOSED LOT	AREA OF LAND OUTSIDE OF 40m BUFFER ZONE
Lot 9	Approximately 6060m <sup>2</sup>
Lot 10	Approximately 2295m <sup>2</sup>
Lot 11	Approximately 1625m <sup>2</sup>

In the context of the indicative spatial requirements for future onsite sewage management systems on each of the lots, (Onsite Sewage Management Assessment Report prepared by Midcoast Environmental Services, dated April 2011) and having regard to the above table and the attached plan it is considered that under worst case conditions appropriately sized and located areas are available within each of the proposed lots in which to achieve sustainable onsite sewage management. This is particularly the case when the following factors are taken into consideration;

- The below ground disposal of effluent following secondary treatment. This provides for reduced opportunities for uncontrolled runoff of effluent which has been treated to a higher level.
- The incorporation of nutrient removal capabilities into treatment systems. This reduces the potential impacts of runoff on water quality.
- The engineered design of systems to reduce the size of disposal areas. The development of engineered solutions to onsite effluent management in more recent times has meant that the reliance upon reserve disposal areas has been considerably lessened. This significantly reduces the spatial requirements in demonstrating long term effluent disposal.
- Port Macquarie-Hastings Councils Code for Onsite Sewage Management for Domestic Premises, (Code C017), does indicate that lesser setback distances can be applied where the following performance objective can be satisfied;

*'To prevent the pollution of watercourses and groundwater'*

In this regard the determination of the minimum buffer zones using methods such as the Beavers-Gardiner method can provide for buffer zones which are often less than that which is recommended.

It is also noted that as the recommended 40m buffer zone only applies to the location of onsite disposal areas a significant level of flexibility exists within each of the proposed lots in which to position a dwelling and supporting infrastructure without compromising the availability of buffer free land in which to undertake onsite effluent disposal. It is however noted that the development of each of the proposed lots will require careful planning such that areas required for onsite sewage management are not utilized for other purposes.

As provided for in the Onsite Sewage Management Assessment Report prepared by Midcoast Environmental Services, dated April 2011, it will be necessary for the development of each of the proposed allotments to be the subject of a further detailed onsite sewage management assessment. This further assessment will take into account lot specific features such as the size and positioning of the proposed dwelling together with site specific onsite sewage management conditions, constraints and opportunities. For example it may be possible to reduce the footprint of the 40m buffer through a detailed consideration of topography and the determination of actual surface water overland flow paths.

