



Development Assessment Panel

Business Paper

date of meeting: Wednesday 28 August 2019

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

time: 2:00pm

Development Assessment Panel

CHARTER

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	27/03/19	10/04/19	24/04/19	22/05/19	12/06/19	24/07/19
Paul Drake	✓	✓	✓	✓	✓	✓
Robert Hussey	✓	A	✓	✓		
David Crofts (alternate member)		✓			✓	✓
Dan Croft (Group Manager Development Assessment) (alternates) - Director Development & Environment - Development Assessment Planner	✓	✓	✓	✓	✓	✓

Key: ✓ = Present

A = Absent With Apology

X = Absent Without Apology

Development Assessment Panel Meeting

Wednesday 28 August 2019

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

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

Item: 02**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

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

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 24 July 2019 be confirmed.

PRESENT

Members:

Paul Drake
David Crofts
Dan Croft

Other Attendees:

Caroline Horan
Fiona Tierney

The meeting opened at 2:00pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 12 June 2019 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

**05 DA2019 - 314.1 DWELLING (PROPOSED LOT 107) AT LOT 238 DP 1233121
 BRONZEWING TERRACE, LAKEWOOD**

Speaker:
George Watt (applicant)

CONSENSUS:

That DA 2019 - 314 for a dwelling (on proposed lot 107) at Lot 238, DP 1233121, Bronzewing Terrace, Lakewood, be determined by granting consent subject to the recommended conditions.

**06 DA2017 - 16.2 MODIFICATION TO DUAL OCCUPANCY- WINDOW
 ALTERATIONS AT LOT 2 DP1241566, NO. 5 BLACK CAVIAR PARADE, PORT
 MACQUARIE**

CONSENSUS;

That modification to DA 2017 - 16.2 to modify windows in living room of dwelling 2 and retention of existing privacy screening along the eastern boundary of the property at Lot 2, DP 1241566, No. 5 Black Caviar Parade, Port Macquarie, be determined by granting consent subject to the recommended conditions (as modified) with the following amendment:

1. Delete condition E(9)

07 DA2017 - 885.3 MODIFICATION TO TOURIST AND VISITOR ACCOMMODATION AT LOT 331 DP 828346, LOT 24 DP 22883, 14-20 FLYNN STREET, PORT MACQUARIE

Speakers:

Andrew Lister (applicant)

Peter Kuhn (applicant)

CONSENSUS:

That modification to DA2017 - 885.3 for tourist and visitor accommodation at Lot 331, DP 828346 and Lot 24, DP 22883, No. 14-20 Flynn Street, Port Macquarie be determined by granting consent subject to the recommended conditions as modified and as amended below:

1. Amend condition A1 to include reference to Arboricultural Impact Assessment Report prepared by Woodvale Tree Services dated 29 January 2019.
2. Amend condition B(19) to read: *To control vehicle movements on Flynn Street (at the intersection with Lord Street) appropriate regulatory signage shall be provided and the travel lane marked to delineate the intersection for left and right hand turn movements. Detailed construction plans (including line marking and signage) shall be submitted as part of a Roads Act (s138) application for approval by Council as the Road Authority.*
3. Delete condition E(22).

08 GENERAL BUSINESS

Nil.

The meeting closed at 2:20pm.

Item: 04
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

Name of Meeting:	
Meeting Date:	
Item Number:	
Subject:	
I, the undersigned, hereby declare the following interest:	
<input type="checkbox"/> Pecuniary: Take no part in the consideration and voting and be out of sight of the meeting.	
<input type="checkbox"/> Non-Pecuniary – Significant Interest: Take no part in the consideration and voting and be out of sight of the meeting.	
<input type="checkbox"/> Non-Pecuniary – Less than Significant Interest: May participate in consideration and voting.	
For the reason that:	
Name: Signed:	Date:
Please submit to the Governance Support Officer at the Council Meeting.	

(Refer to next page and the Code of Conduct)

Pecuniary Interest

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will 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 you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
 - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your "relative" is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (i)
 - (b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c)
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
 - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

Non-Pecuniary

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
 - b) other relationships with persons who are affected by a decision or a matter under consideration 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 the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
 - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

This form must be completed using block letters or typed.

If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

By <i>[insert full name of councillor]</i>	
In the matter of <i>[insert name of environmental planning instrument]</i>	
Which is to be considered at a meeting of the <i>[insert name of meeting]</i>	
Held on <i>[insert date of meeting]</i>	
PECUNIARY INTEREST	
Address of the affected principal place of residence of the councillor or an associated person, company or body <i>(the identified land)</i>	
Relationship of identified land to councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The 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"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has interest in the land.
MATTER GIVING RISE TO PECUNIARY INTEREST¹	
Nature of land that is subject to a change in zone/planning control by proposed LEP <i>(the subject land²)</i> <i>[Tick or cross one box]</i>	<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 <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Tick or cross one box]</i>	<input type="checkbox"/> Appreciable financial gain. <input type="checkbox"/> Appreciable financial loss.

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest]

Councillor's Signature: **Date:**

This form is to be retained by the council's general manager and included in full in the minutes of the meeting

Last Updated: 3 June 2019

Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will 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.

"Relative" is defined by clause 4.4 of the Model Code of Conduct 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.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at 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.

¹ Clause 4.1 of the Model Code of Conduct 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 clause 4.6 of the Model Code of Conduct.

² 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 clause 4.3 of the Model Code of Conduct has a proprietary interest

Item: 05

Subject: DA2019 - 417.1 SECONDARY DWELLING - LOT 131 DP 834256, NO 70 BANGALAY DRIVE, PORT MACQUARIE

Report Author: Building Surveyor, Michael Roberts

Applicant: B R Development Consulting Pty Ltd
Owner: J H & J J Gray
Estimated Cost: \$100,000
Parcel no: 1113

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2019 - 417 for a Secondary Dwelling at Lot 131, DP 834256, No. 70 Bangalay Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions for the following reasons.

Executive Summary

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

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

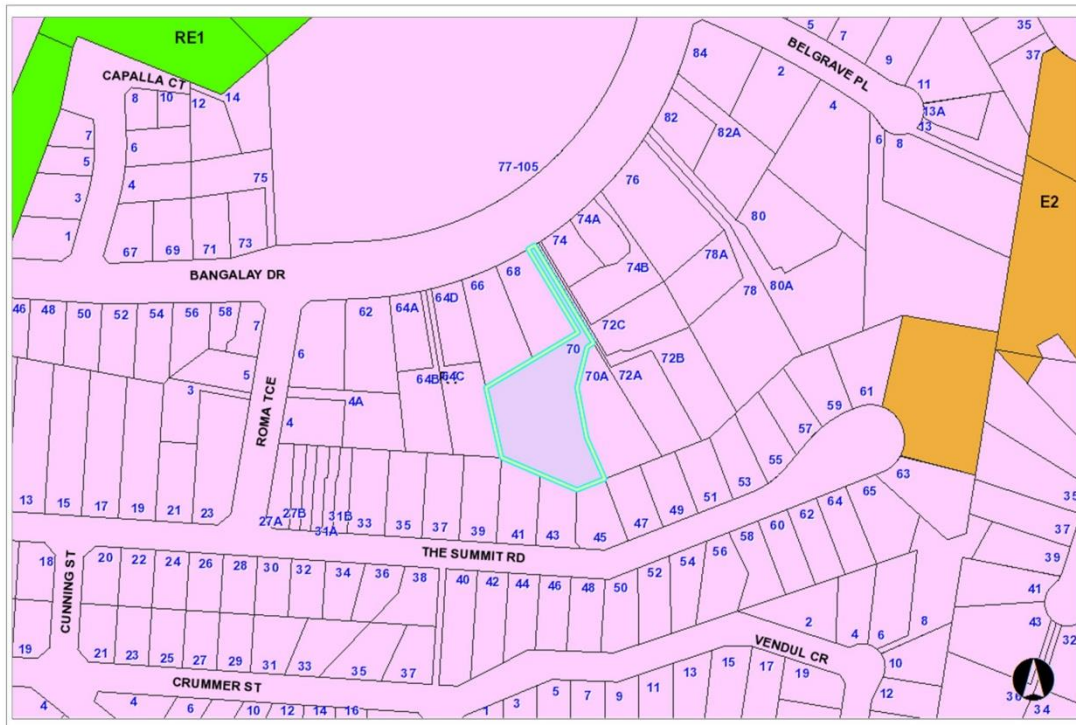
This report recommends that the development application be approved subject to the conditions included in Attachment 1.

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 3336 sq. metres.

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



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Proposed new secondary dwelling.

Refer to attachments at the end of this report.

Application Chronology

- 13 June 2019 - Application lodged.
- 19 June 2019 until 2 July 2019 - Public exhibition via neighbour notification.
- 27 June 2019 - Submission received.
- 16 July 2019 - Additional information request sent to applicant.
- 18 July 2019 - Applicant addressed additional information request.

3. STATUTORY ASSESSMENT**Section 4.15(1) Matters for Consideration**

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

(a) The provisions (where applicable) of:**(i) Any Environmental Planning Instrument:****State Environmental Planning Policy No. 44 - Koala Habitat Protection**

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

State Environmental Planning Policy (Coastal Management) 2018

The site is located within a coastal use area / coastal environment area.

In accordance with clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard to clauses 13 and 14 of the SEPP the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on Aboriginal cultural heritage, practices and places;
- e) any adverse impacts on the cultural and built environment heritage;
- f) any adverse impacts the use of the surf zone;

- g) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- h) overshadowing, wind funnelling and the loss of views from public places to foreshores;
- i) any adverse impacts on existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability;

In accordance with clause 15, the proposal is not likely to cause increased risk of coastal hazards on that land or other land.

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and built environment. The site is located within an area zoned for residential purposes.

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

A BASIX certificate has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

State Environmental Planning Policy (Affordable Rental Housing) 2009

Clause 20 - The site is in a prescribed zone and secondary dwellings are permissible with consent pursuant to the SEPP.

Clause 22(2) - The development would not result in there being a dwelling other than the primary dwelling and the secondary dwelling.

Clause 22(3) - The proposed secondary dwelling would not have a floor area exceeding 60m² and the combined floor area of the primary and secondary dwelling would not exceed the maximum permitted under the Port Macquarie-Hastings Local Environmental Plan 2011 (see comments below under LEP).

Clause 22(4) - It is noted that consent cannot be refused on the grounds of site area or parking.

Clause 24 - It is noted that the consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out.

The requirements of this SEPP are therefore satisfied.

Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 2.2 - the subject site is zoned R1 General Residential.
- Clause 2.3(1) and the R1 zone landuse table - The secondary dwelling is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

- *To provide for the housing needs of the community.*

- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- Clause 2.3(2) - The proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality. The proposal will contribute to the range of housing options available.
- Clause 4.3 - The maximum overall height of the building above ground level (existing) is 4.5 m which complies with the standard height limit of 8.5 m applying to the site.
- Clause 4.4 - The floor space ratio of the proposal complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 5.4 – Subclause (9) relates to secondary dwellings. The proposed secondary dwelling has been designed to comply with the total floor area provision of less than 60 square metres.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, on-site sewage management/sewer infrastructure, stormwater drainage and suitable road access to service the development.

(a)(ii) Any proposed instrument that is or has been placed on exhibition

No draft instruments apply to the site.

(a)(iii) Any DCP in force

Port Macquarie-Hastings Development Control Plan 2013:

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> • 4.8m max. height • Single storey • 60m² max. area • 100m² for lots >900m² • 24 degree max. roof pitch • Not located in front setback 	Retaining wall appropriately located	Yes
3.2.2.2	Articulation zone.	No elements within the articulation zone.	N/A
	Front setback (Residential not R5 zone): <ul style="list-style-type: none"> • Min. 6.0m classified road • Min. 4.5m local road or within 20% of adjoining dwelling if 	Front building line setback is compliant with the minimum front setback requirements @ 23m.	Yes

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
	on corner lot • Min. 3.0m secondary road • Min. 2.0m Laneway		
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	The rear setback requirements are complied with @ 27m.	Yes
3.2.2.5	Side setbacks: • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m	The minimum side setback requirements are complied with @ 2.5m. No adverse overshadowing will occur on neighbouring properties.	Yes
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	Both the primary and secondary dwelling each contain 35m ² open space in one area including a useable 4m x 4m area.	Yes
3.2.2.10	Privacy: • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m	The proposed elevated Deck has been screened from the adjoining property to the North by a 1.8m high privacy screen along the entire length. No Living Room windows are proposed along the northern elevation and bedrooms are high sill at 1.5m. The existing boundary fence also assists in maintaining privacy between the proposed secondary dwelling and adjoining properties. The development will not compromise privacy in the area for the reasons outlined above.	Yes

DCP 2013: General Provisions			
	Requirements	Proposed	Complies

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	No concealment or entrapment areas proposed. Adequate casual surveillance available.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut and fill <1.0m change 1m outside the perimeter of the external building walls	Yes
2.3.3.2	1m max. height retaining walls along road frontage	None proposed along road frontage	N/A
	Any retaining wall >1.0 in height to be certified by structure engineer	No retaining wall proposed >1m. However engineering details have been provided.	Yes
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	No retaining wall front fence combination proposed.	N/A
2.3.3.8	Removal of hollow bearing trees	Two Coastal Banksia trees are proposed to be removed as they are located within the proposed building footprint. Both trees were inspected on site and no evidence of hollow bearing was evident.	N/A
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)	The two trees proposed to be removed will be within 3m of the proposed building. The removal will be permitted under the DA consent. The owner has agreed to undertake compensatory tree replanting on-site. This will form a Condition on the DA consent.	Yes
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line). Parking	1 or capacity for more than 1 parking space behind the building line has been provided for.	Yes

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
	for secondary dwelling optional.		
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Development is for a secondary dwelling only with standard driveway. No specific landscaping requirements recommended.	N/A
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway existing	N/A
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	No driveway works proposed	N/A
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Development is for a secondary dwelling only with standard driveway. Stormwater drainage is capable of being managed as part of plumbing construction and Section 68 approval.	Yes

(a)(iii)(a) Any planning agreement or draft planning agreement

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

(a)(iv) Any matters prescribed by the regulations**(b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality**

- The proposal will not have any significant adverse impacts on existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be compatible with other residential development in the locality and adequately addresses planning controls for the area.
- The proposal does not have a significant adverse impact on existing view sharing.
- The proposal does not have significant adverse lighting impacts.
- There are no significant adverse privacy impacts.

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

Access, Traffic and Transport

The proposal will not have any significant adverse impacts in terms access, transport and traffic. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

Water Supply Connection

Service available – Details required with section 68 application.

Sewer Connection

Service available – Details required with section 68 application.

Stormwater

Service available – Details required with section 68 application.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

This site does not contain or adjoin any known heritage item or site of significance. The site is considered to be disturbed land.

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 not have any significant adverse impacts on water resources and the water cycle.

Soils

The proposed development will not 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 not result in any significant 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 require the removal of two Coastal Banksia trees - see photos below. They are located within the building footprint. The removal will be permitted under the DA consent. The owner has agreed to undertake compensatory tree replanting on-site. This has been included in the conditions of consent.



Photo 1 Banksia tree to be removed.



Photo 2 Banksia tree to be removed.

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.

Noise and vibration

The construction of the proposed development will not result in any significant adverse impacts on the existing air quality or result in any pollution. Standard precautionary site management condition recommended.

Bushfire

The site is not identified as being bushfire prone.

Safety, security and crime prevention

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

Social impacts in the locality

Given the nature of the proposed development and its location the proposal is not considered to have any significant adverse social impacts.

Economic impact in the locality

The proposal is not considered to have any significant adverse economic impacts on the locality. 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

Construction impacts are considered capable of being managed, standard construction and site management conditions have been recommended.

Cumulative impacts

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

(c) The suitability of the site for the development

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

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

Following exhibition of the application in accordance with DCP 2013, one submission was received. Key issues raised in the submissions received and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
Impact on outlook from front balcony and value of their property.	The proposed secondary dwelling has been positioned 23m from the front property boundary and behind a substantial cluster of vegetation. This will assist in screening the proposal from the objector's balcony. Impact on property value is not a development assessment provision that Council can take into consideration.
Privacy from balcony	The balcony is located on the front façade of the objector's house overlooking the street. The proposed balcony is setback a considerable distance from the objector's balcony (approximately 35m) and screened by vegetation.
Removal of trees	Construction of the proposed development will require the removal of two Coastal Banksia trees. They are located within the building footprint. The owner has agreed to undertake compensatory tree replanting on-site. This has been included as a condition of consent. All remaining trees on-site will be preserved.
Traffic congestion in the access laneway	There is no access restrictions imposed on the existing laneway.
Limited visitor parking	The applicant has identified a dedicated carparking space behind the building line to service the secondary dwelling in accordance with the DCP provisions.
Damage to laneway during construction	The access laneway is privately owned and maintained by all benefited parties. Any damage resulting from construction is a civil matter to be resolved between all parties concerned.
Reducing area for rubbish bin collection	One waste service remains with the property.

Photo 3 View from objector's driveway looking south west towards area of proposed Granny Flat.

(e) The Public Interest:

The proposed development satisfies relevant planning controls and will not adversely impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Not applicable.

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 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 considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result 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](#). DA2019 - 417.1 Recommended Conditions

2 [View](#). DA2019 - 417.1 Plans

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2019/417****DATE: 12/08/2019****PRESCRIBED CONDITIONS**

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Architectural Plans	11534	B.R Development Consulting	30/5/2019
Engineering details	11534	B.R Development Consulting	30/5/2019
BASIX Certificate	1022315S	B.R Development Consulting	12/6/2019
Building Specifications	-	B.R Development Consulting	-
SoEE	-	B.R Development Consulting	1/6/2019

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority and
 - the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;

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

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

B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location

C - PRIOR TO ANY WORK COMMENCING ON SITE

Nil

D - DURING CONSTRUCTION

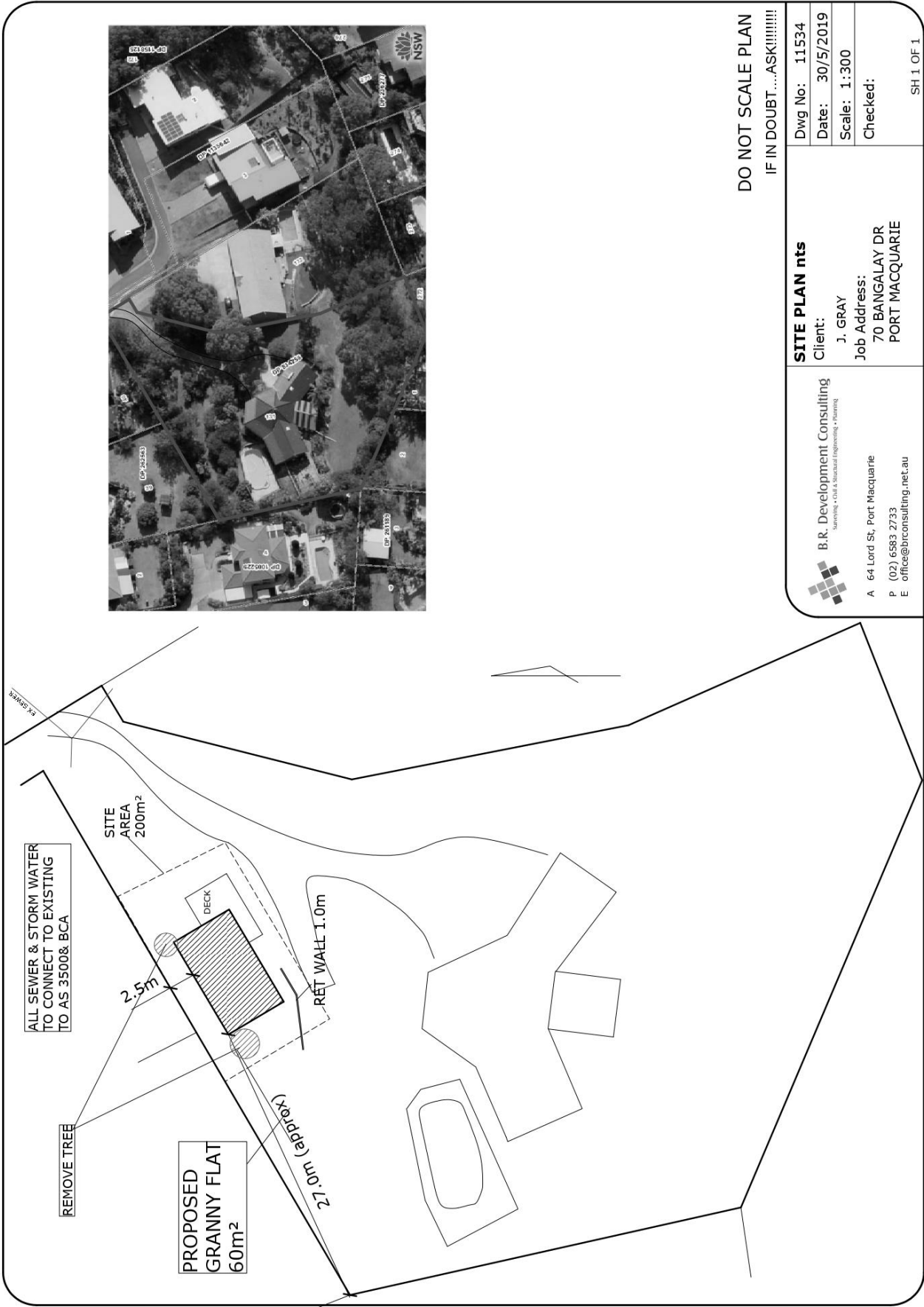
- (1) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.

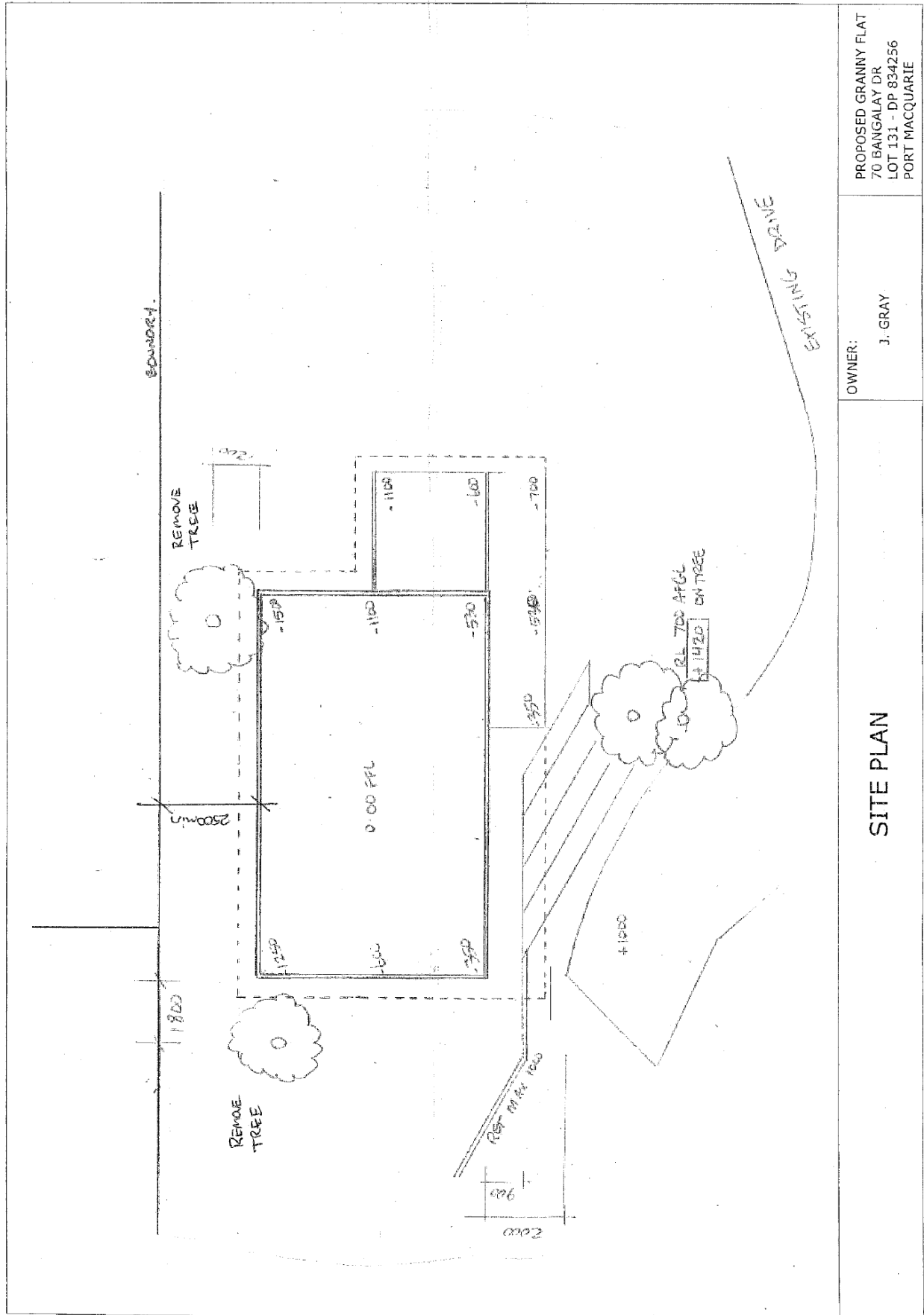
E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) Prior to the issue of an Occupation Certificate, two replacement native trees must be planted in a suitable location on-site. A plan detailing the location and species of the trees is to be submitted to Council.
- (2) (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.
- (3) (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.
- (4) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.

F - OCCUPATION OF THE SITE

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





	<p>OWNER: J. GRAY</p> <p>PROPOSED GRANNY FLAT 70 BANGALAY DR LOT 131 - DP 834256 PORT MACQUARIE</p>
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<p>1500</p> <p>450</p> <p>5° ROOF PITCH</p> <p>W2</p> <p>W3</p> <p>2940</p> <p>APPROX 1250</p> <p>WEST</p> <p>300 FIBRE CEMENT SHEETING TO EXTERIOR WALLS. OR SIMILAR</p> <p>W7</p> <p>W8</p> <p>APPROX 1500</p> <p>EAST</p>	<p>OWNER:</p> <p>J. GRAY</p> <p>ELEVATIONS</p> <p>PROPOSED GRANNY FLAT 70 BANGALAY DR LOT 131 - DP 834256 PORT MACQUARIE</p>
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	<p>SECTION DETAIL</p> <p>OWNER: J. GRAY</p> <p>PROPOSED GRANNY FLAT 70 BANGALAY DR LOT 131 - DP 834256 PORT MACQUARIE</p>
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TIMBER WALL FRAMING

IN ACCORDANCE WITH AS1684.2
TIMBER WALL FRAMING GENERALLY 70/90*35 MGP 10
PINE WITH 70/90*45 TOP PLATES TO LOADBEARING
WALLS AND STUDS AT 600 CENTRES WITH ONE ROW NOGGINGS.
NON LOAD BEARING WALLS 70*35 MGP 10 PINE WITH
STUDS AT 600 CENTRES WITH ONE ROW NOGGINGS.

WALL & CEILING LININGS

WALL AND CEILING LINING 10mm PLASTERBOARD FIXED AND
FINISHED TO MANUFACTURERS RECOMMENDATIONS.
WET AREA WALL LININGS 6mm VILLABOARD OR WR PLASTERBOARD
FIXED AND FINISHED TO MANUFACTURERS INSTRUCTIONS.
WET AREA WATERPROOFING IN ACCORDANCE WITH BCA 3.8.1 & AS3740
AND COMPLETED BY AN APPROVED INSTALLER.

GENERAL

ALL SITE CONTOURS AND FINISHED LEVELS TO BE VERIFIED BY BUILDER ON SITE.
BOUNDARY DIMENSIONS BORDERING ON MINIMAL LOCAL COUNCIL SETBACKS
TO BE VERIFIED BY SURVEYOR ON INITIAL SETOUT STAGE.
ALL CUT AND FILL BATTERS WHERE NOT RETAINED TO BE NO GREATER GRADIENT
WHERE PRACTICAL OF 1:4 BATTERED EMBANKMENT.
WHERE RETAINING IS REQUIRED ANY WALL EXCEEDING 1.0m IN HEIGHT
ARE TO BE DESIGNED BY A CERTIFIED ENGINEER.

INSULATION

THERMAL PERFORMANCE TO EQUAL R1.5 TO WALLS & R2.5 TO CEILINGS
INSULATION SHOULD MEET THE LEVELS SPECIFIED IN AS2627.1
FOR BULK INSULATIONS & AS 4200.2 FOR PLIABLE BUILDING MEMBRANES
FIBREGLOSS BATTS TO COMPLY WITH AS 3742
INSTALLATION OF ALL INSULATION MATERIALS TO COMPLY WITH AS 3999

TERMITE PROTECTION

THE PROTECTION OF BUILDINGS FROM TERMITE AS REQUIRED BY
AS 3660.1 TERMITE MANAGEMENT NEW BUILDING WORKS
BCA 3.1.3.1 B. ACCEPTABLE CONSTRUCTION PRACTICES REQUIRES
COMPLIANCE TO SATISFY THE PERFORMANCE REQUIREMENT P2.1
A DURABLE NOTICE IS TO BE PERMANENTLY FIXED TO THE BUILDING TO BCA 3.1.3.2
THE INTENT IS TO PROVIDE FOR A TERMITE BARRIER THAT WILL
ENSURE THAT TERMITE WILL NOT ENTER A BUILDING BY A CONCEALED ROUTE
REFER TO TABLE 3.1.3.1 ACCEPTABLE TERMITE SOLUTIONS TABLE
TERMIMESH SYSTEMS BY APPROVED INSTALLER TO CONCRETE SLAB
TERMIGUARD CHEMICAL SYSTEM BY APPROVED INSTALLER
CONTINUOUS ANTICAP TO FLOOR FRAME PERIMETER WALLS. ISOLATED ANTICAPS TO PIERS

BALCONY ROOFING

ROOFING TO COMPLY WITH BCA PART 3.5.1 ROOF CLADDING
COLOURBOND ZINCALUME CUSTOM ORB ROOFING FIXED TO
TIMBER BATTENS 900 END SPAN 1200 INTERMEDIATE SPAN
REFER TO 'USING LYSAGHT ROOFING & WALLING' FOR DETAILED
INSTALLATION RECOMMENDATIONS

GUTTERS AND DOWNPIPES

RASGIA GUTTERS & DOWNPIPES TO BE COLOURBOND FIXED
TO MANUFACTURERS INSTRUCTIONS & IN ACCORDANCE
WITH BCA PART 3.5.2 & AS 1719
REFER TO 'USING LYSAGHT ROOFING & WALLS' FOR DETAILED
INSTALLATION RECOMMENDATIONS
BCA 3.5.2 REQUIRES & DOWNPIPE TO BE BASED ON
ROOF CATCHMENT AREAS AND 5 MINUTE RAINFALL INTENSITIES/20 YEAR AVERAGE
GUTTERS TO BE SLOTTED TO ALLOW OVEFLOW
100*75mm DOWNPIPES COMPLY WITH BCA TABLE 3.5.2.2
GUTTER & DOWNPIPES TO BE COLOURBOND TO MANUFACTURERS
INSTRUCTIONS AND IN ACCORDANCE WITH BCA PART 3.5.2 & AS 1719
REFER TO 'USING LYSAGHT ROOFING & WALLING' FOR DETAILED INSTALLATION INSTRUCTIONS

ROOF FRAMING

ENGINEERED TIMBER ROOF TRUSSES DESIGNED TO AS 1720.1
REFER TO MANUFACTURES DETAILS & SPECIFICATIONS

EAVE LININGS

EAVE LINING 4.5mm HARDI-FLEX OR SIMILAR FIXED

ELECTRICAL

SMOKE ALARMS FIXED TO CEILINGS & CONNECTED
TO MAIN POWER TO BCA 3.7.2.3 & AS 3786

EXTERNAL WALL CLADDING

SELECTED WALL CLADDING FIXED TO STUD FRAME
TO MANUFACTURERS INSTRUCTIONS AND BCA PART 3.5.3

WINDOWS

WINDOWS TO BE ALUMINIUM POWERCOATED FINISH
MANUFACTURED & INSTALLED IN ACCORDANCE WITH NCC VOL 1 d1 BP1.4 & FP1.4
* AS 2047-1996 AUSTRALIAN WINDOW CODE
* AS 4055-1995 STANDARD WIND LOADS FOR HOUSING
* AS 4055-1995 STANDARD WIND LOADS FOR HOUSING
LESS THAN 1700 MUST HAVE EITHER A BARRIER SCREEN TO WITHSTAND
250N OF OUTWARDS FORCE OR A RESTRICTED OPENING UP TO 125mm
ABLE TO WITHSTAND 250N FORCE
* AS 1770-PART 2 & AS 2048 AUSTRALIAN INSTALLATION STANDARDS
REFER TO WINDOW SCHEDULES.

STAIRS & BALUSTRADES

RISE AND GOING TO COMPLY TO NCC VOL 1 d1 DP2 & BCA TB3.9.1.2
HEIGHT OF BALUSTRADE TO COMPLY WITH NCC VOL 1 d1 DP3
TO BE IN 1000mm TO LANDINGS AND BALCONIES
A MINIMUM OF 1000mm TO BALCONIES
NOTE: A TRANSITION ZONE IS ALLOWED WHERE THE BALUSTRADE HEIGHT
CHANGES
A SUITABLE SLIP RESISTANCE LEVEL IS TO BE ACHIEVED IN ACCORDANCE WITH AS4586

STORMWATER DRAINAGE

STORMWATER DRAINAGE TO BE IN ACCORDANCE WITH AS 3500
BCA 3.11.2.5 REQUIRES MIN COVER TO PIPES
* TRAFFIC LIGHTING COVERED AREAS -50mm
* TRAFFIC LIGHTING COVERED AREAS -75mm
PAVED AREAS -100mm
MEASURED TO UNDERSIDE OF CONCRETE OR PAVING

SANITARY DRAINAGE

SANITARY DRAINAGE TO BE IN ACCORDANCE WITH AS3500

BRICKWORK

BRICKWORK TO BE ARTICULATED IN ACCORDANCE WITH AS 3700

ROOFING

ROOFING TO COMPLY WITH BCA PART 3.5.1 ROOF CLADDING
TERRACOTTA ROOF TILES FIXED IN ACCORDANCE WITH
MANUFACTURING INSTRUCTIONS AND TO COMPLY WITH BCA 3.5.1.2
ROOF TILE BATTENS 38*50mm UNSEASONED HARDWOOD
FIXED TO AUSTRALIAN STANDARD AS 1684
SARKING LOCATED DIRECTLY YNDER BATTENS WITH A
FLAMMABILITY INDEX NOT MORE THAN 5.

LINTELS

TRUSS MANUFACTURER TO CHECK ALL LINTEL SIZES

SANITARY COMPARTMENTS

BCA 3.8.3.3 REQUIRES THE DOOR TO A FULLY CLOSED
SANITARY COMPARTMENT (WC) TO ;
(A) OPEN OUTWARDS
(B) SLIDE OR
(C) BE READILY REMOVABLE FROM THE OUTSIDE UNLESS
THE DOOR IS OPENED BY MEANS OF A LOCK OR OTHER MECHANISM
THE PAN AND THE NEAREST PART OF THE DOORWAY

SLAB FOOTING CONSTRUCTION NOTES

CONCRETE SLAB & FOOTINGS TO ENGINEERS DETAILS
REFER TO BCA 3.2.3 CONCRETE & REINFORCEMENT
REFER TO BCA 3.2 FOOTINGS AND SLABS
FOOTINGS & SLABS TO BE IN ACCORDANCE WITH AS 2870
STRIP UNDERSLAB AREA OF ALL TOPSOIL, DEBRIS & ORGANIC MATTER
IF EARTHWORKS REVEAL GROUND ANOMALIES INCLUDING ROCK OR
UNDESIRABLE MATERIAL, AN ENGINEER INSPECTION MUST BE CARRIED
OUT.

ALL AUSTRALIAN STANDARDS REFERENCED ARE
THE VERSION OF THE RELEVANT STANDARD ADOPTED
BY THE BCA AT THE TIME THE CONSTRUCTION CERTIFICATE
APPLICATION OR COMPLYING DEVELOPMENT CERTIFICATE
APPLICATION IS LODGED (WHICH EVER IS FIRST)

(S) SMOKE DETECTOR

ALL BUILDING WORKS TO COMPLY WITH:
AS1684 RESIDENTIAL TIMBER FRAMED CONSTRUCTION
AS3786 SMOKE DETECTORS
AS1170 STRUCTURAL DESIGN ACTIONS - WIND LOADS
AS3660.1 TERMITE PROTECTION CODE
AS3500 SANITARY & DRAINAGE CODE
AS1288 GLASS IN BUILDINGS - SELECTION & INSTALLATION
AS3740 WATERPROOFING OF DOMESTIC WET AREAS
AS1926.1 SWIMMING POOL FENCING & ACCESS
BCA PT3.4.1 SUBFLOOR VENTILATION
AS2099 MASONRY ROOF TILES
AS1362.1 DESIGN & INSTALLATION OF SHEET ROOF& WALL CLADDING

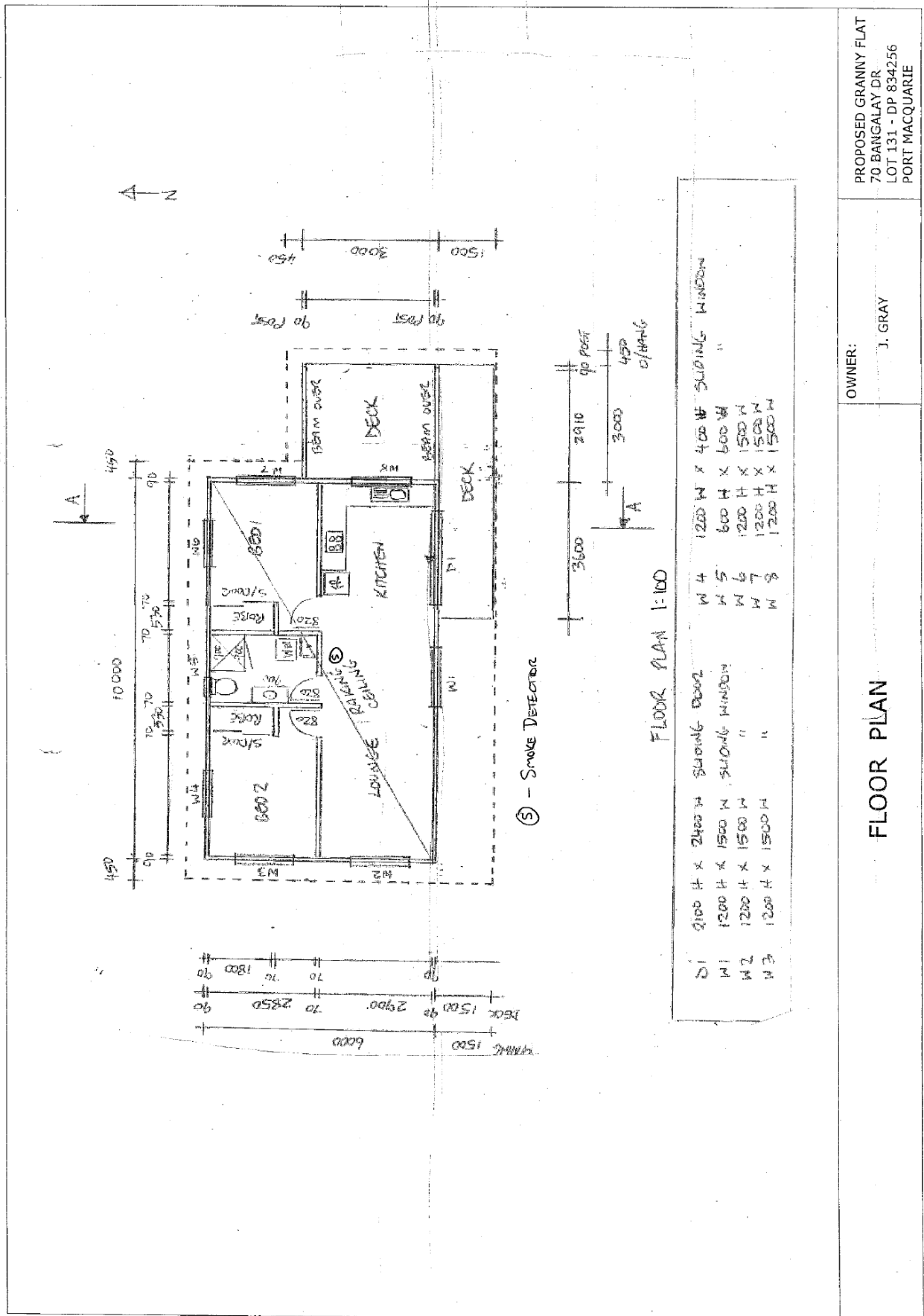
GENERAL SPECIFICATIONS

PROPOSED GRANNY FLAT
70 BANGALAY DR
PORT MACQUARIE

<p>SERVICES</p> <p>GENERAL</p> <p>Rupture of services during excavation or other activity creates a variety of risks including release of hazardous material. Existing services are located on or around this site. Where known, these are identified on the plans but the exact location and extent of services may vary from that indicated. Services should be located using an appropriate service (such as Dig Before You Dig), appropriate specialist contractors should be used, and, where underground and overhead power lines may be located in or around this site, These pose a risk of electrocution if struck. Where possible and practical power lines should be disconnected or relocated. Where this is not practical adequate warning in the form of bright coloured tape or signage should be used or a protective barrier provided.</p> <p>8. PUBLIC ACCESS</p> <p>Public access to construction and demolition sites and to areas under maintenance causes risk to workers and public. Warning signs and secure barriers to unauthorised access should be provided. Where electrical installations, excavations, plant or loose materials are present they should be secured when not fully supervised.</p> <p>3. TRAFFIC MANAGEMENT</p> <p>Busy construction and demolition sites present a risk of collision where deliveries and other traffic are moving within the site. A traffic management plan supervised by trained traffic management personnel should be adopted for the work site.</p> <p>9. OPERATIONAL USE OF BUILDING</p> <p>This building has been designed as a residential building. If it, at a later date, is used or intended to be used as a workplace, the provisions of the Work Health and Safety Act 2011 or subsequent replacement Act should be applied to the new use.</p> <p>7. CONFINED SPACES</p> <p>EXCAVATION</p> <p>Construction of this building and some maintenance on the building will require excavation and installation of items within excavations. Where practical, installation should be carried out using methods which do not require workers to enter the excavation. Where this is not practical, adequate support for the excavated area should be provided to prevent collapse. Warning signs and barriers to prevent accidental or unauthorised access to all excavations should be provided.</p> <p>ENCLOSED SPACES</p> <p>For buildings with enclosed spaces where maintenance or other access may be required:</p> <p>Enclosed spaces within this building may present a risk to persons entering for construction, maintenance or any other purpose. The design documentation calls for warning signs and barriers to unauthorised access. These should be maintained throughout the life of the building. Where workers are required to enter small spaces they should be adequately trained and equipped for the task and any other manual activity should be restricted in small spaces.</p> <p>SMALL SPACES</p> <p>For buildings with small spaces where maintenance or other access may be required:</p> <p>Some small spaces within this building will require access by construction or maintenance workers. The design documentation calls for warning signs and barriers to unauthorised access. These should be maintained throughout the life of the building. Where workers are required to enter small spaces they should be adequately trained and equipped for the task and any other manual activity should be restricted in small spaces.</p>	<p>6. HAZARDOUS SUBSTANCES</p> <p>ASBESTOS</p> <p>For alterations to a building constructed prior to 1990: If this existing building was constructed prior to 1990 - it therefore may contain asbestos 1986 - it therefore is likely to contain asbestos either in cladding material or in fire retardant insulation material. In the event of asbestos being present, appropriate action before demolishing, cutting, sanding, drilling or otherwise disturbing the existing structure.</p> <p>POWDERED MATERIALS</p> <p>Many materials used in the construction of this building can cause harm if inhaled in powdered form. Persons working on or in the building during construction, operation, maintenance or demolition should be provided with appropriate respiratory and eye Personal Protective Equipment including protection against inhalation while using powdered material or when sanding, drilling, cutting or otherwise disturbing or creating powdered material.</p> <p>TREATED TIMBER</p> <p>The design of this building may include provision for the inclusion of treated timber within the structure. Dust or fumes from this material can be harmful. Persons working on or in the building during construction, operational maintenance or demolition should ensure good ventilation and wear Personal Protective Equipment including protection against inhalation of harmful material when sanding, drilling, cutting or using treated timber in any way that may cause harmful material to be released. Do not burn treated timber.</p> <p>VOLATILE ORGANIC COMPOUNDS</p> <p>Many types of oils, solvents, spray paints, varnishes and some cleaning materials and disinfectants have dangerous emissions. Areas where these are used should be kept well ventilated while the material is being used and for a period after installation. Personal Protective Equipment may also be required. The manufacturer's recommendations for use must be carefully considered at all times.</p> <p>SYNTHETIC MINERAL FIBRE</p> <p>Fibreglass, rockwool, ceramic and other material used for thermal or sound insulation may contain synthetic mineral fibre which may be harmful if inhaled or if it comes in contact with the skin, eyes or other sensitive parts of the body. Personal Protective Equipment including protection against inhalation of harmful material should be used when installing, removing or working near bulk insulation material.</p> <p>TIMBER FLOORS</p> <p>This building may contain timber floors which have an applied finish. Areas where finishes are applied should be kept well ventilated during sanding and application and for a period after installation. Personal Protective Equipment may also be required. The manufacturer's recommendations for use must be carefully considered at all times.</p>	<p>2. FALLING OBJECTS</p> <p>LOOSE MATERIALS OR SMALL OBJECTS</p> <p>Construction, maintenance or demolition work on or around this building is likely to involve persons working above ground level or above floor levels. Where this occurs one or more of the following measures should be taken to avoid objects falling from the area where the work is being carried out onto persons below.</p> <ol style="list-style-type: none">1. Prevent or restrict access to areas below where the work is being carried out.2. Provide overheads to scaffolding or work platforms.3. Provide effective structure below the work area.4. Enclose all work areas below the work area with Personal Protective Equipment (PPE). <p>BUILDING COMPONENTS</p> <p>During construction, renovation or demolition of this building, parts of the structure including fabricated steelwork, heavy panels and many other components will remain standing prior to or after supporting parts are in place. Contractors should ensure that temporary bracing or other required support is in place at all times when collapse which may injure persons in the area is a possibility.</p> <p>Mechanical lifting of materials and components during construction, maintenance or demolition presents a risk of falling objects. Contractors should ensure that appropriate lifting devices are used, that loads are properly secured and that access to areas below the load is prevented or restricted.</p> <p>10. OTHER HIGH RISK ACTIVITY</p> <p>All electrical work should be carried out in accordance with Code of Practice: Managing Electrical Risks at the Workplace, AS/NZ 3012 and all licensing requirements.</p> <p>All work using Plant should be carried out in accordance with Code of Practice: Managing Risks of Plant at the Workplace.</p> <p>All work should be carried out in accordance with Code of Practice: Managing Noise and Preventing Hearing Loss at Work.</p> <p>Due to the history of serious incidents it is recommended that particular care be exercised when undertaking work involving steel construction and concrete placement. All the above applies.</p>	<p>PROPOSED GRANNY FLAT 70 BANGALAY DR PORT MACQUARIE</p>
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OH & S

THESE NOTES MUST BE READ AND UNDERSTOOD BY ALL INVOLVED IN THE PROJECT
THIS INCLUDES (but is not excluded to): OWNER, BUILDER, SUB-CONTRACTORS,
CONSULTANTS, RENOVATORS, OPERATORS, MAINTENANCE WORKERS, DEMOLISHERS.