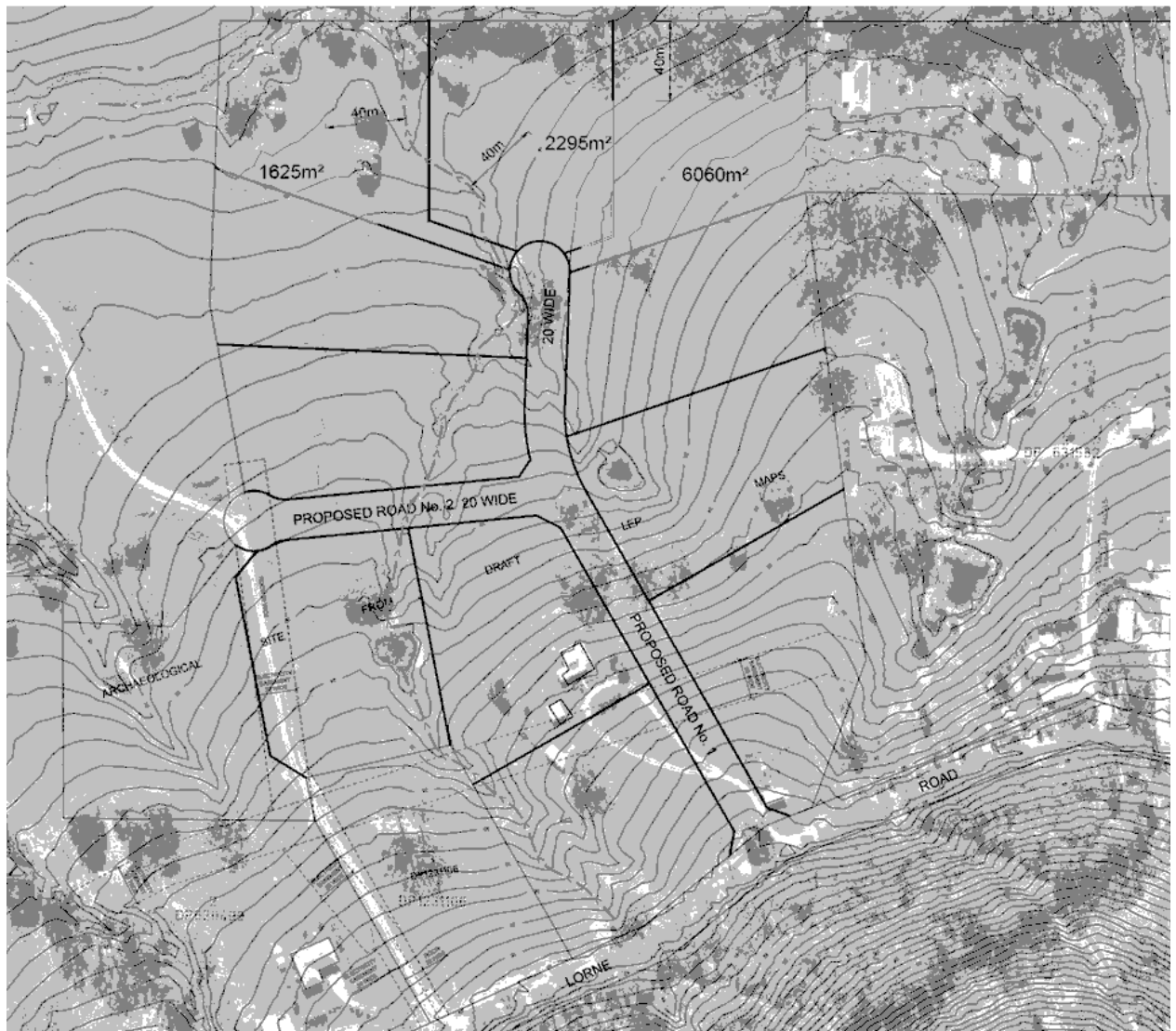
Notwithstanding the above the information which has been submitted demonstrates that having regard to the site and soil conditions and constraints which exist and the extent of onsite effluent disposal technology which is available that sustainable long term onsite sewage management is achievable on each of the proposed rural residential lots.

Regards



David Pensini

**ATTACHMENT 1 – 40M BUFFER ZONE**



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS****NOTE: THESE ARE DRAFT ONLY****DA NO: 2010/577****DATE: 16/04/2018**

The conditions of consent referred to in the Notice of Determination for DA No 2010/577 are as follows:

No.1	Modification No.1	10 February 2016
No.2	Modification No.2	20 January 2017
No.3	Modification No.3	26 April 2018

**A – GENERAL MATTERS**

- (1) (DA001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Plans of subdivision	Sheets 1 to 3	Hopkins Consultants	Undated Sheet 1 18 December 2015 - Sheets 2 and 3

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.<sup>1</sup>

*Proposed Modified condition A(1) below:*

- (1) (DA001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Plans of subdivision	Sheets 1 to 2	Hopkins Consultants	Undated Sheet 1 18 December 2015 - Sheets 2
Subdivision plans	Drawing No.s 7218-001 – 2 sheets	Hopkins Consultants	12 April 2018

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.<sup>3</sup>

- (2) (DA004) Submission of a formal application for a Subdivision Construction Certificate and a Subdivision Certificate together with the payment of all relevant fees in accordance with Council's Management Plan.



- (3) (DA006) Approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works within the development site required by the development consent is to be obtained from Port Macquarie-Hastings Council. A copy of the approval is to be submitted with the application for Construction Certificate.
- (4) (DA007) Approval 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 obtained from Port Macquarie-Hastings Council. The application for this engineering approval must be made on the prescribed form with payment of fees pursuant to Section 223 of the Roads Act 1993 in accordance with Council's Schedule of Fees and Charges. The application is to include detailed design plans prepared by an appropriately qualified and practising consultant. A copy of the approval is to be submitted with the application for Construction Certificate. Under the provisions of the Local Government Act 1993 and/or the Roads Act 1993, if the activity is staged, the activity or the specified part or aspect of the activity, or any thing associated with the activity or the carrying out of the activity, may be the subject of a further approval.

Such works include, but not be limited to:

- Civil works
  - Traffic management
  - Work zone areas
  - Hoardings
- (5) (DA009) The provision of additional roads and stormwater works within the road reserve or Council's land at no cost to Council necessary to ensure satisfactory transitions to existing work as a result of conditions of this consent. The extent of works required for this development will be determined by Council in conjunction with assessing the application under the Roads Act. Design plans for any such works are to be incorporated in the design for other roads and stormwater systems required for this development.
- (6) (DA011) The design and construction of all subdivision works shall be in accordance with Council's adopted AUSPEC Specifications and Port Macquarie-Hastings Council DCP 2006 which are prescribed at the time of commencement of engineering works.
- (7) (DA013) 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 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 the estimated cost plus 30% for public works 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.

- (8) (DA016) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, are set out in Section H of this consent and form part of the consent conditions for this approval.

- NSW Rural Fire Service

*Proposed Modified condition A(8) below:*

- (8) (A013) *The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.*

- **NSW Rural Fire Service - The General Terms of Approval, Reference D17/4709 DA17121910959 CC and dated 19 February 2018, are attached and form part of this consent.**<sup>3</sup>

- (9) (DA036) The submission with the application for approval pursuant to Section 138 of the Roads Act of a Plan of Management for any works for the development that impact on any public roads and public land for the construction phase of the development. The plan is to include a Traffic Management Plan and/or Environmental Plan and/or a Work Method Statement for any works or deliveries that impact the normal travel paths of vehicles, pedestrians or cyclists or where any materials are lifted over public areas. The Traffic Control component of the plan is to be designed in accordance with Australian Standard 1742.3 – 2002 RTA "Traffic Control at Worksite Manuals" detailing the location of proposed Work Zone area (Construction Zone) plan, prior to the erection of any signage, giving dimensions from the nearest cross street kerb, the location of any existing regulatory signposting and indicating the period for which the parking restriction is required. Any persons preparing such Traffic Control layout plans shall be RTA accredited or equivalent.
- (10) (DA043) Construction of functional vehicular accesses and right of carriageways to all rural allotments in accordance with AUSPEC Specifications D1.31 and Table D1.8; Details of the construction of the accesses are to be provided with the construction certificate application.
- (11) (DA055) The submission to Council of stormwater drainage details in accordance with Council's Development Control Plan No 17 and AUSPEC Specifications D5 and/or D7 where relevant. Where the details relate to subdivision works the details are to be approved prior to the release of the Subdivision Construction Certificate. Where the details relate to the erection of a building the details are to be lodged with Port Macquarie-Hastings Council with the application for approval pursuant to Section 68 of the Local Government Act.
- (12) (DA057) Any interruption to the natural overland flow of stormwater drainage, which could result in the disruption of the amenity, or drainage or deterioration to any other property is not permitted.

- (13) (DA061) Restrictions and/or positive covenant must be provided over the overland flow path for on site detention storage areas with appropriate public awareness signage.
- (14) (DA062) Any boundary fencing or internal fencing that crosses the overland flow path is to be open mesh style within 500mm of finished ground level with the mesh openings designed to provide a minimum 80% clear area.
- (15) (DA066) All water services necessary to service the development must be provided in accordance with Council's requirements. All services are to be designed and constructed in accordance with Council's AUSPEC Specifications. Council pursuant to Section 68 of the Local Government Act must approve the design plans for the required services.
- (16) (DA071) Provision to each lot of a separate water connection (un-metered and sealed) to Council's main. All work will need to comply with the requirements of Council's adopted AUSPEC Design and Construction Guidelines and Policies.
- (18) (DA102) Submission prior to the issue of a subdivision certificate of a plan prepared by a Registered Surveyor showing location of existing road formation relative to reserved and dedicated roads to enable determination of any road widening necessary. Any road widening is to be at no cost to Council.
- (19) (DA195) Fire service coverage to the building envelope of each lot to AS 2419 is to be provided wherever there is reasonable prospect of coverage from a street hydrant (Stage 1 Lot 2 not applicable). The subdivision plans with suitable Section 88b instruments are to show building envelopes that can be covered by street hydrants to AS 2419. This information is to be shown on the engineering plans for assessment by Water Supply Section before linen release.
- (20) (DA196) Provision of an intersection with existing Lorne Road and proposed Road No.1, designed in accordance with Council approved design plans (RR-190 – 30), the publication AUSTROADS Guide to Road Design Part 4A: Unsignalised and Signalised Intersections and AUSPEC Specifications D1.25; such intersection shall include:
- (a) reconstruction of the existing pavement, if required to provide uniform crossfalls
  - (b) widening and bitumen surfacing of all pavement across the full road frontage to provide uniform skid resistance
  - (c) all necessary surface and subsoil drains
  - (d) provision of traffic signs
  - (e) provision of linemarking
  - (f) adjustment of services, if necessary
  - (g) streetlighting in accordance with AS1158
- (22) (DA197) The design and construction of all public and access roads and provision of APZ(s) shall be in accordance with AUSPEC Specifications and the current publication *Planning for Bushfire Protection*. A positive covenant shall clearly refer to the proprietor of the burdened lot being responsible for the maintenance of any firetrail and APZ, releasing Council from any obligation to renew, repair and maintain.