Item: 06**Subject: SECTION 4.55 MODIFICATION TO DA2016 - 835.2 ALTERATIONS
AND ADDITIONS TO DWELLING - LOT X DP 384377, NO. 65 THE
BOULEVARDE DUNBOGAN****Report Author: Building Surveyor, Ross Frazier**

Applicant: P M Meagher & F J Macalister
Owner: P M Meagher & F J Macalister
Estimated Cost: \$ 6000.00
Parcel no: 23430

Alignment with Delivery Program

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

RECOMMENDATION

That Section 4.55 modification application to modify DA 2016 - 835.2 for alterations and additions to dwelling at Lot X, DP 384377, No. 65 The Boulevarde, Dunbogan, be determined by granting consent subject to the recommended amended conditions.

Executive Summary

this report considers a section 4.55 modification application relating to alterations and additions to an existing dwelling at the subject site. The modification specifically proposes to include a spa within an approved fish pond area.

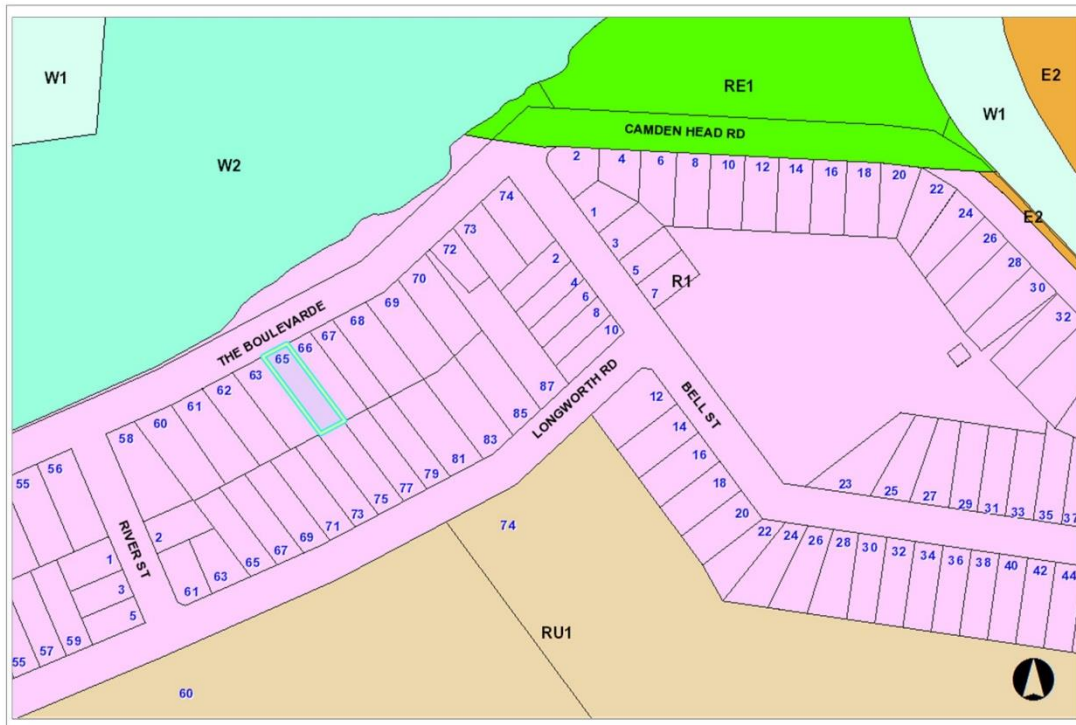
Following exhibition of the application, four (4) submissions have been received.

This report recommends that the subject application be approved subject to the amended conditions included in Attachment 1.

1. BACKGROUND**Existing Sites Features and Surrounding Development**

The site has an area of 733.5m².

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



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Provision of an above ground spa to be located within the current approved fishpond area which is forward of the existing building line.

Refer to attachments at the end of this report.

Application Chronology

- Application lodged 24 May 2019
- Submission received on 12 June 2019.
- Email forwarded to Councils flood officer on 26 June 2019 for comments regarding location of spa and AHD requirements.
- Site inspection undertaken on 26 June 2019
- Email forwarded to applicant seeking additional information.
- Additional information received 2 July 2019
- Email forwarded to applicant on 2 July to address flood requirements
- Submission received 3 July 2019
- Submission received 5 July 2019
- Submission received on 15 July 2019
- Flood issues addressed by applicant 5 August 2019

3. STATUTORY ASSESSMENT***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 or modifications that require a condition imposed by a Minister, public authority or approval body to be amended. Each type of modification must be considered as being substantially the same to that which was originally consented to.

The proposal is considered to be a S.4.55(1A) modification and is considered to remain substantially the same development to that which was originally lodged and consented to. The alterations and additions to the dwelling on the site remain unchanged as does the overall footprint of the development. The proposal seeks to include a spa within the originally approved fish pond area. This is considered to represent a minor ancillary addition to the approved development. The proposed modification is not considered to alter the fundamental 'essence' of the original development.

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

No.

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 Port Macquarie-Hastings Development Control Plan 2013.

Any submissions made concerning the modification

The original application was notified to adjoining owners and no submissions were received. The modification sought being for the additional installation of the spa was not required to be notified under Council's Development Control Plan. Notwithstanding this, four (4) written submissions have been received regarding 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
Location of the spa will make the passing public uncomfortable and is inappropriate in the proposed location	There is no dedicated footpath on this side of the street. A dedicated walkway is located on the adjacent side of the street allowing the passing public an optional route. This dedicated walkway follows the Camden Haven river and is considered a more favourable option for walkers.
Noise from motors during the running of the spa will be disturbing of the neighbourhood	The proposed spa is a self-contained unit. The manufacturer's information indicates that the motors and housing complies with the acceptable noise levels for such equipment.
Noise resulting from the use of the spa will be disturbing for the neighbourhood.	The development is considered to be ancillary to residential occupation of the land. Any offensive noise caused by operating the spa can be regulated as a compliance matter, similar to all pools and spas in the local government area.
Loss of amenity to the general public from noise and visual intimidation.	The development is considered to be ancillary to residential occupation of the land. There is not considered to be any reasonable grounds to refuse the application on amenity impacts.
Existing untidy state of the front yard; unfinished building site	These comments do not form assessment criteria for the modification and are to be dealt with as a separate issue

Any matters referred to in section 4.15 relevant to the modification

Relevant matters relating to the modified aspects of the proposed are addressed below:

(a) Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 2.2 - The subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the ancillary structure (spa) to a dwelling is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

- To provide for the housing needs of the community.
 - To provide for a variety of housing types and densities.
 - To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- Clause 2.3(2) - The proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality. The

proposal is considered to be a minor ancillary structure to an established dwelling.

- Clause 7.3 - The site is land within a mapped flood area (Land subject to flood discharge of 1:100 annual recurrence interval flood event (plus the applicable climate change allowance and relevant freeboard). In this regard the application has been referred to councils flood officer for comment. AHD requirements for siting the spa above the 1 in 20 year flood level in accordance with Council's flood policy have been recommended in conditions of consent. The proposal is not considered to have any significant adverse impact on, or be impacted by, floodwaters.

(c) Port Macquarie-Hastings Development Control Plan 2013

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> • 4.8m max. height • Single storey • 60m² max. area • 100m² for lots >900m² • 24 degree max. roof pitch • Not located in front setback (pools/spas not included) 	Development comprises a proposed above ground spa to be located in a previously approved fishpond area. Proposed spa is ancillary to the existing dwelling and is permitted forward of the building line.	Yes
	Front setback): <ul style="list-style-type: none"> • Min. 4.5m local road 	Front building line setback for the existing dwelling is compliant with the minimum 4.5m front setback requirements. The proposed spa is setback 2.5m from the front boundary. The DCP is silent in relation to the setbacks for pools and spas however it is considered that the spa and surrounding glass barrier has a lessor impact than a fence that could be constructed up to 1.8m in height for a 6m length of boundary.	Considered acceptable
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> • Ground floor = min. 0.9m 	The spa is located greater than 900mm to the side boundaries (note the DCP is silent on pool/spa setbacks)	Considered acceptable
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area	The dwelling contains 35m ² open space in one area including a useable 4m x 4m	Yes

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
	which has 5% max. grade	space.	
3.2.2.7	Front fences: <ul style="list-style-type: none"> • If solid 1.2m max height and front setback 1.0m with landscaping • Fences >1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings • 0.9x0.9m splays adjoining driveway entrances 	Existing glass barrier surrounding the fishpond area as previously approved and complies with the fencing standards	Yes
3.2.2.10	Privacy: <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m 	Location of the proposed spa is in the front open space area and is not considered likely to give rise to unacceptable privacy impacts on adjoining properties noting these areas are also adjacent to the road.	Yes

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

The proposal will not have any significant adverse impacts on existing adjoining properties and satisfactorily addresses the public domain. Concerns have been raised that the use of the spa pool will have an adverse impact on the public domain. Council is unable to regulate the use of private residential open space. There are existing installations of a similar nature within the locality.

The proposal is considered to be compatible with other residential development in the locality and adequately addresses planning controls for the area.

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

The proposal does not have significant adverse lighting impacts. No proposed artificial lighting has been indicated.

There are no significant adverse privacy impacts. Privacy for adjoining properties has been raised, along with impacts of noise associated with the use of the spa. The proposed spa is a domestic unit which has the pumps and filtration equipment self-contained. The motors and noise emissions have been factory tested to comply with the recommended acceptable levels. In the event the spa was operated so as to cause offensive noise during sensitive night time periods this can be managed through enforcement under the Protection of Environment (Operations) Act 1997. This is not dissimilar to any other pool or spa in a residential setting.

Proposed changes to conditions

Refer to attached draft recommended consent with conditions subject to change being highlighted in red.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

N/A.

5. CONCLUSION AND STATEMENT OF REASON

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. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

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

Attachments

1 [View](#). DA2016 - 835.2 Recommended Modification of Consent

2 [View](#). DA2016 - 835.2 Plans

Port Macquarie-Hastings Council
PO Box 84
Port Macquarie
NSW Australia 2444
DX 7415
● council@pmhc.nsw.gov.au



ABN 11 236 901 601



28 August 2019

Parcel Number: 23430

F J Macalister & P M Meagher
65 The Boulevard
DUNBOGAN NSW 2443

Dear Sir/Madam

DA 2016/835.2 - Modification of Consent Pursuant to Section 4.55 (1A) of the Environmental Planning & Assessment Act 1979

I refer to your application dated 24 May 2019 to modify the existing approval to provide for the location of a prefabricated spa pool within the pond enclosure area under DA 2016/835 at LOT: X DP: 384377 65 The Boulevard DUNBOGAN.

Please be advised that pursuant to Section 4.55 (1A) of the Act, your application to modify the consent has been granted, subject to:

- A. Amend the following conditions as outlined in modified consent: A(1); B(2); D(3); E(2); F(2)
- B. Reimposition of all other previously approved conditions of consent as originally determined 8 December 2016 and as modified with this approval dated 28 August 2019.

The applicant is advised that Section 8.9 of the Act confers on an applicant who is dissatisfied with the determination, right of appeal to the Land and Environment Court.

A revised schedule of development consent conditions is attached.

Yours sincerely

pmhc.nsw.gov.au

PORT MACQUARIE OFFICE

WAUCHOPE OFFICE

LAURIETON OFFICE



SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2016/835 are as follows:

¹	Modification 1	28 August 2019
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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.¹

Plan / Supporting Document	Reference	Prepared by	Date
Site plan ¹ , floor plan, elevations	No ref.	Patrick Meagher	Undated
SoEE	No ref.	As above	04/10/2016

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority and
 - the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;



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

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

- (4) (A091) All parts of the structure below the applicable Flood Planning Level (1 in 100 flood level including climate change plus the relevant freeboard) shall be constructed from flood compatible materials compliant with the ABCB Standard for Construction of Buildings in Flood Hazard Areas. Consideration should also be given to the relevant provisions contained with the Hawkesbury-Nepean Floodplain Management Steering Committee document *Reducing Vulnerability of Buildings to Flood Damage (2007)*.

B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- (1) (B068) The floor level of all non-habitable areas is to be at or above the 1 in 20 year flood level. For the purpose of this requirement, the 1 in 20 year flood level may be assumed to be RL2.24m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (2) The top of the spa must be at or above the 1 in 20 year flood level. For the purpose of this requirement, the 1 in 20 year flood level may be assumed to be RL2.24m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.¹
- (3) (B071) Prior to release of the Construction Certificate a practising chartered professional structural engineer is to provide certification to the PCA that the building is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur for a range of floods up to and including the 1 in 100 year flood including climate change and the relevant freeboard level of 500mm. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.65m AHD. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1 in 100 year flood including climate change plus freeboard. For the purpose of this requirement, the velocity for the 1 in 100 flood including climate change may be assumed to be 0.42m/s.

C – PRIOR TO ANY WORK COMMENCING ON SITE

Nil

D – DURING CONSTRUCTION



- (1) (D015) The fish pond shall not be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.
- (2) (D016) Where depth of water in the pond exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.
- (3) (D015) The spa pool shall not be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority. Alternatively, the spa pool shall be provided with an approved lockable lid.¹
- (4) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E20) The provision of a suitable sign containing the details required by the current Swimming Pools Act and Regulations shall be provided in a prominent position in the immediate vicinity of the spa and pond area.¹
- (3) (E021) Pond to be fenced in accordance with the Swimming Pools Act, 1992.

F – OCCUPATION OF THE SITE

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F027) The pond filtration motor shall be operated between the following hours only:

Monday to Friday (other than a public holiday)
7.00 am – 8.00 pm

Saturday to Sunday and Public Holidays
8.00 am – 8.00 pm

The pond filtration motor shall be enclosed with an effective soundproof unit.¹

The reason for this decision is that site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public interest and will not result in significant adverse social, environmental or economic impacts. The conditions referred to in this schedule are imposed in conformity with the relevant provisions of the Environmental Planning and Assessment Act and Regulations, the Local Government Act and Regulations, The Building Code of Australia and with Council's Policies and Development Control Plan or



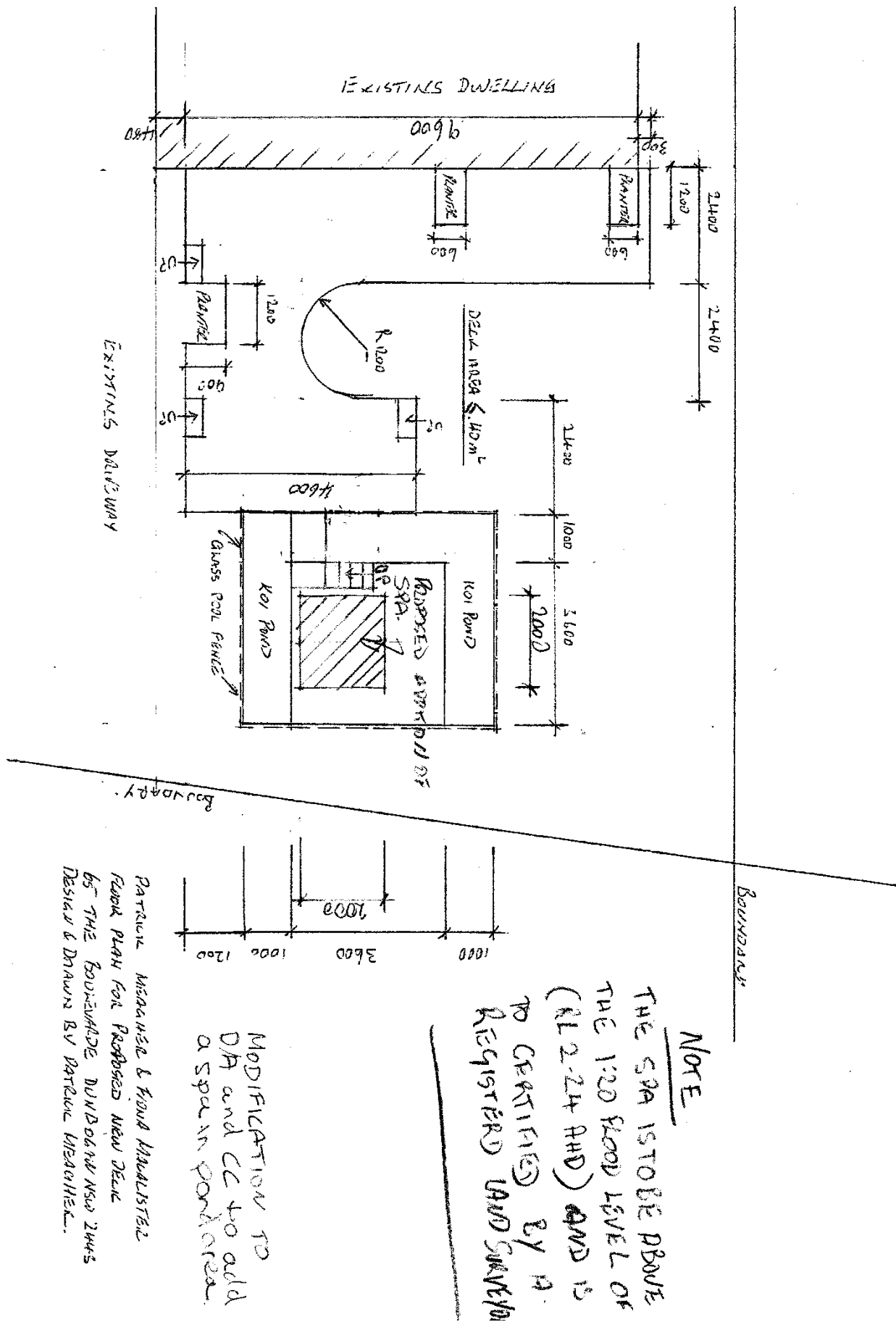
any other ancillary Act or Regulation in force at the time of the date of determination. The conditions are aimed at protecting the natural environment, preserving our heritage and providing a functional, safe and healthy built environment.

Rights of Appeal

If you are dissatisfied with this decision a request for a review of the determination may be made to Council, under the provisions of Section 8.2 of the Environmental Planning and Assessment Act 1979.

If you are dissatisfied with this decision, Section 8.9 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court.

Yours sincerely



Item: 07

Subject: DA2019 - 154.1 DEMOLITION OF EXISTING DWELLING AND
CONSTRUCTION OF NEW DWELLING AND SWIMMING POOL LOT 1
DP 612190 42 LIGHTHOUSE ROAD, PORT MACQUARIE

Report Author: Development Assessment Planner, Benjamin Roberts

Applicant: K L Prados

Owner: K L Prados

Estimated Cost: \$1,350,000

Parcel no: 19402

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2019 - 154 for demolition of existing dwelling and construction of new dwelling and swimming pool at Lot 1, DP 612190, No. 42 Lighthouse Road, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

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

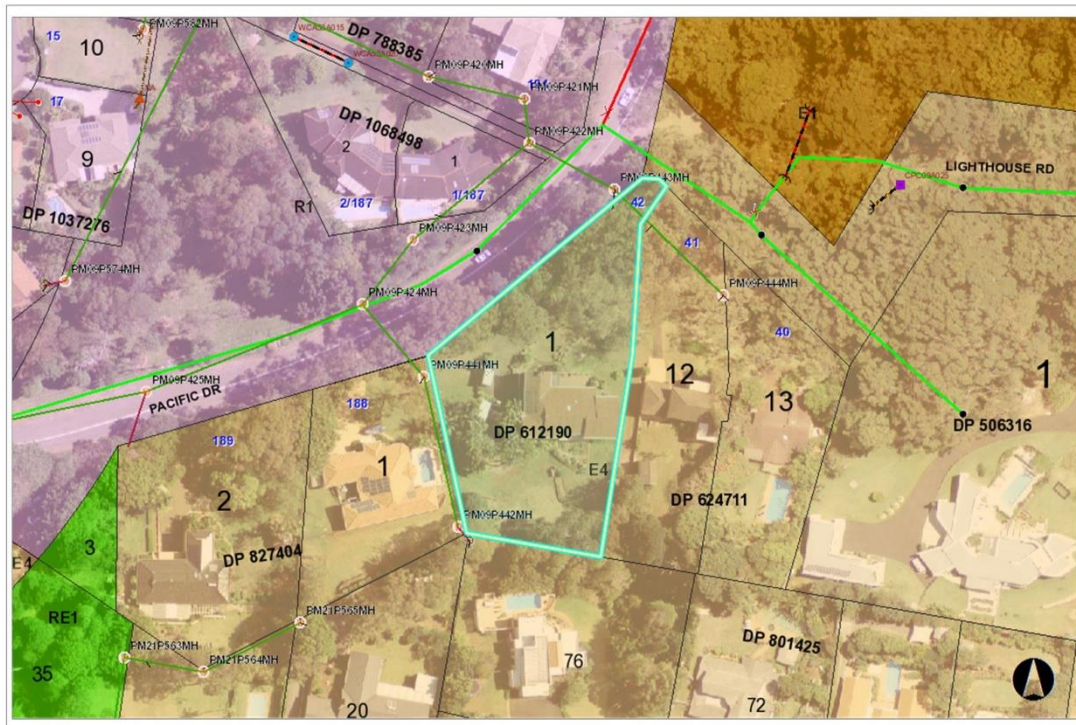
Following exhibition of the application, one (1) submission has been received. This report recommends that the subject development application be approved subject to the conditions included in Attachment 1.

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 3578m².

The site is zoned E4 Environmental Living 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:

- Demolition of existing dwelling and tree removal

- Construction of new dwelling and swimming pool

Refer to attachments at the end of this report.

Application Chronology

- 11 March 2019 - Application lodged.
- 21 March to 3 April 2019 - Public exhibition via neighbour notification.
- 3 April 2019 - Additional information request. Site mapped as littoral rainforest under Coastal Management SEPP. Application is designated development. Environmental Impact Statement (EIS) and additional fees required.
- 2 May 2019 - Additional fees paid.
- 22 June 2019 - Environmental Impact Statement and revised plans received. Secondary dwelling and dog kennel removed from proposal.
- 4 July to 2 August 2019 - Re-exhibition as designated development via advertising and neighbour notification.

3. STATUTORY ASSESSMENT**Section 4.15(1) Matters for Consideration**

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

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

State Environmental Planning Policy No. 44 - Koala Habitat Protection

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

State Environmental Planning Policy (Coastal Management) 2018

The site is partly mapped as littoral rainforest and within a proximity area to littoral rainforest under this policy.

In accordance with clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

In accordance with clause 10, the proposal is declared to be designated development. The application was accompanied by an Environmental Impact Statement (EIS) which is consistent with the issued Secretary's Environmental Assessment Requirements (SEARs). A copy of the issued SEARs and EIS are provided as attachments to this report.

The application was also supported by a site vegetation assessment, prepared by Biodiversity Australia, dated 24 May 2019. The assessment concluded:

“that the vegetation does not comprise Littoral Rainforest as it lacks key floristic and structural attributes. Vegetation on adjoining land to the south is also unlikely to qualify as Littoral Rainforest at present, however it would have the potential to regenerate into Littoral Rainforest if weeds are removed.

It is recommended that the Coastal SEPP mapping layer is amended to remove the Littoral Rainforest mapping from both the subject site and the adjoining land to the south.”

In accordance with clause 11, the proposal will not significantly impact on:

- (a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or
- (b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.

In accordance with clause 15, the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

In accordance with clause 16, there is no certified coastal management program that applies to the land.

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and built environment. The site is predominately cleared and located within an area with established residential properties.

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

A BASIX certificate has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 2.2 - The subject site is zoned E4 Environmental Living. In accordance with clause 2.3(1) and the E4 zone landuse table, the new dwelling and ancillary swimming pool is a permissible landuse with consent.

The objectives of the E4 zone are as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.*
- Clause 2.3(2) - The proposal is consistent with the zone objectives as it is a permissible landuse and demonstrated no adverse impact on ecological values.

- Clause 2.7 - The demolition of the existing dwelling requires consent as it does not fit within the provisions of SEPP (Exempt and Complying Development Codes) 2008.
- Clause 4.3 - The maximum overall height of the building above ground level complies with the standard height limit of 8.5m applying to the site. Refer to architectural plans with maximum building height envelope shown.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

No draft instruments apply.

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

Port Macquarie-Hastings Development Control Plan 2013

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> • 4.8m max. height • Single storey • 60m² max. area • 100m² for lots >900m² • 24 degree max. roof pitch • Not located in front setback 	Rainwater tank is located behind building line. Swimming pool is generously setback 41m from the Pacific Drive boundary.	Yes
3.2.2.2	Articulation zone: <ul style="list-style-type: none"> • Min. 3m front setback • An entry feature or portico • A balcony, deck, patio, pergola, terrace or verandah • A window box treatment • A bay window or similar feature • An awning or other feature over a window • A sun shading feature 	Pergola and swimming pool structures are within the front setback. The structures are well setback from the Pacific Drive boundary.	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or	Garage door setback is compliant with the minimum front setback requirements.	No. The pergola appears to be a form of off-street parking similar to a carport. It is

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

	Requirements	Proposed	Complies
	eaves/overhangs provided	Garage door recessed.	considered acceptable given the generous setback to Pacific Drive, existing vegetation and open nature of the structure.
	6m max. width of garage door/s and 50% max. width of building	Width of garage door is compliant with the maximum width requirements	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Driveway crossing width is compliant with the maximum width requirements	Yes
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	3.035m rear setback is proposed. Consistent with the provisions the recused rear setback provides for north facing private open space which will achieve better solar access. Generous area available for private open space in the northern setback.	Yes
3.2.2.5	Side setbacks: <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	<p>The site slopes away from the east and having regard to the proposed cut and fill will present as single storey along the eastern boundary and two storey along the western boundary. The eastern side setback is 1.66m. The western side setback is 2m. The reduced western side setback is acceptable as given the block orientation no adverse overshadowing impact will result to the adjoining property at 188 Pacific Drive.</p> <p>The building wall articulation is compliant</p>	Yes

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

	Requirements	Proposed	Complies
		and/or satisfactory to address the objective intent of the development provision.	
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The dwelling contains >35m ² open space in one area including a useable 4m x 4m space.	Yes
3.2.2.7	Front fences: <ul style="list-style-type: none"> • If solid 1.2m max height and front setback 1.0m with landscaping • 3x3m min. splay for corner sites • Fences >1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings • 0.9x0.9m splays adjoining driveway entrances 	Detail of fencing not provided. Condition has been recommended requiring fencing details consistent with DCP be illustrated on building Construction Certificate plans.	Yes
3.2.2.8	Front fences and walls to have complimentary materials to context No chain wire, solid timber, masonry or solid steel front fences	Refer comments above.	Yes
3.2.2.10	Privacy: <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less 	<p>The two storey component along the western boundary contains bedroom and bathroom windows only.</p> <p>The upper floor north facing terrace is within 3m of the western boundary. No privacy screen is illustrated. The adjoining property at 188 Pacific Drive has a pool and outdoor living area orientated east which is partly within a 12m radius of the proposed upper terrace. To protect privacy between these areas a condition has been</p>	Yes subject to the imposition of condition requiring privacy screen to west facing upper floor terrace. Subject to the imposition of the recommended condition the proposal will not compromise privacy in the area due to the generous building separation and orientation of primary living

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

	Requirements	Proposed	Complies
	than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m	recommenced requiring a privacy screen to the west facing part of the upper floor terrace.	and outdoor areas to the north.

DCP 2013: General Provisions

	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	No concealment or entrapment areas proposed. Adequate casual surveillance available.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut of approximately 1.5m proposed.	No but considered acceptable in this instance.
2.3.3.2	1m max. height retaining walls along road frontage	None proposed along road frontage.	N/A
	Any retaining wall >1.0 in height to be certified by structure engineer	Retaining wall over 1m proposed.	Yes Condition recommended to require engineering certification
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	No retaining wall front fence combination proposed.	N/A
2.3.3.8	Removal of hollow bearing trees	The Narrow-leaved Scribbly Gum was identified as containing some hollow bearing potential by the ecologist. The ecologist scored the tree as having a likely medium value of 12 in the hollow bearing tree assessment protocol. The ecologist noted the large dead branches and described the tree as	The tree is in poor condition and is best characterised as dangerous. The best outcome would be for it to be removed and offsets measures be implemented as per the ecologist advice. Suitable

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
		looking dangerous. Consistent with the DCP provisions the ecologist recommends that if removed two replacement fauna nesting boxes ideally located on existing mature trees at the front of the property should be installed. The ecologist recommends these boxes be installed by an ecologist prior to removal of the tree and the tree removal also supervised by an ecologist.	conditions have been recommended.
2.6.3.1	Tree removal (3m or higher with 100m diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)	The Narrow-leaved scribbly gum is a tree identified in as a Koala food tree. The tree is identified as dangerous and is proposed to be removed.	Consistent with the plan compensatory Koala habitat trees shall be provided at a ratio of 2:1. Suitable area and locations exist on site to accommodate replants. Conditions have been recommended.
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	No new access proposed to arterial or distributor roads.	N/A
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing minimal in width	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	Ample off-street parking is proposed.	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	N/A

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Single dwelling only. No specific landscaping requirements recommended.	N/A
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway proposed.	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Driveway grades capable of satisfying Council standard driveway crossover requirements. Condition recommended for section 138 Roads Act permit	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Single dwelling only. Stormwater drainage is capable of being managed as part of plumbing construction.	Yes

(iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4:

No planning agreement has been offered, or entered into.

iv) Any matters prescribed by the Regulations:

Demolition of buildings

Demolition of the existing dwelling onsite is capable of compliance with Australian Standard 2601-1991: The Demolition of Structures.

(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 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 compatible with other residential development in the locality and adequately addresses planning controls for the area.

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

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts. The adjoining dwelling to south (12 Daintree Lane) is setback approximately 20m from the boundary. The 20m setback is well vegetated with mature trees. The removal of the single Narrow-leaved scribbly gum from the rear of the property will not result in any adverse privacy impacts.

There is no adverse overshadowing impacts. The adjoining dwelling to south (12 Daintree Lane) is setback approximately 20m from the boundary. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

Access, Traffic and Transport

A new driveway is proposed in the south-western corner of the property directly onto Pacific Drive. This new driveway formed part of a previous application for alterations and additions to the existing dwelling that was approved 13 November 2018. A survey report and Arborist report supported this application, which subject to recommendations validated retention of a large Blackbutt tree within the Pacific Drive road reserve close to the new driveway. Conditions have been recommended (that were applied to the prior consent for alterations and additions) requiring tree protection for driveway works near the Blackbutt tree and a change to the title restriction, which currently prohibits direct vehicular access to Pacific Drive. It is also recommended the prior consent (DA2018/489) be surrendered prior to issue of any building construction certificate to ensure no conflict between consents.

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

Water Supply Connection

Service available. Details required with section 68 application.

Sewer Connection

Service available. Details required with section 68 application.

Stormwater

There is no stormwater infrastructure available for direct connection. Given the property size and available area, stormwater is capable of being managed on site. A stormwater management plan is required to accompany the section 68 application to confirm collection, detention and disposal treatment methods.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

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

Other land resources

The proposal 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

The proposed development includes removal of some exotic/ornamental plants and one Narrow-leaved Scribbly Gum in the south-eastern corner of the site. The Biodiversity Offset Scheme does not apply for the following reasons:

- The land wasn't identified on the Biodiversity Values Map at the time the application was made;
- The extent of clearing is below the thresholds in Clause 7.2 of the Biodiversity Conservation Regulation 2017;
- The application of test of significance (5 part test) demonstrates that the development will not have a significant impact on biodiversity values.

The application was supported by a site vegetation assessment, prepared by Biodiversity Australia, dated 24 May 2019. The onsite assessment concludes:

“that the vegetation does not comprise Littoral Rainforest as it lacks key floristic and structural attributes. Vegetation on adjoining land to the south is also unlikely to qualify as Littoral Rainforest at present, however it would have the potential to regenerate into Littoral Rainforest if weeds are removed.

It is recommended that the Coastal SEPP mapping layer is amended to remove the Littoral Rainforest mapping from both the subject site and the adjoining land to the south.”

This advice also formed part of the correspondence sent to the Department when seeking the Planning Secretary's Environmental Assessment Requirements (SEARs). It is noted that the SEARs issued by the Department have no specific requirements surrounding flora and fauna impacts. A copy of the issued SEARs is provided as an attachment to this report.

The Narrow-leaved Scribbly Gum while recognised as dangerous does contain some hollowing bearing potential. Refer to comments in DCP table earlier within report.

Subsequent advice from the ecologist has confirmed that this tree is likely to have low habitat value and that its removal should be offset by the installation of two nest boxes within the existing mature eucalypts at the front of the property. The ecologist also recommends the nest boxes be installed by an ecologist prior to removal of the tree and that the tree removal be supervised by an ecologist. In addition and consistent with the DCP provisions two compensatory Koala food trees are to be provided on the site. Suitable conditions have been recommended.

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.

Noise and vibration

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

Bushfire

The site is identified as being bushfire prone. The applicant has submitted a Bushfire Attack Level (BAL) certificate prepared by a qualified professional.

A review of the certificate and assessment of bushfire risk having regard to section 4.3.5 of Planning for Bushfire Protection 2006 including vegetation classification and slope concludes that a Bushfire Attack Level 19 shall be required.

Management of bushfire risk is acceptable subject to BAL construction levels being implemented and APZ being maintained. An appropriate condition has been recommended.

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

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

Site design and internal design

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

Construction

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

Cumulative Impacts

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

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

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

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

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

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

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

Submission Issue/Summary	Planning Comment/Response
The setback to the rear boundary is too close and should be increased by a further 2m and established as a green buffer zone.	Refer to DCP table and comments. The dwelling setback of 3.035m is considered acceptable.
Responsibility for trimming vegetation on the common boundary.	Any existing or proposed vegetation removal or pruning is subject to the provisions of the adopted Development Control Plan 2013. The <i>Trees (Disputes between neighbours) Act 2006</i> covers any disputes between neighbours involving trees.
There have been numerous complaints from neighbours regarding barking dogs at night. It is requested the proposed kennel be relocated north of the dwelling.	The kennel is no longer proposed under this application.
It is requested that the large gum tree proposed to be removed be retained. It provides privacy and is part of the local Koala habitat. If this is not possible then replacement plantings should be undertaken.	Refer to comments in flora and fauna and DCP table section of this report. Two nest boxes have been recommended by the ecologist to be provided onsite. Two replacement Koala tree plantings shall also be required consistent with DCP 2013 provisions. No adverse privacy impacts would result from the tree removal that would warrant refusal of this application.
It is requested that the rainwater tank about the wall of the proposed building as opposed to being on the boundary fence.	The rainwater tank is setback over 1m from the rear boundary which complies with the minimum 900mm setback requirement.

(e) The Public Interest:

The proposed development satisfies relevant planning controls and will not adversely impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Not applicable.

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 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 considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result 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](#). DA2019 - 154.1 Recommended Draft Conditions
- 2 [View](#). DA2019 - 154.1 Environmental Impact Statement
- 3 [View](#). DA2019 - 154.1 Email Steggall - Scribbly Gum Tree - HBT Potential and Recommended Nest Box Offsetting
- 4 [View](#). DA2019 - 154.1 Ecology Advice - Vegetation Classification - Will Steggall
- 5 [View](#). DA2019 - 154.1 SEARs Local Secretary - Environmental Assessment Requirements
- 6 [View](#). DA2019 - 154.1 Plans

Port Macquarie-Hastings Council
PO Box 84
Port Macquarie
NSW Australia 2444
DX 7415
● council@pmhc.nsw.gov.au

ABN 11 236 901 601



Our ref: 2019/154
PN: 19402

K L Prados
42 Lighthouse Road
PORT MACQUARIE NSW 2444

Dear Sir/Madam

Notice to applicant of determination of a development application under Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979 and Section 99 of the Local Government Act 1993

Subject Development	Demolition of Existing Dwelling and Construction of New Dwelling and Swimming Pool
Property Description	LOT: 1 DP: 612190, 42 Lighthouse Road PORT MACQUARIE
Applicant	K L Prados

Notice is hereby given of the determination by the consent authority of your development application by granting of consent subject to the conditions detailed on the schedule attached to this notice.

Approvals under the Local Government Act, 1993

Local Government Act 1993 approvals granted under Section 4.12 of the Environmental Planning & Assessment Act 1979 are as follows: Nil

Notes to this consent

1. The date of determination is ??????????????
2. The date from which this consent operates is ?????????????? and will lapse unless building, engineering or construction work or a use related to this consent is physically commenced within five (5) years of this date.
3. The period for which this consent can operate may be limited by conditions of this consent.

Yours sincerely

pmhc.nsw.gov.au

PORT MACQUARIE OFFICE

WAUCHOPE OFFICE

LAURIETON OFFICE

Port Macquarie-Hastings Council
Development Consent - Development Application 010.2019.00000154.001
Demolition of Existing Dwelling and Construction of New Dwelling and Swimming Pool

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SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2019/154 are as follows:

PRESCRIBED CONDITIONS

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Development Plans as stamped 1587-DA	Revision A	Robert Snow Architect	10 March 2019
	Revision B		17 May 2019
	Revision C		24 June 2019
Environmental Impact Statement	42 Lighthouse Road	All About Planning	June 2019
BASIX Certificate	1000043S	Certified Energy	11 March 2019
BAL Certificate	42 Lighthouse Road	Krisann Johnson	19 February 2019
Arborist Report	42 Lighthouse Road	Port Tree Fella	22 October 2018
Driveway Profile	1571-DA1.1-G	Robert Snow	6 November 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.

- (2) (A002) No work shall commence until a building 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.

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- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 2. Appropriate dust control measures;
 3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
 4. Building waste is to be managed via appropriate receptacles into separate waste streams;
 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
 6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidays

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

B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the building Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
- Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the building Construction Certificate.
- Such works include, but not be limited to:
- i. Footway and gutter crossing
 - ii. Functional vehicular access
- (3) (B046) The building shall be designed and constructed so as to comply with the Bushfire Attack Level (BAL) 19 requirements of Australian Standard 3959 and

the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of Planning for Bush Fire Protection 2006 to prevail in the extent of any inconsistency with the Building Code of Australia.

- (4) (B009) The applicant shall surrender the consent relating to DA No. 2018/489 for alterations and additions to dwelling at Lot 1 DP 612190, 42 Lighthouse Road, Port Macquarie by submitting an application for "Surrender of a Consent" to Council in accordance with the Environmental Planning and Assessment Regulation 2000, prior to release of the building Construction Certificate.
- (5) (B072) A stormwater management plan shall accompany the section 68 application. The design must be prepared in accordance with the requirements of Australian Standards and shall detail collection, detention and disposal treatments.
- (6) The building Construction Certificate plans shall detail front fencing design along the Pacific Drive and Lighthouse Road frontages consistent with the development provisions 3.2.2.7 and 3.2.2.8 of Port Macquarie-Hastings Development Control Plan 2013.
- (7) (B039) Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting:
 - i. earthworks that are more than 600mm above or below ground level (existing); or
 - ii. located within 1m of the property boundaries; or
 - iii. 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 the building Construction Certificate.
- (8) The building Construction Certificate plans shall clearly nominate the location of two compensatory Koala food trees (species selected from table 2.6.1 of the Port Macquarie-Hastings Development Control Plan 2013). Regard shall be given to required Asset Protection Zones (APZ) in locating these plantings.
- (9) The building Construction Certificate plans shall provide a privacy screen to the western elevation of the upper floor terrace off bedrooms 1, 2 and 3. The privacy screen shall be a minimum of 1.7m in height above the finished floor level and meet the definition of a privacy screen under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) Prior to the Narrow-leaved Scribbly gum being removed two nest boxes shall be installed by a suitably qualified ecologist in existing mature eucalypt trees on the property.

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Demolition of Existing Dwelling and Construction of New Dwelling and Swimming Pool

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- (2) Arrangements shall be made with a suitably qualified ecologist to supervise the removal of the Narrow-leaved Scribbly gum.

D – DURING CONSTRUCTION

- (1) (D015) The swimming pool shall not to be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.
- (2) (D016) Where depth of water in the pool exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.
- (3) (D017) In accordance with the Swimming Pool Regulation a sign is to be erected and maintained that:
 - (a) Bears a notice containing the words “This swimming pool is not to be occupied or used”, and
 - (b) Is located in a prominent position in the immediate vicinity of that swimming pool, and
 - (c) Continues to be erected and maintained until an Occupation Certificate has been issued for the pool.
- (4) (D000) Any excess fill is to be disposed of at an approved location or taken to an approved waste management facility.
- (5) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (6) The Blackbutt tree adjacent to the new driveway is to be protected during construction works in accordance with the recommendations of the Arborist Report prepared by Port Tree Fella, dated 22 October 2018). The driveway and contour levels are also to be completed in accordance with this report.
- (7) The removal of the Narrow-leaved stringy bark shall be supervised by a suitably qualified ecologist so as to rescue any fauna which may be in the tree.

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any 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.
- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all

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matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.

- (4) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (5) (E020) The provision of a suitable sign containing the details required by the current Swimming Pools Act and Regulations.
- (6) (E021) Pool to be fenced in accordance with the Swimming Pools Act, 1992.
- (7) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority documentation confirming that the Restriction to User firstly referred to in DP612190, which prohibits vehicular access across the north-west boundary of Lot 1, has modified to permit the new vehicular access for the southern-most 6 metres of the affected boundary only.
- (8) Prior to occupation or issue of any Occupation Certificate evidence to the satisfaction of the certifying authority confirming the successful establishment of the two compensatory Koala food tree plantings shall be provided.

F – OCCUPATION OF THE SITE

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F027) The swimming pool filtration motor shall be operated between the following hours only:
 Monday to Friday (other than a public holiday)
 7.00 am – 8.00 pm
 Saturday to Sunday and Public Holidays
 8.00 am – 8.00 pm
 Should noise levels exceed 5dBA above the ambient noise level measured at the boundary, the pool filtration motor shall be enclosed with an effective soundproof unit.
- (3) (F035) The consent only permits the use of the building as a single dwelling and does not permit the adaption or use of the building so as to create a second occupancy.

The reason for this decision is that the site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public interest and will not result in significant adverse social, environmental or economic impacts. The conditions referred to in this schedule are imposed in conformity with the relevant provisions of the Environmental Planning and Assessment Act and Regulations, the Local Government Act and Regulations, The Building Code of Australia and with Council's Policies and Development Control Plan or any other ancillary Act or Regulation in force at the time of the date of determination. The conditions are aimed at protecting the natural environment, preserving our heritage and providing a functional, safe and healthy built environment.

Rights of Appeal

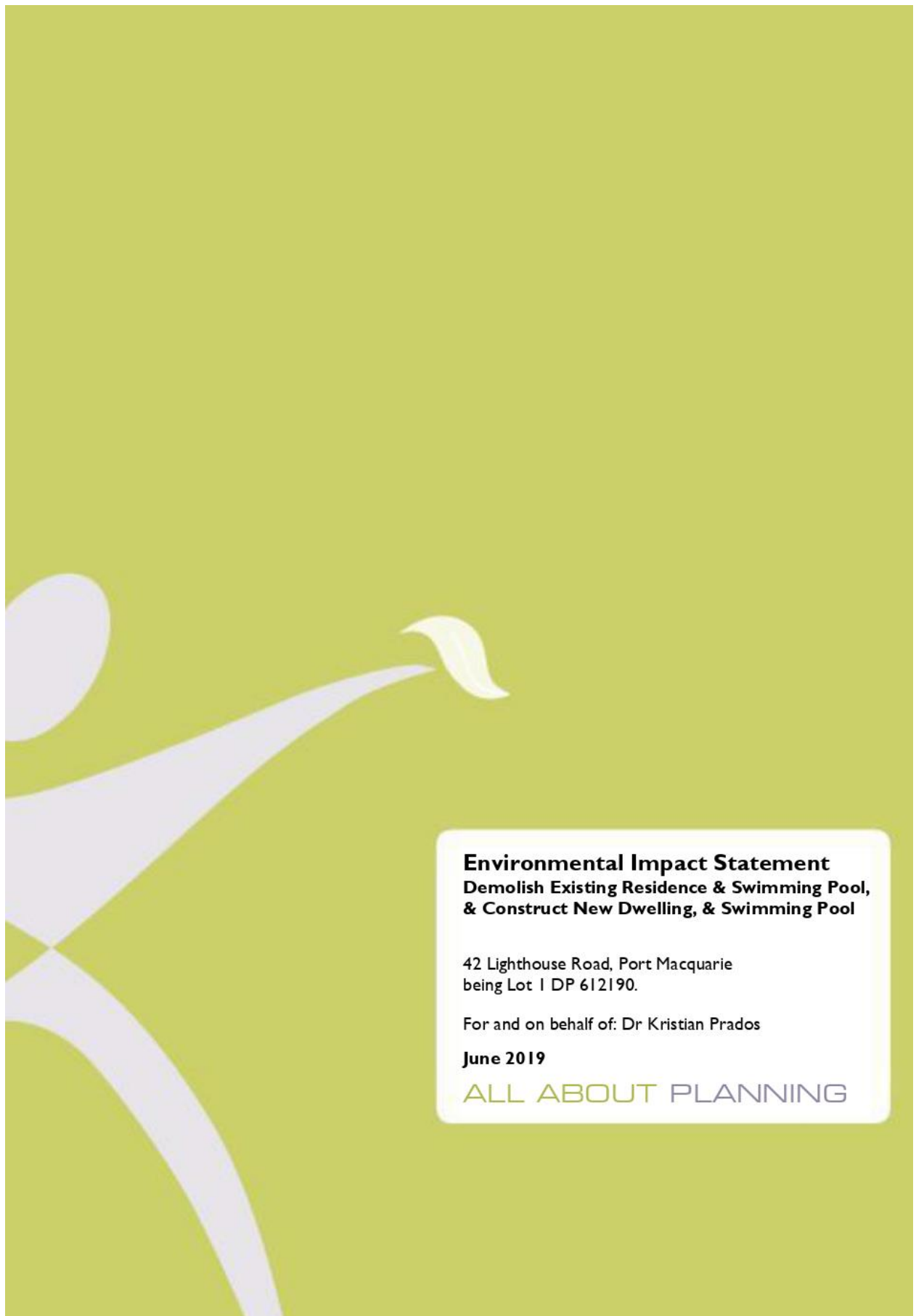
Port Macquarie-Hastings Council
Development Consent - Development Application 010.2019.00000154.001
Demolition of Existing Dwelling and Construction of New Dwelling and Swimming Pool

Page 7 of 7

If you are dissatisfied with this decision:

1. A request for a review of the determination may be made to Council, under the provisions of Section 8.3 of the Environmental Planning and Assessment Act 1979.
2. Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court.