*Proposed condition A(22) to become A(21) fix numbering – see below:*

- (21) (DA197) The design and construction of all public and access roads and provision of APZ(s) shall be in accordance with AUSPEC Specifications and

the current publication *Planning for Bushfire Protection*. A positive covenant shall clearly refer to the proprietor of the burdened lot being responsible for the maintenance of any firetrail and APZ, releasing Council from any obligation to renew, repair and maintain.<sup>3</sup>

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

- (1) (DB002) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:

1. Road works along the frontage of the development.
2. New roads and accessways within the subdivision (to also satisfy the current version of *Planning for Bush Fire Protection*).
3. Earthworks
4. Water supply reticulation (Stage 1 only if arrangements are required for private water supply to each lot within this stage).
5. Stormwater systems. (including a stormwater maintenance plan for the proposed stormwater drainage facilities submitted as per the requirements of AUSPEC D7 (see appendix A Table D7A-4).
6. Erosion & Sedimentation controls. (including a geotechnical report for the treatment of roadside drainage where scour velocities for onsite soils are exceeded).
7. Location of all existing and proposed utility services including:
  - a. Conduits for electricity supply and communication services (including fibre optic cable).
  - b. Water supply
  - c. Stormwater
8. Detailed intersection layout at the junction of Lorne Road and proposed Road No.1 in accordance with AUSTROADS Guide to Road Design Part 4A: Unsignalised and Signalised Intersections and AUSPEC Specifications D1.25.- giving particular attention to sight distance.

An application and checking fee in accordance with Council's Management Plan shall be payable upon submission of engineering design plans.

- (2) (DB003) Road network within the subdivision is to be categorised in accordance with AUSPEC Table D1.8 with road reserves and minimum carriageway widths (includes shoulder) respectively as follows:

Road No.	Road Width (Metres)					
	RIGHT OF CARRIAGE WAY	Access	Local	Collector	Commercial	Industrial
1			20(8)			
2			20(8)			
r-o-c	10(5)					

- (3) (DB009) If engineering works are of a value equal to or greater than \$25,000, a detailed estimate of cost of the civil engineering works and documentary proof of payment of the levy required by the Building and Construction

Industry Long Service Payments Act must be provided to Council prior to any approval of engineering plans.

- (4) (DB038) Prior to the issue of any Construction Certificate, satisfactory arrangements are to be made with the Water Authority for the provision of water services to the land. Evidence of such arrangements will be furnishing relevant documentation from the Water Authority.
- (5) (DB050) Submission of a detailed landscape plan to Council for approval prior to the issue of the Construction Certificate which includes a minimum of 5 advanced street tree plantings chosen from Council's Indigenous Street and Open Space Planting List.
- (6) (DB055) The applicant shall implement a landscape maintenance program for a minimum period of 12 months to ensure that all landscape work becomes well established by regular maintenance. Details of the program must be submitted with the Detailed Landscape Plan with the Subdivision Construction Certificate application.
- (7) (DB195) A detailed stormwater drainage design must be provided prior to the issue of a Construction Certificate and submitted for approval. The design must be prepared to make provision for the following:
  - a) The layout of the stormwater drainage system must be generally in accordance with the Stormwater Management Plan prepared by King and Campbell dated March 2007 and as amended as follows.
  - b) The design contained within the plan referred to above must be reanalysed using a current version of MUSIC (v4 is current at time of Approval) to ensure that the proposed stormwater treatment systems are sized correctly to comply with the discharge parameters specified in council's AUSPEC Specifications for discharge from the whole development site. The layout and sizing of the stormwater treatment systems servicing the site shall be amended as required to ensure compliance with these requirements. A copy of the Modelling undertaken shall be submitted to Council.
  - c) Where stormwater pipelined, flowpaths or treatment measures are proposed within private property, easements and / or drainage reserves must be created as per Council's AUSPEC Specifications and be shown on the plan.
  - d) Comply with Council's AUSEC Design Specifications
  - e) The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.
  - f) All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage.