Yours sincerely



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Attachments

1. Planning Secretary's Environmental Assessment Requirements (SEAR) 1338, date 1 May 2019
NSW Planning & Environment
2. Revised Architectural Plans Proposed New Residence, No 42 Lighthouse Road, PMQ, Rev: A
& B, dated: 10/03/19 & 17/05/19, prepared by Rob Snow Architect
3. Ecological Assessment for Littoral Rainforest, dated 24 May 2019, prepared by Will Steggall –
Biodiversity Australia

Environmental Impact Statement: Demolish Existing Residence & Swimming Pool, & Construct New Dwelling, Swimming Pool

**Location: 42 Lighthouse Road, Port Macquarie
Lot 1, DP 612190**

For Dr Kristian Prados

**AAP Reference: 2019 – 015
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PO BOX 2196
PORT MACQUARIE
NSW 2444
PH 02 6583 1305
FAX 02 6583 1368

This EIS has been prepared in accordance with an agreement between All About Planning Pty Ltd and Kristian Prados.

In preparing this EIS report, All About Planning Pty Ltd has used and relied on data, plans and information provided by Robert Snow Architects and Biodiversity Australia and other parties as detailed in this document.

The EIS report has been prepared in accordance with the provisions of Schedule 2 – Environmental Impact Statements, of the Environmental Planning and Assessment Regulations 2000. As per cl. 6 of Schedule 2 of these regulations, this EIS report contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which this statement relates, and the information contained in this EIS is neither false nor misleading.

Except as otherwise stated, the accuracy and completeness of the information provided to All About Planning Pty Ltd for this assessment has not been independently verified.

This report by All About Planning Pty Ltd should be read in conjunction with the following documents:

- Statement of Environmental Effects prepared by Rob Snow Architect dated 11.03.2019
- Architectural Drawings prepared by Rob Snow Architects, Project No. 1587 - DA, Drawing Nos. 1.1, 1.4, 1.5, 1.7, 2.1, 2.2, 3.1 - 3.4, 4.1 - 4.2 (Rev A) and 0.1, 1.2 - 1.3, 1.6 (Rev B)
- Planning Secretary's Environmental Assessment Requirements (SEAR) 1338, dated 1 May 2019 NSW Planning & Environment
- Biodiversity Australia report dated 24 May 2019 and subsequent advice

For and on behalf of All About Planning Pty Ltd.

Michelle Chapman
PIA Fellow, Registered Town Planner
Master Town Planning
Bachelor Urban & Regional Planning (Hons)
Member Planning Institute Australia
Director, Principal Planner

ALL ABOUT PLANNING

www.allaboutplanning.com.au
ABN 46 105 052 015

I. Introduction

I.1 Purpose of this Report

This Environmental Impact Statement (EIS) has been prepared in support of a lodged development application to Port Macquarie – Hastings Council (Development Application DA 2019 – 154.1) for demolition of the existing dwelling and swimming pool and the construction of a new dwelling, swimming pool and & the undertaking of associated works at Lot 1 in DP 612190, No. 42 Lighthouse Road, PORT MACQUARIE.

The proposed development is permissible in the E4 Environmental Living zone and is compatible with the adopted zone objectives. All relevant design issues have been addressed in the submitted SEE by Rob Snow Architects.

The subject property has been partly mapped (in error) as Littoral Rainforest under State Environmental Planning Policy (Coastal Management) 2018, (Coastal SEPP) and a portion of the development is proposed to be located within this erroneous mapped area. As a consequence of this flawed mapping the proposal is classified as a designated development and under the Coastal SEPP, the preparation of an Environmental Impact Statement (EIS) is required to accompany the development application.

This report examines the proposed residential development, the characteristics of the site and surrounding area and the impacts of the proposal. It provides an assessment of the NSW Department of Planning and Environment's Secretary's Environmental Assessment Requirements (SEAR) 1338 issued 1 May 2019 by the delegate of the Secretary, Chris Ritchie, Director Industry Assessments and which are comprehensively addressed within this report.

The purpose of the EIS requirement is to review the proposal with a view to determining environmental impacts and to consider whether the proposal should proceed or not, with or without mitigations/recommendations to minimise impact(s).

It is concluded that the subject proposed new dwelling and associated works will in no way impact on any actual littoral rainforest and that the proposed dwelling and associated works are fully supported subject to Council's standard conditions of development consent.

2. Description of Locality and Site

The Port Macquarie Hastings Council Profile.id site (<https://profile.id.com.au/port-macquarie-hastings/about>) provides the following historical background on Port Macquarie:

The Port Macquarie-Hastings Council area is located on the Mid North Coast of New South Wales, about 420 kilometres north of the Sydney CBD, and 510 kilometres south of the Brisbane CBD. The Port Macquarie-Hastings Council area is bounded by Kempsey Shire in the north, the Tasman Sea in the east, the MidCoast Council area in the south, and Walcha Shire in the west.

Port Macquarie is named after New South Wales Governor Lachlan Macquarie (1810-1821), while Hastings is named after the Governor of Bengal, Francis Rawdon Hastings.

European settlement dates from 1818 when the area was first explored, and 1821 when a penal settlement was established at Port Macquarie.

The PMQ LGA has (based on 2016 census figures) a population of 79,905, with a population density of 0.22 persons per hectare.

The original inhabitants of the Port Macquarie-Hastings Council area were the Birpai Aboriginal people.

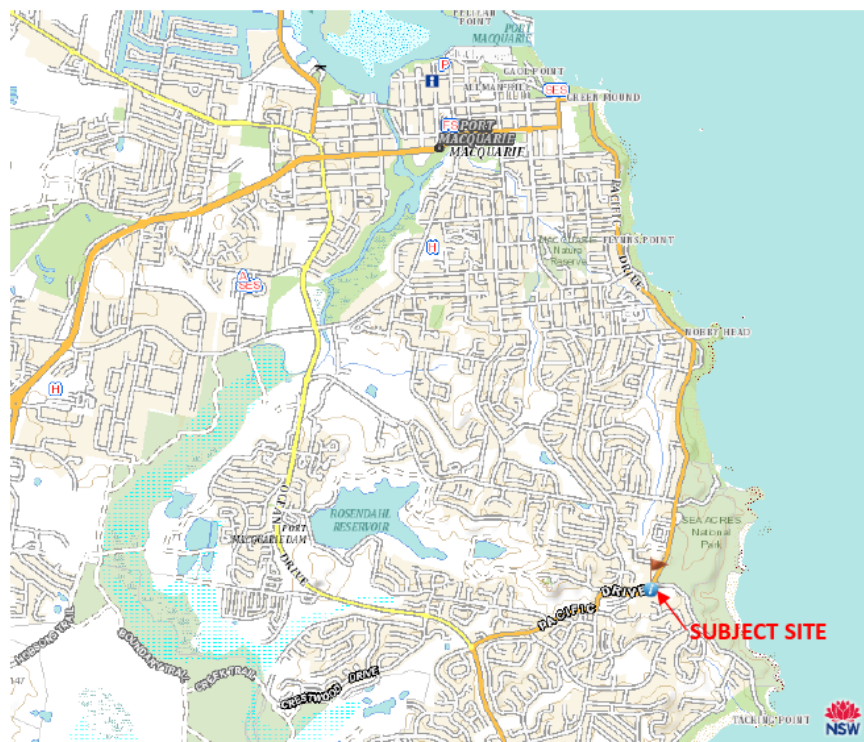


Figure 1: Locality Plan for subject site. Source: NSW SIX Maps

The subject site is located at No. 42 Lighthouse Road, Port Macquarie on land currently described as Lot 1 in DP 612190. The site is situated at the northern area of Lighthouse Beach approximately 4km to the south east of the Port Macquarie CBD within an established residential area in a leafy setting, located opposite the attractive Sea Acres National Park.

The area is located to the north of the Lighthouse Beach residential area and to the south and south east of the Shelly Beach residential area on a ridge that slopes down in each of these directions along with down to Miners Beach to the north east.

The locality is characterised by detached houses on large lots interspersed amongst scenic established vegetation on the southern side of Lighthouse Road and the eastern side of Pacific Drive. Both of which almost seamlessly transition with the adjoining natural vegetation of Sea Acres National Park.

The site has an irregular shape and is located on the corner of Lighthouse Road and Pacific Drive. As a consequence, the site benefits from two street frontages of approximately 7m to Lighthouse Road and 74m to Pacific Drive. The site has a total area of 3,578m².

The site has a predominant cross fall from east to west down to Pacific Drive in the order of 6 to 7m together with scattered tree cover predominantly in the northern and western (along Pacific Drive) and southern areas of the site.

The immediate surrounds of the existing dwelling and rear yard are more open, with some domestic planted landscaping.

Vehicular access is provided via an existing shared entrance off Lighthouse Road in the near vicinity of the intersection with Pacific Drive. The two immediately adjoining Torrens title lots to the east of the subject site (Nos. 40 & 41) also use the shared entrance on Lighthouse Road. An additional driveway to service the subject site was recently consented to by Council along the Pacific Drive frontage under DA 2018/489.

As can be seen in the aerial photo provided below the immediately adjoining properties are all occupied by detached 1 and 2 storey dwellings fronting Lighthouse Road and Pacific Drive. To the rear(/south) is a dwelling fronting Daintree Lane.

The NSW Rural Fire Service has the subject site listed as partly Vegetation Buffer, part Vegetation Category 2 and part Vegetation Category 1 Bushfire prone land. Consequently, a bushfire assessment was undertaken and a BAL rating certificate was submitted with the proposed development.

Statement of Environmental Effects
Proposed New Dwelling and Associated Works – Lighthouse Rd, PORT MACQUARIE



Figure 2: Aerial plan showing subject site and surrounding development Source: Six Maps

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Statement of Environmental Effects
Proposed New Dwelling and Associated Works – Lighthouse Rd, PORT MACQUARIE



Figure 3: Location of existing dwelling. Source: Six Maps

SIX MAPS

Statement of Environmental Effects
Proposed New Dwelling and Associated Works – Lighthouse Rd, PORT MACQUARIE



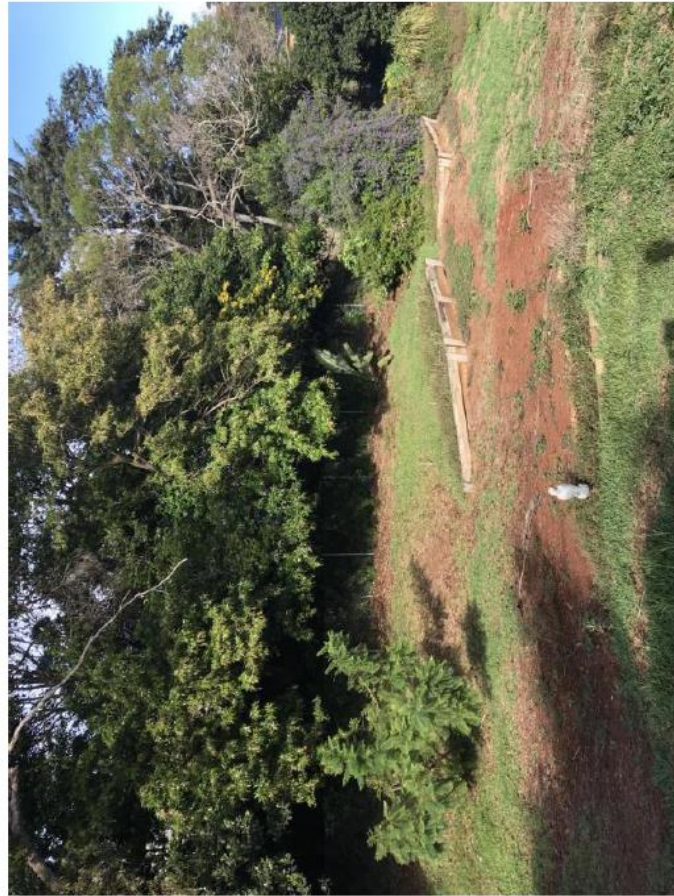
Figure 4: Existing Shared Vehicular Accessway. Source All About Planning

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Statement of Environmental Effects
Proposed New Dwelling and Associated Works – Lighthouse Rd, PORT MACQUARIE



Figure 5: Existing Rear Fence line, showing non-rainforest vegetation overhanging fence and existing rear yard with exotic plantings Source All About Planning



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3. Proposed Development

As the architectural drawings by Robert Snow Architect submitted with the Development Application show, the existing residence, swimming pool and ancillary buildings are to be demolished and debris removed in accord with Council requirements. Part of the existing driveway will be retained and one section will be demolished and a new driveway constructed to reflect the new dwelling's site and design. It is noted that the revised driveway and gates were recently approved by Council under DA 2018/489.

The proposed development will include the construction of a new two-storey residence with raked ceilings to allow natural light to extend into the building, new swimming pool, rear dog kennel and driveway extension. The building has been sited further south than the current dwelling to be demolished.

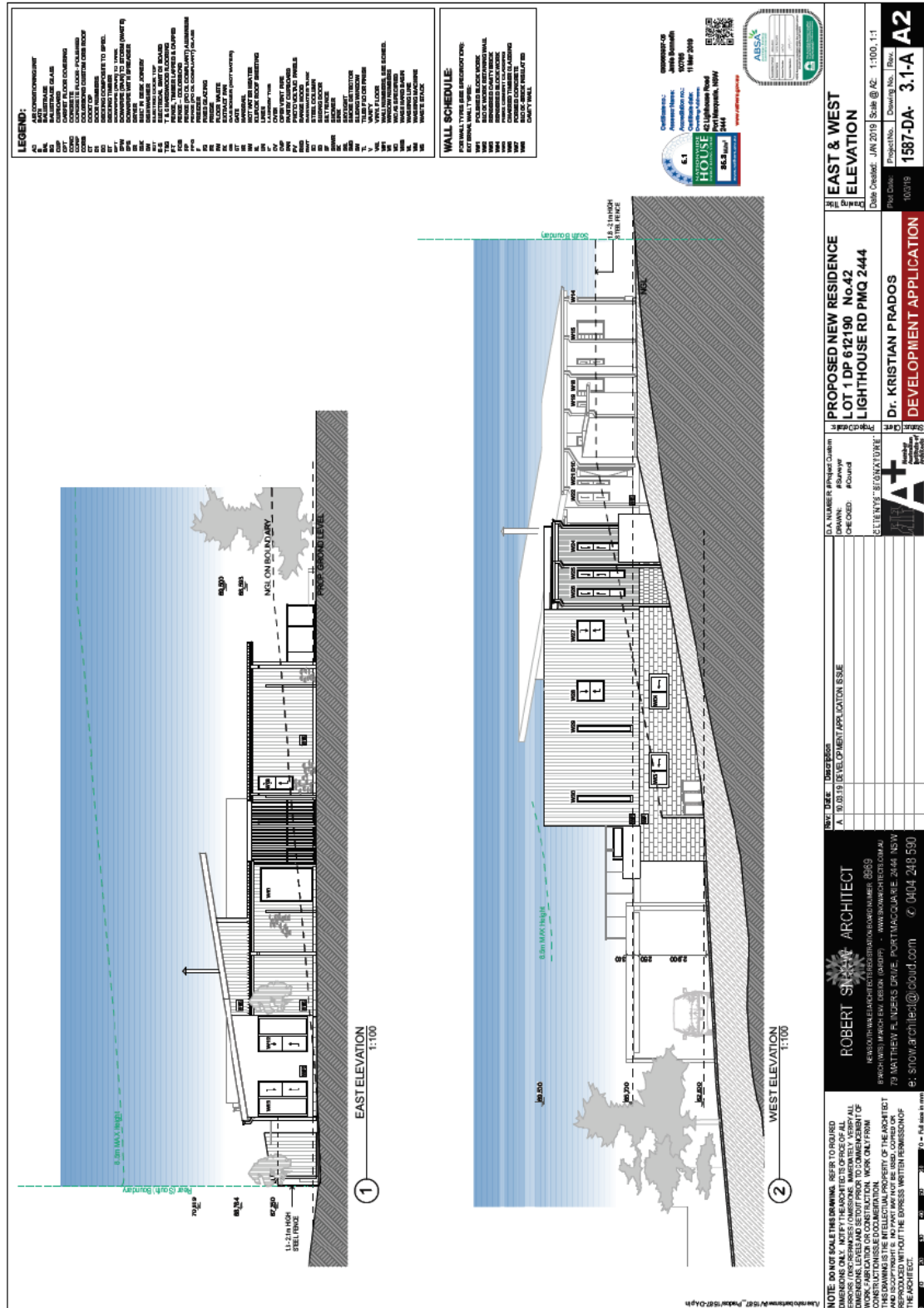
The lower ground floor of the dwelling will include a large garage to enable multiple vehicles or boat storage; an entrance foyer leading into a guest suite with a living room, bedroom and bathroom; a wine cellar and seating; a store room and plant room for air-conditioning units and building services, and associated concrete slabs to support buildings above. There is also an open pergola located to the north-east of the garage, and a domestic animal shelter (dog kennel) located at the rear of the dwelling.

The entrance foyer stairs and large glass windows lead to the upper ground level. The western wing includes a family room leading to 3 bedrooms and 2 bathrooms and a common terrace (located above the garage). The central area of the dwelling has a kitchen and dining area separated by a gas fire to the living area which all face north and connect with a large terrace, leading to the swimming pool and spa. Along the southern side of the dwelling adjoining the kitchen/living area is a butler's pantry, laundry and store area, desk nook, home theatre, study and bathroom. Along the eastern wing is a master bedroom, walk-in-robe and large ensuite. A court yard connects with the terrace and gym that leads onto grassed lawn.

The submitted architectural plans by Robert Snow Architects include site plans, lower ground and upper ground floor plans, roof plan, reflected ceiling plans, sections and elevations, 3D Views, Solar Shading Views, Window and Door Schedules are provided below (Figures 7 -22)



Statement of Environmental Effects
Proposed New Dwelling and Associated Works – Lighthouse Rd, PORT MACQUARIE



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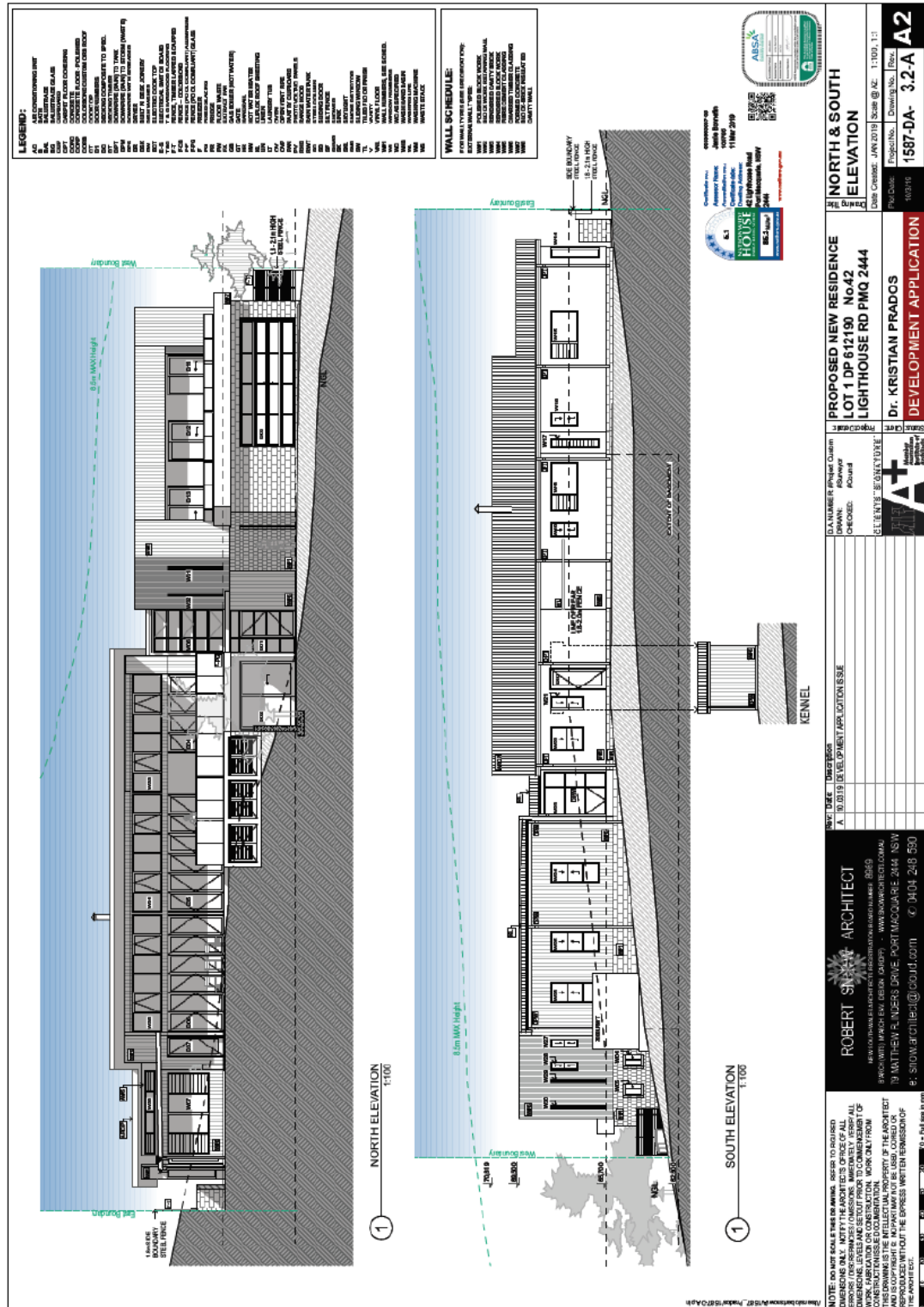


Figure 10: North & South Elevations

Statement of Environmental Effects
Proposed New Dwelling and Associated Works – Lighthouse Rd, PORT MACQUARIE

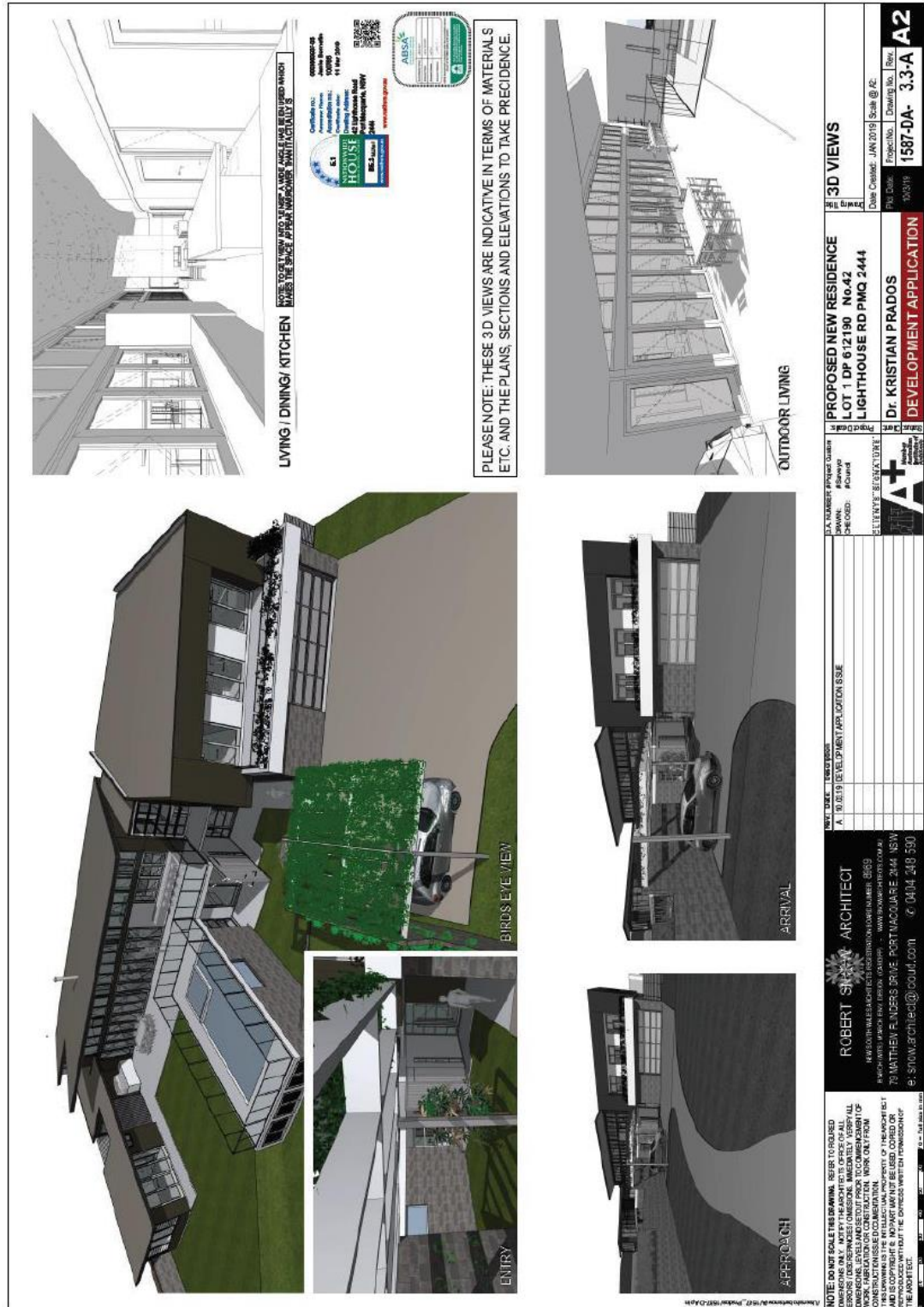


Figure 1: 3D Views of Dwelling

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4. State Planning Controls

The statutory and strategic planning instruments which guide this proposal are:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy - Building Sustainability Index 2004
- State Environmental Planning Policy (Coastal Management) 2018
- Planning for Bushfire Protection 2006
- Port Macquarie Hastings Local Environmental Plan 2011
- Port Macquarie Hastings Development Control Plan 2013

4.1 Environmental Planning and Assessment Act 1979

This EIS is prepared in accordance with Part 5 Infrastructure and Environmental Impact Assessment, Subdivision 3 Activities for which EIS required, as prescribed by the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposal also fully satisfies those matters raised under Section 4.15 of the EP&A Act as detailed later in this report in Section 6.

4.2 Environmental Planning and Assessment Regulation 2000

Clause 50 (*How must a development application be made*), of the *Environmental Planning and Assessment Regulation 2000* (the Regulations) includes the following provisions:

(1) *A development application:*

- (a) *Must contain the information, and be accompanied by the documents, specified in Part 1 of Schedule 1, and*
- (b) *If the consent authority so requires, must be in the form approved by that authority, and*
- (c) *Must be accompanied by the fee, not exceeding the fee prescribed by Part 15, determined by the consent authority, and*
- (d) *Must be delivered by hand, sent by post or transmitted electronically to the principal office of the consent authority, but may not be sent by facsimile transmission.*

The subject development application complies with the above provisions of the *Environmental Planning and Assessment Act Regulation 2000*.

Clause 92 (*Additional matters that consent authority must consider*), of the Regulations, includes the

following provisions:

- (1) For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:*
- (a) repealed,*
 - (b) in the case of a development application for the demolition of a building, the provisions of AS 2601,*

Subclause 1(b) applies to the subject site as the development application requires the demolition of an existing dwelling. With regard to Australian Standard AS 2601 'The Demolition of Structures', the proposed demolition works will be managed by standard conditions applied on any approval issued by Council ensuring compliance with AS 2601.

Clause 228 of the Environmental Planning and Assessment Regulation 2000 identifies what factors must be taken into account concerning the impact of an activity on the environment for the purposes of Part 5 of the Act.

In reviewing the factors identified in clause 228(2) of the regulation, this EIS identifies that the proposed development will minimally impact the environment. The locality is already utilised an environmental living lot with a dwelling erected, so no additional transformation of the locality will result. The Biodiversity Australia ecological assessment identifies that no ecological community or Littoral Rainforest will be compromised as a consequence of the proposed development. It is therefore unlikely that the development will impact any species of animal or plant that are endangered or have long-term effects on the environment. There is no reduction in the range of beneficial uses of the environment and any potential pollution/disposal of waste of the environment can be managed as part of any consent. There is no impact on coastal processes or will lead to coastal hazards. The cumulative environmental impact is considered to be low, and localised. These matters are further discussed throughout this EIS.

4.3 Secretary's Environmental Assessment Requirements

The NSW Department of Planning and Environment's Secretary's Environmental Assessment Requirements (SEAR) 1338 issued 1st May 2019 by the delegate of the Secretary, Chris Ritchie, Director Industry Assessments (refer to *Appendix 1*). The SEAR confirms there were **no specific requirements applicable** for this proposal except the EIS must address the provision of the *State Environmental Planning Policy (Coastal Management) 2018*.

The SEAR states that the EIS must meet the minimum form and content requirements outlined in Schedule 2 of the Environmental Planning and Assessment Regulations 2000. Additionally, the EIS should be prepared in consultation with Port-Macquarie Hastings Council, the Rural Fire Service and other authorities, service providers and surrounding landowners, and address any issues they raise in the EIS. These matters are addressed within this current report.

4.4 State Environmental Planning Policy 44 – Koala Habitat Protection

In accordance with clause 7 and 8 of SEPP 44, Council must satisfy itself whether or not the subject land is potential or core koala habitat. It is noted that the site is not mapped within a designated Koala Habitat area on the PMH LEP 2011 maps.

The proposed development requires the removal of a scribbly gum (*Eucalyptus Signata*) which is an identified koala food species as per Schedule 2 of SEPP 44. The removal of this tree poses a safety concern to the new development, and has previously lost branches which have caused destruction to the rear boundary fence.

The Principal Ecologist of Biodiversity Australia has identified the scribbly-gum as a hollow-bearing tree, and it is likely to only have low habitat value for fauna. The advice identified a score of 12 in the Port Macquarie Hastings Development Control Plan 2013 Hollow Tree Protocol which places it in a medium constraint category. Trees in this category can be considered and granted approval by Council for removal if they are unsafe and impractical to retain. Biodiversity Australia's advice recommended that the tree be offset with two replacement fauna nesting boxes ideally being placed on existing mature trees at the front of the property. The boxes will need to be installed by an ecologist prior to removal of the tree. Removal of the hollow tree would also need to be supervised by an ecologist to recuse any fauna which may be nesting in the tree. The proposed site vegetation is therefore not considered as having significant potential or core koala habitat value.

In response to the above safety concerns and the ecological assessment, the advice provided by Biodiversity Australia identified that the scribbly gum tree can be removed with Council's consent. The recommendations of the ecologist assessment can be implemented as part of the development consent to mitigate any potential harm to the environment.

4.5 State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 (1) (A) of this planning instrument requires Council to consider whether land is contaminated in its assessment of a development application. Based on the available information regarding the site's history of residential use and its location, it is concluded that the subject site is unlikely to include any contaminated soil (or other contaminating agents) and that the site is suitable for the proposed development.

4.6 State Environmental Planning Policy - Building Sustainability Index 2004

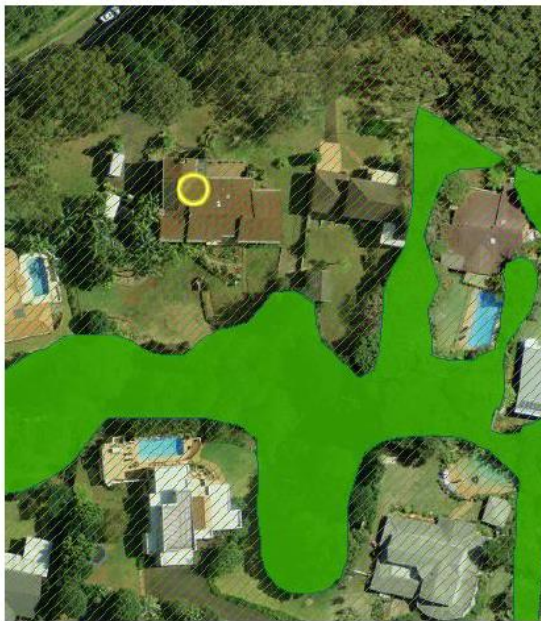
Regulations under the EPA Act 1979 have established the BASIX scheme to encourage sustainable residential development. The aim of this Policy is to ensure consistency in the implementation of the BASIX scheme

throughout the State for relevantly affected development which includes the subject DA. Consequently, a BASIX certificate has been submitted with the proposal in compliance with the SEPP.

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

The aim of this Policy is to determine exempt and complying development. The subject proposal does not meet the Complying Development SEPP standards. Consequently, the subject DA has been prepared and lodged with Port Macquarie – Hastings Council.

4.8 State Environmental Planning Policy (Coastal Management) 2018



The Coastal Management SEPP aims to promote an integrated and co-ordinated approach to land use planning by managing development in the coastal zone, protecting the environmental assets of the coast, and establishing a framework for land use planning to guide decision-making in the coastal zone.

The Coastal Management SEPP is relevant to the subject site as the vegetation within the southern (rear) boundary is mapped as littoral rainforest, and the entire site is within the proximity area (buffer) for Littoral Rainforests on the Coastal Management SEPP maps (Figures 13-15).

Figure 12: Mapped Littoral Rainforest (green) and proximity area buffer (hatched). Source: NSW Coastal Management SEPP 2018 maps

Statement of Environmental Effects
Proposed New Dwelling, Pool & Driveway Extension – Lighthouse Rd, PORT MACQUARIE

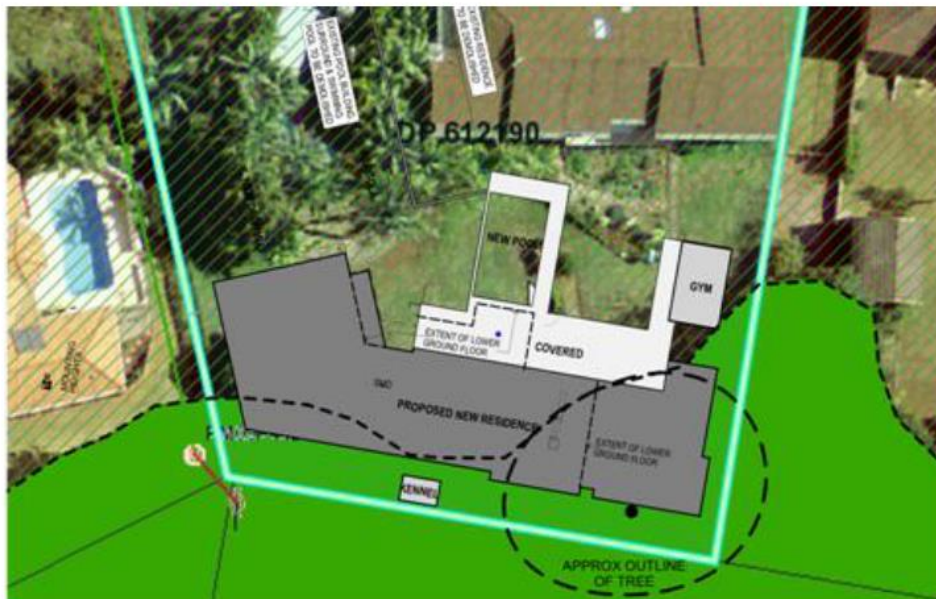


Figure 13: Aerial View overlaid with proposed Development and mapped Littoral Rainforest boundary.
Source: Prados & Snow Architects



Figure 14: Aerial View overlaid with proposed Development and mapped Littoral Rainforest boundary.
Source: Prados & Snow Architects

It is noted that the site is not within the Coastal Environment or Coastal Use Areas of the Coastal SEPP (refer to Figure 15).

Statement of Environmental Effects
Proposed New Dwelling, Pool & Driveway Extension – Lighthouse Rd, PORT MACQUARIE



Figure 15: Coastal SEPP mapping of Coastal Environment Area (blue) & Coastal Use Area (orange). Source: NSW Coastal Management SEPP 2018 maps

Relevantly, *Part 2, Division 1 Coastal wetlands and littoral rainforest area* of the Coastal Management SEPP identifies in clause 10, development that can occur within mapped littoral rainforest area but only with development consent. The proposed development is classified by clause 10(2) as 'designated development' for the purposes of the EP&A Act. This EIS has been prepared as a response to the 'designated development' classification.

In consideration of clause 11 - *Development on land in proximity to coastal wetlands or littoral rainforest* the provision states:

- (1) *Development consent must not be granted to development on land identified as "proximity area for coastal wetlands" or "proximity area for littoral rainforest" on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
 - (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
 - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

The Principal Ecologist at Biodiversity Australia completed a site inspection and vegetation assessment of the subject property in May 2019 to determine an accurate representation of the current vegetation present on the site, and determine if the mapped land on the site and to the south comprised Littoral Rainforest. In examining the likely impact of the development on the environment, the Biodiversity Australia assessment report concluded the subject site does not contain Littoral Rainforest stating:

“The site inspection has identified vegetation on the property. This assessment has concluded that the vegetation does not comprise Littoral Rainforest as it lacks the key floristic and structural attributes. Vegetation on adjoining land to the south is also unlikely to qualify as Littoral Rainforest at present, however it would have the potential to regenerate into Littoral Rainforest is (sic) weeds are removed. It is recommended that the Coastal SEPP mapping layer be amended to remove the Littoral Rainforest mapping from the subject site and adjoining land to the south”.

The Biodiversity Australia report assessed that vegetation present in the southern area of the site comprised exotic ornamental planting and lawns, with a single native tree. As identified:

“The vegetation to the south is unlikely to qualify as Littoral Rainforest EEC. This is due to the presence of exotic species which dominate the canopy and understorey layer. An accepted definition for rainforest states that the tree stratum with the greatest crown cover has rainforest species making up 50% or more of the crown cover (DEC 2004). This is clearly not the case with the vegetation in question. Furthermore, the community does not show evidence of maritime influence such as wind-shear and dieback from salt spray which is typical of Littoral Rainforest’....

Therefore, in light of these facts and the assessment of the proposal provided in this report, it can be comfortably established that there will be no impact on the integrity of any Littoral Rainforest or associated ‘proximity buffer’ area. Also, as per the SEPP requirements, the proposal will not impact on the biophysical, hydrological or ecological integrity of the locality, and the quantity and quality of surface and ground water flows associated with the Littoral Rainforest will be preserved.

4.9 State Environmental Planning Policy (State and Regional Development) 2011

In relation to SEPP (State and Regional Development) 2011, the subject development is not called up by the schedule 4A EPA Act 1979 thresholds and will thus be assessed and determined by Port Macquarie - Hastings Council as the relevant consent authority.

4.10 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The aim of this policy is to protect the biodiversity values of trees and other vegetation and preserve the amenity in non-urban areas of the State. The proposed development requires the removal of one tree. In this circumstance, the SEPP is not triggered as the clearing of vegetation is permitted with Council approval and the native vegetation biodiversity offset scheme threshold is not exceeded.

4.11 Planning for Bushfire Protection 2006

As stated in the description in Section 2 of this SEE, the subject site is classified as bushfire prone - partly Vegetation Buffer, part Vegetation Category 2 and part Vegetation Category 1 Bushfire prone land. A bushfire assessment has been prepared by a Certified Bushfire Consultant - Krisann Johnson who assessed the proposed development as requiring a BAL 19 rating. This bushfire assessment report has been submitted with the DA documentation.

The Bushfire Assessment Report identifies that the entire site will need to be treated as an Inner Protection Zone (IPZ) for the life of the building. The requirements for vegetation within this IPZ include:

- The canopy cover must be less than 15%
- Any canopy must be located more than 5m from any roofline
- Trees should have lower limbs removed up to a height of 2m above the ground (4m if emergency vehicles need to park next to or drive around them)
- Shrubs and gardens need to be 1.5m away from exposed windows and doors.

The Bushfire Assessment also includes management requirements relating to access, services, and landscaping and can form part of any consent approval. The report identifies that the new dwelling needs to comply with Section 3 and 6 (BAL 19) of AS 3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bushfire Protection 2006'. Consultation with the NSW Rural Fire Service and a Bushfire Safety Authority is required before the development can be approved.

Additionally, as the site is identified as bushfire prone land, the development consent can not be granted without referral and consideration of comments from the NSW Rural Fire Service. Any NSW RFS recommendations can be incorporated within the conditions of any development consent.

4.12 North Coast Regional Plan 2036

The NSW Department of Planning & Environment's North Coast Regional Plan 2036 (NCRP 2036) is a 20-year blueprint for the future of the North Coast.

The NCRP 2036 states that the NSW Government's vision for the North Coast is to create the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities.

To achieve this vision the Government has set four goals for the region:

- The most stunning environment in NSW
- A thriving, interconnected economy
- Vibrant and engaged communities

- Great housing choice and lifestyle options.

Under Goal 4 of “Great housing choice and lifestyle options” outlines the actions to be completed prepared, in collaboration with Councils relating to facilitating housing and accommodation options. The NCRP 2036 does not specifically identify this site, but Direction 23 of the NCRP 2036 encourages “implementing through local planning controls to provide housing choice and diversity, and liveable homes that are responsive to the changing needs of occupants”. The proposed development demolition and rebuilding of the dwelling, swimming pool and ancillary structures to respond to the owner’s changing needs could be considered as meeting the objectives of Direction 23.

4.13 National Parks and Wildlife Act 1974

This *National Parks and Wildlife Act 1974* (NPWS Act) deals with the creation and management of numerous types of reserves. It also provides statutory protection for Aboriginal ‘places’ under section 84 and Aboriginal ‘objects’ under section 90. It is noted that Aboriginal objects and places are afforded automatic statutory protection in NSW where it is an offence (without the consent of the Director General) to destroy, deface or damage, or knowingly cause or permit the destruction or defacement of or damage to, an Aboriginal object or Aboriginal place. The protection provided to Aboriginal objects applies irrespective of their significance or issues of land tenure. However, areas are only gazetted as Aboriginal places if the Minister is satisfied that sufficient evidence exists to demonstrate that the place is of special significance to Aboriginal people.

A search of the NSW Office of Environment and Heritage, Aboriginal Heritage Information Management System (AHIMS) has not been undertaken for this site, as the property is located within an existing urbanised area, has an existing dwelling, swimming pool and ancillary buildings constructed, and due to the level of disturbance on the site, is unlikely to reveal Aboriginal objects.

It is also noted that the NPWS Act also makes it an offence to pick or harm a threatened species, an endangered population or an endangered ecological community (s118A), damage a critical habitat (s118C) or do anything that causes damage to any habitat (other than a critical habitat) of a threatened species, an endangered population or an endangered ecological community if the person knows that the land concerned is habitat of that kind (s118D) unless the person is acting in accordance with, amongst other things, an approval issued under Part 5 of the Environmental Planning and Assessment Act 1979. The Act provides statutory protection for Aboriginal places or items, and these requirements can also form part of any consent to ensure protection of aboriginal relics should an item be identified.

In view of this information it is considered that the proposed development will not detrimentally impact any Aboriginal significance, and the management of Aboriginal objects and relics can be conditioned to reflect the NPWS Act as part of the development consent.

4.14 Fisheries Management Act 1994

The Fisheries Management Act 1994 relates to matters relevant to the dredging of waterways and the reclamation of land. The proposed development will have no impact.

4.15 Protection of the Environment Operations Act 1997

The Protection of the Environment Operations Act 1997 includes provisions relating to environmental offences and allows for the making of 'protection of the environment' policies.

Section 7 of the Act sets out its relationship to other Acts or laws as follows:

- (1) Other Acts not affected. Nothing in this Act affects any of the provisions of any other Act or any statutory rules, or takes away any powers vested in any person or body by any other Act or statutory rules.*
- (2) This Act generally prevails however (subject to subsection (3)):*
 - (a) this Act prevails over any other Act or statutory rule to the extent of any inconsistency, and*
 - (b) a regulation made under this Act prevails over any other statutory rule to the extent of any inconsistency.*

Subsection (3) is not relevant to this proposal.

The proposed works are not scheduled works and do not require an environment protection licence.

4.16 Water Management Act 2000

This Act binds the Crown and section 60(a) makes it an offence to take water otherwise than in accordance with an access licence. A Water Supply Works Approval for extraction of water from a natural water body and any other water body would be required from the NSW Office of Environment and Heritage - Department of Primary Industries (Office of Water). No water extraction of a water body is proposed in the subject development.

4.17 Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) establishes a requirement for Commonwealth environmental assessment and approval for actions that are likely to have a significant impact on matters of national environmental significance or on the environment on Commonwealth land.

As outlined by the Environment Australia ecological assessment accompanying this EIS, the proposal has been assessed as to whether it has, will or is likely to have a significant impact on the environment. An examination of the identified "matter of national environmental significance" as listed in the EPBC Act, it is

considered that there would be no significant impacts on the environment or on Commonwealth land and that there would be no impacts on matters of national environmental significance.

4.18 Roads Act 1993

The proposed works are not being undertaken within a formal road reserve and are not therefore subject to the provisions of the *Roads Act 1993*.

5. Local Planning Provisions

5.1 Port Macquarie Hastings Local Environmental Plan 2011

As indicated by the following map extract from the Port Macquarie Hastings Local Environmental Plan 2011 (PMH LEP 2011) the subject site is zoned E4 Environmental Living. A “*Dwelling House*” is permitted with consent under the LEP definitions. The proposed alterations and additions to demolish the existing dwelling, swimming pool and ancillary buildings to replace with a new dwelling, swimming pool and ancillary buildings/structures and extension to the driveway are permissible with consent in the E4 zone.

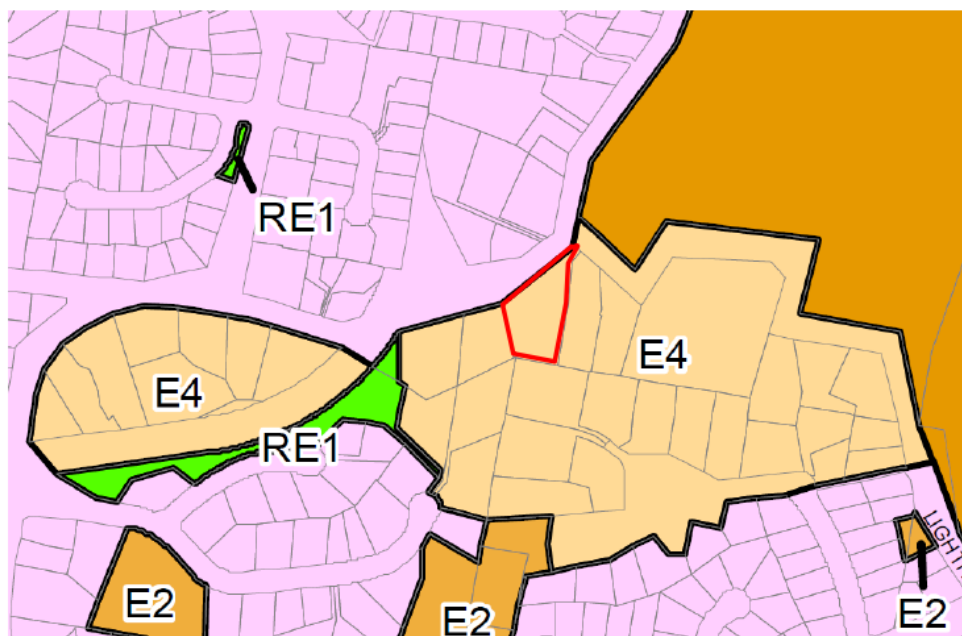


Figure 16: Zone with subject site highlighted. Source PMH LEP 2011 Map LZN_013G

The objectives of the E4 Environmental Living Zone from the PMH LEP 2011 are as follows:

“Zone R1 General Residential

Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*
- *To ensure that residential development does not have an adverse effect on those values.”*

The proposed development will continue to satisfy the objectives of the zone and is an appropriate form of development in the area.

Clause 4.3 – Height of Buildings of the PMH LEP 2011 controls the allowable building height measured from natural ground level to the roof on land subject to the LEP. The subject site is within an 8.5m mapped building height area which the subject dwelling will continue to comply with in the proposed works, (as indicated on the submitted architectural plans). There will be no detrimental impacts on adjoining properties through excessive bulk, scale, overshadowing or privacy (as demonstrated in this overall assessment).

Clause 4.4 – Floor Space Ratio of the PMH LEP 2011 controls the allowable floor space ratio (FSR) on land subject to the LEP. The subject site is located outside of the mapped or designated FSR areas of the LEP.

Clause 5.10 - Heritage conservation of the PMH LEP 2011, broadly seeks to conserve the environmental heritage of Port Macquarie-Hastings. It is noted that there are no mapped heritage items listed on the LEP maps adjoining the site or in its vicinity.

Clause 7.1 - Acid Sulfate Soils, of the PMH LEP 2011 seeks “to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage”. “Development consent is required for the carrying out of works described in the Table to this subclause on land shown on the (PMH LEP 2011) Acid Sulfate Soils Map as being of the class specified for those works”. The site is not listed on the map as being within an ASS area and will not include any works described in the subject LEP subclause table.

Clause 7.5 - Koala habitat, of the PMH LEP 2011 seeks to ensure that development is designed to retain koala habitat. As the site is not identified on the Koala Habitat map, this clause does not apply. Nevertheless, as provided earlier in this report, an assessment under SEPP 44 for the removal of the scribbly gum from the site has been undertaken by Biodiversity Australia and the advice indicated its removal will have minimal ecological impact on koala habitat.

5.2 Port Macquarie – Hastings Development Control Plan 2013

Chapter 3.2 (Low Density Residential Development) of the Port Macquarie – Hastings Development Control Plan 2013 (PMH DCP 2013) applies to the subject application, as this section of the DCP applies to all land in the LGA for development types defined as dwelling houses.

The following table outlines the relevant PMH DCP 2013 objectives and development provisions and an assessment of the amended proposal against each of these:

Chapter 3.2 Low Density Residential Development			
Objectives	Development Provisions	Complies Yes/No	Comment
2.3.3.1 Cut and fill regrading	Ensure that the design of any building or structure integrates with the topography of the land a) Development shall not exceed a maximum cut of 1m and fill of 1m measured vertically above the ground level (existing) at a distance of 1m outside the perimeter of the external walls of the building	X	The building has been architecturally designed incorporate under the building footprint a cut of up to 1.5m in order to positively use the topography of the land and therefore has a lower ground level and an upper ground floor. The future Construction Certificate will confirm compliance with all Council structural requirements.
2.3.3.2 To ensure retaining walls are functional, safe and positively contribute to the development and/or the streetscape	b) Any retaining wall greater than 1.0m must be certified by a certified practicing structural engineer.	✓	All work will be carried out in accordance with the relevant current Australian standards and the Building Code of Australia. Any retaining wall and details will be submitted as part of the Construction Certificate and will be certified by a structural engineer.
2.3.3.5 Environmental areas are to be appropriately protected and managed	a) Any habitat/vegetation which will be lost as a consequence of development is to be offset through the dedication of suitable land utilising expert ecological knowledge to determine the impact and offset based on the principle of 'improve and maintain'. b) Improvement and maintenance of existing habitat and corridors and the consolidation of fragmented bushland are to be considered as the first preference for any development offset.	✓	Biodiversity Australia has prepared an ecological report of the vegetation on site and surrounds. As the report concludes, the mapping is erroneous and no Littoral Rainforest will be impacted by the proposed development. This proposal will not have a significant environmental impact on threatened species, populations or their habitats, and no threatened flora species were detected. The impact to the environment to achieve this development will be

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Chapter 3.2 Low Density Residential Development			
Objectives	Development Provisions	Complies Yes/No	Comment
	<p>c) A Vegetation Management Plan (VMP) is to be prepared for any environmental land that is to be retained or used to offset development impacts.</p> <p>d) VMPS are required to address Council's VMP "Heads of Consideration"</p>		minimal providing the methods and safeguards as conditioned in the development consent are followed during the works.
2.3.3.7 To encourage proper management of Koala Habitat	For koala habitat refer to clause 7.5 of the Port Macquarie-Hastings LEP 2011.	✓	See assessment of cl 7.5 of PMH LEP 2011 in the report above. The site is not identified on the koala habitat LEP map.
<p>2.3.3.8 Hollow Bearing Trees -</p> <p>To assist with the conservation of biological diversity and promote ecologically sustainable development.</p> <p>To protect the habitat of those threatened species and populations that are dependent on hollow-bearing trees for their survival.</p> <p>To encourage the conservation of threatened species and populations by the adoption of measures involving co-operative management.</p> <p>To ensure that risk to people and property is minimised.</p>	<p>a) All hollow bearing trees within the development area are to be accurately located by survey and assessed by an appropriately qualified ecologist in accordance with Council's Hollow-bearing tree assessment (HBT) protocol.</p> <p>b) Any tree that scores less than 8 using the HBT assessment protocol may be considered for removal subject to compensatory measures specified below.</p> <p>c) Any tree that scores 8-12 using the HBT assessment protocol may be considered for removal if management measures are 'impractical to allow retention'</p> <p>d) Any tree that scores more than 12 using the HBT assessment protocol the assessment must be retained and afforded a development exclusion buffer or located within environmental lands.</p> <p>e) Where a development exclusion buffer is proposed it shall have a radius of 1.25 times the height of the tree measured from its base.</p> <p>Notes: i) The HBT assessment protocol is included at the end of this Chapter. ii) "Impractical to allow retention" means where the hazard rating, assessed under the Tree Hazard Evaluation Form (2nd Edition, as adopted by the</p>	✓	<p>The proponent has identified on their plans, the removal of a scribbly gum as it is located within the curtilage/footprint of the proposed dwelling.</p> <p>As discussed earlier in this report, Biodiversity Australia has identified the tree as "a hollow-bearing tree, although it is likely to only have low habitat value for fauna". It would score around 12 in the Port Macquarie Development Control Plan 2013 Hollow Tree Protocol which places it in the medium constraint category.</p> <p>Trees in this category can be considered for removal if they are unsafe or impractical to retain. The tree has some large dead branches, has previously dropped branches and destroyed the rear fence, and would likely pose a risk to the new development proposed on the property. Therefore, the proposal includes removal of this scribbly gum tree.</p>

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Objectives	Development Provisions	Complies Yes/No	Comment
	International Society of Arboriculture) results in a long term rating of more than 10.		
2.3.3.9 To ensure that where a HBT cannot be retained and managed safely within the future developed landscape, satisfactory and effective ameliorative and compensatory measures shall be implemented prior to removal of the tree	<p>a) A strategy for tree removal (timing and methodology) that minimises impacts on native wildlife shall accompany any development that proposes the removal of HBTs.</p> <p>b) The removal of HBTs is to be offset by the retention of recruitment trees. Compensatory recruitment trees shall be provided at the rate of two for one for trees that scored 8-12, and at the rate of one for one for trees that scored less than 8. A tree can be considered to be a compensatory recruitment tree under the following criteria:</p> <ol style="list-style-type: none"> 1. Does not have any major structural defects or is suffering from disease that would lead to premature death; and 2. Is from the same vegetation community and same genus; and 3. Are to be located within environmental lands and managed in accordance with a VMP; and 4. Have a DBH of 50cm or greater and do not possess hollows. For Blackbutt Eucalyptus pilularis a DBH of 100cm or greater applies. <p>c) The removal of HBTs are to be offset by the installation of nesting boxes of similar number and size as those to be removed.</p> <p>d) Nesting boxes are to be installed like for like (both type and number, and host tree to genus level) and must be located within proposed open space or environmental lands. Nesting Boxes are to be installed and maintained within environmental lands in accordance with a VMP. Nesting Boxes to be inspected and maintained by a qualified ecologist.</p>	✓	<p>As stated earlier in this report, the Biodiversity Australia's ecological advice recommended that the tree to be removed be offset with two replacement fauna nesting boxes ideally being placed on existing mature trees at the front of the property.</p> <p>The recommendation states that the boxes will need to be installed by an ecologist prior to removal of the tree. Removal of the hollow tree would also need to be supervised by an ecologist to recuse any fauna which may be nesting in the tree. The proposed site vegetation is therefore not considered as having significant potential or core koala habitat value.</p> <p>The recommendations of the ecologist assessment can be implemented as part of the development consent to mitigate any potential harm to the environment.</p>

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Objectives	Development Provisions	Complies Yes/No	Comment
	e) Any HBT that will not afford protection via an exclusion buffer or within environmental lands will attract the same offsetting requirements as if it was to be removed.		
<p>2.4.3.4 Bushfire Hazard Protection - To ensure bushfire management measures do not result in the loss of important habitat areas.</p> <p>To ensure that Council is not burdened with the ongoing costs associated with the maintenance of Asset Protection Zones.</p> <p>To provide a public interface to environmental assets.</p>	a) Asset Protection Zones are to be located outside of environmental protection zones and wholly provided within private land	✓	As stated previously in this report, as the land is identified as bushfire prone. A bushfire assessment has been prepared by a Certified Bushfire Consultant - Krisann Johnson who assessed the site as requiring a BAL 19 rating. This assessment and recommendations have been submitted with the DA documentation.
<p>2.4.3.6 Stormwater - To control and manage all stormwater generated within the development</p>	All stormwater infrastructure is designed in accordance with the Council's Auspec Design Specification Documents	✓	As required the stormwater infrastructure will be designed in accordance with the Council's and the Auspec Design Specification Documents. These documents will be provided as part of the future Construction Certificate.
<p>2.5.3.3 Parking provision - Adequate provision is made for off-street parking commensurate with volume and turnover of traffic likely to be generated by the development. To ensure no adverse impacts on traffic and road function</p>	<p>a) Off-street Parking is provided in accordance with Table 2.5-1, located at the end of this Chapter.</p> <p>b) Where a proposed development does not fall within any of the listed definitions, the provision of onsite parking shall be supported by a parking demand study</p>	✓	<p>Several options and adequate off-street parking and garaging have been provided for the proposed development.</p> <p>The parking is easily accessible and will have negligible impact on neighbour's amenity. The site includes landscaping to reduce any potential impact.</p>

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Objectives	Development Provisions	Complies Yes/No	Comment												
2.5.3.14 Car parking and manoeuvring on the site does not generate dust, erosion or contaminated runoff	a) All parking and manoeuvring areas shall be constructed with a coarse base of sufficient depth to suit the amount of traffic generated by the development, as determined by Council. It shall be sealed with either bitumen, asphaltic concrete, concrete or interlocking pavers. Preliminary details of construction materials for access and car parking areas shall be submitted with the development application. Detailed plans shall be prepared for the construction certificate by a practicing qualified Civil Engineer.	✓	The on-site parking and manoeuvring areas including the new driveway extension (which will be similar to the existing bitumen seal) will all be constructed according to the architectural plans. Further details will be lodged as part of the Construction Certificate.												
3.2.2.2 Front setbacks should support an attractive streetscape.	<p>a) Dwellings may incorporate an articulation zone to a street frontage at no less than 3m from property boundary.</p> <p>The following building elements are permitted within the articulation zone:</p> <ul style="list-style-type: none"> • an entry feature or portico, • a balcony, deck, patio, pergola, terrace or verandah, • a window box treatment, • a bay window or similar feature, • an awning or other feature over a window, • a sun shading feature. <p>These building elements should not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the dwelling house.</p> <p>b) In all other cases the primary front setback should be provided as follows:</p> <table border="1"> <thead> <tr> <th>Street Frontage</th> <th>Setback (m)</th> </tr> </thead> <tbody> <tr> <td>Classified road – any frontage</td> <td>6.0m</td> </tr> <tr> <td>Primary Frontage</td> <td>4.5m</td> </tr> <tr> <td>Secondary Frontage</td> <td>3.0m</td> </tr> <tr> <td>Ancillary Lane</td> <td>2.0m</td> </tr> <tr> <td>Large lot residential and rural zones</td> <td>10.0m</td> </tr> </tbody> </table>	Street Frontage	Setback (m)	Classified road – any frontage	6.0m	Primary Frontage	4.5m	Secondary Frontage	3.0m	Ancillary Lane	2.0m	Large lot residential and rural zones	10.0m	<div>✓</div> <div>✓</div>	There is adequate setback of the dwelling from the main frontage along Lighthouse Road, and the secondary frontage with Pacific Drive. The proposed development easily retains compliance with the DCP street frontage setbacks.
Street Frontage	Setback (m)														
Classified road – any frontage	6.0m														
Primary Frontage	4.5m														
Secondary Frontage	3.0m														
Ancillary Lane	2.0m														
Large lot residential and rural zones	10.0m														
3.2.2.3 To minimise the impact of garages and driveways on the streetscape, on street parking and amenity.	<p>A garage, carport or car parking space should:</p> <p>a) be at least 1m behind the building line, where the dwelling(s) has a setback from a front boundary of 4.5m or more, or</p>	✓	With the above stated front and secondary setbacks, landscape elements, staggered design of the new dwelling, the garage (including 6m opening), driveway and parking areas will have minimal impact on the amenity of												

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Objectives	Development Provisions	Complies Yes/No	Comment
To minimise the visual dominance of garages in the streetscape.	b) be at least 5.5m from a front boundary, where the dwelling(s) has a setback of less than 4.5m. c) The total width of the garage/carport opening should not be more than 6m and not more than 50 per cent of the width of the building. d) Driveway crossovers are a maximum of 1/3 of the site frontage and no greater than 5.0m in width. e) Where a dual occupancy or attached dwelling is proposed on a corner lot a garage and driveway is provided on each road frontage.	<div style="text-align: center;">✓</div> <div style="text-align: center;">✓</div>	the locality.
3.2.2.4 To allow adequate natural light and ventilation between dwellings/ buildings and to private open space areas. To provide useable yard areas and open space.	a) A minimum rear boundary setback of 4m is to be provided to dwellings (including verandas, patios and decks). A minimum rear boundary setback of 900mm applies to sheds and swimming pools subject to achieving minimum required private open space area. b) Council may consider varying rear setback requirements where it is demonstrated that the private open space could achieve better solar access between the building and the side setback. c) In that instance one side setback should be a minimum 4.0m in width (for an equivalent length of rear boundary, behind building line) and the rear setback may be reduced to 900mm. d) A detailed site analysis is to be provided indicating the impact of the design on adjoining dwellings and open space areas.	X	<p>The dwelling is proposed to be setback 3m off the rear boundary. A variation of 1m to the DCP requirement is therefore requested.</p> <p>The subject rear setback will comprise a landscape strip and includes a domestic dog kennel.</p> <p>It is assessed that the proposed 1m variation to the DCP rear setback standard should be permitted in the circumstances of this site given:</p> <p>The dwelling's unusually large front yard within a landscaped setback, the overall (non-standard) size of the allotment, the location of key outdoor uses to the front of the site and which actually reduce opportunity for potential neighbour impacts on acoustic and aural privacy, and retention of solar access to the area will contribute to maintaining a useable yard and open space at the front of the building.</p> <p>The dwelling has been designed to positively utilise the topography of the land, to capture natural light and ventilation. The requested variation will not impact negatively on any neighbours, with the 3m setback being successfully mitigated by the substantial existing vegetation along the southern property</p>

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Objectives	Development Provisions	Complies Yes/No	Comment
			<p>boundary and the fact that the rear setback is significantly down slope of neighbouring property.</p> <p>This lower topography combined with the existing significant vegetation will ensure no loss of acoustic or aural privacy or sunlight to any neighbour from the 1m variation.</p> <p>The private open space for the new proposed dwelling is all located at the front of the dwelling including a pool, spa, gym, terrace and landscaped lawns etc which will result in an improved overall acoustic impact on neighbours compared with standard rear yard designs.</p> <p>Additionally, there will no detrimental impact on neighbour's due to overshadowing as their dwellings are significantly setback from the boundary.</p> <p>As the neighbour's dwelling is located to the rear are upslope of the proposed development, potential impacts of the reduced setback are limited. Impacts of the proposed development on the side neighbours will also be minimal as the development is tucked behind their dwellings</p> <p>Consequently, the 3m rear setback is supported on merit and recommended for approval by Council.</p>

Chapter 3.2 Low Density Residential Development			
Objectives	Development Provisions	Complies Yes/No	Comment
<p>3.2.2.5</p> <p>To reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy.</p> <p>To provide for visual and acoustic privacy between dwellings.</p>	<p>a) Ground floors should be setback a minimum of 900mm from side boundaries.</p> <p>b) First floors and above should be setback minimum of 3m from the side boundary or reduced down to 900mm where it can be demonstrated that the adjoining property primary living areas and primary private open space areas should not be adversely overshadowed for more than 3hrs between 9am-3pm on 21 June.</p> <p>c) Building walls are to step in and out at least every 12m by a minimum of 500mm.</p>	<p>✓</p> <p>✓</p> <p>✓/x</p>	<p>The side boundaries are proposed to be a minimum 2m on the western side boundary and 1.6m from the eastern side boundary. As indicated previously the new dwelling will be set back well behind the existing side neighbour's dwellings therefore reducing any potential negative impacts or overshadowing that may result from reduced setbacks.</p> <p>The neighbouring allotments are also generously sized so impacts are considered to be minor.</p> <p>All proposed dwelling walls lengths comply except one rear wall section, which is 18.2m long. This 18m wall length is orientated to the rear boundary, behind substantial existing vegetation and well downslope of neighbouring dwellings. Additionally, the upper ground level of this wall includes articulation achieved by various windows incorporated within the design. No negative visual or privacy impacts result from the additional 6.2m in proposed wall length.</p>
<p>3.2.2.6 To encourage useable private open space for dwellings to meet the occupants requirements for privacy, safety, access, outdoor activities and landscaping.</p>	<p>a) All dwellings should have a minimum area of private open space of 35m² in one area, with</p> <p>b) a minimum dimension of 4m x 4m; and</p> <p>c) a maximum grade of 5% for minimum 4m x 4m of the total open space requirement; and</p> <p>d) direct accessibility from a ground floor living area.</p> <p>e) Private open space may include clothes drying areas and garbage storage.</p>	<p>✓</p>	<p>The proposal complies with the private open space area and minimal dimension requirements of the DCP.</p>
<p>3.2.2.7 To define the edge between public and private land and to provide privacy and security.</p> <p>To ensure the adequate sight lines are</p>	<p>a) Front fences built forward of the building line for the primary road frontage should be detailed on the development application plans.</p> <p>b) Solid Front fences should be:</p> <ul style="list-style-type: none"> • A maximum of 1.2m in height, and 	<p>✓</p> <p>N/A</p>	<p>The fencing and automated galvanised gates on both driveway entrances have been previously considered and approved by Council.</p> <p>Aside from the above, the fences and gates will not be significant elements in the streetscape due</p>

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Objectives	Development Provisions	Complies Yes/No	Comment
<p>provided for vehicles leaving the site. To ensure front fencing does not impact on the public domain. To encourage surveillance of the street and other public places.</p>	<ul style="list-style-type: none"> • Setback 1.0m from the front boundary, and • Suitably landscaped to reduce visual impact, and • Provide a 3m x 3m splay for corner sites. <p>c) Where a front fence is proposed to be more than 1.2m high:</p> <ul style="list-style-type: none"> • be a maximum of 1.8m in height, above existing front property boundary level, and • either: <ul style="list-style-type: none"> • Include landscaped recesses having minimum dimensions of 1.8m long x 900mm deep which occupy no less than 50% of the total length of the fence, or • be erected up to the front boundary for a maximum length of 6.0m or 50% of the street frontage, • have openings which make it not less than 25% transparent; • provide a 3m x 3m splay for corner sites, and • provide a 900mm x 900mm splay for vehicle driveway entrances. 	✓	<p>to the existing vegetation present on the site's boundaries and within the road reserves (as can be seen in the site and aerial photos earlier in this report).</p>
<p>3.2.2.10 To protect the visual privacy of on-site and nearby residents.</p>	<p>a) Direct views between primary indoor and outdoor living areas of adjacent dwellings, including possible dwellings on future lots, should be obscured or screened where:</p> <ul style="list-style-type: none"> • ground and first floor windows are within a 9m radius from any part of the window of the adjacent dwelling; • other floor windows are within a 12m radius; • direct views from living rooms of dwellings into the principle area of private open space of other dwellings should be screened or obscured where they are within a 12m radius. • A deck, patio, pergola, terrace or verandah has a setback of less than 3m from a side or rear boundary and is greater than 3m² and more than 1m above ground level. 	✓	<p>The proposed development will protect the visual privacy of on-site and nearby residents, and due to the staggered dwelling design does not do not include any primary indoor or outdoor living areas adjoining a common boundary with direct views to the adjoining property.</p> <p>Thus, the development complies with the stated DCP privacy requirements and will preserve the amenity of all adjoining properties.</p>

6. Environmental Planning Assessment

6.1 s.4.15C (1)(a)(I) the provision of any Environmental Planning Instrument (EPI)

Consideration of the following EPI's has been included in this report in section 4.0:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy - Building Sustainability Index 2004
- State Environmental Planning Policy (Coastal Management) 2018
- Port Macquarie Hastings Local Environmental Plan 2011

Planning for Bushfire Protection 2006 has also been considered in section 5.10 of this report.

6.2 s.4.15C (1)(a)(ii) the provision of any draft Environmental Planning Instruments

Not applicable.

6.3 s.4.15C (1)(a)(iii) any Development Control Plan

Consideration of the Port Macquarie Hastings DCP 2013 has been included in Section 7.2 of this report.

6.4 s.4.15C(1)(a)(iv) any matters prescribed by the regulations

Not applicable.

6.5 s.4.15C (1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Context and Setting

The subject proposal will be in keeping with the established residential / environmental living zone and context of the site and locality. As stated earlier in this report, the proposed development is commensurate in scale and design to the existing dwellings in the area. The overall assessment of the proposal including ecological examination and analysis by Biodiversity Australia of the potential impacts on Littoral Rainforest

and koala trees, concluded that the proposed development will result in minimal environmental impacts. The proposed architecturally designed dwelling will be in context with its surroundings. The proposal is also considered to be appropriate within the E4 Environmental Living zone in view of its compliance with the LEP zone objectives and the DCP development requirements.

Access, Transport and Traffic

The proposal will be adequately serviced by the existing urban streets and it will not create any unreasonable impacts that exceed the capacity of the local road system or intersections.

Public Domain

The proposal will not have an adverse impact on the public domain. With the existing generous front and setbacks to the site's road frontages the proposed new dwelling will not create an overbearing bulk or scale to the neighbouring areas or public domain.

Utilities

The proposed development will not create any unreasonable impacts on the existing utility services available to the subject site.

Heritage

The proposal is not listed as a heritage item under the PMHC LEP 2011 nor is it in the vicinity of any other listed item.

Flora and Fauna

As the Biodiversity Australia assessment concludes, no significant flora or fauna will be affected by the proposal. As noted in this report the removal of the scribbly gum tree can be offset and recommendations regarding the tree removal and future management can form part of the development approval.

Energy

No specific energy issues have been identified; the dwelling has been designed in accordance with the recommendations of the submitted BASIX certificate.

Noise and Vibration

The demolition work and construction of the new dwelling, and ancillary buildings and structures will involve the normally expected level of noise. This all will be temporary and will be managed by standard conditions of development consent issued by Council. No ongoing noise out of character with the existing nature of the area will be associated with the proposed development and residential characteristics.

Contaminated Land

Not applicable.

Technological Hazards

Not applicable.

Social Impact in the Locality

The site already has a dwelling constructed which is proposed to be demolished, and a newly detached dwelling constructed. This on-going use of the site is a reasonably expected development in the locality and thus the proposal will have a neutral social impact in the area.

Economic Impact in the Locality

There may be a small positive economic impact on the locality generated by the approval and construction work associated with the structure.

Construction

Construction of the development will be undertaken in accordance with the approved plans and in accordance with Council standards and the conditions on the development consent.

Stakeholder and Community Consultation

The proposed development was advertised and notified twice by Council, including the second notification as a 'designated development' for the required timeframes. The Department of Planning and Environment Secretary's Environmental Assessment Requirement (SEAR) notification no. 1338 dated 1 May 2019, did not require any additional community consultation than as required to meet the EIS minimum form and content requirements outlined in Schedule 2 of the Environmental Planning and Assessment Regulation 2000, and that the EIS address the provisions of the SEPP (Coastal Management) 2018 (which are addressed earlier in this report). These matters have been addressed within this EIS. Consultation has therefore been satisfactorily undertaken and submissions considered.

Cumulative Impacts

It is unlikely that the proposed development will have any significant cumulative impacts on the area. As outlined in the preceding environmental assessment the impacts from the proposal will be minor and within the normal bounds of expectation without any cumulative effects.

6.6 s.4.15C (1)(c) suitability of the site for development

Having regard to the location of the subject site and the preceding assessment of the proposal, the site will adequately accommodate the development in that:

- The proposed dwelling, and associated structures and works are development that is reasonably expected in the E4 Environmental Living zone and will be in keeping with this existing context of the locality;

- The proposed development and associated works will generally comply with the LEP and DCP requirements and will not create any unreasonable overshadowing, bulk and scale or privacy issues to the adjoining properties or public areas;
- The construction and installation of the proposed development will be done in a manner that minimises impacts on the surrounding land and the wider environment

6.7 s.4.15C (1)(d) submissions made in accordance with the Act or the Regulations

Port Macquarie - Hastings Council as the Consent authority will need to consider any submissions received in response to the public exhibition of the proposed development. One submission was received from the rear neighbour indicating:

- the common boundary should be increased by a further 2 metres
- establishment of a green buffer zone at least 1m between the common boundary, and advise agreed provision for any possible future trimming of the vegetation on the boundary
- relocate the proposed dog kennel at the rear of the dwelling to the northern side of the proposed dwelling
- gum tree to be retained or if not possible, make provision for its replacement
- the rainwater tank be abutted to the new building as opposed to the boundary fence

In response to the matters raised in the submission, the proponents have made argument (as identified throughout this report) to explain the variation to the DCP building setback requirement, and minimal impact resulting. A managed landscaping strip at the rear of the dwelling has been incorporated in the landscape design. The dog kennel has been retained in its current location at the rear of the dwelling, however the rainwater tank has been relocated. The gum tree is proposed to be removed and offset arrangements and management can be implemented on-site.

6.8 s.4.15C (1)(e) the public interest

There are no known Federal and/or State Government policy statements and/or strategies other than those discussed in this report that are of relevance to this particular case. AAP is not aware of any other circumstances that are relevant to the consideration of this development application. The proposed development is demonstrably in the public interest.

7. Summary of Need and Options Considered

7.1 Description and Objectives of the Development

This report updates the Statement of Environmental Effects prepared by Robert Snow Architects lodged with the Development Application (DA 2019 – 154.1) for demolition of an existing dwelling and swimming pool, and the construction of a new replacement dwelling, swimming pool and driveway extension. The proponent has lodged with the development application - site and location plans, floor plans, roof plan, reflected ceiling plans, sections, elevations, 3D solar shading views, window and door schedules, identifying the various characteristics of the proposed development. In response to Council comments, amended architectural plans have been submitted by the proponent, and have assisted to inform this EIS report.

As the subject property has been partly mapped as Littoral Rainforest under State Environmental Planning Policy (Coastal Management) 2018, (Coastal SEPP) and a portion of the development is to be located within this mapped area, the proposal is declared to be designated development, and has been notified. Under the Coastal SEPP, the preparation of an Environmental Impact Statement (EIS) is required to accompany the development application. This EIS has been prepared in accordance with the Planning Secretary's Environmental Assessment Requirements (SEARs).



Figure 17: Aerial View overlaid with proposed Development and mapped Littoral Rainforest boundary.
Source: Prados & Snow Architects

7.2 Analysis of Development & Description of the Environment

The subject property comprises a 3578m² parcel of land at 42 Lighthouse Road, Port Macquarie, legally known as Lot 1 in DP 612190. The property has been partially cleared with some scattered mature trees remaining in the northern and western boundaries (along Pacific Drive) and southern areas of the site. Other areas of the property comprise lawns and ornamental plantings. The EIS has analysed and assessed the following:

- Land Use / Planning Constraints (ie zoning, land use, existing development and services) and proposed development
- Bio-physical Constraints of the subject land (ie vegetation, hydrologic considerations, geology/ soils)
- Likely impact on the environment due to the development / activity / infrastructure
- Proposed mitigation measures to mitigate any adverse effects of the development / activity / infrastructure on the environment
- Reasons justifying the carrying out the development/ activity/ infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development

The Principal Ecologist at Biodiversity Australia completed a site inspection and vegetation assessment of the subject property in May 2019 to determine an accurate representation of the current vegetation present on the site, and determine if the mapped land on the site and to the south comprised Littoral Rainforest.

The Biodiversity Australia report assessed that vegetation present in the southern area of the site comprised exotic ornamental planting and lawns, with a single native tree. As identified:

“The vegetation to the south is unlikely to qualify as Littoral Rainforest EEC. This is due to the presence of exotic species which dominate the canopy and understorey layer. An accepted definition for rainforest states that the tree stratum with the greatest crown cover has rainforest species making up 50% or more of the crown cover (DEC 2004). This is clearly not the case with the vegetation in question. Furthermore, the community does not show evidence of maritime influence such as wind-shear and dieback from salt spray which is typical of Littoral Rainforest’....

In assessing the reasons for the erroneous mapping, the Biodiversity Australia research identified that the 2013 study prepared by Biolink to derive the Port Macquarie-Hastings Council's local government area (LGA) vegetation mapping was likely to have some inaccuracies due to the study being carried out at the LGA scale, and identified that it should have been subject to ground truthing at a site scale.

Additional advice was also sought from Biodiversity Australia regarding the removal of an existing scribbly gum located within proximity to the footprint of the proposed development. The scribbly gum is considered unsafe and impractical to retain as the dead branches and structure poses a dangerous risk to the new development proposed on the property, and adjoining neighbour's fence.

7.3 Likely Impact on the Environment

In examining the likely impact of the development on the environment, the Biodiversity Australia report concludes the subject site does not contain Littoral Rainforest stating:

“The site inspection has identified vegetation on the property. This assessment has concluded that the vegetation does not comprise Littoral Rainforest as it lacks the key floristic and structural attributes. Vegetation on adjoining land to the south is also unlikely to qualify as Littoral Rainforest at present, however it would have the potential to regenerate into Littoral Rainforest is (sic) weeds are removed. It is recommended that the Coastal SEPP mapping layer be amended to remove the Littoral Rainforest mapping from the subject site and adjoining land to the south”.

Therefore, the proposed development will have minimal environmental impact (and no direct impact) on any Littoral Rainforest area or associated ‘proximity area / buffer’ identified by the Coastal SEPP.

The proponent has identified on their plans, the removal of a scribbly gum as it is located within the curtilage/footprint of the proposed dwelling. Biodiversity Australia has identified the tree as “a hollow-bearing tree, although it is likely to only have low habitat value for fauna”. It would score around 12 in the Port Macquarie Development Control Plan 2013 Hollow Tree Protocol which places it in the medium constraint category. Trees in this category can be considered for removal if they are unsafe or impractical to retain. The tree has some large dead branches, has previously dropped branches and destroyed the rear fence, and would likely pose a risk to the new development proposed on the property. Biodiversity Australia advice has recommended to offset the removal of the scribbly gum tree, by installing two replacement fauna nesting boxes.

7.4 Analysis of Feasible Alternatives to carrying out of Development and Mitigation Measures

In terms of mitigating potential environmental harm, the following matters have been considered:

a) “Do Nothing” –

Comment: The proponent could maintain the existing dwelling and structures and propose no new development. This is not an acceptable or preferred option as the proposed development is permissible in the zone, at the development will be a significant improvement on the current dwelling and result in reduced neighbour impacts due to the reorientation of key site uses including the pool and key recreation and open space on the site. The DA application was therefore lodged.

There is no Littoral Rainforest located on the site, that will be impacted as a result of the development. Taking a precautionary approach, the existing scribbly gum located at the rear of the property is considered unsafe and impractical to retain given the existing dead branches and its structure poses a danger to existing users of the rear yard and a risk to the new development

proposed on the property. Council could therefore recommend its removal and indicate offset arrangements within the conditions of consent.

b) "Remove mapping constraint" –

Comment: The Biodiversity Australia report concludes that the mapped Littoral Rainforest is erroneous, and the subject Coastal SEPP mapping layer should be removed from the subject site and the adjoining land to the south. An application to the NSW Department of Planning and Environment has been made for removal of the erroneous mapping layer. However the amendments to the SEPP schedule dictate the timing of this constraints layer removal is not until the end of 2019 at the earliest, so awaiting rectification of the mapping layer prior to lodging the DA is considered unviable due to the lengthy time delays to begin works.

c) "Offset the scribbly gum with replacement nesting boxes"

Comment: Biodiversity Australia advice has discussed as recommended to offset the removal of the scribbly gum tree, in the existing rear yard by installing two replacement fauna nesting boxes. Ideally these would be placed on existing mature trees at the front of the property. The boxes would need to be installed by an ecologist prior to removal of the scribbly gum tree. Removal of the tree would also need to be supervised by an ecologist to ensure no impact on any fauna that could potentially be using the tree. These matters can be conditioned as part of the development consent.

d) "Respond to neighbour's concerns"

Comment: The proponents have relocated the water tank and moved it off the rear property boundary. The proposed dog kennel is exempt development and does not require development consent. An option could consider the relocation of the dwelling further from the rear fence line, however it is noted the dwelling would only need to be moved 1m further north to comply with Council's DCP standard. Relocation of the dwelling is not supported for the reasons detailed in this EIS, which include improved overall benefits for the existing neighbours. The dwelling has been architecturally designed to utilise the topography of the land and the dwelling sits well within the existing landscape. The DCP can be varied by Council to permit the proposed reduced rear building setback. However, as this assessment has indicated, the neighbouring dwelling is set significantly upslope of the subject new dwelling, and with private open space and amenity being preserved by the dense vegetation and topography, which effectively separate the two dwellings. Impacts are considered negligible.

e) "Respond to granny-flat prohibition"

Comment: The architectural plans have now been amended to change the granny flat to a guest bedroom and cooking facilities have been removed.

f) “Respond to potential Bushfire Hazards”

The Bushfire assessment report identified that the site has a bushfire attack level of BAL 19, and as such will need to be treated as an Inner Protection Zone for the life of the building. Consequently, the new dwelling will need to comply with Sections 3 and 6 (BAL 19) of AS 3959-2009 ‘Construction of buildings in bush fire prone areas’ and section A3.7 Addendum Appendix 3 of ‘Planning for Bushfire Protection’. The Bushfire assessment identifies requirements for the management of the site including vegetation, services, landscaping to ensure Inner Protection Zone. The proponent has also identified a landscape strip planted along the full extent of the rear boundary.

The environmental matters considered and safeguards outlined in this assessment can be incorporated into the detailed design phase and instigated during construction and operation of the proposal. No significant adverse impacts arising from the proposed works on the surrounding environment has been identified.

7.5 List of Approvals Required before Development can be carried out

The following approvals are required:

- Development Consent under the Environmental Planning and Assessment Act 1979
- Construction Certificate
- Swimming Pool Compliance Certificate
- Section 68 Approval for private supply of water, stormwater and sewerage plumbing and drainage under the Local Government Act 1993
- Water Management Compliance Assessment Certificate
- Section 138 approval for works in the road reserve under the Roads Act 1997
- Section 100B of the Rural Fires Act 1997
- NSW Department of Planning - Secretary’s Environmental Assessment Requirements (SEARS)

These approvals will form part of the requirements and documentation related to the development consent.

8. Conclusion

This EIS has been prepared as a requirement under the Coastal SEPP as a portion of the development is located within a mapped Littoral Rainforest area, and consequently the proposal is declared to be designated development. However as indicated, the ecological assessment by Biodiversity Australia has identified that the mapping is erroneous and no Littoral Rainforest will be impacted by the proposed development.

This proposal will not have a significant environmental impact on threatened species, populations or their habitats, and no threatened flora species were detected. The direct impact to the environment to achieve this development will be minimal providing the methods and safeguards as conditioned in Council's anticipated development consent are followed during the works.

The proposed demolition, construction of a new dwelling and buildings and ancillary structures, and new driveway extension is permissible in the zone, is consistent with the zone objectives and has general planning merit. The proposal as outlined and assessed in this report is recommended to Council as a positive response to the ongoing demand for housing in the Port Macquarie LGA, whilst being compatible with, and respectful of the existing surrounding context. As noted earlier the subject development will have minimal environmental impacts and will comply with Council's applicable development standards. The proposal is appropriate for its site and location and is recommended for Council's approval.

Statement of Environmental Effects
Proposed New Dwelling, Pool & Driveway Extension – Lighthouse Rd, PORT MACQUARIE

9. Certification

This Environmental Impact Statement provides a true and fair review of the proposal in relation to its potential effects on the environment. It addresses to the fullest extent possible all matters affecting or likely to affect the environment as a result of the proposal.



Michelle Chapman

PIA Fellow, Registered Town Planner
Master Town Planning
Bachelor Urban & Regional Planning (Hons)
Member Planning Institute Australia
Director, Principal Planner

ALL ABOUT PLANNING

Attachment I

Planning Secretary's Environmental Assessment Requirements (SEAR) 1338, dated 01 May 2019
NSW Planning & Environment

**Industry Assessments**

Contact: John Booth

Phone: (02) 8275 1281

Email: john.booth@planning.nsw.gov.au

Ms Michelle Chapman
Director
All About Planning
PO Box 2196
PORT MACQUARIE NSW 2444

SEAR 1338

Dear Ms Chapman

**Proposed Demolition and Construction of Residential Dwelling
42 Lighthouse Road, Port Macquarie (Lot 1 DP 612190) – Port Macquarie Hastings LGA
Planning Secretary's Environmental Assessment Requirements (SEAR) 1338**

I refer to your correspondence dated 01 May 2019, seeking Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the proposed demolition of an existing dwelling and construction of new residential dwelling within mapped Littoral Rainforest.

The Department has reviewed the documentation submitted and confirms it has no specific requirements applicable to your proposal, except that the EIS must address the provisions of the *State Environmental Planning Policy (Coastal Management) 2018*. In addition, you should ensure that your EIS meets the minimum form and content requirements outlined in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*.

You should ensure that your EIS is prepared in consultation with Port-Macquarie Hastings Council, the Rural Fire Service and any other relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.

If you do not lodge an application under Section 78A (8) of the *Environmental Planning and Assessment Act 1979* within 2 years of the date of this letter, you must consult with the Secretary in relation to any further requirements for lodgement.

Should you have any further enquiries, please contact John Booth, Planning Services, at the Department on (02) 8275 1281.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Ritchie'.

Chris Ritchie

Director**Industry Assessments**as delegate of the Secretary

1/5/19

Attachment 2

Revised Architectural Plans Proposed New Residence, No 42 Lighthouse Road, PMQ, Rev: A & B, dated: 10/03/19 & 17/05/19, prepared by Rob Snow Architect

DEVELOPMENT APPLICATION

D R A W I N G T R A N S M I T T A L :

Drawing No:	Description	Issue / Revision	10/03/19	17/05/19
0.1-B	COVER SHEET		A	B
1.1-A	GENERAL NOTES & SITE LOCATION PLAN		A	
1.2-B	SITE PLAN		A	B
1.3-B	LOWER GROUND FLOOR PLAN		A	B
1.4-A	UPPER GROUND FLOOR PLAN		A	
1.5-A	ROOF PLAN		A	
1.6-B	LOWER GR. FL. REFLECTED CEILING PL.		A	B
1.7-A	UPPER GR. FL. REFLECTED CEILING PL.		A	
2.1-A	SECTIONS 1 & 2		A	
2.2-A	SECTIONS 3 & 4		A	
3.1-A	EAST & WEST ELEVATION		A	
3.2-A	NORTH & SOUTH ELEVATION		A	
3.3-A	3D VIEWS		A	
3.4-A	SOLAR SHADING VIEWS		A	
4.1-A	WINDOW SCHEDULE		A	
4.2-A	DOOR SCHEDULE		A	

T R A N S M I T T A L S H E E T / R E C O R D :

STATUS:	C = CONSTRUCTION; CC = CONSTRUCTION CERTIFICATE; CDC = COMPLYING DEVELOPMENT CERTIF. DA = DEVELOPMENT APPLICATION; PA = FOR APPROVAL; P = PRELIMINARY; S88 = S88 SUBMISSION; S98 = SECTION 98; T = TENDER			
REVISION:	DATE:	STATUS:	TO:	
REV: A	10/03/2019	DA	COUNCIL CLIENT AND DESIGN TEAM	
REV: A	17/05/2019	DA	COUNCIL, CLIENT AND DESIGN TEAM	



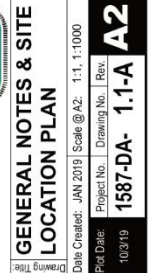
ROBERT SNOW ARCHITECT
NEW SOUTH WALES ARCHITECTS REGISTRATION BOARD NUMBER: 89659

PROPOSED NEW RESIDENCE LOT 1 DP 612190 No.42 LIGHTHOUSE
RD PMQ 2444

CLIENT: DR. KRISTIAN
PRADOS

COVER SHEET

Project No. | Drawing No. | Rev.
Plot Date: 10/3/19
1587-DA- 0.1-B
A2

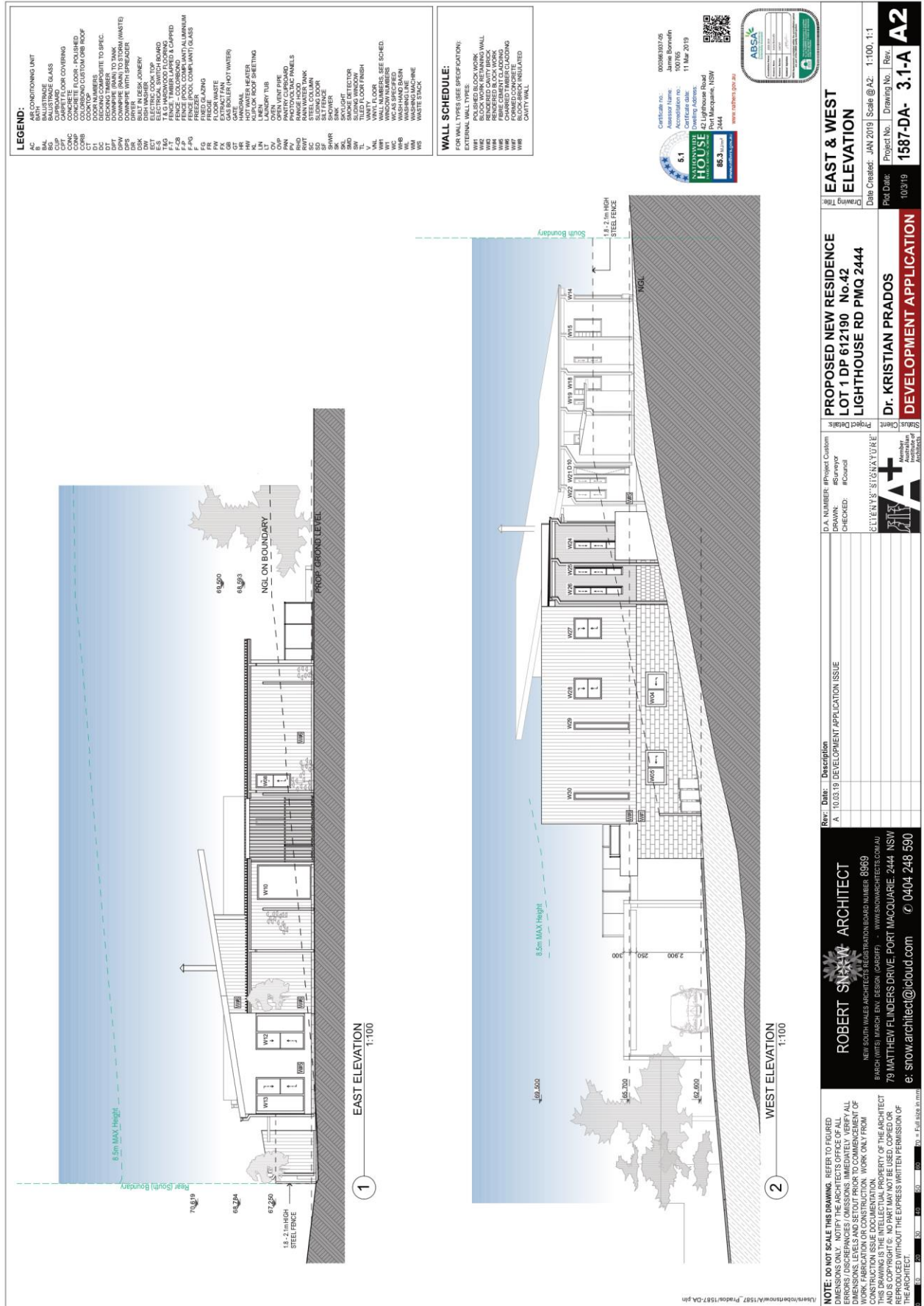
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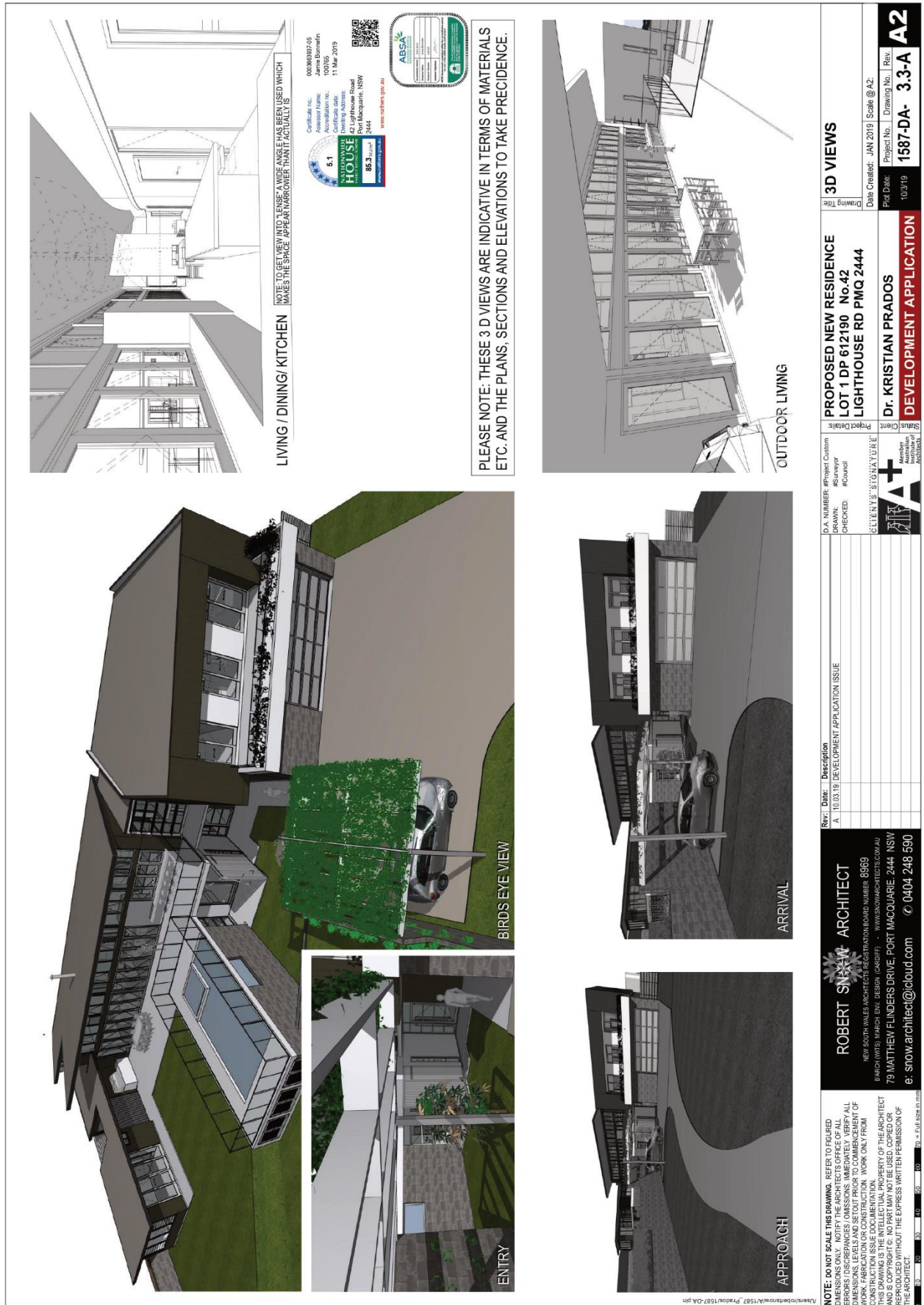


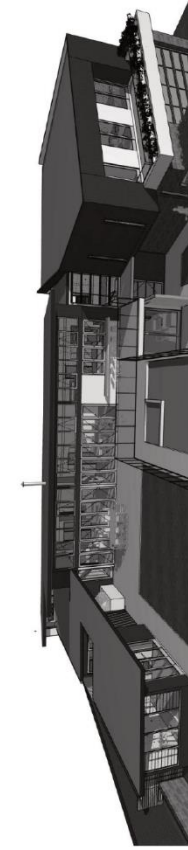




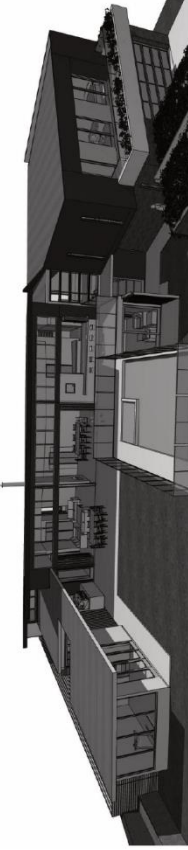









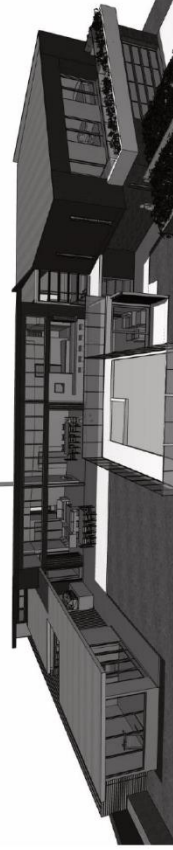
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SUMMER 3PM



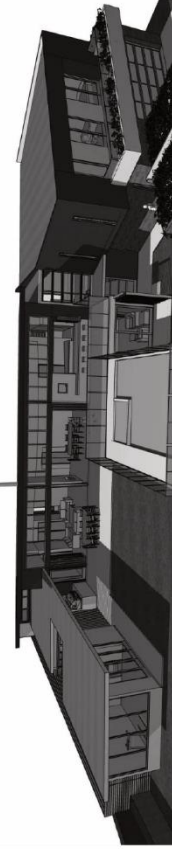
WINTER NOON



SUMMER NOON



WINTER 9AM



SUMMER 9AM

PLEASE NOTE: THESE 3D VIEWS ARE INDICATIVE IN TERMS OF MATERIALS ETC AND THE PLANS, SECTIONS AND ELEVATIONS TO TAKE PRECEDENCE.