An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.

*Proposed modified condition B(7) below:*

- (7) (DB195) *A detailed stormwater drainage design must be provided prior to the issue of a Construction Certificate and submitted for approval. The design must be prepared to make provision for the following:*
  - a) *The layout of the stormwater drainage system must be generally in accordance with the Stormwater Management Plan prepared by King and Campbell dated March 2007 and Plan number 7218-0005-01 prepared by Hopkins Consultants amended as follows.*

- b) *The design contained within the plan referred to above must be reanalysed using a current version of MUSIC (v4 is current at time of Approval) to ensure that the proposed stormwater treatment systems are sized correctly to comply with the discharge parameters specified in council's AUSPEC Specifications for discharge from the whole development site. The layout and sizing of the stormwater treatment systems servicing the site shall be amended as required to ensure compliance with these requirements. A copy of the Modelling undertaken shall be submitted to Council.*
- c) *Where stormwater pipelined, flowpaths or treatment measures are proposed within private property, easements and / or drainage reserves must be created as per Council's AUSPEC Specifications and be shown on the plan including appropriate scour protection.*
- d) *Comply with Council's AUSEC Design Specifications*
- e) *The design must make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands.*
- f) *All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3-2003 Plumbing and Drainage – Stormwater Drainage.*
- An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.<sup>3</sup>*
- (8) (DB196) Submission of geotechnical evaluations carried out by a NATA registered laboratory and documentation in accordance with the requirements of AUSPEC Specification D2.21.

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

- (1) (DC002) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (DC003) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (3) (DC004) Prior to the commencement of any works, a pre-construction meeting shall be organised by the applicant. This meeting is to be attended by the applicant or consultants, principal contractor and Council's development engineer or his representative.
- (4) (DC013) Signage must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
- stating that unauthorised entry to the work site is prohibited.
  - showing the name of the principal contractor in charge of the work site and a telephone number at which that person may be contacted outside working hours.
  - the name and contact details of the principal certifying authority responsible for the site

Any such signage is to be removed when the work has been completed.

This does not apply to building work carried out inside an existing building.

**D – DURING WORK**

- (1) (DD002) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your construction certificate number and property description to ensure your inspection is confirmed:
- prior to commencement of site clearing and installation of erosion control facilities;
  - at completion of installation of erosion control measures
  - prior to installing traffic management works
  - at completion of installation of traffic management works
  - at the commencement of earthworks;
  - before commencement of any filling works;
  - when the sub-grade is exposed and prior to placing of pavement materials;
  - when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
  - at the completion of each pavement (sub base/base) layer;
  - before pouring of kerb and gutter;
  - prior to the pouring of concrete for sewerage works and/or works on public property;
  - on completion of road gravelling or pavement;
  - during construction of sewer infrastructure;
  - during construction of water infrastructure;
  - prior to sealing and laying of pavement surface course.

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

Council will undertake random audits of work sites to verify compliance of public works as required.

- (2) (DD005) The slope of any cut/fill batters shall be in accordance with Council's adopted AUSPEC Design and Construction Guidelines.
- (3) (DD024) Work on the project being limited to the following hours, unless otherwise permitted by Council:-
- Monday to Saturday from 7.00am to 6.00pm
  - The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (4) (DD028) Building equipment and/or materials shall be contained wholly within the site and shall not be stored or operated on the footpath or roadway, unless specific written approval has been obtained from Council beforehand.
- (5) (DD044) A garbage receptacle for the reception of all waste materials from the site shall be provided prior to building work commencing and shall be maintained and serviced for the duration of the work.
- (6) (DA082) Dust nuisance to neighbouring properties shall not be generated as a result of the undertaking of the development.
- (7) (DA083) Any wastes shall not be disposed of by burning.



**E – PRIOR TO THE ISSUE OF OCCUPATION OR SUBDIVISION CERTIFICATE (ONLY AS APPLICABLE TO EACH STAGE OF THE DEVELOPMENT)**

- (1) (DE005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (2) (DE017) Provision of a right of carriageway as required by consent as follows:
  - (1) Over lot 2 benefiting lot 1 prior to issue of Stage 1 subdivision certificate.
  - (2) Over lot 2 benefiting Lot 2 DP 620499 prior to issue of Stage 1 subdivision certificate.
  - (3) Extinguishment of right of carriageway referred to in point (1) of this condition prior to release of Stage 3 subdivision certificate.Such right of carriageways are to be ten (10) metres wide reservation with a minimum five (5) metre wide constructed gravel pavement.<sup>1</sup>
- (3) (DE037) All public roads are to be constructed in accordance with approved construction plans and Council's current AUSPEC Specifications, and dedicated up to the boundaries of all adjoining properties where shown on the approved plan.
- (4) (DE043) An appropriately qualified and practising consultant is required to furnish a Compliance Certificate to the Principal Certifying Authority confirming:
  - a. all drainage lines have been located within the respective easements, and
  - b. any other drainage structures are located in accordance with the Construction Certificate.
  - c. all stormwater has been directed to a Council approved drainage system
  - d. all conditions of consent/ construction certificate approval have been complied with.
  - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (5) (DE045) At the completion of works on private property certification is to be provided to Port Macquarie-Hastings Council from a practising civil or structural engineer that all stormwater works have been undertaken in accordance with the approved plans and Australian Standard 3500.
- (6) (DE051) A Certificate of Compliance under the provisions of Section 307 of the Water Management Act must be obtained prior to the issue of any Occupation or Subdivision Certificate.
- (7) (DE052) Prior to the issue of any Occupation Certificate, submission of relevant documentation from the Water Authority confirming its acceptance of infrastructure works, including work as executed plans in accordance with Port Macquarie-Hastings Council current version of AUSPEC.
- (8) (DE056) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant in accordance with the requirements of AUSPEC in accordance with the Council's *Interim Requirements for the Maintenance and Certification of Public Infrastructure Provided Through Land Developments* (dated 6 September 2010) prior to issue of the release of the security bond to guarantee completion of public works.
- (9) (DE065) Landscaped areas being completed prior to issue of the Subdivision Certificate.

- (10) (DE071) Provision of street lighting to all new roads and compliance with the requirements of the electricity authority regarding provision of electricity to serve the development. Evidence by way of letter from the electricity authority, indicating compliance with this condition shall be submitted prior to the issue of the Subdivision Certificate.

Any proposal to erect non-standard or prestige street lighting is to be referred to Council together with details of the difference in annual charges over a twenty five (25) year period in accordance with Policy R5 – Street Lighting on Public Roads.

- (11) (DE072) 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. Any alterations to or relocation of street lighting to be approved in writing from Port Macquarie-Hastings Council.
- (12) (DE073) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
- a. The relocation of underground services where required by civil works being carried out.
  - b. The relocation of above ground power and telephone services
  - c. The relocation of street lighting
  - d. The matching of new infrastructure into existing or future design infrastructure
- (13) (DE076) Prior to the issue of a Subdivision Certificate, written advice is to be submitted from the electricity authority confirming that its requirements for the provision of electricity services (including street lighting where required) have been satisfied and/or from the telecommunications authority confirming that its requirements for the provision of telecommunication services (including fibre optic cabling where required) have been satisfied.
- (14) (DE080) Lodgement of a security deposit with Council upon practical completion of the subdivision works in accordance with the Council's *Interim Requirements for the Maintenance and Certification of Public Infrastructure Provided Through Land Developments* (dated 6 September 2010).
- (15) (DE086) The proponent shall submit an application for a Subdivision Certificate for Council certification. Such application shall be accompanied by payment of all relevant fees in accordance with Council's Management Plan, and original plan of subdivision together with 7 copies with associated 88B instruments, where necessary.
- (16) (DE087) The plan of subdivision and Section 88B instrument shall establish the following restrictive covenants; with the Council having the benefit of these covenants and having sole authority to release vary or modify these covenants. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
- a. Prohibiting direct vehicular access to and from Lorne Road
  - b. Prohibiting direct vehicular access to and from Lorne Road except in the location shown in red on the approved plan

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

- (17) (DE095) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision Certificate.
- (18) (DE096) All subdivision works must be in accordance with Development Code DCP 17 and approved by Council prior to the issue of a Subdivision Certificate.
- (19) (DE097) Prior to the issuing of the Subdivision Certificate, provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (20) (DE195) Prior to the issue of an Occupation Certificate, a positive covenant must be created under Section 88E of the Conveyancing Act 1919, burdening the owners of affected lots with the requirement to ensure the ongoing maintenance of the existing overland flowpath through the site.