5.1
HOUSE
For use in the development of a new house

88.3
For use in the development of a new house

Certificate No.: 100508397-05
Accreditation No.: 100765
Certificate date: 11 Mar 2019
Project Name: 42 Lighthouse Road
Port Macquarie, NSW 2444
www.snowarchitect.com.au

ABSA
Architectural Board of South Australia
Member since 11 Mar 2019

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ROBERT SNOW ARCHITECT
NEW SOUTH WALES ARCHITECTS REGISTRATION BOARD NUMBER 8869
ARCHITECT (WITH ARCHITECT DESIGN) (ASAP) - WWW.SNOWARCHITECTS.COM.AU
79 MATTHEW FLINDERS DRIVE, PORT MACQUARIE, 2444 NSW
e: snowarchitect@cloud.com t: 0404 248 590




Rev	Date	Description
A	10.03.19	DEVELOPMENT APPLICATION ISSUE

PROPOSED NEW RESIDENCE
LOT 1 DP 612190 No.42
LIGHTHOUSE RD PMQ 2444

Dr. KRISTIAN PRADOS
DEVELOPMENT APPLICATION

SOLAR SHADING VIEWS

Date Created: JAN 2019 Scale @ A2
Project No. 1587-DA-34-A
Drawing No. Rev. A2

WINDOW SCHEDULE			
W33	W34	W35	W36
N	N	N	N
Penetration	1,250	1,250	450
Height	5,110	5,110	3,600
Width	2,650	2,650	2,950
Window sill height	3,900	3,900	3,400
Window head height			
Glazing Type			
Notes:	CLERESTOREY WINDOW	CLERESTOREY WINDOW	CLERESTOREY WINDOW
levation			

GLASS TYPES:		
Type	U-Value	SHGC
1	4.8	0.59
2	6.7	0.70
3	4.9	0.33
4	4.9	0.33
5	4.8	0.34
6	4.8	0.51

DO NOT USE GLASS: - DRY IS

[illegible]

PROPOSED NEW RESIDENCE

D.A. NUMBER: #Project Custom	5
DRAWN-#Survivor	6

Rev:	Date:	Description
A	10.03.10	DEVELOPMENT APPLICATION ISSUE



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Business

LOT 1 DP 612190 No.42
LIGHTHOUSE RD PMO 2444

Checked:	# Council
----------	-----------

10.000.19	DEVELOPMENTAL EDUCATION 10000

ROBERT SNOW ARCHITECT

DISCREPANCIES/OMISSIONS. IMMEDIATELY VERIFY ALL
 PLANS, LEVELS AND SETOUT PRIOR TO COMMENCEMENT OF

Date Created:	JAN 2019	Scale @A2:	1:1
---------------	----------	------------	-----

EIGHTH HOUSE AND FINCH ZONES

CLIENTS SIGNATURE

[illegible]

NEW SOUTH WALES ARCHITECTS REGISTRATION BOARD NUMBER 8969
B/ARCH (WITS) MARCH ENV DESIGN (CARDIFF) - WWW.SNOWARCHITECTS.COM/AU

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Plot Date: 10/3/19 Project No. Drawing No. Rev. 1587-DA- 41-A

Dr. KRISTIAN PRADOS

[illegible]

79 MATTHEW FLINDERS DRIVE, PORT MACQUARIE. 2444 NSW

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4-1-131








DEVELOPMENT APPLICATION






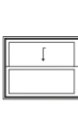
Australian
Institute of
Statistics

[illegible]

e: show.architect@cloud.com
(t) 0404 248 590

MEET:

DOOR SCHEDULE							
ID	D01	D02	D03	D04	D05	D06	D07
Generation	2,820	3,400	2,400	N/A	2,400	N/A	N/A
Height	2,400	3,200	6,000	3,400	5,110	5,110	5,110
Width	1,975						820
							
Door Elevation							
Frame Type	ALUMINIUM	ALUMINIUM		ALUMINIUM	ALUMINIUM	ALUMINIUM	ALUMINIUM
Finish	G	L		G	G	G	G
Notes			ORAQUE POLYCARBONATE INFILLS				
	DOOR PANELS HARDWOOD						

DOOR SCHEDULE						
ID	D08	D09	D10	D11	D12	D13
Orientation	N	S	S	N	N	N
Height	2,600	2,600	2,600	2,600	2,600	2,600
Width	3,600	3,000	850	1,875	1,875	1,875
						
Frame Type	ALUMINIUM	ALUMINIUM	ALUMINIUM	ALUMINIUM	ALUMINIUM	ALUMINIUM
Rating	4	4	3	4	4	4

Certificate no.: 0003663937.05
 Assessor Name: Jamie Bonfield
 Accreditation no.: 100765
 11 Mar 2019
 Certificate date:
 Driving Address:
 42 Lighthouse Road
 Port Macquarie, NSW
 2444
 www.nation.gov.au



GLAZING NOTES:

SCHEDULES TO BE READ IN CONJUNCTION WITH STRUCTURAL ENGINEERS DRAWINGS (WIND LOADS) AND ARCHITECTS DRAWINGS (RELEVANT CONSULTANTS DRAWINGS).

ALL DIMENSIONS TO BE VERIFIED BEFORE ANY WORK OR FABRICATION COMMENCES.

IF ANY DISCREPANCY, AMBIGUITY, ERROR OR INCONSISTENCY IS FOUND IN THIS SET OF DRAWINGS, THE CONTRACTOR SHALL CONTACT THE ARCHITECT BEFORE PROCEEDING.

ALL GLAZING TO COMPLY WITH IBC AND RELEVANT AUSTRALIAN STANDARDS AND IN COMPLIANCE WITH THE BASIC CERTIFICATE.

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2	6.7	0.70	ALM-002-01 A
3	4.9	0.33	ALM-003-01 A
4	4.9	0.33	ALM-004-04 A
5	4.8	0.34	ALM-005-04 A
6	4.8	0.51	ALM-003-01 A

BUSHFIRE CLASS. = BAL 19

**PROPOSED NEW RESIDENCE
LOT 1 DP 612190 No.42
LIGHTHOUSE RD PMQ 2444**

Dr. KRISTIAN PRADOS
DEVELOPMENT APPL

g Title: **DOOR SCHEDULE**

Date Created: JAN 2019 Scale @A2: 1:

Plot Date:	Project No.	Drawing No.	Rev.
10/3/19	1587-DA-	4.2-	1

Rev:	Date:	Description
A	10.03.19	DEVELOPME

[illegible]

ROBERT SNOW ARCHITECT

 NEW SOUTH WALES ARCHITECTS REGISTRATION BOARD NUMBER 8969

WITS) MARCH ENV. DESIGN (CARDIFF) - WWW.SNOWARCHITECTS.CO

THEW FLINDERS DRIVE, PORT MACQUARIE. 2444

www.architect@icloud.com

SCALE THIS DRAWING. REFER TO FIGURED
Y. NOTIFY THE ARCHITECTS OFFICE OF ALL
EPANCIES / OMISSIONS. IMMEDIATELY VERIFY ALL
LEVELS AND SETOUT PRIOR TO COMMENCEMENT OF
TION OR CONSTRUCTION. WORK ONLY FROM

ISSUE DOCUMENTATION.
IS THE INTELLECTUAL PROPERTY OF THE ARCHITECT

HT ©: NO PART MAY NOT BE USED, COPIED OR
WITHOUT IT THE EXPRESS WRITTEN PERMISSION OF

IS ADOPTING A NEW TECHNOLOGY WORTH THE COST?

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Attachment 3

ecological Assessment for Littoral Rainforest, dated 24 May 2019, prepared by Will Steggall – Biodiversity Australia



Sustainable Partners

Friday, 24th May 2019

Michelle Chapman
All About Planning
PO Box 2196
Port Macquarie
NSW 2444

Delivery via: Email [michelle@allaboutplanning.com.au]

ABN: 81 127 154 787

Head Office

PO Box 721

Upper Coomera

QLD 4209

Phone 1300 319 954

info@biodiversityaust.com.au

www.biodiversityaust.com.au

Dear Michelle

RE: Assessment for Littoral Rainforest at 42 Lighthouse Road, Port Macquarie.

As requested we carried out a site inspection and vegetation assessment on the subject property to review the vegetation present and determine if it comprises Littoral Rainforest.

1.0 Background Information

The new Coastal Management SEPP came into force in March 2018. This SEPP has supporting mapping of Coastal Wetlands and Littoral Rainforest. There have been a number of anomalies and inaccuracies with the mapping layers in the Port Macquarie-Hastings LGA.

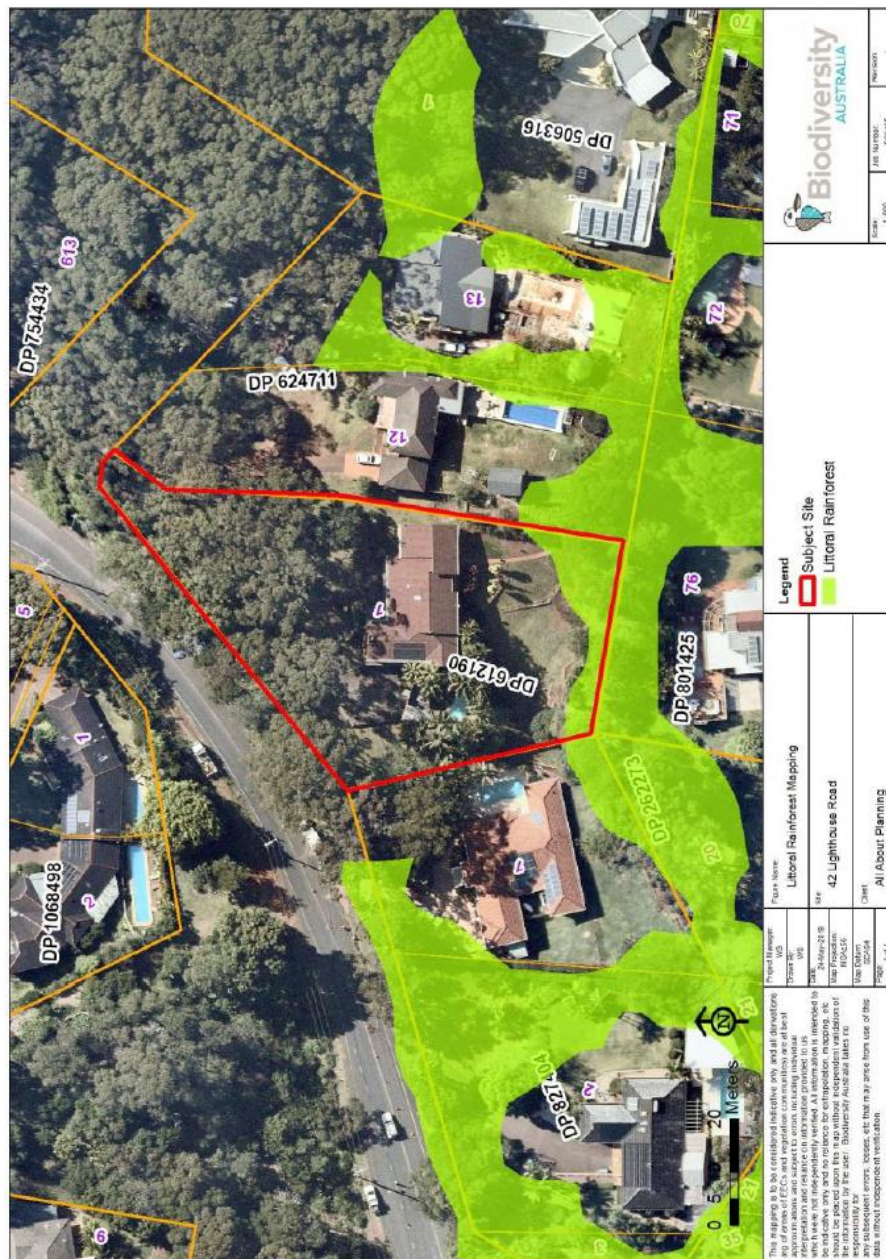
The subject property comprises a 3500m² parcel of land at 42 Lighthouse Road (Figure 1). The property has been partially cleared with mature trees remaining at the front and rear of the property. Other areas of the property comprise lawns and ornamental plantings.

A small portion at the rear of the property has been mapped as Littoral Rainforest with the Coastal Management SEPP 2018 mapping layer (Figure 2). This community is listed as an Endangered Ecological Community (EEC) under the NSW *Biodiversity Conservation Act 2016*. It is also listed as a Threatened Ecological Community (TEC) under the *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999*. This mapping polygon extends over the adjoining properties to the south and east.

The aim of this report is to provide an accurate representation of the current vegetation present on the site and determine if the Littoral Rainforest mapping on the site and adjoining land to the south is appropriate.

Figure 1: Location of the Subject Site







2.0 Methods

2.1. Desktop Searches and Literature Review

A desktop review was initially undertaken. The following databases and digital data layers were searched/obtained:

- Port Macquarie LGA Vegetation Communities and Endangered Ecological Communities (EECs) digital data layer (Biolink 2013)
- Coastal Management SEPP 2018 – Littoral Rainforest digital data layer (Department of Planning and Environment)

2.2. Flora Survey

A flora survey was carried out by Biodiversity Australia's Principal Ecologist Will Steggall over 2 hours on 16th April 2019. This consisted of a random meander flora survey covering the southern portion of the property. Access could not be gained into the adjoining Lot to the south, however this was inspected as much as possible from within the subject site.

The vegetation community on the property and adjoining Lot to the south has been described based on data collected during the field survey.

3.0 Results

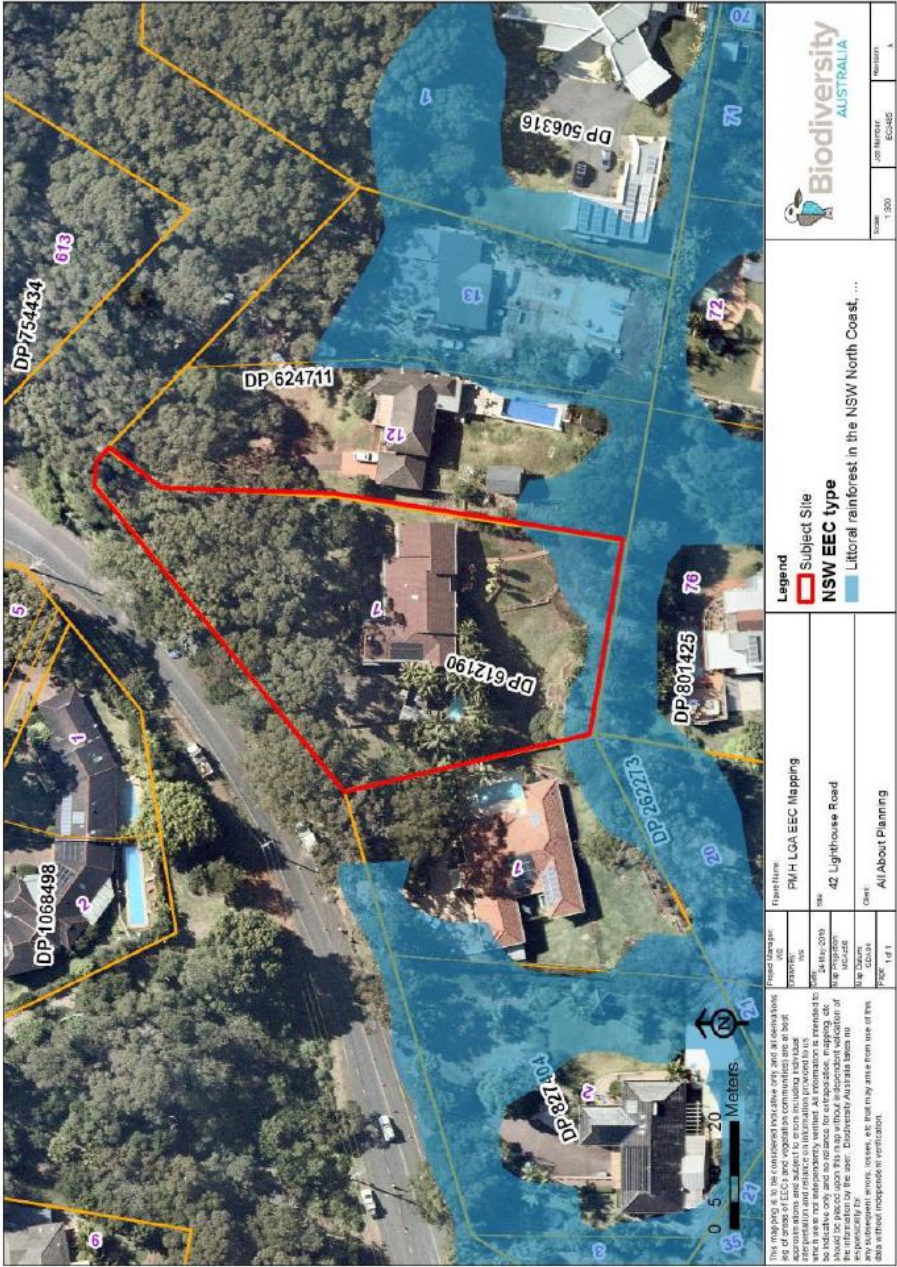
3.1. Desktop Search

3.1.1. PMHC Vegetation and EEC Mapping

This LGA EEC mapping (Biolink 2013, Darkheart 2014) shows that the southern portion of the property is mapped as Littoral Rainforest. This mapping is shown in Figure 2.

This Council EEC layer aligns almost exactly with the Littoral Rainforest layer under the Coastal SEPP.

Figure 3: PMH LGA EEC mapping





3.2. Site Vegetation Community

The vegetation in the south of the property was found to largely comprise managed lawn with a variety of ornamental plantings. A single mature Eucalypt tree is present. Overall, very few native are present in this part of the property. It is also noted that many of the trees from the adjoining Lot to the south are overhanging the site, giving the appearance of a larger area of vegetation present within the site.

The vegetation community on adjoining land to the south could be described as exotic regrowth vegetation.

The following sections provide a description the vegetation community present on site, as well as the adjoining land to the south. Photographs are provided following the description.

3.2.1. Managed Lawn and Ornamental Plantings (Subject Site)

Area on site: 270m²

Structure and Floristics:

Canopy: A single Narrow-leaved Scribbly Gum (*Eucalyptus racemosa*) is present in the southeast and is approximately 17m in height.

Understorey/Shrub layers: A few ornamental plantings and juvenile native trees/shrubs are present. These comprises Jacaranda, Duranta, Murraya, Macadamia Nut, Camellia and a single Guioa (*Guioa semigaluca*).

Groundcover: The ground layer is dense and consists of exotic grasses and herbs. Dominant species include Buffalo Grass, Kikuyu and Cobblers Pegs.

Comments: Very poor condition as this community is almost entirely comprises of exotic species and is regularly mown.

3.2.2. Exotic Regrowth Vegetation (Lot 76 to south)

Area on site: Nil aside from overhanging trees

Structure and Floristics:

Canopy: Consists largely of exotic trees with a few native species present. Height ranges from 10-15m. Dominant to common species are Camphor Laurel, Liquidambar, and an unidentified exotic ornamental tree. A single native Sandpaper Fig is present in the west of this community.

Understorey/Shrub layers: This layer is dense throughout and contains a mix of native and exotic species. Commonly observed species were Broad-leaved Privet, Camphor Laurel, Senna, Cockspur Thorn, Guioa, Scentless Rosewood and Wavy Pittosporum.

Groundcover: The ground layer is sparse due to the dense canopy and understorey. Species recorded in this layer include Asparagus Fern, Asparagus Creeper, Creeping Beard Grass and Blueberry Flax-lily.



Comments: Poor condition overall as it is dominated by exotic species.

Photo 1: Looking east along southern site boundary





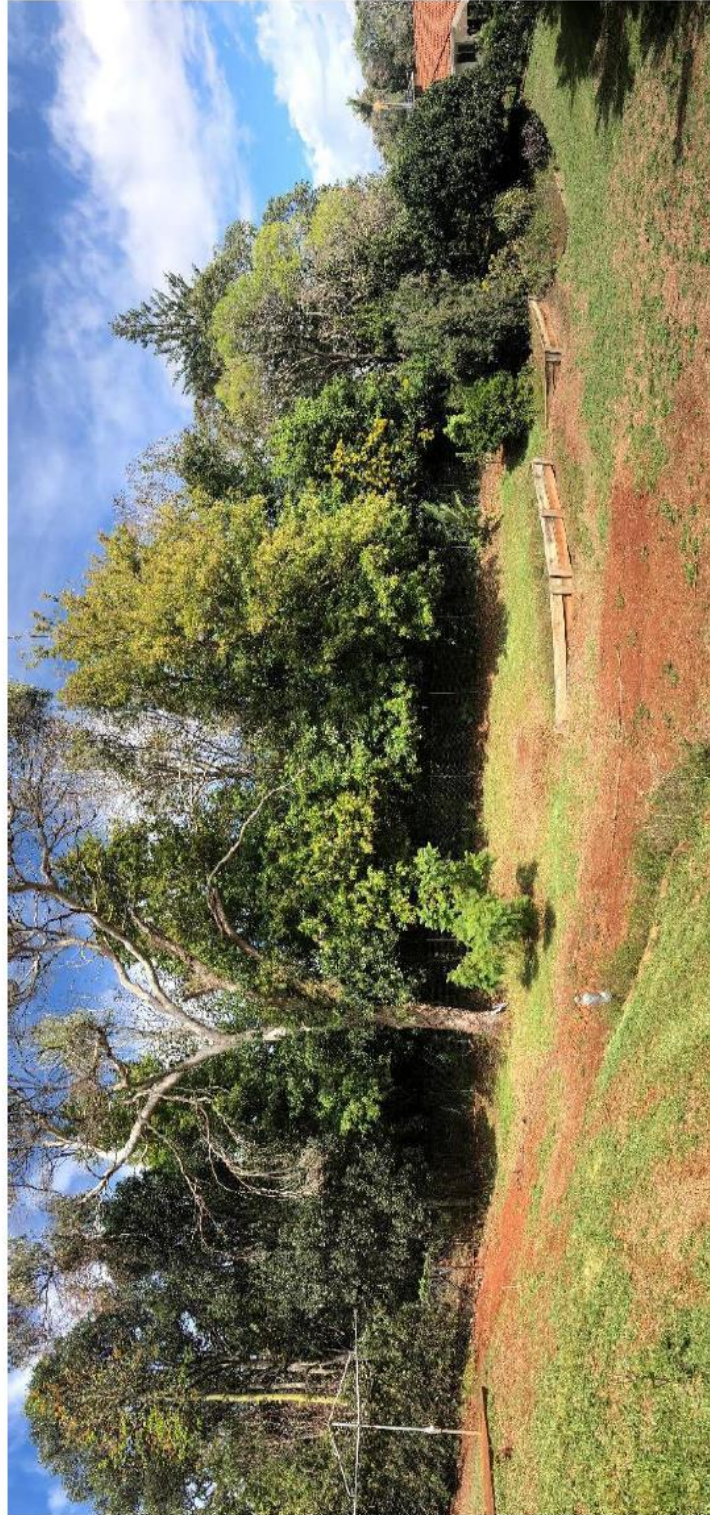
Photo 2: Looking southwest to site boundary





| Sustainable Partners

Photo 3: View looking south to rear boundary and adjoining vegetation





4.0 Assessment of Littoral Rainforest Mapping

The vegetation present in the south of the site comprises exotic ornamental plantings and lawns, with a single native tree. It is obvious that this vegetation would not be Littoral Rainforest as there are no characteristic species present and it does not have the structure of a rainforest community.

The vegetation to the south is unlikely to qualify as Littoral Rainforest EEC. This is due to the presence of exotic species which dominate the canopy and understorey layer. An accepted definition for rainforest states that the tree stratum with the greatest crown cover has rainforest species making up 50% or more of the crown cover (DEC 2004). This is clearly not the case with the vegetation in question. Furthermore, the community does not show evidence of maritime influence such as wind-shear and dieback from salt spray which is typical of Littoral Rainforest.

This vegetation does however have regenerating rainforest trees in the shrub layer. If all the weed trees in the canopy were removed and it was actively managed to promote native plant regeneration, it would have the potential to regenerate into Littoral Rainforest over time.

Vegetation to the east of the subject site has more native species present and could potentially qualify as disturbed Littoral Rainforest, however *Guioa* (*Guioa semiglauc*) was the only native canopy species noted and it does not contain the full complement of native species indicative of a Littoral Rainforest community, nor does it show evidence of maritime influence.

It is clear that the current SEPP mapping layer has been derived from a PMH LGA vegetation mapping study carried out in 2013 by Biolink. This vegetation mapping as shown in Figure 3 has been the basis for the erroneous mapping of Littoral Rainforest on the property as well as many other areas in the LGA. The mapping is subject to some inaccuracies as to be expected with studies carried out at the LGA scale, and should be subject to ground truthing at the site scale.



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5.0 Conclusion

The site inspection has identified vegetation on the property. This assessment has concluded that the vegetation does not comprise Littoral Rainforest as it lacks the key floristic and structural attributes. Vegetation on adjoining land to the south is also unlikely to qualify as Littoral Rainforest at present, however it would have the potential to regenerate into Littoral Rainforest if weeds are removed.

It is recommended that the Coastal SEPP mapping layer is amended to remove the Littoral Rainforest mapping from both the subject site and the adjoining land to the south.

If any additional information is required, please contact Will on 0438 590 961.

Yours faithfully,

Will Steggall

B. Env't. Sc. and Mgt

Principal Ecologist (NSW)



Phone: 1300 319 954

Mobile: 0438 590 961

Email: will.steggall@biodiversityaust.com.au

Address: Level 1, Suite 3, 64 Clarence Street, Port Macquarie



References

Biolink (2013a). Vegetation of the Port Macquarie-Hastings Local Government Area. Unpublished report to PMHC, Port Macquarie. Biolink Ecological Consultants, Uki, NSW.

Darkheart Eco-Consultancy (2014). PMHC Vegetation Mapping: Coastal Floodplain EEC Mapping Review. Unpublished report prepared for Port Macquarie-Hastings Council. Darkheart Eco-Consultancy, Kew.

DEC (2004). Identification of Rainforest: Field Guide. NSW DEC North-eastern Branch, Coffs Harbour.

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NSW Scientific Committee (2004). Littoral Rainforest of the NSW North Coast, Sydney Basin and South East Corner bioregions - endangered ecological community listing.

Ben Roberts

From: Dr Kristian Lee Prados <kprados@iinet.net.au>
Sent: Friday, 16 August 2019 11:33 AM
To: Ben Roberts
Cc: rob@snowarchitects.com.au; michelle@allaboutplanning.com.au;
Will.Steggall@biodiversityaust.com.au
Subject: Email from Will Steggall re: Scribbly Gum Tree - 42 Lighthouse Rd DA application

Hi Ben,

Will Steggall has given his consent (see below) to forward this email to you. I'm happy to follow his advice and ensure appropriate removal of the Scribbly Gum with x2 Offset Nesting Boxes installed in the large Gums at the front of the property.

Kind regards,

KP

Dr Kristian L Prados
Interventional Cardiologist | Director of Cardiac Catheterisation Lab | **Cardiology Department - Port Macquarie Base Hospital**
Wrights Road, Port Macquarie NSW 2444
Tel [02 5524 2963](tel:0255242963) | Fax (CCU) [02 5525 0590](tel:0255250590) | Kristian.Prados@ncahs.health.nsw.gov.au

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

Begin forwarded message:

From: Will Steggall <Will.Steggall@biodiversityaust.com.au>
Date: 29 May 2019 at 7:36:49 pm AEST
To: 'Dr Kristian Lee Prados' <kprados@iinet.net.au>
Cc: Rob Snow <rob@snowarchitects.com.au>, 'Michelle Chapman' <michelle@allaboutplanning.com.au>
Subject: RE: Ecological Assessment Invoice Attached

Hi Kristian,

Yes the scribbly gum is a hollow-bearing tree, although it is likely to only have low habitat value for fauna. It would score around 12 in the DCP hollow tree protocol which places it in the medium constraint category. Trees in this category can be considered for removal if they are unsafe or impractical to retain. You will need to get approval from Council and this could be done as part of the DA. You could forward them this email or I could write up something on a letterhead if needed.

I think you have a good case to remove the tree on safety grounds. I am not an arborist but it had some large dead branches and looked dangerous. It would also pose a risk to the new development proposed on the property.

My recommendation is to offset the tree with two replacement fauna nesting boxes. Ideally these would be placed on existing mature trees at the front of the property. The boxes would need to be

installed by an ecologist prior to removal of the tree. Removal of the hollow tree would also need to be supervised by an ecologist to rescue any fauna which may be nesting in the tree.

Regards,

Will Steggall
Principal Ecologist (NSW)



Phone: 1300 319 954
Mobile: 0438 590 961

Head Office:
Building D, Level 2A/19 Harbour Village Parade, Coomera QLD 4209
PO Box 721 Upper Coomera QLD 4209
NSW Office:
3/64 Clarence Street, Port Macquarie, NSW 2444

www.biodiversityaust.com.au



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Our Affiliations



From: Dr Kristian Lee Prados [<mailto:kprados@iinet.net.au>]
Sent: Tuesday, 28 May 2019 3:11 AM
To: Michelle Chapman <michelle@allaboutplanning.com.au>
Cc: Will Steggall <Will.Steggall@biodiversityaust.com.au>; Rob Snow <rob@snowarchitects.com.au>
Subject: Re: Ecological Assessment Invoice Attached

Hi Will,

Thanks for your report. Is the Scribbly Gum a Hollow Bearing Tree - and is so what score is it? That particular tree has dropped massive limbs in the last 12 months. In fact, I had to replace the whole southern boundary fence as it was destroyed by a massive limb fall. I'm worried about safety with kids and dogs in the backyard. It's lucky no one (or animal) was injured last time. Does this tree meet criteria to be removed on safety grounds? What condition is the tree in? What type of "offset"

planting would I be required to do if we got rid of the Scribbly if any at all? Your advice would be greatly appreciated.

Kind regards,

Kristian



Sustainable Partners

Friday, 24th May 2019

Michelle Chapman
All About Planning
PO Box 2196
Port Macquarie
NSW 2444

Delivery via: Email [michelle@allaboutplanning.com.au]

ABN: 81 127 154 787

[Head Office](#)

PO Box 721

Upper Coomera

QLD 4209

Phone 1300 319 954

info@biodiversityaust.com.auwww.biodiversityaust.com.au

Dear Michelle

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Figure 1: Location of the Subject Site

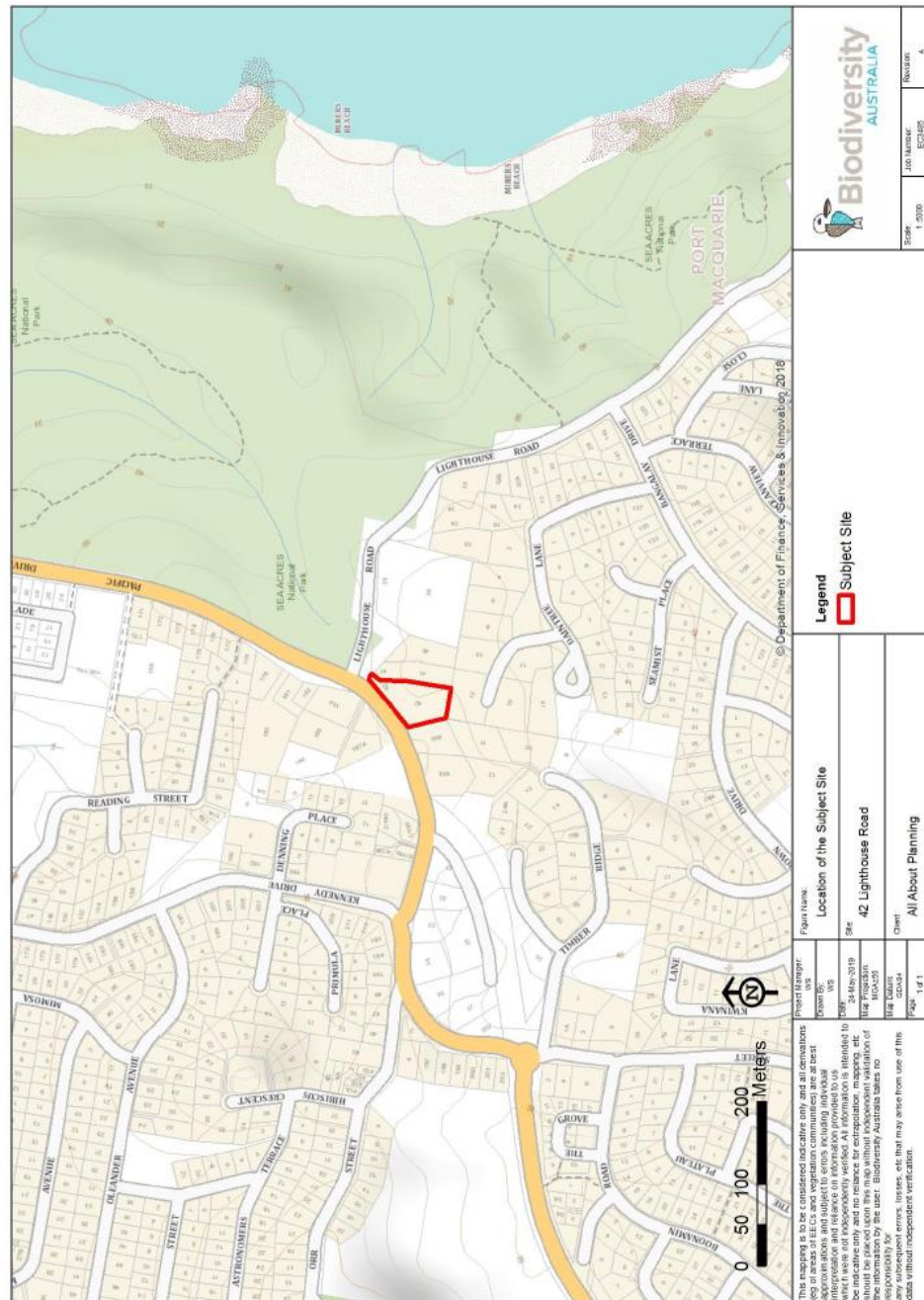
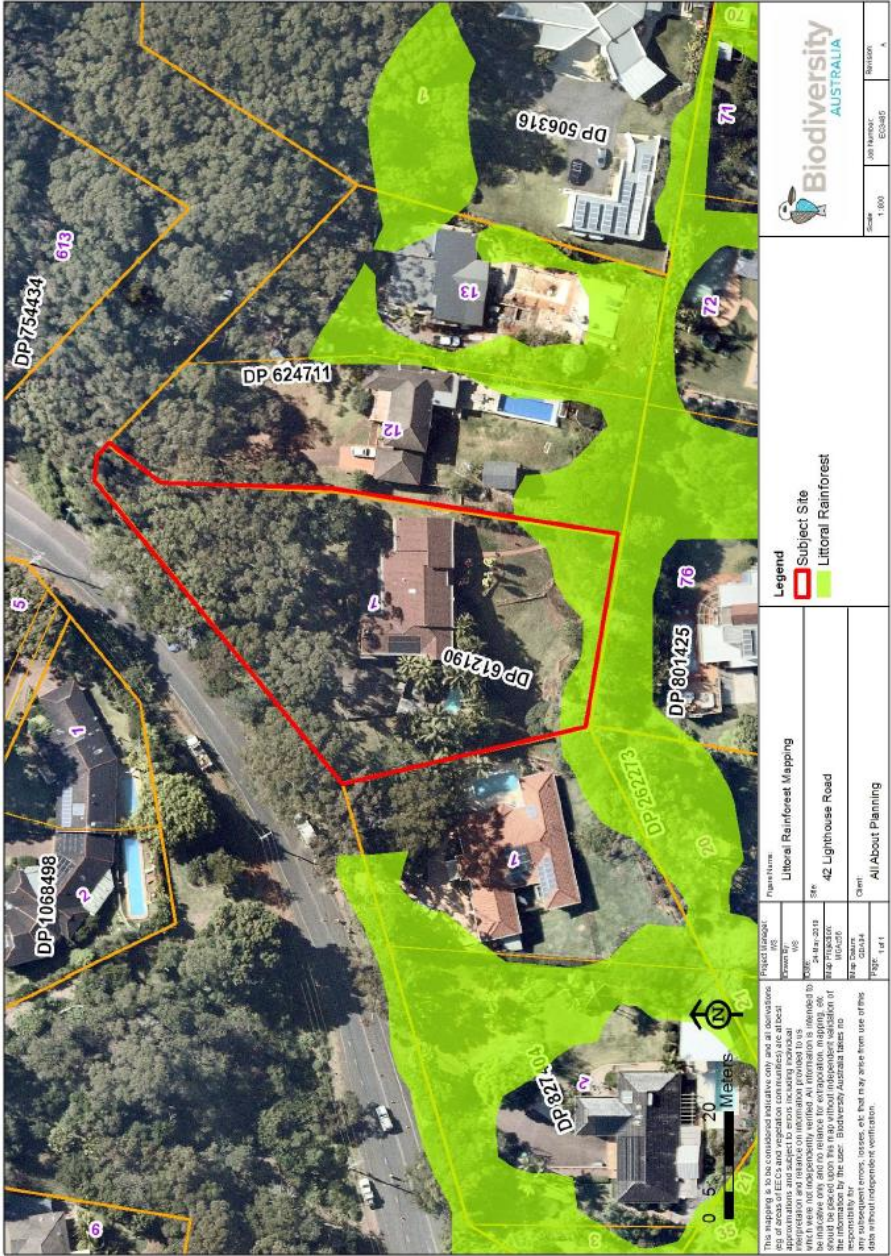




Figure 2: Coastal Management SEPP Littoral Rainforest mapping on the site





2.0 Methods

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A desktop review was initially undertaken. The following databases and digital data layers were searched/obtained:

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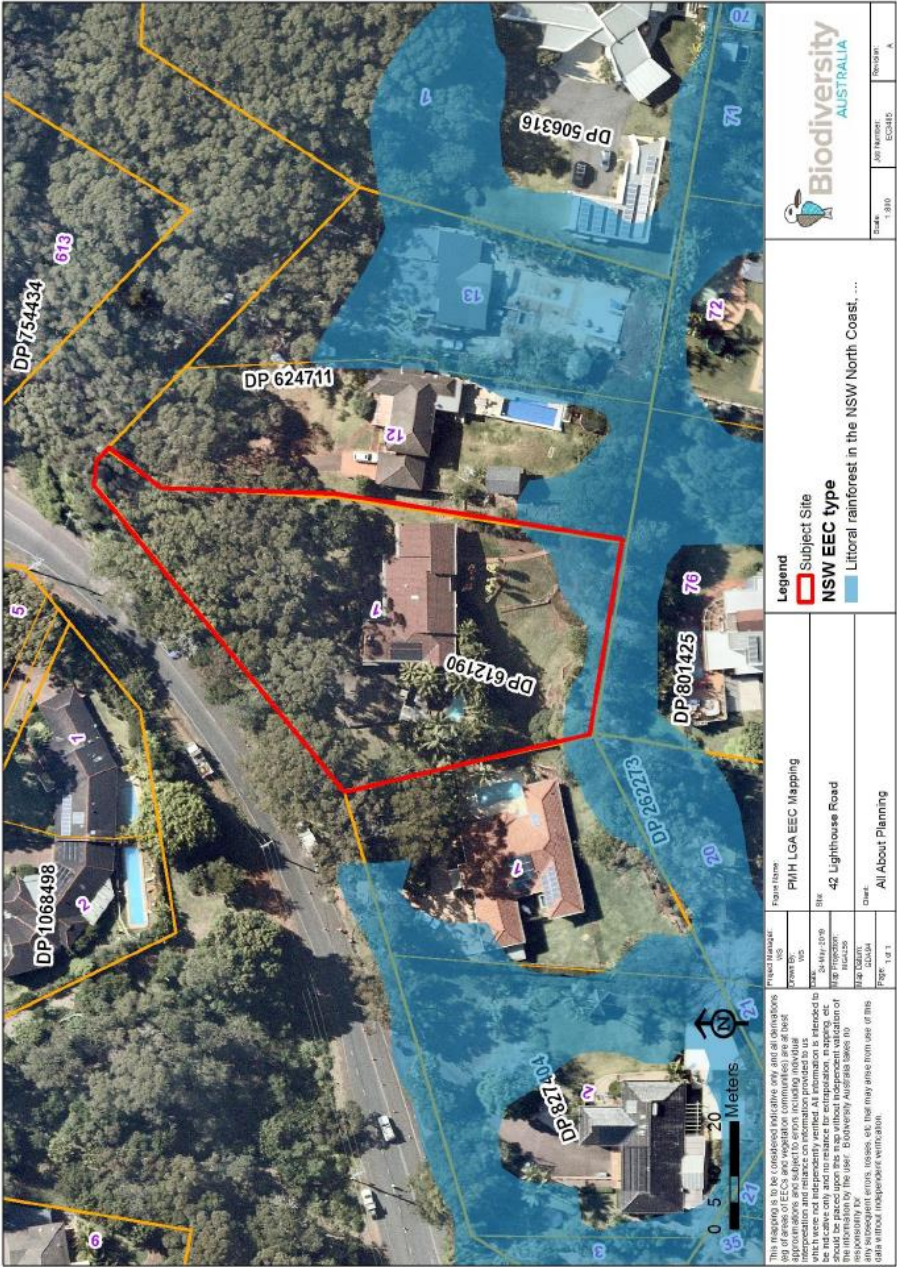
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Comments: Poor condition overall as it is dominated by exotic species.