The terms of the 88E instrument with positive covenant must include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear the overland flowpath.
- b) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the overland flowpath; and recover the costs of any such works from the proprietor.
- c) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the overland flowpath, or failure to clean, maintain and repair the overland flowpath.

*Proposed modified condition E(20) below:*

- (20) (DE195) Prior to the issue of an Occupation Certificate, a positive covenant must be created under Section 88E of the Conveyancing Act 1919, burdening the owners of affected lots with the requirement to ensure the ongoing maintenance of the existing overland flowpath through the site.

*The terms of the 88E instrument with positive covenant must include, but not be limited to, the following:*

- a) The proprietor of the property shall be responsible for maintaining and keeping clear the overland flowpath.*
- b) The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land which comprise the overland flowpath; and recover the costs of any such works from the proprietor.*
- c) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the overland flowpath, or failure to clean, maintain and repair the overland flowpath.*

*d) Restricting construction on Lot 7 to have a finished floor level at or above 12.5 m AHD.<sup>3</sup>*

- (21) (DE196) The E2 - Environmental Conservation zoned sections of the site shall be appropriately fenced to prevent livestock from entering these areas and details submitted to Council to demonstrate completion of these works prior to issue of any Subdivision Certificate.
- (22) (DE197) (DB045) Payment to Council, prior to the issue of the Subdivision Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
- Hastings S94 Administration Building Contributions Plan
  - Hastings Administration Levy Contributions Plan
  - Hastings S94 Major Roads Contributions Plan
  - Hastings S94 Open Space Contributions Plan
  - Community Cultural and Emergency Services Contributions Plan 2005

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

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

- (23) (DG026) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000 the payment of a cash contribution, prior to the issue of a Subdivision Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent is required. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:
- o augmentation of the town water supply headworks
- (24) Prior to issue of a subdivision certificate for Stage 3, the existing structures within proposed Lot 13 are to be demolished.<sup>1</sup>
- (25) (E076) The plan of subdivision and Section 88B instrument shall establish the following restrictions, easements and/or covenants; with Council having the benefit and having the sole authority to release, vary or modify each restriction, easement and/or covenant. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.
- a. Connection to town water supply by the lot burdened shall not be permitted until such time as payment of the relevant Section 64 Development Servicing Plans towards the augmentation of the town water supply headworks has been made to Port Macquarie-Hastings Council.
- Details are to be submitted to Council prior to issue of the Subdivision Certificate.<sup>2</sup>

#### **F – OCCUPATION OF THE SITE**

nil

**G – ADVICE**

- (1) (DG006) 'Works in kind' may be accepted by Council for work detailed below in accordance with Council policy. Any 'Works in kind' in lieu of a contribution to Council is to be agreed in writing by Council prior to issue of Construction Certificate.
  - Lorne Road frontage works
- (2) (DG021) Submission to Council of an application for water service connections and compliance with Council's requirements for the provision of such connections. Payments of costs to provide for these connections and/or extensions are to be made prior to the issue of the Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
- (3) (DG027) Extension or modification of the town water supply system where necessary to serve the development, at no cost to Council.
- (4) (DG029) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision Certificate. The copyright for all information supplied, shall be assigned to Council.
- (6) (DG195) The applicant should contact the Principle Design Engineer within Council's Technical Services Section prior to designing and submitting construction certificate application for the upgrade of Lorne Road across the development site frontage to ensure they accord with Council approved design plans (RR- 190 – 30) .

**H- NSW RURAL FIRE SERVICE****Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:-

1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 3, to a distance of 20 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bushfire Protection 2006; and the NSW Rural Fire Service's documents 'Standards for Asset Protection Zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bushfire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. Electricity and gas are to comply with Section 4.1.3 of 'Planning for Bushfire Protection 2006.

**Access**

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

3. Public road access shall comply with Section 4.1.3 (1) of 'Planning for Bushfire Protection 2006' for the proposed roads for proposed Part 1 subdivision. A perimeter road is not required in this case. A through road is not required in this case.
4. Road widths shall comply with Table 4.1 of 'Planning for Bushfire Protection 2006'.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bushfire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

5. Property access roads shall comply with Section 4.1.3 (2) of 'Planning for Bushfire Protection 2006' for the proposed access to proposed Part 2 subdivision. Alternative access is not required in this case.

*Proposed to Delete the Section H condition above:*

**H- NSW RURAL FIRE SERVICE**

*Conditions deleted and covered by amended Condition A8.<sup>3</sup>*

DRAFT

*All communications to be addressed to:*

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

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

Facsimile: 8741 5433



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

Your Ref: 2010/577  
Our Ref: D17/4709  
DA17121910959 CC

**ATTENTION:** Christopher Gardiner

19 February 2018

Dear Sir/ Madam

**Integrated Development for 2//1231106 - 72 Lorne Road Kendall**

I refer to your letter dated 13 December 2017 seeking general terms of approval for the above Integrated Development in accordance with section 96 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

**Asset Protection Zones**

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

1. At the issue of a subdivision certificate, and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

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

2. The provision of water, electricity and gas to the proposed lots shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Access**



The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

3. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006' except for the requirement for a perimeter / through road.
4. Road widths shall comply with Table 4.1 of 'Planning for Bush Fire Protection 2006'.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:


5. Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006' for the proposed access to proposed Part 2 subdivision. Alternative access is not required in this case.

**General Advice – consent authority to note**

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

For any queries regarding this correspondence please contact Craig Casey on 1300 NSW RFS.

Yours sincerely



Jason Maslen

**Team Leader Development Assessment and Planning**

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au) and search under 'Planning for Bush Fire Protection, 2006'.

Graeme and Anita Guy

49 Lee Place

Logans Crossing NSW 2439



2<sup>nd</sup> January 2018

To the General Manager,  
Port Macquarie-Hastings Council.

Submission on Development Proposal:  
Modify the Lot Layout and Create Additional Lot.  
Lot: 2 DP: 1231106, 72 Lorne Road Kendall.  
Application No. 2010/577  
Applicant: Jojeni Investments Pty Ltd

We oppose the modification of the lot layout to create an additional lot.

Following a conversation on 19 December 2017 with Council Officer Mr Christopher Gardiner we were asked to place our concerns in regard to this proposal in writing. May we add we were surprised to see this development being advertised in the Camden Haven Courier Wednesday December 20, 2017 "The Meadows" 12 lots of 1 Ha for sale as if the modification proposal was already approved, as the exhibition period was stated 18/12/2017 until 12/01/2018.

Our concerns relate to the onsite sewage management of this modification referring specifically to the three blocks 9, 10 and 11. having common boundary with our property Lot 65.

We do not consider the creation of an extra allotment adjacent to our boundary as not significant in increasing the environmental effects from the development. The proposed blocks 9, 10 and 11 are positioned at the lowest point of the down slope of the proposed site and it has been our observation to witness the flow of run off in heavy rain events, into our creek and swell at the Northern corner of proposed lot 9, adjoining leased crown land and flooding to the Camden Haven River (see photo 45 and 48 attached).

We refer you to the Onsite Sewage Management Assessment Report prepared by Midcoast Building and Environmental Services dated 31<sup>st</sup> May 2011, in this document there is a plan (Appendix 5) which identifies the constraint to onsite effluent disposal which is posed by the recommended 40m buffer zone to intermittently flowing creeks and dams within the proposed development site. We are not convinced that this included data of a 40m buffer zone in relation to the intermittent creek

on our property We feel the latest proposed modification of the subject site could significantly increase environmental effects such as potential for seepage/runoff to our creek immediately adjacent to our South boundary, any contemplation that another method of disposal of septic waste , secondary or not, within the 40 metre zone would mean leakage into our creek.

In addition we have concerns of how overland storm water runoff will be channelled away from this development considering the slope characteristics of the site, in particular regard to the proposed roads 1 and 2.

We request that council consider our observations and concerns, and require an up to date report from Midcoast Building and Environmental Services justifying the application to modify the allotment boundaries at the North end of Stage 2 development.

Yours sincerely,

Graeme and Anita Guy