Photo 1: Looking east along southern site boundary





Photo 2: Looking southwest to site boundary



Photo 3: View looking south to rear boundary and adjoining vegetation





4.0 Assessment of Littoral Rainforest Mapping

The vegetation present in the south of the site comprises exotic ornamental plantings and lawns, with a single native tree. It is obvious that this vegetation would not be Littoral Rainforest as there are no characteristic species present and it does not have the structure of a rainforest community.

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Sustainable Partners

5.0 Conclusion

The site inspection has identified vegetation on the property. This assessment has concluded that the vegetation does not comprise Littoral Rainforest as it lacks the key floristic and structural attributes. Vegetation on adjoining land to the south is also unlikely to qualify as Littoral Rainforest at present, however it would have the potential to regenerate into Littoral Rainforest if weeds are removed.

It is recommended that the Coastal SEPP mapping layer is amended to remove the Littoral Rainforest mapping from both the subject site and the adjoining land to the south.

If any additional information is required, please contact Will on 0438 590 961.

Yours faithfully,

Will Steggall

B. Env't. Sc. and Mgt

Principal Ecologist (NSW)



Phone: 1300 319 954

Mobile: 0438 590 961

Email: will.steggall@biodiversityaust.com.au

Address: Level 1, Suite 3, 64 Clarence Street, Port Macquarie



References

Biolink (2013a). Vegetation of the Port Macquarie-Hastings Local Government Area. Unpublished report to PMHC, Port Macquarie. Biolink Ecological Consultants, Uki, NSW.

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NSW Scientific Committee (2004). Littoral Rainforest of the NSW North Coast, Sydney Basin and South East Corner bioregions - endangered ecological community listing.

**Industry Assessments**

Contact: John Booth

Phone: (02) 8275 1281

Email: john.booth@planning.nsw.gov.au

Ms Michelle Chapman
Director
All About Planning
PO Box 2196
PORT MACQUARIE NSW 2444

SEAR 1338

Dear Ms Chapman

**Proposed Demolition and Construction of Residential Dwelling
42 Lighthouse Road, Port Macquarie (Lot 1 DP 612190) – Port Macquarie Hastings LGA
Planning Secretary's Environmental Assessment Requirements (SEAR) 1338**

I refer to your correspondence dated 01 May 2019, seeking Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the proposed demolition of an existing dwelling and construction of new residential dwelling within mapped Littoral Rainforest.

The Department has reviewed the documentation submitted and confirms it has no specific requirements applicable to your proposal, except that the EIS must address the provisions of the *State Environmental Planning Policy (Coastal Management) 2018*. In addition, you should ensure that your EIS meets the minimum form and content requirements outlined in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*.

You should ensure that your EIS is prepared in consultation with Port-Macquarie Hastings Council, the Rural Fire Service and any other relevant local, State and Commonwealth government authorities, service providers, community groups and surrounding landowners, and address any issues they raise in the EIS.

If you do not lodge an application under Section 78A (8) of the *Environmental Planning and Assessment Act 1979* within 2 years of the date of this letter, you must consult with the Secretary in relation to any further requirements for lodgement.

Should you have any further enquiries, please contact John Booth, Planning Services, at the Department on (02) 8275 1281.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Ritchie'.

Chris Ritchie

Director**Industry Assessments**as delegate of the Secretary

1/5/19

DEVELOPMENT APPLICATION

D R A W I N G T R A N S M I T T A L :

Drawing No:	Description	Issue / Revision	10/03/19	17/05/19	24/06/19
0.1-B	COVER SHEET		A	B	C
1.1-A	GENERAL NOTES & SITE LOCATION PLAN		A		
1.2-B	SITE PLAN		A	B	
1.3-B	LOWER GROUND FLOOR PLAN		A	B	C
1.4-A	UPPER GROUND FLOOR PLAN		A		
1.5-A	ROOF PLAN		A		
1.6-B	LOWER GR. FL. REFLECTED CEILING PL.		A	B	
1.7-A	UPPER GR. FL. REFLECTED CEILING PL.		A		
2.1-A	SECTIONS 1 & 2		A		
2.2-A	SECTIONS 3 & 4		A		
3.1-A	EAST & WEST ELEVATION		A		
3.2-A	NORTH & SOUTH ELEVATION		A		
3.3-A	3D VIEWS		A		
3.4-A	SOLAR SHADING VIEWS		A		
4.1-A	WINDOW SCHEDULE		A		
4.2-A	DOOR SCHEDULE		A		

T R A N S M I T T A L S H E E T / R E C O R D :

STATUS:	C = CONSTRUCTION; CC = CONSTRUCTION CERTIFICATE; CDC = COMPLYING DEVELOPMENT CERTIF. DA = DEVELOPMENT APPLICATION; PA = FOR APPROVAL; P = PRELIMINARY; S68 = S68 SUBMISSION; S98 = SECTION 98; T = TENDER			
REVISION:	DATE:	STATUS:	TO:	
REV. A	10/03/2019	DA	COUNCIL CLIENT AND DESIGN TEAM	
REV. B	17/05/2019	DA	COUNCIL CLIENT AND DESIGN TEAM	
REV. C	24/06/2019	DA	COUNCIL CLIENT AND DESIGN TEAM	



ROBERT SNOW ARCHITECT
NEW SOUTH WALES ARCHITECTS REGISTRATION BOARD NUMBER: 8969

PROPOSED NEW RESIDENCE LOT 1 DP 612190 No.42 LIGHTHOUSE
RD PMQ 2444

CLIENT: DR. KRISTIAN
PRADOS

COVER SHEET

Project No. | Drawing No. | Rev.
Plot Date: 10/3/19
1587-DA- 0.1-C
A2

SITE LOCATION PLAN
1:1000

GENERAL NOTES & SITE LOCATION PLAN	
Project No.	1587-DA
Drawing No.	1.1-A
Date Created	JAN 2019
Scale	@ A2: 1:1, 1:1000
Project Name	Dr. KRISTIAN PRADOS
Client	Dr. KRISTIAN PRADOS
Site Name	PROPOSED NEW RESIDENCE LOT 1 DP 612190 No. 42 LIGHTHOUSE RD PMQ 2444

Item	Description	Notes
1	General Notes	See General Notes on page 1.
2	Glazing Notes	See Glazing Notes on page 2.
3	Bushfire Class	See Bushfire Class on page 3.
4	Wall Schedule	See Wall Schedule on page 4.
5	Roof Rainwater	See Roof Rainwater on page 5.
6	Internal Wall Types	See Internal Wall Types on page 6.
7	External Wall Types	See External Wall Types on page 7.
8	Roof Rainwater	See Roof Rainwater on page 8.
9	Internal Wall Types	See Internal Wall Types on page 9.
10	External Wall Types	See External Wall Types on page 10.

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WALL SCHEDULE:

Item	Description	Notes
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ROOF RAINWATER:

Item	Description	Notes
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ROBERT SNOW ARCHITECT
ARCHITECTS
79 MATTHEW FLINDERS DRIVE, PORT MACQUARIE, 2444 NSW
e: snow.architect@cloud.com c: 0404 248 590
www.snowarchitects.com.au

Rev	Date	Description
A	10.03.19	DEVELOPMENT APPLICATION ISSUE
B		
C		
D		
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X		
Y		
Z		

PROPOSED NEW RESIDENCE LOT 1 DP 612190 No. 42 LIGHTHOUSE RD PMQ 2444

GENERAL NOTES & SITE LOCATION PLAN

Dr. KRISTIAN PRADOS
DEVELOPMENT APPLICATION

1587-DA- 1.1-A
A2

Dr. KRISTIAN PRADOS
DEVELOPMENT APPLICATION

Rev	Date	Description
A	10.03.19	DEVELOPMENT APPLICATION ISSUE
B		
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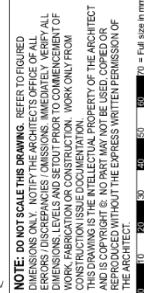
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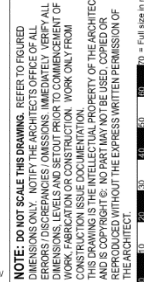
Dr. KRISTIAN PRADOS
DEVELOPMENT APPLICATION

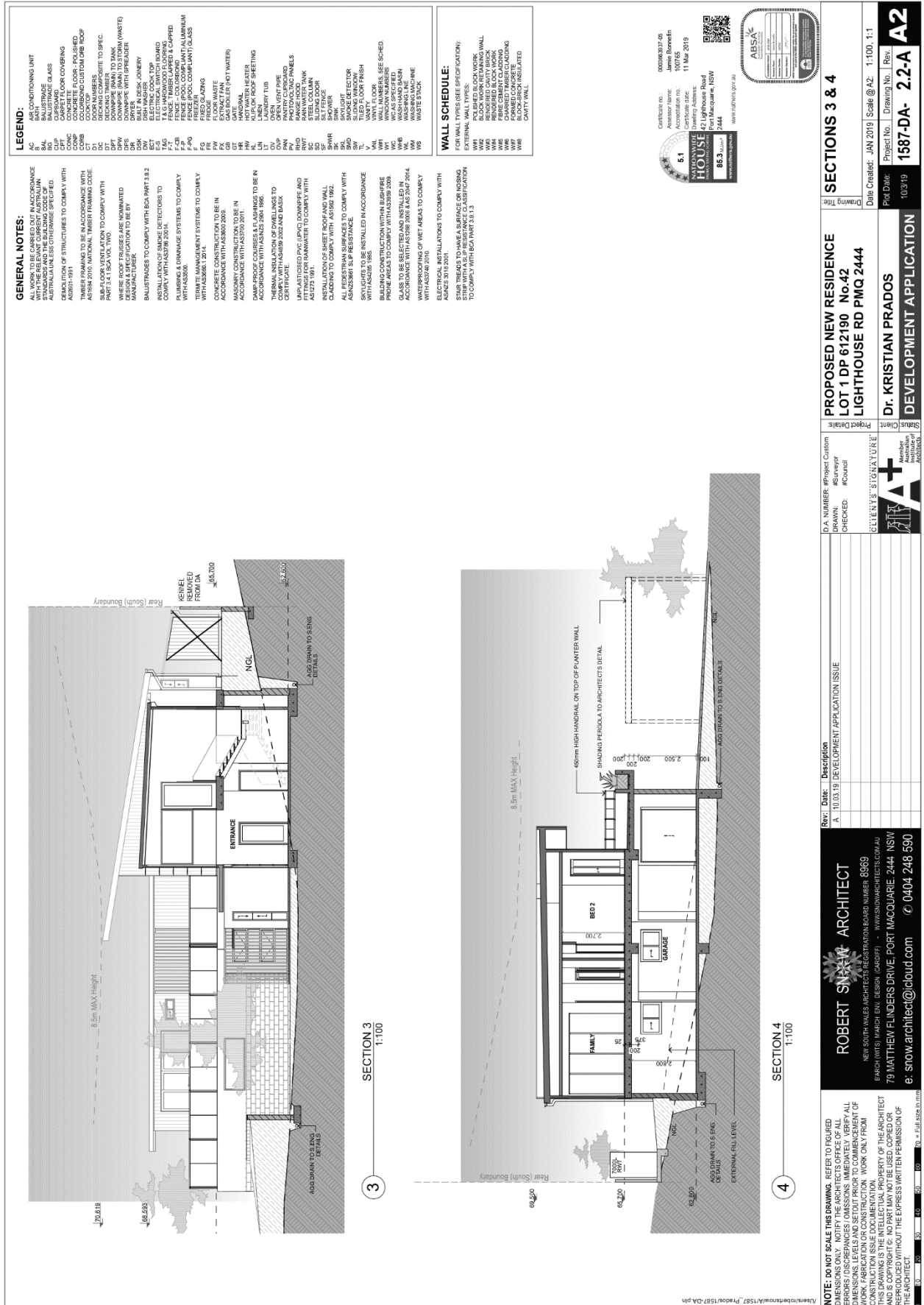
1587-DA- 1.1-A
A2

Dr. KRISTIAN PRADOS
DEVELOPMENT APPLICATION

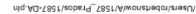


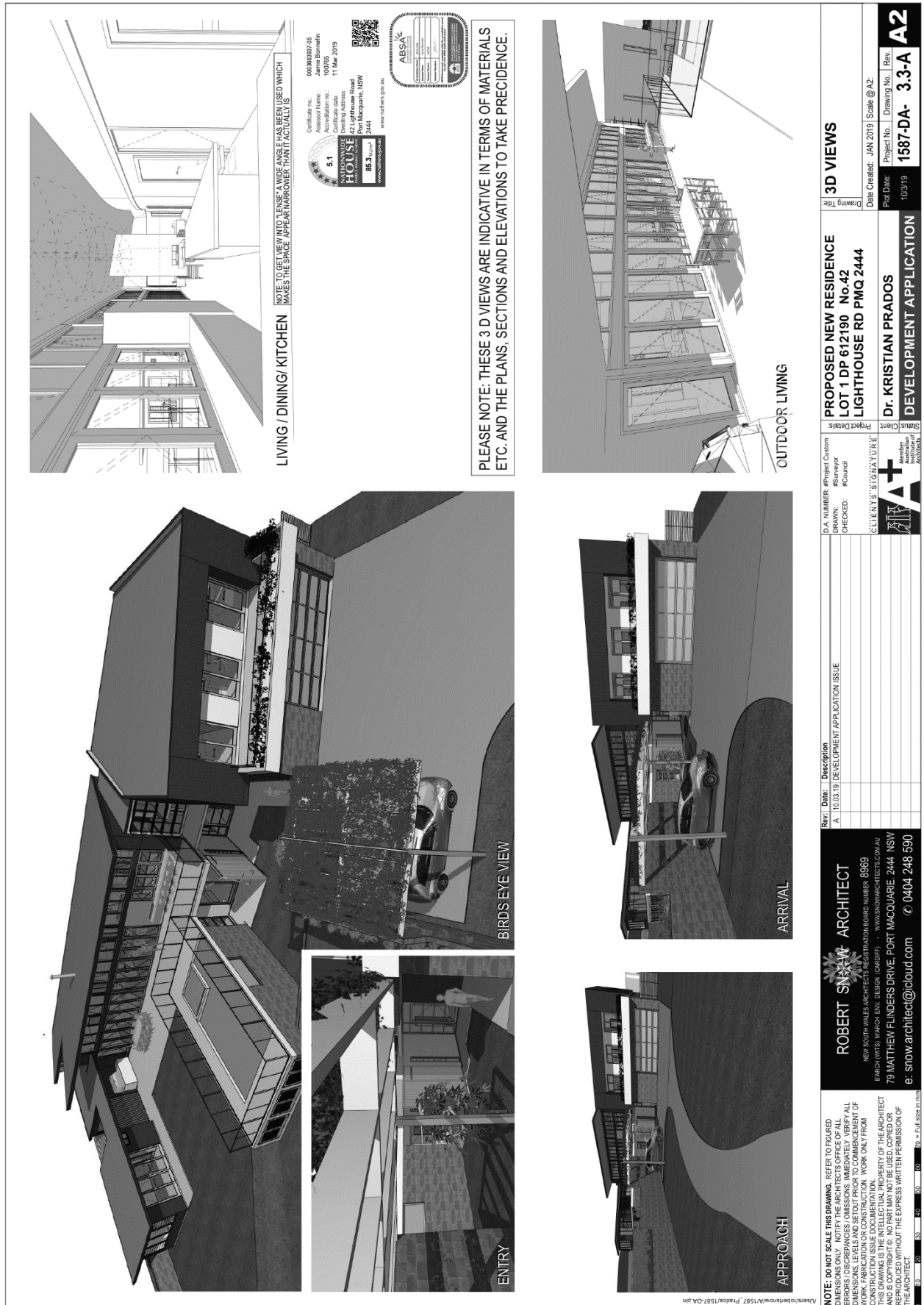


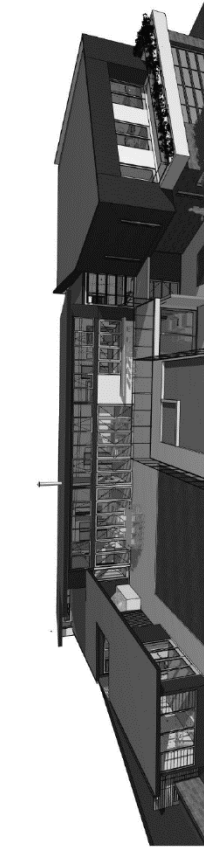




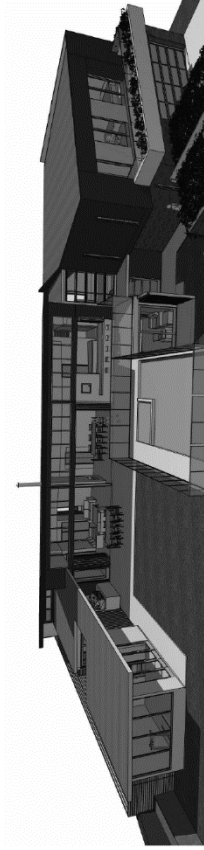




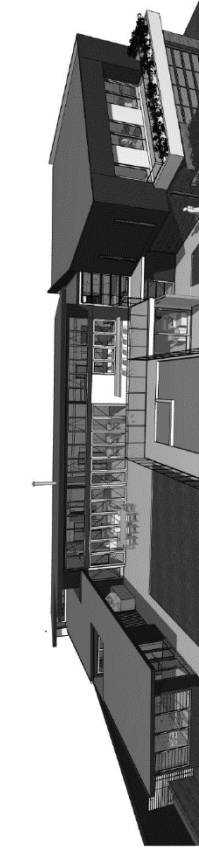




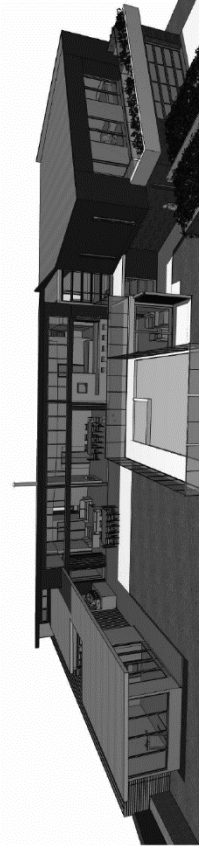
WINTER 3PM




SUMMER 3PM



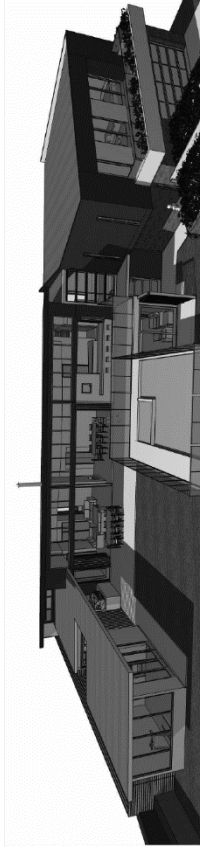
WINTER NOON



SUMMER NOON



WINTER 9AM



SUMMER 9AM

PLEASE NOTE: THESE 3D VIEWS ARE INDICATIVE IN TERMS OF MATERIALS ETC AND THE PLANS, SECTIONS AND ELEVATIONS TO TAKE PRECEDENCE.

5.1
5.1
HOUSE
5.1 House
85.3 m² (928 sq ft)
www.snowarchitect.com.au

Certificate No.: 100568987-05
Accreditation No.: 100765
Certificate Valid Until: 11 Mar 2019
42 Lighthouse Road
Port Macquarie, NSW
2444
www.snowarchitect.com.au

ABS
Architectural Board of South Australia
REGISTERED ARCHITECT
100568987-05
11 Mar 2019

Rev: **Date:** **Description**

A	10.03.19	DEVELOPMENT APPLICATION ISSUE
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ROBERT SNOW ARCHITECT
NEW SOUTH WALES ARCHITECTS REGISTRATION BOARD NUMBER 8869
SEARCH WITHIN ARCHITECTS REGISTRATION BOARD (ASPPF) - www.snowarchitects.com.au
79 MATTHEW FLINDERS DRIVE, PORT MACQUARIE, 2444 NSW
e: snowarchitect@cloud.com c: 0404 248 590

CLIENT'S SIGNATURE
A+
Member
Architects
Australia

SOLAR SHADING VIEWS

PROPOSED NEW RESIDENCE
LOT 1 DP 612190 No.42
LIGHTHOUSE RD PMQ 2444

Dr. KRISTIAN PRADOS
DEVELOPMENT APPLICATION

D.A. NUMBER: #Project Custom
DRAWN: #Surveyor
CHECKED: #Council




100568987-05
11 Mar 2019

Scale: @ A2

Project Date: JAN 2019
Project No.: 1587-DA-34-A
Rev: 103/19

100568987-05
11 Mar 2019

Scale: @ A2

WINDOW SCHEDULE			
	W33	W34	W36
Penetration	N	N	N
Height	1,250	1,250	1,250
Width	5,110	5,110	5,110
Window sill height	2,650	2,650	2,950
Window head height	3,900	3,900	3,400
Class Type			
088%	CLERESTOREY WINDOW	CLERESTOREY WINDOW	CLERESTOREY WINDOW
Elevation			

GLASS TYPES:			NATHERS CLASS.	
Type	U-Value	SHGC		
1	4.9	0.59	ALM-004-01 A	
2	5.7	0.70	ALM-002-01 A	
3	4.9	0.35	ALM-003-04 A	
4	4.9	0.35	ALM-003-04 A	
5	4.9	0.34	ALM-005-04 A	
6	4.9	0.51	ALM-003-01 A	

Accumulation Balance	10-9-2009
Debit Balance	Spent Accounts
Credit Balance	10/9/09

RESIDENCE _____ WIN _____

DR. KRISTIAN PRADUS
DEVELOPMENT APPLICATIONS



Member
Australian
Institute of
Project Management

1000

4 248 590
E. 2444 NSW

© 0404
@icloud.com

79 MATTHEW FLINDER
e: snow.architect@

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Item
Chm
Pag

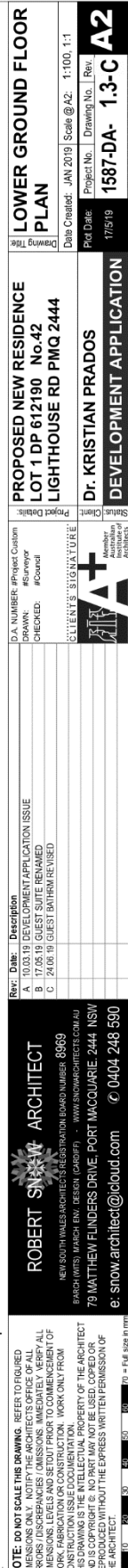
Architectural drawing template for a door schedule. It includes a header section with project details, a table for door specifications, and a section for glazing notes and glass types.

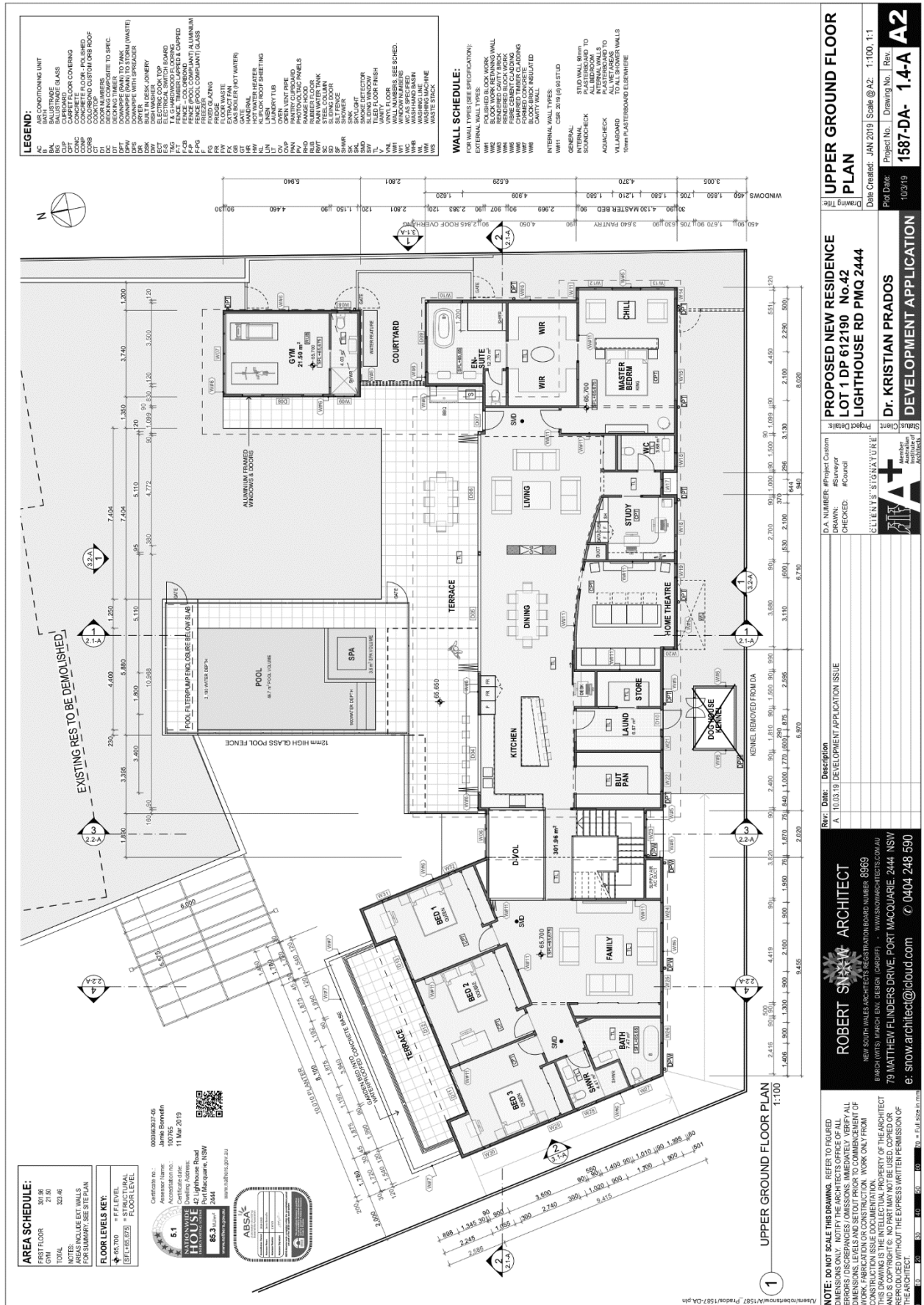
Header Section:

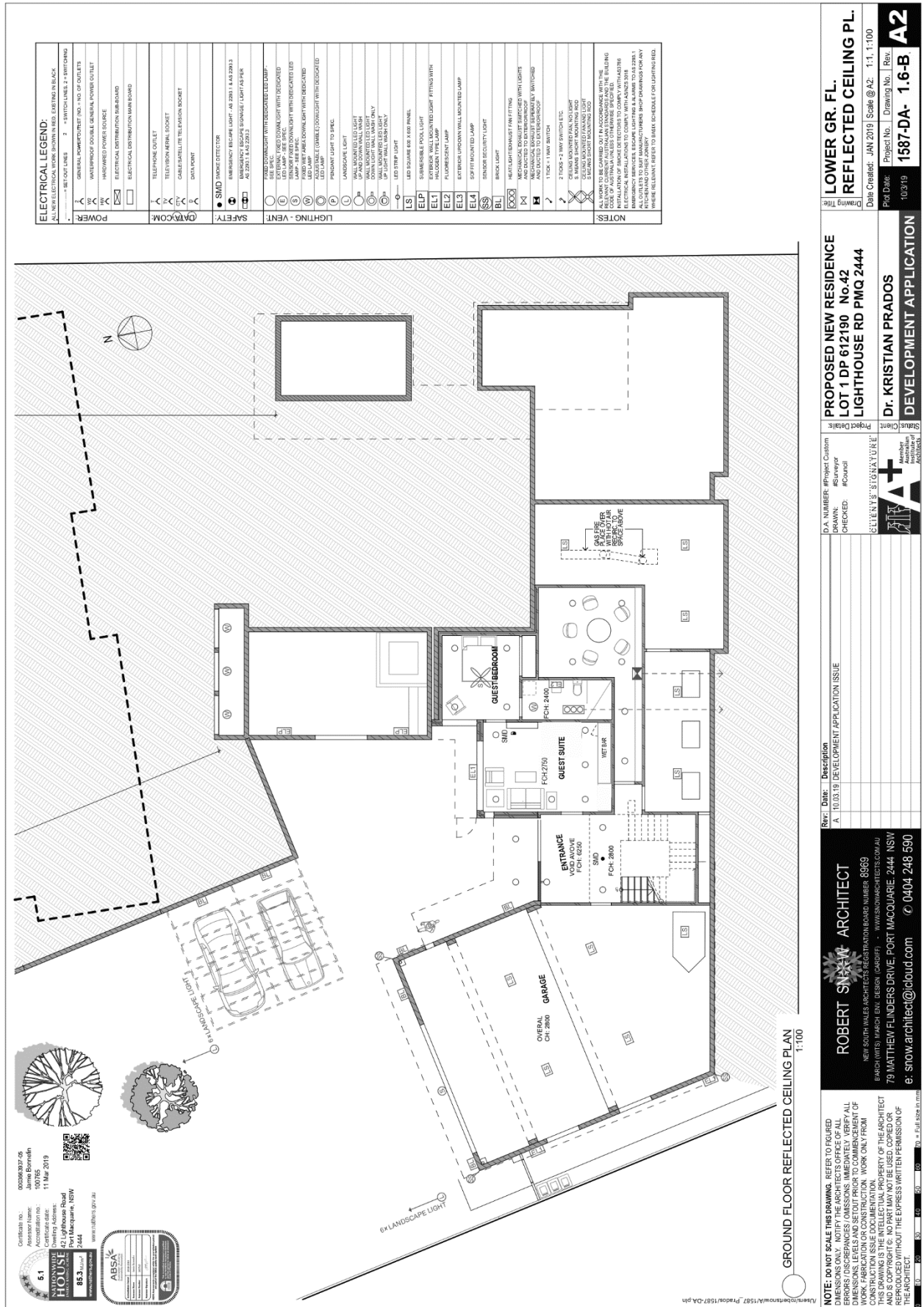
- Client: DR. KRISTIAN PRADOS
- Project: LOT 1 DP 612190 No.42 LIGHHOUSE RD PMQ 2444
- Architect: ROBERT SNOW ARCHITECT
- Address: 79 MATTHEW FLINDERS DRIVE PORT MACQUARRE 2444 NSW
- Phone: 0404 248 590
- Website: snow.architect@cloud.com

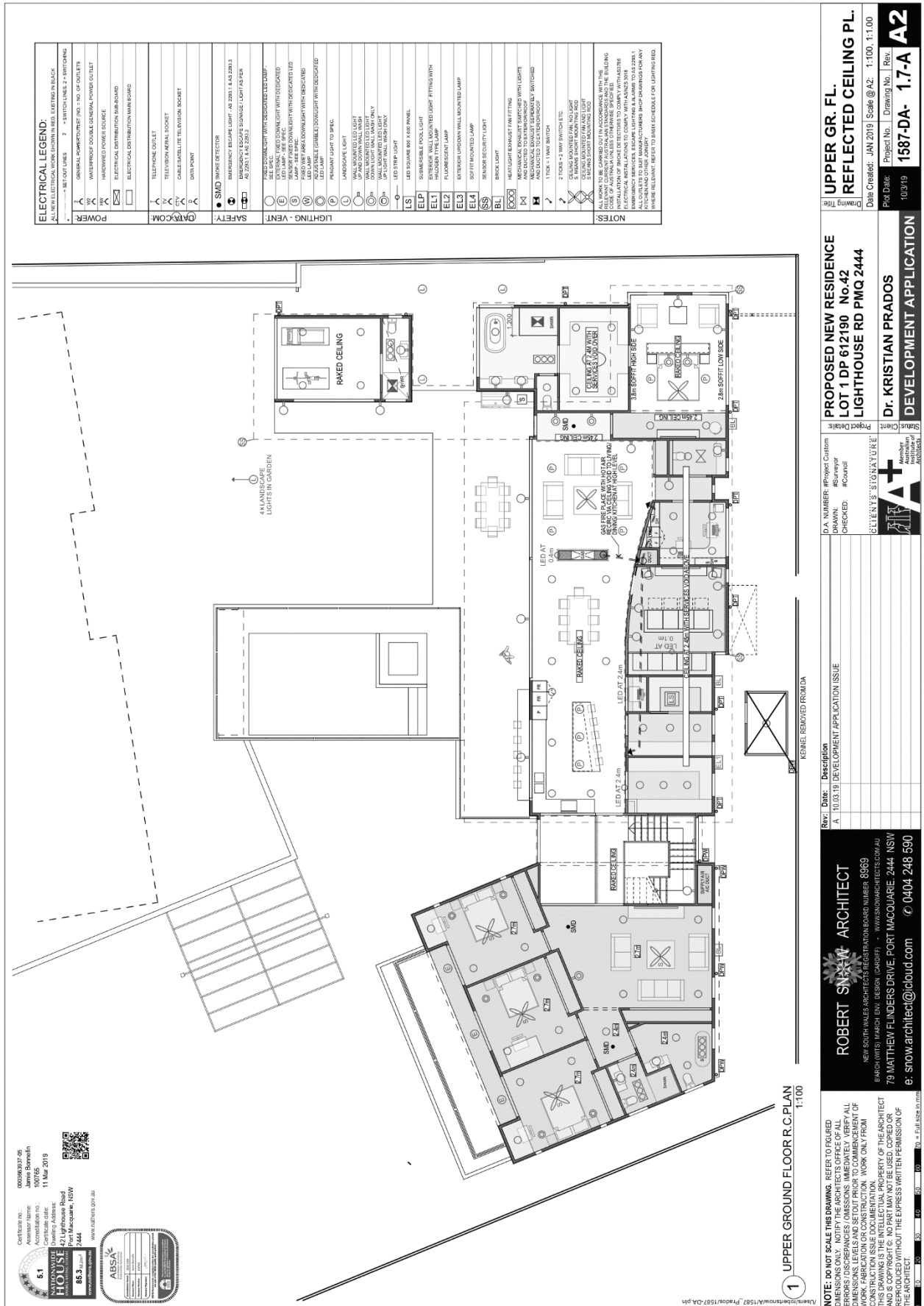
Table 1: DOOR SCHEDULE

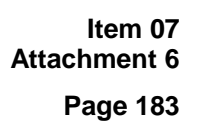
Door	Orientation	Material	Height	Width	Notes
1	N	ALUMINIUM	2,400	2,400	
2	N	ALUMINIUM	2,400	2,400	
3	N	ALUMINIUM	2,400	2,400	
4	N	ALUMINIUM	2,400	2,400	
5	N	ALUMINIUM	2,400	2,400	
6	N	ALUMINIUM	2,400	2,400	
7	N	ALUMINIUM	2,400	2,400	
8	N	ALUMINIUM	2,400	2,400	
9	N	ALUMINIUM	2,400	2,400	
10	N	ALUMINIUM	2,400	2,400	
11	N	ALUMINIUM	2,400	2,400	
12	N	ALUMINIUM	2,400	2,400	
13	N	ALUMINIUM	2,400	2,400	
14	N	ALUMINIUM	2,400	2,400	
15	N	ALUMINIUM	2,400	2,400	
16	N	ALUMINIUM	2,400	2,400	
17	N	ALUMINIUM	2,400	2,400	
18	N	ALUMINIUM	2,400	2,400	
19	N	ALUMINIUM	2,400	2,400	
20	N	ALUMINIUM	2,400	2,400	
21	N	ALUMINIUM	2,400	2,400	
22	N	ALUMINIUM	2,400	2,400	
23	N	ALUMINIUM	2,400	2,400	
24	N	ALUMINIUM	2,400	2,400	
25	N	ALUMINIUM	2,400	2,400	
26	N	ALUMINIUM	2,400	2,400	
27	N	ALUMINIUM	2,400	2,400	
28	N	ALUMINIUM	2,400	2,400	
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31	N	ALUMINIUM	2,400	2,400	
32	N	ALUMINIUM	2,400	2,400	
33	N	ALUMINIUM	2,400	2,400	
34	N	ALUMINIUM	2,400	2,400	
35	N	ALUMINIUM	2,400	2,400	
36	N	ALUMINIUM	2,400	2,400	
37	N	ALUMINIUM	2,400	2,400	
38	N	ALUMINIUM	2,400	2,400	
39	N	ALUMINIUM	2,400	2,400	
40	N	ALUMINIUM	2,400	2,400	
41	N	ALUMINIUM	2,400	2,400	
42	N	ALUMINIUM	2,400	2,400	
43	N	ALUMINIUM	2,400	2,400	
44	N	ALUMINIUM	2,400	2,400	
45	N	ALUMINIUM	2,400	2,400	
46	N	ALUMINIUM	2,400	2,400	
47	N	ALUMINIUM	2,400	2,400	
48	N	ALUMINIUM	2,400	2,400	
49	N	ALUMINIUM	2,400	2,400	
50	N	ALUMINIUM	2,400	2,400	
51	N	ALUMINIUM	2,400	2,400	
52	N	ALUMINIUM	2,400	2,400	
53	N	ALUMINIUM	2,400	2,400	
54	N	ALUMINIUM	2,400	2,400	
55	N	ALUMINIUM	2,400	2,400	
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57	N	ALUMINIUM	2,400	2,400	
58	N	ALUMINIUM	2,400	2,400	
59	N	ALUMINIUM	2,400	2,400	
60	N	ALUMINIUM	2,400	2,400	
61	N	ALUMINIUM	2,400	2,400	
62	N	ALUMINIUM	2,400	2,400	
63	N	ALUMINIUM	2,400	2,400	
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65	N	ALUMINIUM	2,400	2,400	
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71	N	ALUMINIUM	2,400	2,400	
72	N	ALUMINIUM	2,400	2,400	
73	N	ALUMINIUM	2,400	2,400	
74	N	ALUMINIUM	2,400	2,400	
75	N	ALUMINIUM	2,400	2,400	
76	N	ALUMINIUM	2,400	2,400	
77	N	ALUMINIUM	2,400	2,400	
78	N	ALUMINIUM	2,400	2,400	
79	N				













Item: 08**Subject: DA2019 - 463.1 DWELLING - LOT 33 DP 552382, NO. 2 BELL STREET, DUNBOGAN****Report Author: Building Surveyor, Ross Frazier**

Applicant: R V & L G Turunen**Owner: R V & L G Turunen****Estimated Cost: \$461,500****Parcel no: 1716**

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2019 - 463.1 for a dwelling at Lot 33, DP 552382, No. 2 Bell Street, Dunbogan, be determined by granting consent subject to the recommended conditions

Executive Summary

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

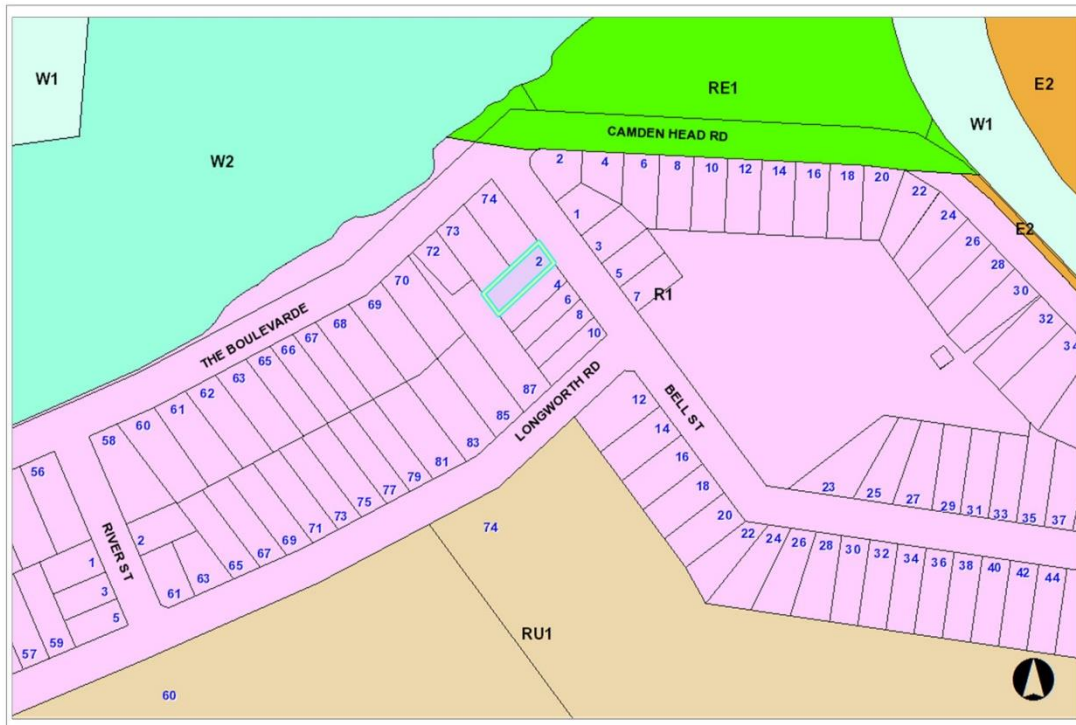
Following exhibition of the application, one (1) submission has been received.

This report recommends that the subject development application be approved subject to the conditions included in Attachment 1.

1. BACKGROUND**Existing Sites Features and Surrounding Development**

The site has an area of 543.8m².

The site is zoned R 1 General Residential in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Demolition of existing cottage and construction of new 2 storey dwelling with attached garage

Refer to attachments at the end of this report.

Application Chronology

- Application lodged with council on 27/6/2019
- Internal referral to council flood officer for flood comments 2/7/2019
- Email forwarded to applicant clarify flood requirements to be addressed on amended plans 9/7/2019
- Additional information to address flood issues received 15/7/2019
- Notification period completed 25/7/2019
- Submission via e-mail received on 31/7/2019
- Site inspection completed 31/7/2019
- Email to applicant via draftsman to address plan corrections and justifications for DCP variations 12/8/2019
- Plan corrections received 12/8/2019

3. STATUTORY ASSESSMENT**Section 4.15(1) Matters for Consideration**

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

(a) The provisions (where applicable) of:**(i) Any Environmental Planning Instrument****State Environmental Planning Policy No. 44 - Koala Habitat Protection**

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

State Environmental Planning Policy No. 55 – Remediation of Land

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

State Environmental Planning Policy (Coastal Management) 2018

The site is located within a coastal use area / coastal environment area.

In accordance with clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard to clauses 13 and 14 of the SEPP the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- b) any adverse impacts coastal environmental values and natural coastal processes;

- c) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on Aboriginal cultural heritage, practices and places;
- e) any adverse impacts on the cultural and built environment heritage;
- f) any adverse impacts the use of the surf zone;
- g) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- h) overshadowing, wind funnelling and the loss of views from public places to foreshores;
- i) any adverse impacts on existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability;

In accordance with clause 15 the proposal is not likely to cause increased risk of coastal hazards on that land or other land.

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and built environment. The site is predominately cleared other than ornamental trees and located within an area zoned for residential purposes.

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

A BASIX certificate has been submitted demonstrating that the proposal will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.

Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 2.2 - the subject site is zoned R1 General Residential.
- Clause 2.3(1) and the R1 zone landuse table - The dwelling is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

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

2.

- Clause 2.3(2) - The proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality. The proposal contributes to the range of housing options in the locality.
- Clause 2.7 - The demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying Development Codes) 2008.
- 3.
- Clause 4.3 - The maximum overall height of the building above ground level (existing) is approx.. 8.301m which complies with the standard height limit of 8.5m applying to the site.

4.

5.

- Clause 4.4 - The floor space ratio of the proposal is 33.5% (0.335:1) which complies with the maximum 0.65:1 floor space ratio applying to the site.
6.
- Clause 7.1 - The site is mapped as potentially containing class 3 acid sulfate soils. The proposed development includes strip footings and piers, however no excavation extending more than 1m below the natural surface level is proposed, therefore no adverse impacts are expected to occur to the acid sulphate soils found on site.
7.
- Clause 7.3 - The site is land within a mapped "flood planning area" (Land subject to flood discharge of 1:100 annual recurrence interval flood event (plus the applicable climate change allowance and relevant freeboard) In this regard the following comments are provided which incorporate consideration of the objectives of Clause 7.3, Council's Flood Policy 2015, the NSW Government's *Flood Prone Lands Policy* and the NSW Government's *Floodplain Development Manual* (2005):
 - The proposal is compatible with the flood hazard of the land taking into account projected changes as a result of climate change;
 - The proposal will not result in a significant adverse effect on flood behaviour that would result in detrimental increases in the potential flood affectation of other development or properties;
 - The proposal incorporates measures to minimise & manage the flood risk to life and property associated with the use of land;
 - The proposal is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses;
 - The proposal is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding;

Conditions of consent have been recommended to require floor levels to comply with Council's Flood Policy.
- 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

<i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development</i>			
	Requirements	Proposed	Complies
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> • 4.8m max. height • Single storey 	Water tank is appropriately located	Yes

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
	<ul style="list-style-type: none"> • 60m² max. area • 100m² for lots >900m² • 24 degree max. roof pitch • Not located in front setback 		
3.2.2.2	Articulation zone: <ul style="list-style-type: none"> • Min. 3m front setback • An entry feature or portico • A balcony, deck, patio, pergola, terrace or verandah • A window box treatment • A bay window or similar feature • An awning or other feature over a window • A sun shading feature 	No elements within the articulation zone.	N/A
	Front setback (Residential not R5 zone): <ul style="list-style-type: none"> • Min. 6.0m classified road • Min. 4.5m local road • Min. 3.0m secondary road • Min. 2.0m Laneway 	Front building line setback is compliant with the minimum 4.5m front setback requirements.	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Garage door setback is compliant with the minimum front setback requirements. Garage door recessed. Garage setback 2.6m behind building line	Yes
	6m max. width of garage door/s and 50% max. width of building	Width of garage door/s are compliant with the maximum width requirements. Door opening 5.2m. Building width 11.2m	Yes
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Driveway crossing/s width are compliant with the maximum width requirements. Driveway width is indicated as 4.0m. Width of lot is considered a narrow lot being 13.75m.	Yes

DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development			
	Requirements	Proposed	Complies
		Width complies with max. allowed.	
3.2.2.4	4m min. rear setback. Variation subject to site analysis and provision of private open space	The rear setback requirements are complied with.	Yes
3.2.2.5	<p>Side setbacks:</p> <ul style="list-style-type: none"> • Ground floor = min. 0.9m • First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min. • Building wall set in and out every 12m by 0.5m 	<p>The minimum side setback to ground floor is 900mm and the same dimension is proposed for the upper level. The site is a narrow lot. With the requirement for maintaining floor level AHD all of the living area is required to be at this high level and a 3m setback for the upper level is not readily achieved.</p> <p>The shadow diagrams submitted indicate that the rear yard of the adjoining property to the South does receive natural sunlight for a min 3hr. window.</p> <p>The building wall articulation is satisfactory to address the objective intent of the development provision.</p>	<p>DCP variation proposed.</p> <p>Acceptable given the environmental constraints affecting the land (flooding)</p>
3.2.2.6	35m ² min. private open space area including a useable 4x4m min. area which has 5% max. grade	The dwelling contains 35m ² open space in one area including a useable 4m x 4m space.	Yes
3.2.2.10	<p>Privacy:</p> <ul style="list-style-type: none"> • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and 	<p>No additional privacy screens are recommended.</p> <p>The development should not compromise privacy in the area. The front upper verandah Northern elevation is not proposed to be screened.</p> <p>The upper level front verandah is to be 900m from the boundary and will overlook the rear yard of the</p>	<p>Yes</p> <p>DCP variation proposed.</p>

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

	Requirements	Proposed	Complies
	<p>is permanently fixed</p> <ul style="list-style-type: none"> Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m 	<p>adjoining property. No privacy screens are proposed.</p> <p>Highlight windows are indicated to be provided to the living area and family area located adjacent to the side boundary.</p> <p>A privacy screen is indicated to be provided to the front and rear deck on the Southern elevation where it is located within 3m of the side boundary.</p>	

DCP 2013: General Provisions

	Requirements	Proposed	Complies
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	No concealment or entrapment areas proposed. Adequate casual surveillance available.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut and fill <1.0m change 1m outside the perimeter of the external building walls	Yes
2.3.3.2	1m max. height retaining walls along road frontage	None proposed	N/A
	Any retaining wall >1.0 in height to be certified by structure engineer	No retaining wall likely >1m	Yes
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	No retaining wall front fence combination proposed.	N/A
2.3.3.8	Removal of hollow bearing trees	No trees proposed to be removed	N/A
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk at 1m above ground	2 x ornamental trees indicated on plans to be removed.	Yes

DCP 2013: General Provisions			
	Requirements	Proposed	Complies
	level and 3m from external wall of existing dwelling)		
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.2	New accesses not permitted from arterial or distributor roads	No new access proposed to arterial or distribution road.	N/A
	Driveway crossing/s minimal in number and width including maximising street parking	Driveway crossing minimal in width including maximising street parking	Yes
2.5.3.3	Parking in accordance with Table 2.5.1. 1 space per single dwelling (behind building line)	1 or capacity for more than 1 parking space behind the building line has been provided for.	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway proposed	Yes
2.5.3.15 and 2.5.3.16	Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length	Driveway grades capable of satisfying Council standard driveway crossover requirements. Condition recommended for section 138 Roads Act permit	Yes
2.5.3.17	Parking areas to be designed to avoid concentrations of water runoff on the surface.	Single dwelling only with 1 domestic driveway. Stormwater drainage is capable of being managed as part of plumbing construction.	Yes

The proposal seeks to vary Development Provision relating to:-

- Clause 3.2.2.5 - This clause recommends first floors to be setback a minimum of 3m from the side boundary unless it can be demonstrated that the adjoining property amenity is not compromised. The first floor is proposed to be setback a min 900mm from side boundary in lieu of 3m. As the lot is a narrow lot with only a frontage of 13.715m and the living areas are required to meet the AHD requirements of council flood policy, the provision of a 3m setback to the upper level is not readily achievable.
- 8.
9. The adjoining property is a single storey cottage which will lend itself to be refurbished / demolished in the future to make way for a new dwelling. At this time it may be required that the habitable areas of this dwelling also meet the AHD requirements for floor level as dictated by councils flood policy. The proposed setback is not considered to give rise to a level of impact that would justify refusal of the application.

- Clause 3.2.2.10 - This clause recommends a deck or verandah or the like with a floor area greater than 3m² and with a setback less than 3m from a side boundary and more than 1m above ground level to have privacy screens. First floor front verandah void of privacy screens. The front upper level verandah of the proposed dwelling is not indicated to have privacy screens provided. Views to the North and West are the main aspect of the development and the provision of screens will inhibit this view.
- Clause 3.2.2.5 - The relevant objectives are:
 - To reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy.
 - To provide for visual and acoustic privacy between dwellings.

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

- The proposed dwelling floor level is required to comply with councils flood policy and requires an AHD of 4.14m
 - The lot is a narrow lot and to provide the habitable floor areas at the required AHD whilst maintaining private open space at ground level, a 3m side boundary setback is not readily achievable.
 - It is considered that the existing cottage on the Southern adjoining lot will be refurbished / rebuilt in the future which could require the floor level of the habitable rooms to be raised to a similar height as this proposed dwelling.
- 10.
- Clause 3.2.2.10 - To protect the visual privacy of on-site and nearby residents.

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

- The existing vegetation within the neighbouring property will assist with maintaining privacy
- The rear yard of the adjoining property is largely vegetated with trees
- No clear open space areas are evident on the adjoining properties

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.

(iiiia) **Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

No Planning agreement

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. Due to the age of the existing cottage, building materials and products containing asbestos may be present.

(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 proposal will not have any significant adverse impacts on existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be compatible with other residential development in the locality and adequately addresses planning controls for the area.
- The proposal does not have a significant adverse impact on existing view sharing.
- The proposal does not have significant adverse lighting impacts.
- There are no significant adverse privacy impacts.
- There are no significant 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.

(c) The suitability of the site for the development

The lot is an existing residential lot. It is considered to be a narrow lot with a frontage of 13.715m. The existing single storey cottage to be demolished is located to the rear of the lot. The site is considered suitable for residential development as proposed.

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

One (1) written submission has been received following public exhibition of the application. Key issues raised in the submissions received and comments in response to these issues are provided as follows:

Submission Issue/Summary	Planning Comment/Response
The river views from 4 Bell Street will be obscured	The orientation of this part of Bell St will enable views to be shared along the street to the Camden Haven river. The building complies with front setback provisions and will still afford a satisfactory level of view sharing. It is considered that it is unreasonable to retain the extent of existing views across the side boundary.
The dwelling is situated forward of the adjacent dwelling on 4 Bell St.	The dwelling meets the minimum numerical criteria for the primary frontage setback of 4.5m

(e) The Public Interest

The proposed development satisfies relevant planning controls and will not adversely impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

N/A

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.15 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 considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result 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](#). DA2019 - 463.1 Recommended Conditions

2 [View](#). DA2019 - 463.1 Plans.

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2019/463****DATE: 12/08/2019****PRESCRIBED CONDITIONS**

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Plans	Job: 1912	RJ Cartwright Design and Drafting Service	12/8/2019
BASIX certificate	1022317S	Concept designs Australia	20/6/2019
BAL certificate	2 Bell St Dunbogan	S. and K. Johnson Constructions Pty Ltd	14/5/2019

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

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

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

- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;

4. Building waste is to be managed via appropriate receptacles into separate waste streams;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (4) (A065) The development shall allow flood waters up to the 1 in 100 including applicable climate change allowance event to pass through the carport. The carport area may be enclosed for security purposes with slats or lattice material provided the porosity of each wall/side is no less than 50%.
- (5) (A091) All parts of the structure below the applicable Flood Planning Level (1 in 100 flood level including climate change plus the relevant freeboard) shall be constructed from flood compatible materials compliant with the ABCB Standard for construction of Buildings in Flood Hazard Areas. Consideration should also be given to the relevant provisions contained with the Hawkesbury-Nepean Floodplain Management Steering Committee document *Reducing Vulnerability of Buildings to Flood Damage (2007)*. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed RL3.64m AHD.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.
- (3) (B046) The building shall be designed and constructed so as to comply with the Bush Fire Attack (BAL) 12.5 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of Planning for Bush Fire Protection 2006 to prevail in the extent of any inconsistency with the Building Code of Australia.
- (4) (B067) The floor level of all habitable areas is to be a minimum of 500mm above the 1 in 100 year flood level including the applicable climate change

allowance. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.64m AHD. The floor level of all habitable areas must therefore be at or above 4.14m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.

- (5) (B068) The floor level of the entry foyer area is to be above the 1 in 20 year flood level. For the purpose of this requirement, the 1 in 20 year flood level may be assumed to be RL2.22m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (6) The floor level of the carport is to be no lower than 1.2m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (7) Window Five(W5) on the western side of the Ground Floor Void Alcove (as shown on the Ground Floor Plan, drawn by RC on 15/07/2019, sheet 2 of 7, revision B) is not permitted. This opening shall be unenclosed, or enclosed with slat infill panels. In this regard if a slat infill panel is proposed it shall accord with those approved for the carport and condition A(4) of this consent.
- (8) (B071) Prior to release of the Construction Certificate a practising chartered professional structural engineer is to provide certification to the PCA that the building is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur for a range of floods up to and including the 1 in 100 year flood including climate change and the relevant freeboard level of 500mm. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.64m AHD. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1 in 100 year flood including climate change plus freeboard. For the purpose of this requirement, the velocity for the 1 in 100 flood including climate change may be assumed to be 0.52/s.
- (9) (B198) The rainwater tank is to be securely fastened so that it does not become floating debris in a flood event up to and including the 1 in 100 year flood including the applicable climate change allowance. Fastening details are to be provided by a suitably qualified engineer and shall be submitted with the application for the Construction Certificate.

C – PRIOR TO ANY WORK COMMENCING ON SITE

nil

D – DURING WORK

- (1) A survey certificate from a registered land surveyor is to be submitted to the Principal Certifying Authority at footings and/or formwork stage. Such certification shall set out the boundaries of the site, the actual situation of the buildings and included certification that siting levels comply with the approved plans.
- (2) Disturbance or excavation of soils below a depth of 1.0 metre shall not occur to ensure that acid sulphate soils are not exposed and oxidised.
- (3) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or

inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

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

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

[Safely disposing of asbestos waste from your home](#)

[Fibro & Asbestos - A Renovator and Homeowner's Guide](#)

[Asbestos Awareness](#)

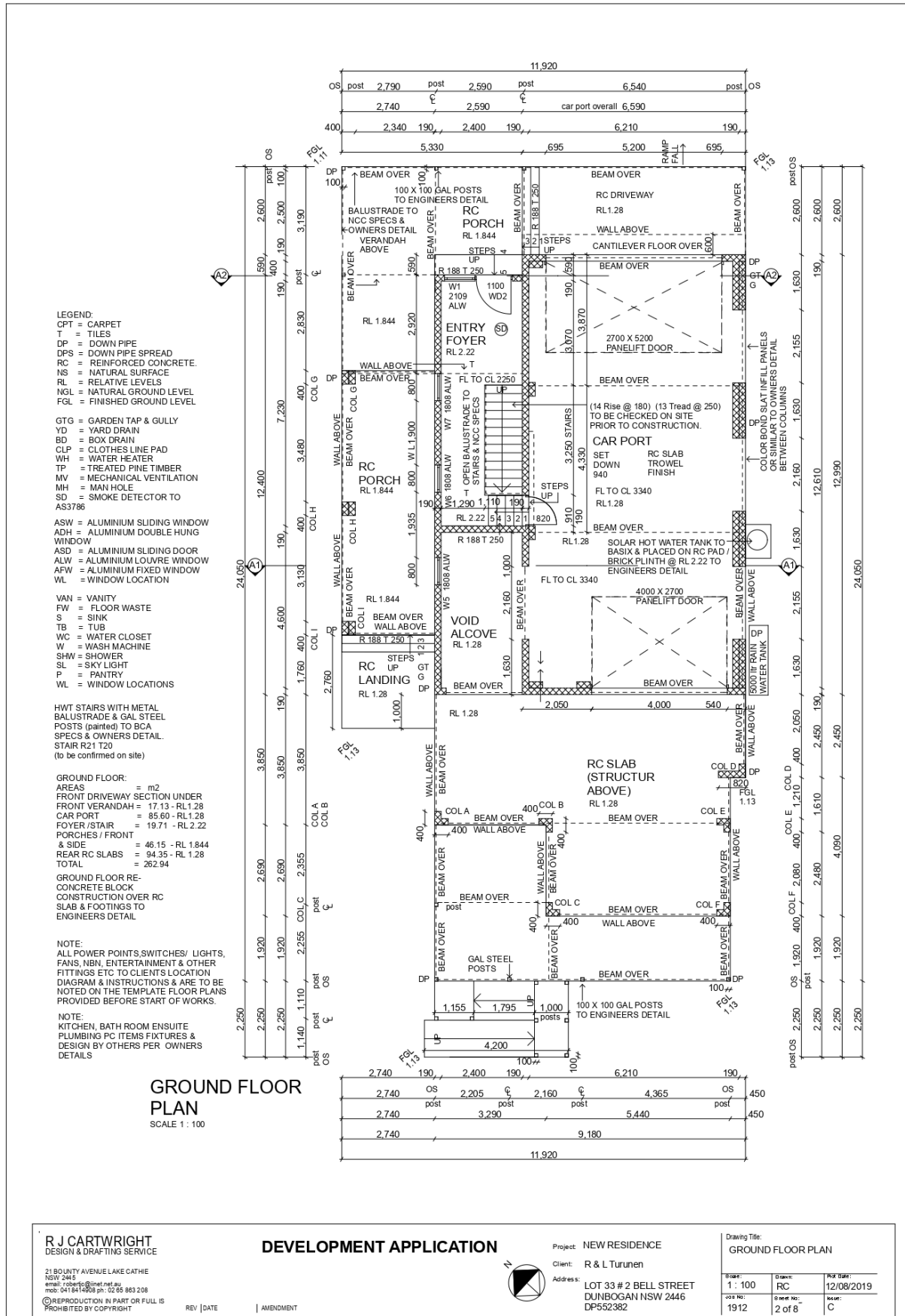
E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

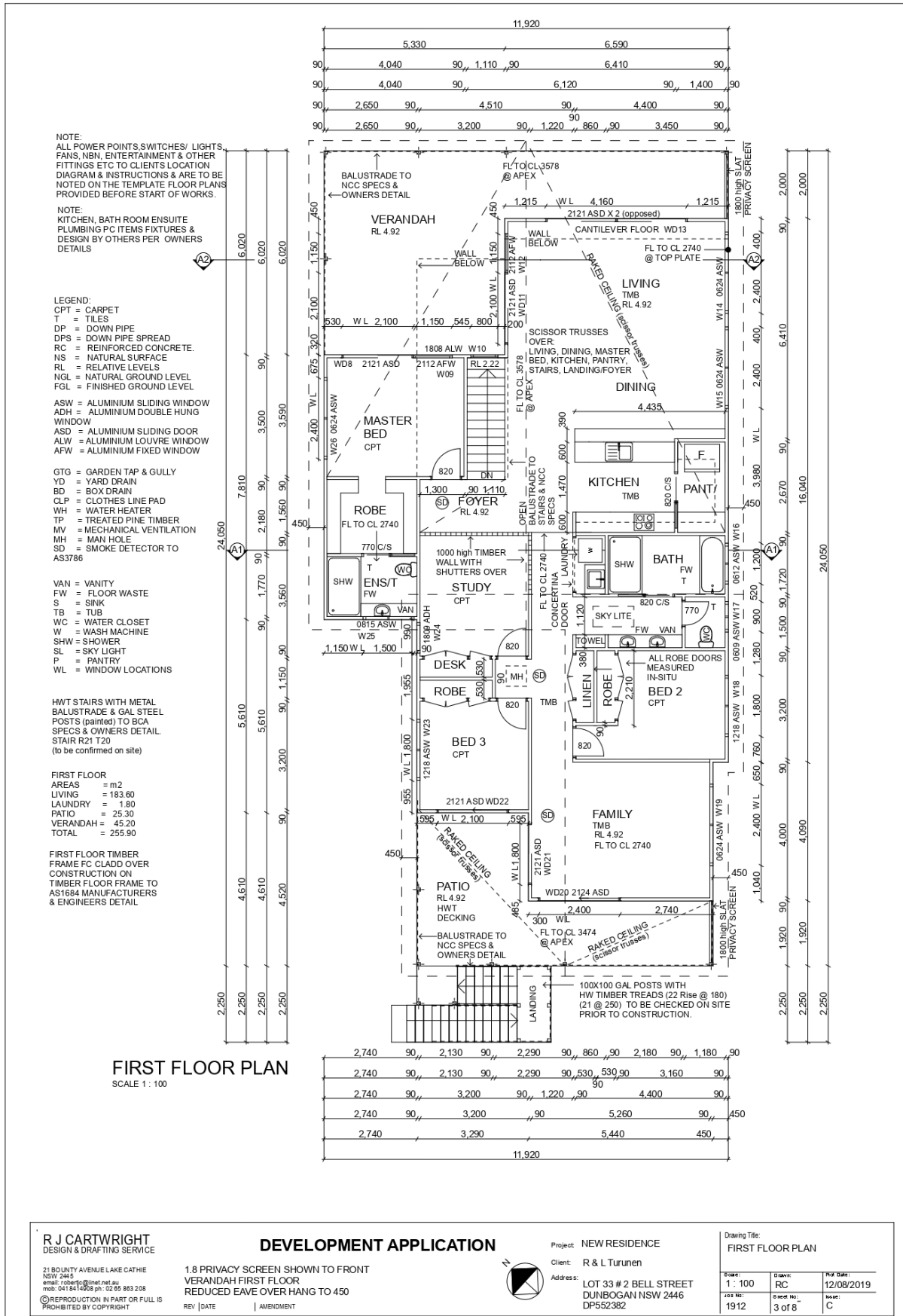
- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E034) Prior to occupation or the issuing of the Final Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (3) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (4) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any 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.
- (5) (E044) The applicant will be required to submit prior to the occupation or the issue of the Occupation Certificate, certification by a Registered Surveyor that the development has met the necessary flood planning levels specified in this consent.
- (6) (E045) All electrical meter boxes shall be placed at a level which is above the 1 in 100 year flood level including the applicable climate change allowance. The positioning of meter boxes shall comply with the requirements of the relevant electricity authority. For the purposes of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL 3.64m AHD.

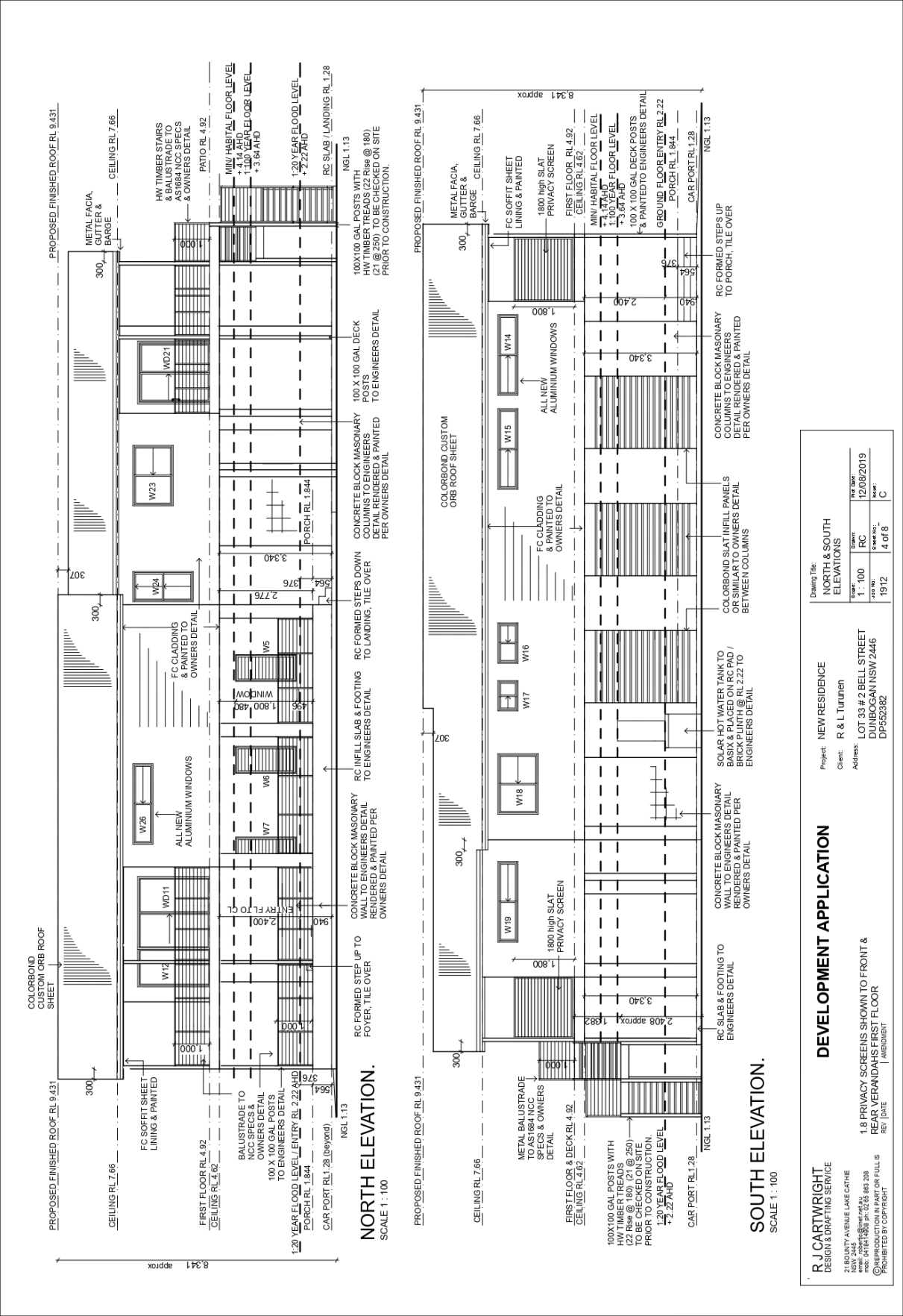
F – OCCUPATION OF THE SITE

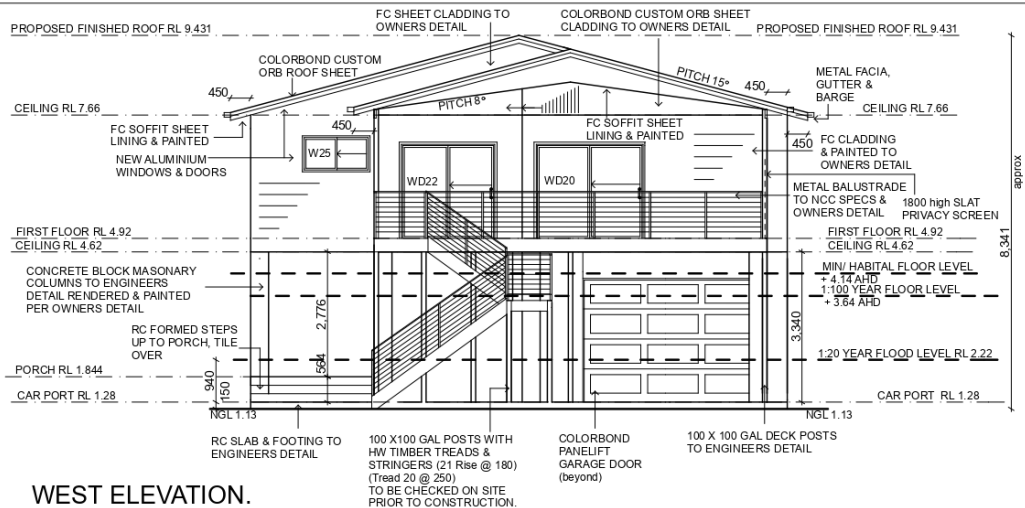
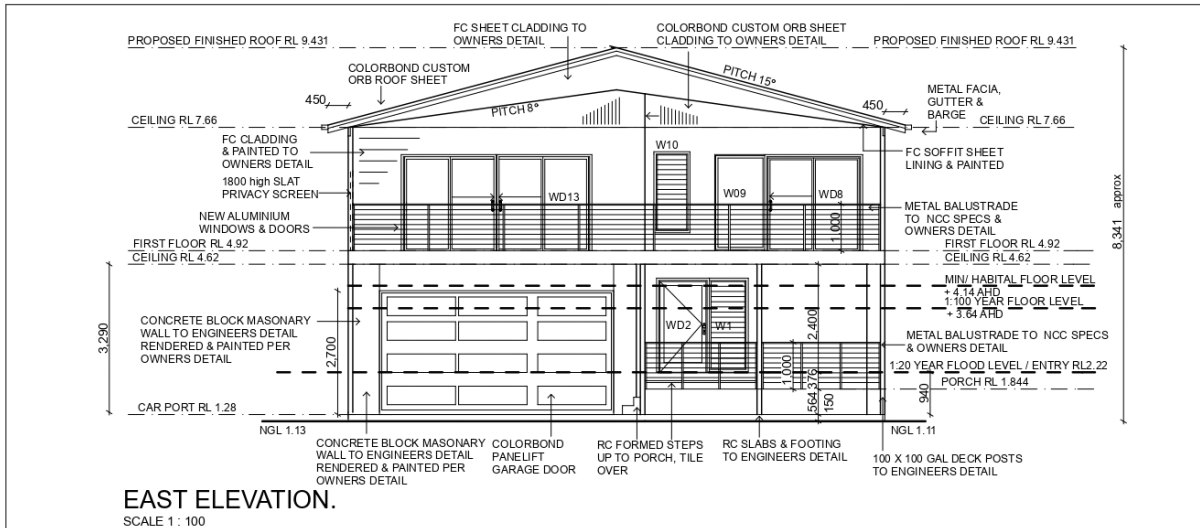
- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F035) The consent only permits the use of the building as a single dwelling and does not permit the adaption or use of the building so as to create a second occupancy.











TIMBER: FRAMING DETAIL to A/S 1684

EXTERNAL
BOTTOM PLATE F5 45 x 90
TOP PLATE F5 2 / 45 x 90
STUDS F5 90 x 45 @ 600 cnts
NOGGINGS F5 90 x 35 1 centre row

TIMBER FRAME, TIE DOWNS & BRACING
TO A/S 1684 & ENGINEERS DETAIL/ SPECS.
ROOF TRUSSES FIXED TO MANF'S DETAILS & SPECS

NOTE

CONFIRM WITH TRUSS MANUFACTURER
ALL TIMBER FRAME DIMENSIONS, ROOF PITCH,
EAVE OVER HANG PRIOR TO
COMMENCEMENT
OF WORKS.

OTHER FLOOR SYSTEMS INCLUDING
RC SLABS & FOOTINGS TO AS2870
& ENGINEERS DETAIL.

TIMBER & STEEL BEAMS, COLUMNS,
POSTS & FLOOR FRAMING TO AS1684
MANUFACTURERS & ENGINEERS DETAIL.
LINTELS F27
LINTELS WITH CONCENTRATED LOAD
TO BE INCREASED TO ROOF FRAMING
MANF'S SPECS

100 X 100 HARDWOOD TIMBER POSTS ON GALV STIRRUPS.

INTERNAL
F5 45 x 90
F5 45 x 90
F5 90 x 45 @ 600 cnts
F5 90 x 35 1 centre row

F/FOYER

NOTE:

ALL (UPPER LEVEL) BED ROOM WINDOWS ARE REQUIRED TO BE
PROTECTED AS PER THE BCA part 3.9.2.5 (openable windows)
WHERE WINDOWS REQUIRE ADJUSTABLE AWNINGS
REFER TO BASIX REPORT.

GLAZING SCHEDULE NOTE: CHECK MEASURE ALL WINDOW & DOOR
OPENINGS ON SITE PRIOR TO MANUFACTURE

W#	ROOM	HEIGHT	WIDTH	CONSTRUCTION	GLAZING	TYPE	AREA
1	ENTRY	1800	0800	ALUMINIUM	TO BASIX	LOUVRE WIND	1.44
2D	ENTRY	2100	1100			HINGED DOOR	2.31
3	REAR ENTRY	1800	0800			LOUVRE WIND	1.44
4	F/FOYER	1800	0800			LOUVRE WIND	1.44
5	F/FOYER	1800	0800			LOUVRE WIND	1.44
6	MASTER	2100	2100			SLIDE DOOR	4.41
7	MASTER	1800	0800			FIXED SASH	2.52
8	STAIRS	2100	2100			LOUVRE	1.44
9	LIVING	2100	1200			SLIDE DOOR	4.41
10	LIVING	2100	1200			SLIDE DOOR	4.41
11	LIVING	2100	2100 X 2	OPPOSED		SLIDE WIND	1.44
12	DINING	0600	2400			SLIDE WIND	1.44
13	BATH	0600	1200			SLIDE WIND	0.72
14	WC	0600	0900			SLIDE WIND	0.54
15	BED 2	1200	1800			SLIDE WIND	2.16
16	FAMILY	0600	2400			SLIDE WIND	1.44
17	FAMILY	2100	2400			SLIDE DOOR	5.04
18	FAMILY	2100	2100			SLIDE DOOR	4.41
19	BED3	2100	2100			SLIDE DOOR	4.41
20	BED3	1200	1800			SLIDE WIND	2.16
21	STUDY	1800	0900			DOUB HUNG	1.62
22	ENSUITE	0800	1500			SLIDE WIND	1.20
23	MASTER	0600	2400			SLIDE WIND	1.44

BUILDER TO CROSS REFERENCE WINDOW SIZES IN
THIS SCHEDULE WITH ELEVATIONS BEFORE MANUFACTURE.

R J CARTWRIGHT
DESIGN & DRAFTING SERVICE

21 BOUNTY AVENUE LAKE CATHE
NSW 2445
email: rc@rcdwg.com.au
mob: 041 841 4908 ph: 02 85 983 208
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REDUCED EAVE OVER HANG TO 450
1.8 PRIVACY SCREENS TO FRONT & REAR
VERANDAH'S FIRST FLOOR
REV: [DATE] | AMENDMENT

DEVELOPMENT APPLICATION

Project: NEW RESIDENCE

Client: R & L Turunen

Address: LOT 33 # 2 BELL STREET
DUNBOGAN NSW 2446
DP552382

Drawing Title:
EAST & WEST
ELEVATIONS

Scale:	1 : 100 @ A3	Drawn:	RC	Rev:	12/08/2019
Job No:	1912	Sheet No.:	5 of 8	Issue:	C

SECTION A - 1
SCALE 1 : 100

Fixtures

The applicant must install showerheads with a minimum rating of 3 star (> 7.5 but <= 9 L/min) in all showers in the development.				
The applicant must install a toilet flushing system with a minimum rating of 3 star in each toilet in the development.				
The applicant must install taps with a minimum rating of 3 star in the kitchen in the development.				
The applicant must install basin taps with a minimum rating of 3 star in each bathroom in the development.				

Alternative water

Rainwater tank

The applicant must install a rainwater tank of at least 5000 litres on the site. This rainwater tank must meet, and be installed in accordance with, the requirements of all applicable regulatory authorities.				
The applicant must configure the rainwater tank to collect rain runoff from at least 130 square metres of the roof area of the development (excluding the area of the roof which drains to any stormwater tank or private dam).				
The applicant must connect the rainwater tank to:				
• all toilets in the development				
• the cold water tap that supplies each clothes washer in the development				
• at least one outdoor tap in the development (Note: NSW Health does not recommend that rainwater be used for human consumption in areas with potable water supply.)				

Thermal Comfort Commitments

	Show on DA plans	Show on CC/CDC plans & specs	Certifier check
Simulation Method			
The applicant must attach the certificate referred to under "Assessor Details" on the front page of this BASIX certificate (the "Assessor Certificate") to the development application and construction certificate application for the proposed development (or, if the applicant is applying for a complying development certificate for the proposed development, to that application). The applicant must also attach the Assessor Certificate to the application for an occupation certificate for the proposed development.			
The Assessor Certificate must have been issued by an Accredited Assessor in accordance with the Thermal Comfort Protocol.			
The details of the proposed development on the Assessor Certificate must be consistent with the details shown in this BASIX certificate, including the Cooling and Heating loads shown on the front page of this certificate.			
The applicant must show on the plans accompanying the development application for the proposed development, all matters which the Assessor Certificate requires to be shown on those plans. Those plans must bear a stamp of endorsement from the Accredited Assessor to certify that this is the case. The applicant must show on the plans accompanying the application for a construction certificate (or complying development certificate, if applicable), all thermal performance specifications set out in the Assessor Certificate, and all aspects of the proposed development which were used to calculate those specifications.			
The applicant must construct the development in accordance with all thermal performance specifications set out in the Assessor Certificate, and in accordance with those aspects of the development application or application for a complying development certificate which were used to calculate those specifications.			
The applicant must construct the floors and walls of the dwelling in accordance with the specifications listed in the table below.			

Floor and wall construction	Area
floor - concrete slab on ground	29.0 square metres
floor - suspended floor/open subfloor	170.0 square metres

R J CARTWRIGHT
DESIGN & DRAFTING SERVICE

21 BOUNTY AVENUE LAKE CATHE
NSW 2445
email: rjcartwright@net.net.au
mob: 041 841 4908 ph: 02 85 983 208
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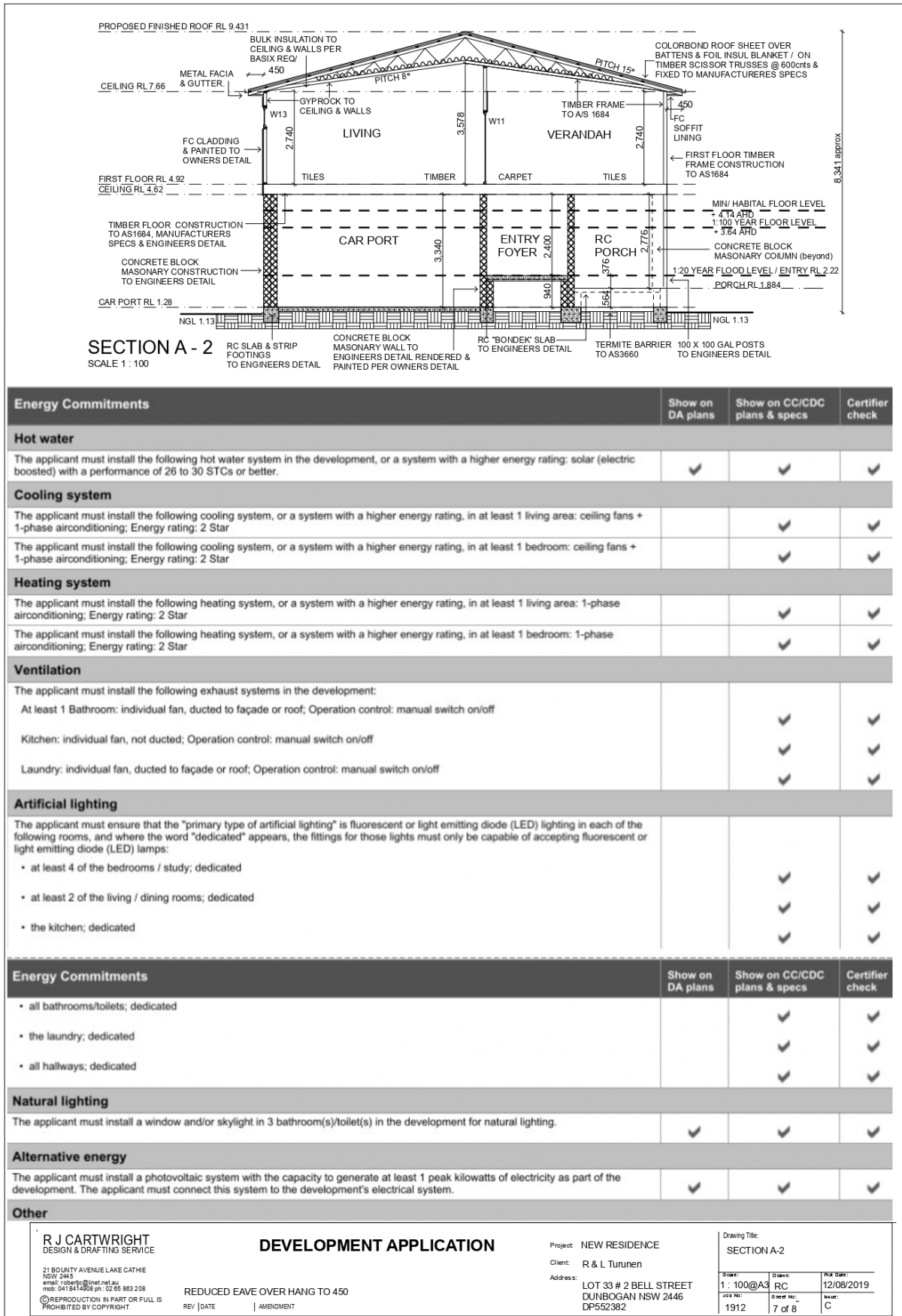
DEVELOPMENT APPLICATION

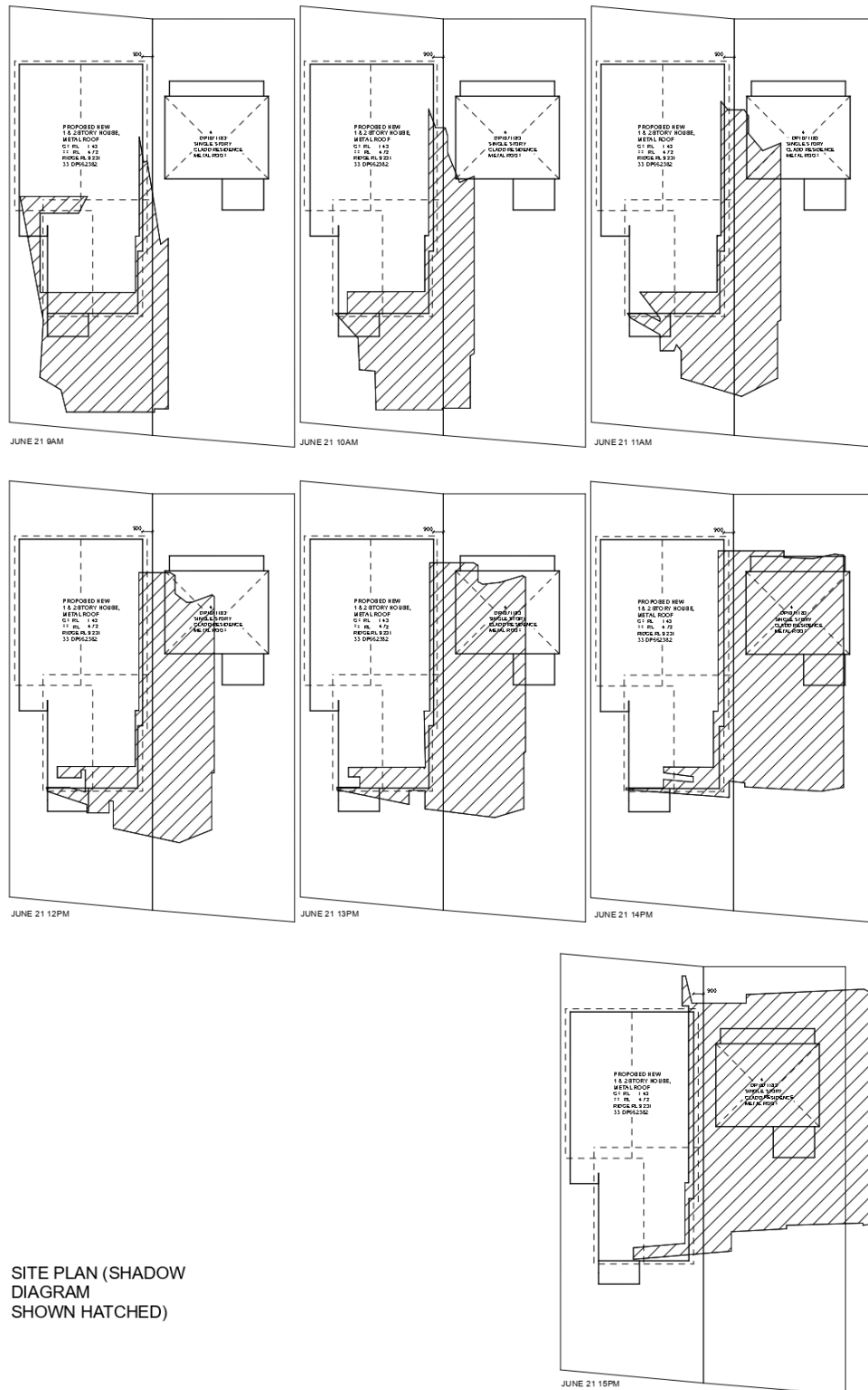
Project: NEW RESIDENCE
Client: R & L Turunen
Address: LOT 33 # 2 BELL STREET
DUNBOGAN NSW 2446
DP552382

Reduced Eave Over Hang to 450

Drawing Title: SECTION A-1

Scale: 1 : 100 @ A3	Drawn: RC	Rev Date: 12/08/2019
Job No: 1912	Sheet No: 6 of 8	Issue: C





R J CARTWRIGHT
DESIGN & DRAFTING SERVICE

21 BOUNTY AVENUE LAKE CATHE
NSW 2445
email: rjcartwright@inet.net.au
mob: 041 841 4008 ph: 02 85 883 208

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REV | DATE

DEVELOPMENT APPLICATION



Project: NEW RESIDENCE

Client: R & L Turunen

Address: LOT 33 # 2 BELL STREET
DUNBOGAN NSW 2446
DP552382

Drawing Title:
SHADOW DIAGRAMS
JUNE 21 @ hourly intervals 9 AM
THRU 15PM

Scale:	Drawn:	Rev Date:
1:12	RC	16/08/2019
1:12	8 of 8	E

Item: 09

**Subject: DA2017 - 736.2 - MODIFICATION TO PREVIOUS APPROVED
MANUFACTURED HOME ESTATE AND SUBDIVISION - NO. 79
BATAR CREEK ROAD, KENDALL**

**Report Author: Development Assessment Planning Coordinator, Patrick
Galbraith-Robertson**

Applicant: Land Dynamics
Owner: M J & P B Angel
Estimated Cost: N/A - Modification only
Parcel no: 30145, 30146 & 30147

Alignment with Delivery Program

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

RECOMMENDATION

That the Section 4.55(2) modification application to DA 2017 - 736.2 for a manufactured home estate and subdivision at Lot 1 DP 122192, Lot 79 DP 655658, Lot 23 DP112083 and Lot 1 DP 1142845, Batar Creek Road, Kendall, be determined by granting consent subject to the recommended modified conditions.

Executive Summary

This report considers an application for a modification to a previous approved manufactured home estate and subdivision at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, twelve (12) submissions have been received.

This report recommends that the application to modify the development consent (DA2017 - 736.1) be approved subject to the modified conditions included in Attachment 1.

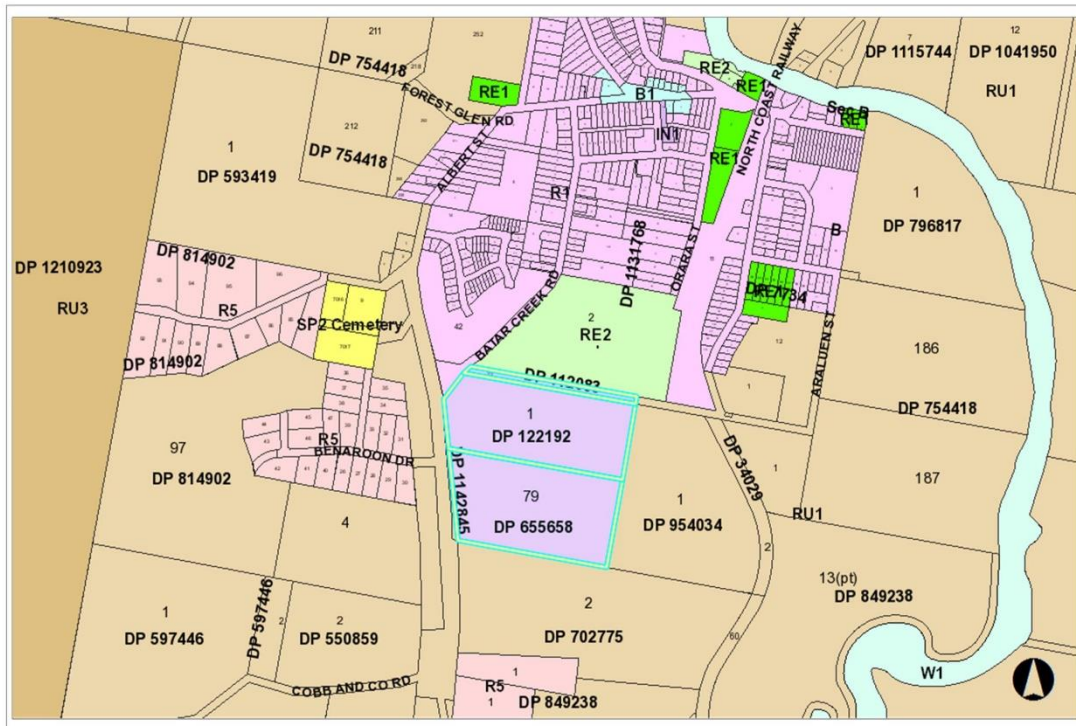
1. BACKGROUND

History

The subject Development Application was reported to, and approved by, the Development Assessment Panel subject to conditions on 28 November 2018.

Existing Sites Features and Surrounding Development

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



The subject land is described as Lot 1 DP 122192, Lot 79 DP 655658, Lot 23 DP 112083 and Lot 1 DP 1142845, No. 79 Batar Creek Rd, Kendall. The land occupies an area of approximately 21.8ha and is mainly cleared.

The site currently contains a dwelling house and associated out buildings on the two larger parcels, with direct access to Batar Creek Road. A narrow parcel of land along the northern boundary is also included in the development site. The site is located on the southern edge of the town of Kendall and immediately to the north is the Kendall Showground. To the west of the site is a large lot residential area with access via Benaroon Drive. A large farm dam with an approximate area of 7500m² is in the southeast of the site.

The site has been extensively cleared in the past and has been used for the grazing of cattle. Small patches of vegetation have regrown in some areas. Small stands of remnant forest along the northwest and eastern boundary remain, along with occasional scattered trees throughout the site.

The site was rezoned from rural to residential in 2006.

Kendall is a village located approximately 13km west of the coastal township of Laurieton and approximately 25km south of Port Macquarie. Kendall and Kew provide for a range of services and facilities to the residents of both villages and the surrounding rural locality including a primary school, RSL Club, Hotel, general store and other convenience stores, service station, show ground, public swimming pool, tennis courts, showground, golf course and community hall.

The North Coast Rail Line is to the east of the subject site. A small ridgeline extends onto the subject site from the northwest and progresses towards the centre of the site. Generally flat topography is present in the central portion of the subject site adjacent to the crest of the ridgeline.

The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photographs (2012 and Nearthmap July 2018):



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the modification application include a reassessment of consent conditions relating primarily to the following:

- Extent of road upgrade works, based upon revised traffic generation rates;
- Extent of pedestrian footpath / cycleways;
- Provision of sewer to the adjoining Showground and alignment relating to crossing of Camden Haven River for likely sewer main upgrades; and
- Ability for works in kind arrangements for works beyond those generated by this development.

The modification application seeks changes to the following existing conditions of consent:

1. Delete point 14 of condition B(2);
2. Delete point c) of condition B(18);
3. Delete points b) and c) of condition B(20);
4. Delete condition B(30);
5. Amend point 13 of condition B(2);
6. Amend point a) of condition B(18);
7. Amend point a) and heading of condition B(20);
8. Amend condition B(28);
9. Amend condition B(38);
10. Amend conditions E(4) and E(5); and
11. Suggest addition of condition to restrict occupancy to 2 bedrooms.

The Applicant has also submitted details outlining that conditions imposed by a consent authority (Council) under Section 4.17 of the Environmental Planning and Assessment Act 1979 must have a planning purpose, must relate to the development and must not otherwise be unreasonable, applying the “Newbury test” set out in *Newbury District Council v Secretary of State for the Environment [1981] AC 578 at 607*.

Reference is also made to the decision of *Lorenzato v Burwood Council [2017] NSWLEC 1269*. The Newbury test was applied to conditions of consent being sought to be imposed by the consent authority relating to stormwater drainage works, with the NSW Land and Environment Court finding that the respective conditions were unreasonable. The Applicant contends that the Newbury test is of important relevance to this consent as they are of the opinion that there are instances where there is not a demonstrated nexus between the development and the infrastructure works identified as conditions in the subject consent to warrant the imposition of conditions under Section 4.17 of the Environmental Planning and Assessment Act 1979.

Refer to attachments at the end of this report.

Application Chronology

- 27 May 2019 - Modification application lodged with Council;
- 4 to 18 May 2019 - Neighbour notification of proposal;
- 21 June 2019 - Assessment update provided to Applicant;

- 24 June 2019 - Redacted copies of submissions forwarded to Applicant to respond to;
- 2 July 2019 - Meeting with Applicant to discuss assessment issues and request for additional information;
- 10 July 2019 - Applicant advised of assessment advice from Sewer servicing perspective;
- 10 July 2019 - Applicant provided additional information including response to submission issues raised;
- 23 July 2019 - Additional information requested from Applicant with regard to Sewer main upgrades and advice provided in regards to attaching new sewer main to existing bridge over Camden Haven River;
- 23 July 2019 - Additional information received from Applicant with regards to new Sewer main works; and
- 8 August 2019 - Additional information received from Applicant regarding new sewer main works.

3. STATUTORY ASSESSMENT

Section 4.55 Modification of consents - generally

Section 4.55 of the Environmental Planning and Assessment Act 1979 enables the modification of consents and categorises modification into three categories - 4.55(1) for modifications involving minor error, mis-description or miscalculation; 4.55(1A) for modifications involving minimal environmental impact; and 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 proposal is considered to be a section 4.55(2) application.

Is the proposal substantially the same?

The subject application is being considered under the provisions of Section 4.55(2). The proposal is considered to be substantially the same development to that which was originally consented to. Specifically the approved use of the site remains relatively unchanged. The fundamental characteristics and essence of the development remains essentially the same. The overall footprint, number of manufactured sites, layout and community facilities remains unchanged.

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

Neighbour notification has been undertaken.

Any submissions made concerning the modification

Twelve (12) submissions have been received following completion of the neighbour notification period. The submissions are considered later in this report.

Any matters referred to in section 4.15(1) Matters for Consideration relevant to the modification

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. 36 - Manufactured Home Estates**

There are no issues as part of the modification that change or alter the original assessment under the SEPP.

Port Macquarie-Hastings Local Environmental Plan 2011 (LEP 2011)

Clause 7.13, satisfactory arrangements remain in place for provision of essential services including the modified arrangements for provision of adequate sewer infrastructure.

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

The modification proposal will be unlikely to have any adverse impacts to existing adjoining properties or the public domain.

The modification proposal remains consistent with the original assessment and is considered to adequately address the planning controls for the area. The site is zoned for residential purposes.

Access, Transport and Traffic

The application seeks to modify the conditions that relate to the current required upgrades to Batar Creek Road to reduce from a Collector to Local Road Standard and footpath conditions. The following assessment comments are provided and it should be noted that not all of the Applicant's requested changes are recommended to be supported. Only the changes to conditions in the attached draft consent conditions are recommended to be made.

Batar Creek Road Pavement Classification and Works:

The traffic counts supplied by Streetwise (520vpd) in the traffic study were identified originally as not being consistent with Council's count (890 vpd) in 2016. Street wise proposed a 1% growth rate over 10yrs which was then applied to Council staff's traffic Count. Council's data counts were chosen previously in difference to the Streetwise report as it was noted that Council's counts were conducted over a one year period as opposed to a more limited timeframe carried out by Streetwise.

The RMS recommendation for 3 bedroom dwellings is to adopt an estimate of 5-6.5vpd of traffic generation (using the Median Density Residential Development values). It was noted originally that this MHE proposed larger sites when compared to other MHE's in the LGA, proposals for 280m² - 397m². As such Council staff used the figure of 6.5vpd to determine the vpd on the original DA assessment (taking the higher side of the RMS recommendation for a three bedroom dwelling).

A reassessment of the proposal has been undertaken having regard to the submitted information particularly having regard to the intentions for restricting 2 bedroom dwellings within the manufactured home estate. The Roads and Maritime Service's (RMS) "Guide to Traffic Generating Developments" recommends a daily trip generation of 4-5 vehicles per day (vpd) for a two (2) bedroom dwelling which is relatively consistent with the finding from Ocean Club Resort (as referred to) which was counted at 3.6vpd per dwelling.

The following traffic calculations were considered with the original proposal:

Original DA review, we used the figure of 6.5vpd (given that the applicant was not restricting the number of beds):

198 (MHE site) x 6.5vpd =	1287vpd
12 Torrens Title Lots x 7.4vpd =	88.8vpd
PLUS Existing 890vpd (Council count in 2016 plus 1% growth) =	907 vpd (using growth factor to equate to 2018)
TOTAL	2282vpd

If the lower figure of 5 vpd was used:

198 (MHE site) x 5vpd =	990vpd
12 Torrens Title Lots x 7.4vpd =	88.8vpd
PLUS Existing 890vpd (Council count in 2016 plus 1% growth) =	907 vpd (using growth factor to equate to 2018)
TOTAL	1986vpd

This would still trigger the road classification upgrades given a 1% growth factor.

The modification proposal proposes a restriction of 2 bedroom dwellings to each manufactured home site with the following recalculations:

Recognizing that the developer of the MHE is prepared to restrict the dwellings to 2-bed units - using a value of 4vpd

198 (MHE site) x 4vpd =	792vpd
12 Torrens Title Lots x 7.4vpd =	88.8vpd
PLUS Existing 890vpd (Council count in 2016 plus 1% growth) =	907 vpd (using growth factor to equate to 2018)
TOTAL	1788vpd

Having regard to the above recalculations, at this rate the total VPD will not reach the trigger point of 2000vpd until the year 2039 based on a growth factor of 1%.

Therefore, the upgrade changes to the road classification have been reassessed and changes made to the conditions from a Collector Road to Local Road requirement. Whilst this requirement has been reduced, other conditions have been recommended to tailor to on the ground conditions which require attention and are considered justifiable to require upgrades as a nexus to the likely impacts of the development.

New footpaths:

The original subdivision DA 2006/57 on the site (which is be modified in part by this new DA) was conditioned to construct a 2.1m wide shareway from the site to the showground.

The current development consent for the subject DA2017/736, has been conditioned to require a 2.5m wide shareway along Batar Creek road from the Benaroon Drive intersection to the showground and a 1.5m footpath up to the intersection with Albert Street.

The Applicant has requested to reduce the width of the shareway from 2.5m to 2.1m along Batar Creek Road for the section from the north-western corner of the site to the showground to be consistent with the current active subdivision approval. A reassessment of this requirement has concluded that this request is reasonable

particularly noting that the shareway will be wider than the typical 1.5m wide footpath in urban areas.

It should also be noted that DA 2006/57 had cycleways throughout the proposed development, which all linked to the north-western corner of the site.

The Applicant has requested Council reassess the footpath conditions in particular along Batar Creek Road. It is considered that the footpath north of the showground to Albert Street should be still required as it will ultimately connect to future footpath in Albert Street. Given the size of the development and the location on the fringe of Kendall, there is considered to be a sufficient nexus to provide a pedestrian link to the town centre.

The Applicant has also requested that a proposed a connection from the turning culdesac head of the Torrens Title subdivision component with the site should connect through the MHE to the north western corner of the site instead of a footpath being required along the frontage of the site from Benaroon Drive. This has been assessed as being acceptable to support however to ensure that the path is not restrictive to public use a condition is recommended which includes a requirement to dedicate the footpath to Council.

Water Supply

No change to existing arrangements and conditions for water supply.

Sewer

The proponent has not supplied a detailed revised sewer reticulation plan however has supplied a concept plan to show the destination point for which the sewer main upgrades need to arrive at and requested the new main be able to be attached to the existing bridge. Any sewer strategy changes are subject to the acceptance of the Water and Sewer Planning Manager.

There is no objection to the proposed sewer rising main traversing the Camden Haven River over the existing bridge. The existing pipe saddle on the eastern side of the bridge cannot be utilized without structural certification by a practicing chartered structural engineer.

In regards to condition B(30):

“The proposed sewer infrastructure for this development shall be extended at no cost to Council to provide Lot 2 (DP1048212) with a gravity sewer connection.”

It is advised that the deletion of this condition is acceptable. The sewer reticulation layout however must be designed so that Council can potentially construct a sewer junction and connect this property. This detail will need to be shown on the final construction detailed drawings for the ultimate sewer reticulation plan.

With regard to the above requirements for the an alternate sewer strategy which will propose an attachment to the existing bridge, condition B(30) is proposed to be amended to the following to replace the above:

‘The sewer rising main route is subject to the approval of the Water and Sewer Planning Manager. The proposed crossing of the bridge will require a detailed assessment and structural certification. Any sewer crossing of the railway reserve shall, as far as practicable, be at right angles to the railway lines.’

Stormwater

The modifications do not propose any direct changes to the stormwater conditions/requirements imposed by the consent other than those ancillary to the previously required road and footpath upgrades.

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

The proposal as modified will satisfactorily fit into the locality. The site constraints have been adequately addressed and appropriate modified conditions of consent recommended.

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

Twelve (12) 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
Road safety, poor roads and footpaths, increase in traffic load on inappropriate roads, concerns regarding sharp bend at Kendall Bridge.	Refer to assessment comments addressing roads and traffic addressed earlier in this report and the conditions of consent which are recommended to be modified as attached.
Developer doesn't want to improve roads, footpaths and sewer.	All developments require provision of infrastructure and associated upgrades to facilitate the development. The developer will be required to upgrade roads, footpaths and sewer however Council is only legally able to impose requirements as a result of the development.
Questions if the traffic assessment was done on the MHE or the original subdivision.	The submitted traffic impact assessment considered the existing approved development for subdivision, as well as the proposed MHE and subdivision. Council's assessment also reviewed both however applied a varied rate for the MHE component. This is the subject to review with the modification proposal which includes a proposal to restrict the bedroom numbers per dwelling to a maximum 2 bedrooms.
Narrow the footpath to save more trees is supported.	The shareway required along Batar Creek Road to the showground is recommended to be reduced in width to 2.1m.
Developer trying to back out of what was agreed at approval.	There is a discrepancy in the way that the application was assessed recognising that the intention is for a maximum 2 bedrooms in each manufactured home in particular and how that relates to other applications that have been approved in the Local Government Area. The Applicant has advised that the

Submission Issue/Summary	Planning Comment/Response
	developer is willing to undertake the necessary works with a nexus to this development.
Developer threatening to go to Land and Environment Court.	All Development Applications and consents have appeal rights (lawful review process available) and the modification documentation states that an appeal could have been pursued. There are appeal rights that apply to the modification application also.
Increased impact on sewer.	The sewer capacity has been reviewed in detail and appropriate conditions are already in place requiring sewer upgrades, including a modified condition for sewer alignment attached to the bridge crossing the Camden Haven River.
Who is responsible for the round-a-bout construction?	The conditions require construction of the round-a-bout as part of the development.
Overloaded mobile phone service of the area.	The land is zoned for residential development and the Applicant has advised that service providers have advised that telecommunications arrangements are available to the site. Council cannot dictate to service providers to provide mobile phone coverage.
Water supply inadequate to cope with extra residents.	Conditions are in place regarding water upgrades. Satisfactory arrangements are in place for water supply and the subject modification application does not proposed to change any of these requirements.
Alienation of agricultural land.	The site was considered for rezoning to residential from rural purposes which occurred back in 2006.
High density, poor quality building standards, Threat to Kendall village lifestyle, neighbourly character of the village.	The issue of likely impacts on the existing character of Kendall was carefully considered in detail at the time of assessment of the original application.
Disagrees with Newbury Test commentary.	This is a matter for legal and planning interpretation however does have direct relevance to the proposal to establish whether there is a justified nexus for works outside of the site in connection with the likely impacts of the development.
Infrastructure costs onto ratepayers	It is only legal for Council to impose infrastructure costs directly generated by or related to the development. This modification rectifies the situation and still requires infrastructure upgrades at the appropriate level.
Questions the ability of Director to make agreements.	The Director has delegations to make decisions and provide advice on development matters however the final assessment and determination rests with the Development

Submission Issue/Summary	Planning Comment/Response
	Assessment team staff and Council's Development Assessment Panel.
Questions limits on occupancy related to traffic generation.	The limit on occupancy is an additional measure proposed to confirm the actual likely traffic impacts and traffic generation rates. This informs the position on the category of roads that need to be provided and any necessary upgrades which is addressed earlier in this report and in the attached consent conditions as proposed to be modified.
Request the extent of road upgrades as per the conditions, to the full extent of footpaths and length.	Whilst the community may wish for more works than generated by the development, extra works can only be achieved if there is a justifiable nexus to the development. The subject modification application seeks to review the conditions originally imposed. Refer to access transport and traffic comments.

(e) The Public Interest:

The proposed modified development satisfies relevant planning controls applying to the site and development and will not adversely impact on the wider public interest.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.
- An updated estimate Notice of Payment for contributions is attached to this report.
- The consideration of any subsequent works in kind agreement for offsetting contributions is to be dealt with post determination of the Development Application and will be subject to Council's Works In Kind Policy. No specific conditions of consent are required to be amended to reflect works in kind. In particular, the consideration of works in kind is dealt with via a separate process. This approach is consistent with Council's application of the Works in Kind Policy and assessment/conditioning of development applications.

5. CONCLUSION AND STATEMENT OF REASON

The modification 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. Where relevant, modified conditions have been recommended to manage these issues.

The site is considered to remain suitable for the proposed development as modified and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended modified conditions of consent provided in the attachment section of this report.

Attachments

- 1 [View](#). DA2017 - 736.2 Amended Recommended Conditions
- 2 [View](#). DA2017 - 736.2 Applicants Letter
- 3 [View](#). DA2017 - 736.2 Amended Plans
- 4 [View](#). DA2017 - 736.2 Overall Sewer Strategy

Port Macquarie-Hastings Council
PO Box 84
Port Macquarie
NSW Australia 2444
DX 7415
e council@pmhc.nsw.gov.au



ABN 11 236 901 601

????? 2019

Parcel Number: 30146, 30147, 30145, 59523

Camden Heads Lifestyle Village Pty Ltd
CARE Land Dynamics
77 Lord Street
PORT MACQUARIE NSW 2444

Dear Sir/Madam

DA 2017/736.2 - Modification of Consent Pursuant to Section 4.55 (2) of the Environmental Planning & Assessment Act 1979

I refer to your application dated 27 May 2019 to modify conditions of consent relating to a previous approved manufactured home estate and subdivision under DA 2017/736 at LOT: 1 DP: 122192, LOT: 79 DP: 655658, LOT: 23 DP: 112083, LOT: 1 DP: 1142845 79 Batar Creek Road KENDALL.

Please be advised that pursuant to Section 4.55 (2) of the Act, your application to modify the consent has been granted, subject to:

A. Amend the following conditions as outlined in modified consent:

- Point 13 of condition B(2)
- Point a) of condition B(18)
- B(20)
- B(30)
- B(38) to become B(39)
- E(5)
- E(27)

B. Add the following conditions as outlined in modified consent:

- A(27)

C. Reimposition of all other previously approved conditions of consent as originally determined 28 November 2018 and as with this approval dated ?????.

The applicant is advised that Section 8.9 of the Act confers on an applicant who is dissatisfied with the determination, right of appeal to the Land and Environment Court.

A revised schedule of development consent conditions is attached.

Yours sincerely

pmhc.nsw.gov.au

PORT MACQUARIE OFFICE

WAUCHOPE OFFICE

LAURIETON OFFICE



Apply electronic signoff



SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2017/736 are as follows:

No.1	Modification No.1	????
------	-------------------	------

PRESCRIBED CONDITIONS

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Revised Option E – Staging Plan	Drawing No. 2	Land Dynamics Australia	31 May 2018
Revised Option F – Services Plan	Drawing No. 5	Land Dynamics Australia	19 June 2018
Revised Option E – Overall Layout	Drawing No. 1	Land Dynamics Australia	31 May 2018
Revised Option E – Landscape concept plan	Drawing No.3	Land Dynamics Australia	31 May 2018
Stormwater Management Plan for Batar Creek MHE, Batar Creek	5141-SW-RPT01	Land Dynamics Australia	June 2018
Statement of Environmental Effects		Land Dynamics Australia	June 2018
Plan of Consolidation and Subdivision of Lot 23 DP112083, Lot 1 DP122192, Lot 79 DP 655658			undated
Dwelling Design Reference Guide		Land Dynamics Australia & O'Connell Architecture and Design	undated
Woodglen Character Analysis	Drawing No.4	Land Dynamics Australia	31 May 2018



Entry feature montage			undated
Community facility plans	Drawing 4 to 7	O'Connell Architecture and Design	11 August 2017
Statutory Ecological Assessment	Manufactured Housing Estate on Lot 1 DP 122192 and Lot 79 DP 655658, Batar Creek, Kendall	Naturecall Environmental	August 2017
Social Impact Assessment		All About Planning	31 August 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) (A004) An application for a Construction Certificate will be required to be lodged with Council prior to undertaking subdivision works and a Subdivision Certificate is required to be lodged with Council on completion of works.
- (4) (A007) The development must only proceed in accordance with the approved staging plan.

Unless specified, the conditions of this consent will apply to all stages, with any decision on any discrepancy with conditions and associated staging resting with Council. Any decision to allow a change to staging will rest with Council along with applicable conditions and any contributions payable.

- (5) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (6) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 - Appropriate dust control measures;
 - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
 - Building waste is to be managed via an appropriate receptacle;



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

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (7) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (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 D17/3133 DA18070213789PC and dated 31 July 2018, are attached and form part of this consent.
- (9) (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.
- (10) (A032) The developer is responsible for any costs relating to alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (11) (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.

- (12) Any assets (e.g. roads, pipes, earthworks, vegetation) or land which will be dedicated in future to Council shall only be approved by Council or an accredited certifier as part of a Construction Certificate for Subdivision Works, and shall be constructed under supervision of the Principal Certifying Authority (i.e. Council) even if the asset or land is not intended to be dedicated until a later stage.
- (13) Entrance threshold landscaping and signage shall be located in private lands.
- (14) Prior to issue of any Construction Certificate or Subdivision Certificate, A Notice of Modification to DA2006 – 57 under Section 4.17(5) of the Environmental Planning and Assessment Act 1979 and Section 97(1) of the Environmental Planning and Assessment Regulation 2000 and shall be submitted to Council prior to issue of a Subdivision Certificate for this consent.
- (15) Compliance with the general terms of approval of the Department of Natural Resources under DA 2006/57 dated 29 March 2006, including attainment of a Part 3A permit (now known as a Controlled Activity Approval from the Office of Water) prior to works within 40m from the top of bank of a watercourse.
- (16) 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.
- (17) This consent provides for a total of 198 manufactured home sites within the approved Manufactured Home Estate.
- (18) Unless varied by this consent the manufactured home estate is to comply with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- (19) The development is not to be used for tourist (i.e. short term stay) purposes.
- (20) The use of the community and recreational facilities within the site are for residents or their guests use only.
- (21) Dwellings on the manufactured home estate sites shall only be installed in accordance with the approved 'Woodglen Character Analysis' plan and 'Design Reference' design guideline.
- (22) The areas approved to be cleared of vegetation in the approved Statutory Ecological Assessment shall be clearly marked (e.g. with stakes and bunting before clearing in order to prevent inadvertent clearance beyond what is required and has been assessed.

Site induction is to specify that no clearing is to occur beyond the marked area, and vehicles are only to be parked in designated areas. Similarly, any materials are to be stored outside the retained vegetation.

Clearing and earthworks is to avoid damage to root zones of the retained trees.

- (23) A suitably fitted out space is to be created within the community clubhouse for booking and use by a consulting medical professional or other relevant service providers. The opportunity to use this space is to be promoted to local medical



practitioners and other potential resident service providers by the MHE site manager.

- (24) The MHE operator is to adopt an Internal Neighbour Disputes Policy and this policy is to be referenced in all site lease agreements.
- (25) The MHE developer is to adopt a Local Workers Employment Priority Policy for suitably qualified and available trades for all construction and ongoing operational stages.
- (26) The following ameliorative measures should be carried during clearing works on-site:
 1. The clearing extent is to be inspected for Koalas and other fauna by a qualified ecologist immediately prior to commencement of any vegetation removal involving machinery and/or tree-felling. This is to occur each morning if clearing spans over multiple days.
 2. If a Koala is present in an area subject to vegetation removal/modification, works must be suspended until the Koala moves along on its own volition. If the Koala is located in a position that a 50m buffer may be established, works may proceed outside this buffer.
 3. The ecologist is to remain on site to supervise clearing and dewatering of dams to retrieve any fauna detected during works, undertake appropriate action (e.g. euthanize severely injured animals) and ensure Koalas do not enter the site during clearing works.
 4. If any exotic aquatic species are captured during the dam dewatering (e.g. carp) they are to be euthanised on site by the ecologist. Any native aquatic species captured during the dam dewatering are to be released in suitable aquatic habitat nearby.
- (27) The installation of all new homes within the Manufactured Home Estate shall be limited to a maximum two (2) bedroom dwellings. Prior to installation/ construction of the Manufactured Homes the construction floor plan of each dwelling shall be confirmed in writing by a Council Development Assessment Planner to be 2 bedroom dwelling.¹

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE (WHERE APPLICABLE TO THE WORKS BEING CARRIED OUT)

- (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. Road works along the frontage of the development.
 2. New roads within the subdivision.
 3. Earthworks, including filling of the land for flood protection.
 4. Sewerage reticulation.
 5. Water supply reticulation.
 6. 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.
 7. Stormwater systems.
 8. Erosion & Sedimentation controls.
 9. Landscaping.
 10. Bridges/Major Culverts.
 11. Traffic management control plan.
 12. Provision of a bus bay in accordance with Council's adopted AUSPEC Design and Construction Guidelines and shelter in accordance with Council standard drawings.
 13. Provision of pedestrian access ways/shareways a minimum of ~~2.5m~~ 2.1m wide, from the north-west corner of the site ~~proposed intersection on Batar Creek Road (at Benaroon Drive)~~ to the Showground entrance on Batar Creek Road. Such access ways to include a concrete pathway including kerb ramps where necessary.¹
 14. Provision of a 1.5m wide concrete footpath along Batar Creek Road from the showground to Albert Street. Such access ways to include a concrete pathway including kerb ramps where necessary.
 15. Provision of a 1.5m wide concrete footpath along the public roads inside proposed Lot 1 from the proposed intersection on Batar Creek Road to the entrance to the Manufactured Home Estate. Such access ways to include a concrete pathway including kerb ramps where necessary.
 16. Detailed intersection layout at the junction of Benaroon Drive in accordance with the current version of the AUSTROADS guidelines for Intersection design, giving particular attention to sight distance.
- (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.
 - (4) (B007) Road names proposed for the development shall be submitted to Council prior to release of the Construction Certificate. A suitable name for any new road(s) shall be in accordance with the NSW Addressing User Manual.
 - (5) (B015) Provision to each lot of a separate water connection (un-metered and sealed) to Council's main.
 - (6) (B016) Provision to each lot of a separate sewer line to Council's main. All work will need to comply with the requirements of Council's adopted AUSPEC Design and Construction Guidelines and Policies. Any abandoned sewer junctions are to be capped off at Council's sewer main.



Construction details are to be submitted to Port Macquarie-Hastings Council with the application for Construction Certificate.

- (7) (B019) The local water supply reticulation mains are to loop within the subdivision to minimise dead ends and connect to the existing reticulation wherever possible.
- (8) (B022) Prior to issue of a Construction Certificate, for the proposed total development, the proponent is to provide a water supply strategy detailing subdivision staging and the corresponding water supply work (including augmentation) necessary to support each stage. The strategy is to incorporate the latest changes in water supply design requirements as well as being modelled on software compatible with that used by Council.
- (9) (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.
- (10) (B052) The provision of 3m x 3m splay corners at public road intersections or otherwise agreed to by Port Macquarie-Hastings Council. Details must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate.
- (11) The design of all car parking, passing bays and internal access roads is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6), the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 and Planning for Bushfire Protection 2006. Certification that the design meets these requirements by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
- (12) (B056) The Stormwater network proposed with the application for Construction Certificate is to include provision to each subdivided lot of a direct point of connection to Council's future piped drainage system.
- (13) (B057) The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate.
- (14) (B070) Where augmentation is required on adjoining property, owner's consent shall be provided to Council with any Section 68 application and/or Construction Certificate application for subdivision works where augmentation is required on adjoining property including:
 - Public and/or private drainage infrastructure (i.e. interallotment drainage, Council drainage)
 - Council's sewer infrastructure (i.e. sewer junction, sideline or manhole)
- (15) (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.
- (16) (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.
- (17) Prior to each Construction Certificate for subdivision works, a Compliance Certificate under Section 109(C) of the EP&A Act shall be issued by the Water



Authority approving the design of water and sewer subdivision works. The certificate and stamped plans shall form part of the Construction Certificate for subdivision works.

- (18) The provision, at no cost to Council, of concrete foot paving in the following locations in accordance with Council's footpath policy and AUS-SPEC standards:
- A minimum ~~2.5m~~ 2.1m¹ wide concrete footpath shall be constructed from the proposed intersection on Batar Creek Road (at Benaroon Drive), ~~and north along the road to the northwest corner of the showground land~~ through the torrens title subdivision to connect to the north-western corner of the site adjacent to the showground land (Lot 2 DP 1048212). The portion of the shareway through the manufactured home estate shall be dedicated to Council for public use¹;
 - A minimum 1.5m wide concrete footpath from the internal subdivision roads to Batar Creek Road, i.e. 1.5m footpath along future local roads;
 - A footpath, min width of 1.5m shall be provided from the showground to the intersection with Albert Street. Pram ramps shall be constructed as necessary. Details shall be provided as part of the Construction Certificate/Roads Act Application.
 - All paths shall be linked together and to bus stops by kerb ramps located safely outside of intersections, and shared cycleways shall connect with on-road cycleways; and
 - Approaches to kerb ramps and other hazards or changes in direction shall be fitted with Tactile Ground Surface Indicators to the extent recommended by AS/NZS 1428.4.
- (19) Construction of a four-way single lane roundabout with the first stage of the development, on Batar Creek Road at the intersection of Road 1 and Benaroon Drive, in accordance with AUSTRoads and Council's AUS-SPEC standards, at no cost to Council, and the following items:
- The roundabout is to cater for Large Rigid and Articulated Vehicles (for use by buses, forestry trucks and construction deliveries), in accordance with AUSTRoads. Swept paths demonstrating vehicle movement shall be provided on the plans.
 - An indented bus bay and landing shall be provided on Batar Creek Road north of the roundabout in accordance with Council's standard drawing ASD 205.
 - The existing bus shelter structure should (if required by Council's engineer) be relocated adjacent to the new bus bay, keeping the public paintings intact.
 - Any road reserve widening to accommodate the roundabout is to be dedicated at no cost to Council.
 - A mix of landscaped areas and street trees are to be provided adjacent to the roundabout to create an appropriate entry/exit statement at the town limit and the access to the estate.
 - The traffic-calming function of the roundabout shall be enhanced with suitable geometry and/or devices.
 - Lighting of the roundabout shall be provided in accordance with AS1158
 - Design details shall be approved by Council as part of a Roads Act (s138) application prior to construction.
 - The roundabout shall include suitable stormwater drainage infrastructure designed to meet the requirements of AUSPEC D5.
- (20) Batar Creek Road shall be upgraded to a Collector Standard with the first stage of the development, between Benaroon Drive and Albert Street, in accordance



with Port Macquarie-Hastings Council AUS-SPEC standards and the following items:

- a) Benaroon Drive (Intersection) – Showground
 - i. The section of Batar Creek north of the proposed intersection with Benaroon Drive and south of the entry to the showground, shall have a min. pavement width of ~~7m~~ 6m¹ and 1m sealed shoulder to both sides of the pavement in accordance with Aus-Spec Collector Rural Local Standard. ¹
 - ii. ~~A 2.5m concrete footpath shall be required along this section of road in accordance with Aus-Spec¹~~
 - iii. A detailed Geotech report shall be provided to Council as part of the Roads Act application and shall detail all reconstruction works along this length of road that is required as a result of the road classification upgrade.
 - b) Showground – Albert Street
 - i. ~~This section of Batar Creek road shall be upgraded to Collector standard with kerb and gutter provided to both sides of the road for the full length, matching into existing sections of kerb and gutter.¹~~
 - ii. ~~The culvert sections shall be widened line marked to delineate the lanes north and south bound to suit the collector standard requirements and provide adequate provision for future 1.5m footpaths both sides of the culvert (min. width 12m). ¹~~
 - iii. As part of this development and for connectivity to the town, a 1.5m footpath shall be provided on one side of Batar Creek Road for this section of road.
 - iv. ~~A detailed Geotech report shall be provided to Council as part of the Roads Act application and shall detail all reconstruction works along this length of road that is required as a result of the road classification upgrade.¹~~
 - v. ~~Piped stormwater drainage shall be incorporated into the road design to ensure that the upgraded carriageway complies with the requirements of AUSPEC D5 ¹~~
 - c) Batar Creek Road north and south of the Benaroon Intersection
 - i. ~~A Geotech report shall confirm the integrity of the pavement section of Batar Creek Road south of the proposed intersection, within the 50km/h zone. Any reconstruction works highlighted from the geotech shall be addressed within the first stage of the development. At a minimum the The surface of the existing pavement shall be re-sealed for 50m both sides of the future roundabout in accordance with the requirements of Aus-Spec.¹~~
- (21) The provision of additional civil works within Batar Creek Road at no cost to Council necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development. Design plans are to be approved by Council prior to issue of the Subdivision Construction Certificate.
 - (22) All new roads including private roads within the Manufactured Home Estate shall be lit between sunset and sunrise. Batar Creek Road shall be provided with street lighting from the southern extent of the property frontage (R1 zoned land) to the northern extent of the showground land (Lot 2 DP 1048212), also illuminating the public shared cycleway where practicable. For public roads, the lighting classification shall be nominated by Council prior to any Construction



Certificate, using Essential Energy's prescribed form. Details of lighting installation shall be shown on the Construction Certificate plans for each relevant stage.

- (23) Any proposed changes to speed zoning should be referred to Roads & Maritime for consideration prior to the issue of any Roads Act approval for the roundabout.
- (24) Any Regulatory signs and devices proposed on public roads will require the endorsement of the Local Traffic Committee prior to Council's approval.
- (25) Council's existing water supply system shall be extended to service the development site at no cost to Council. Water main extensions to the site include a 200mm diameter main from Albert Street across the Poets Ridge development (through the existing water supply easement), along the west side of Batar Creek Road to Benaroon Drive area then crossing Batar Creek Road into the development site. Connection to the 100mm Benaroon Drive water main will be required.
- (26) Each dwelling site shall be individually metered for water supply with a master meter at the road frontage. 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.
- (27) The Council sewerage system adjacent to the proposed development does not have sufficient sewerage capacity to cater for this development. A Sewerage Reticulation Strategy shall be submitted to the Water and Sewer Section for approval prior to release of the Construction Certificate. The internal village sewerage lines are to be private owned and maintained.
- (28) A sewerage pumping station shall be constructed to Council's requirements and discharge into manhole KK04P008MH with an odour control device installed at no cost to Council. If flushing of the proposed sewer pump station is required to facilitate a sufficiently sized turnover of sewage then this is to also occur at no cost to Council.
- (29) The extension of Council's sewerage system to serve the development by the applicant involves under boring of the North Coast Railway and as such requires Council to enter into a licence with the Australian Rail Track Corporation (ARTC). Prior to the issue of the construction certificate, the applicant is required to submit sewerage plans that satisfy both Council's and the ARTC's requirements. During construction the applicant must adhere to the requirements of Council for the construction of sewer and the ARTC with regard to the licence for the construction of infrastructure within the railway corridor.
- (30) ~~The proposed sewer infrastructure for this development shall be extended at no cost to Council to provide Lot 2 DP1048212 with a gravity sewer connection at the boundary.~~ The sewer rising main route is subject to the approval of the Water and Sewer Planning Manager. The proposed crossing of the bridge will require a detailed assessment and structural certification. Any sewer crossing of the railway reserve shall, as far as practicable, be at right angles to the railway lines.¹
- (31) The floor level of all habitable buildings must be a minimum of 500mm above the 1 in 100 year flood level including the applicable climate change allowance. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL6.11m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.



- (32) The floor level of the Community Clubhouse and Men's Shed must be at or above the 1 in 100 year flood level including the applicable climate change allowance. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL6.11m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (33) The floor level of the bowling green, tennis court and other ancillary open space facilities must be at or above the 1 in 20 year flood level. For the purpose of this requirement, the 1 in 20 year flood level may be assumed to be RL4.90m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (34) The level of all roads and land containing habitable buildings and community facility buildings must be at or above the 1 in 100 year flood level including the applicable climate change allowance. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL6.11m AHD. Prior to release of the Construction Certificate floor levels satisfying this requirement shall be clearly illustrated on the plans.
- (35) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate and be submitted with the applications pursuant to section 68 of the Local Government Act, 1993 (internal private works) and section 138 of the Roads Act, 1993 (external site works). 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 design is to be generally in accordance with the 'Stormwater Management Plan for Batar Creek MHE, Batar Creek, prepared by Land Dynamics and dated June 2018.
 - b) All torrens title allotments within proposed Lot 1 must be provided with a direct point of connection to the 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 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. Note that pre development discharge shall be calculated assuming that the site is a 'greenfield' development site as per AUSPEC requirements.
 - e) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
 - f) Any vegetated stormwater assets to be dedicated to Council within the subdivision as a result of the proposed development must be located clear of any asset protection zones required for bushfire management purposes.
 - g) The design shall be accompanied by detailed modelling of the existing upstream catchment areas to the north/northwest of the development site. The modelling shall demonstrate how flows enter, cross and / or are conveyed along Batar Creek Rd and shall include an analysis of the capacity of the existing open drain and associated culverts located adjacent to the site along the western side of Batar Creek Rd. Any identified



overland flowpaths through and / or into the development site shall be mapped.

- h) The stormwater plan shall demonstrate that stormwater discharge from the development site matches pre-development conditions in relation to flow rates, volumes and the method of discharge across the property boundaries for all storm events up to and including the 1%AEP event.
 - i) Where works are staged, a plan is to be provided which demonstrates which treatment measure/s is/are to be constructed with which civil works stage. Separate plans are required for any temporary treatment (where applicable e.g. for building phase when a staged construction methodology is adopted) and ultimate design.
 - j) Where other conditions of this approval require the upgrade of existing roadways and intersections servicing the site, the stormwater management plan shall incorporate modelling and details of the stormwater drainage infrastructure to be installed in conjunction with those upgrades to ensure that the upgraded roadways and intersections comply with the requirements of AUSPEC D5.
- (36) (B012) To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of Australian Standard 4674-2004 – “Design, Construction and Fit-Out of Food Premises”, Food Act 2003, the provisions of the Food Safety Standards Code (Australia) and the conditions of development consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate for any community or recreational building containing food preparation areas.
- (37) (B071) Prior to the issue of any Construction Certificate for community and recreational buildings, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.
- (38) (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.
- ~~(38)~~(39)¹(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 relating to all community and recreation facilities, 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

C – PRIOR TO ANY WORK COMMENCING ON SITE (WHERE APPLICABLE TO THE WORKS BEING CARRIED OUT)

- (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) Prior to works commencing an application being made to the electricity and telecommunications service providers. Services are required to be underground.
- (3) (C013) Where a sewer manhole and Vertical Inspection Shaft exists within a property, access to the manhole/VIS shall be made available at all times. Before during and after construction, the sewer manhole/VIS 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.
- (4) (C014) Prior to the commencement of work, the location and depth of any water mains on the development site and adjacent land affected by the development is to be established. The water mains are to be clearly marked and protected with safety fencing.

D – DURING WORK (WHERE APPLICABLE TO THE WORKS BEING CARRIED OUT)

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
 - a. at completion of installation of erosion control measures
 - b. prior to installing traffic management works
 - c. before commencement of any filling works;
 - d. when the sub-grade is exposed and prior to placing of pavement materials;
 - e. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
 - f. at the completion of each pavement (sub base/base) layer;
 - g. before pouring of kerb and gutter;
 - h. prior to the pouring of concrete for sewerage works and/or works on public property;
 - i. on completion of road gravelling or pavement;
 - j. during construction of sewer infrastructure;
 - k. during construction of water infrastructure;
 - l. 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) (D015) The swimming pool shall not to be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.
- (4) (D016) Where depth of water in the pool exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.
- (5) (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](#)

- (6) (D040) Wastes including vegetation shall not be disposed of by burning.
- (7) (D051) Prior to commencement of any pavement works a material quality report from the proposed supplier shall be submitted to Council. The pavement materials shall meet Council's current specifications at the time of construction.
- (8) (D033) Should any Aboriginal objects be discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service, Department of Environment and Conservation is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act 1974*. Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the *National Parks and Wildlife Act 1974* may be required before work resumes.
- (9) (D052) Prior to laying of Asphaltic Concrete (AC) or wearing surface course, submission to Council of pavement and soil test results prepared by a NATA registered person for all road pavement construction, including:
 - a. CBR test results, and
 - b. Subgrade / select fill, sub-base and base pavement compaction reports in accordance with AS1289.5.1.1 & AS1289.5.2.1 as applicable.



E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE OR SUBDIVISION CERTIFICATE (WHERE APPLICABLE TO THE WORKS BEING CARRIED OUT)

- (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) (E002) A final report on any archaeological site excavations prepared by the archaeologist shall be submitted to Council and the Heritage Council prior to the occupation of any new development on the land.
- (3) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (4) (E008) Payment to Council, prior to the issue of a Subdivision Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:

- Port Macquarie-Hastings Administration Building Contributions Plan 2007
- Hastings S94 Administration Levy Contributions Plan
- Port Macquarie-Hastings Open Space Contributions Plan 2018
- Hastings S94 Major Roads Contributions Plan
- Port Macquarie-Hastings 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.

- (5) (E009) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to 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 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 ~~sewerage system~~ water supply headworks
 - augmentation of the ~~local area~~ town sewerage system headworks¹
- (6) (E011) 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.

- (7) (E013) Restrictions and/or positive covenant must be provided over the overland flow path for on site detention storage areas with appropriate public awareness signage.
- (8) (E021) Pool(s) to be fenced in accordance with the Swimming Pools Act, 1992.
- (9) (E022) Depth markers are to be installed on the swimming pool(s).
- (10) (E026) Occupation of the premises shall not occur until a Public Health Act 2010 Notification Form has been submitted to Council's Environmental Health Officer and payment of "Public Health Premises - Notification Fee" has been made.
- (11) (E031) Provision of a sign at the front vehicular access point within the property, prior to occupation or the issue of the Occupation Certificate, indicating that visitor/customer parking is available on-site.
- (12) (E034) Prior to occupation or the issuing of the Subdivision Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (13) (E038) Interallotment drainage shall be piped and centrally located within an inter-allotment drainage easement, installed in accordance with Council's current AUSPEC standards (minimum 225mm pipe diameter within a minimum 1.5m easement). Details shall be provided:
 - As part of a Local Government Act (s68) application with evidence of registration of the easement with the Land Titles Office provided to Council prior to issue of the s68 Certificate of Completion; or
 - As part of a Construction Certificate application for subdivision works with dedication of the easement as part of any Subdivision Certificate associated with interallotment drainage.
- (14) (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.
- (15) (E042) Creation of drainage easement between lots (i.e. interallotment)

Where stormwater pipelines traverse lots other than those which they benefit appropriate drainage easements shall be created and registered on the title of the relevant lot(s) with the Lands and Property Information NSW.

 - a. For pipes less than 500mm diameter, the easement width must be a minimum of 1500mm. Easements for larger diameter pipes must be the pipeline diameter plus 1200mm wide, with a minimum width of 2400mm.
 - b. Where easements are associated with a subdivision, the easement shall be established with the plan of subdivision and Section 88B instrument.
Details to be submitted to Council prior to issue of Subdivision Certificate.

Where easements are not associated with a subdivision, the easement shall be approved by Council prior to lodgement at Lands and Property Information (LPI)



NSW and evidence of registration shall be submitted to the Principal Certifying Authority prior to any Occupation Certificate.

- (16) (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.

- (17) (E048) 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 water quality control facilities within the site.

In addition, a maintenance schedule for the water quality controls must be submitted to Council for approval with the stormwater work-as executed plans. This maintenance schedule and work as executed plan shall be registered and referred to as part of the positive covenant.

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 inspecting, maintaining and keeping clear all components of and structures associated with the stormwater quality improvement device (SQID) in accordance with the maintenance plan in order to achieve the design system performance targets.
- b. The Proprietor shall have the SQID 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 components or structures in or upon the said land which comprise the SQID 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 SQID, or failure to clean, maintain and repair the SQID.

The instrument shall be created and registered on the title of the relevant lot(s) with the Lands and Property Information (LPI) NSW. The plan and terms of the easement must be endorsed by Council through formal application prior to lodgement at the Lands and Property Information NSW. Evidence of registration shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- (18) (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'.

- (19) Prior to occupation or the issuing of any Occupation Certificate for a community or recreational building a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (20) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.
- (21) (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 or Subdivision Certificate.
- (22) Landscaped areas being completed in accordance with the stamped approved landscaping plans and staging plans prior to occupation or issue of the Subdivision Certificate. Public landscaping may be bonded as agreed to by Council.
- (23) (E064) Provision of street lighting to all new roads in accordance with AS1158 and compliance with the requirements of the electricity authority regarding provision of electricity to serve the development. Provision shall be made for placement of conduits for future requirements or upgrades. Evidence by way of letter from the electricity provider, indicating compliance with this condition shall be submitted prior to the issue of the Subdivision Certificate.

Any proposal to erect non-standard, prestige or Smart Poles (or equivalent) street lighting shall:

- Forward all plans to the service provider for comment;
 - Include instruction for completion of 'Lighting Requirements';
 - 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;
 - Supply to Council to keep in stock, one (1) extra pole for every six (6) run of poles, for all poles that are non-standard poles.
- (24) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of



Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:

- 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
- (25) (E068) Prior to the issue of a Subdivision Certificate or an 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).
- (26) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.
- (27) (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. Prohibiting direct vehicular access to and from Batar Creek Road.
 - b. Restriction as to user in respect of the Manufactured Home Estate site for a private garbage service to be in place requiring the collection of all domestic waste comprising general waste (rubbish), recycling and food and garden organics by a private contractor. All wastes are to be collected as separate waste streams.
 - c. Restriction as to user in respect of the Manufactured Home Estate to restrict all dwellings installed to be restricted to a maximum 2 bedroom dwellings.

Details are to be submitted to Council prior to issue of the Subdivision Certificate.¹

- (28) (E077) The completion of all works required under Council's consent to Development Application No. 2006/57 prior to the issue of a Subdivision Certificate or the registration of a satisfactory 88B instrument which restricts the development of proposed Lot to that approved under that consent.
- (30) (E079) Submission to the Principal Certifying Authority of certification by a Registered Surveyor prior to the issue of a Subdivision Certificate that all services and domestic drainage lines are wholly contained within the respective lots and easements.
- (31) The Applicant is required to make provision in the application for a Subdivision Certificate for dedication of any public road of a 3m splay corner.
- (32) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the



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

- (33) (E027) A final site inspection of any community or recreational building containing any food preparation areas shall be arranged by the Applicant and shall be undertaken by Council's Environmental Health Officer.
- (34) Prior to release of Subdivision Certificate a Vegetation Management Plan (VMP) is to be prepared and submitted to Council for approval to manage the offset plantings of Koala food trees and regeneration areas on the property. This will detail the works required, location of planting areas, timeframes, and parties responsible for implementing the works and cost estimates to carry out the works. The approved VPM is to be implemented for the life of the consent.

F – PRIOR TO OCCUPATION OF INDIVIDUAL MANUFACTURED HOMES / ISSUE OF CERTIFICATE OF COMPLETION IN ACCORDANCE WITH SECTION 69 OF LOCAL GOVERNMENT (MANUFACTURED HOME ESTATES, CARAVANS, CAMPING GROUNDS AND MOVEABLE DWELLINGS) REGULATION 2005

- (1) The installation of a manufactured home within the estate is to comply with Division 4 of Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- (2) (E008) Payment to Council of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent, based upon the number of bedrooms in the individual manufactured home/s, unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
 - Hastings S94 Administration Building Contributions Plan
 - Hastings Administration Levy Contributions Plan
 - Hastings S94 Major Roads Contributions Plan
 - Port Macquarie-Hastings Open Space Contributions Plan 2018
 - Community Cultural and Emergency Services Contributions Plan 2005

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

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

- (3) (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 of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent, based upon the number of bedrooms in the individual manufactured home/s. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plans and towards the following:



- augmentation of the town water supply headworks
 - augmentation of the town sewerage system headworks
- (4) Timing of payment of monetary contributions:
- A Section 68 application for the installation of a manufactured home is to be lodged with Council, including a site map indicating the location of each site. Council may then issue notification of contributions payable.
- Prior to occupation of any dwelling(s), a Notice of completion is to be lodged with council accompanied by the required contributions for that dwelling(s), and specifying the location of each site.
- (5) The community facilities and recreational facilities shall be completed and Occupation Certificate issued prior to occupation or the issue of any certificate of completion of a manufactured home within the estate.
- (6) (E007) The owner/applicant is responsible for ensuring that any imported fill is either Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Certification is to be provided to Council demonstrating that the fill is either VENM or ENM.
- (7) (E034) 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.
- (8) (E036) Certification by a suitably qualified consultant is to be submitted to the Principal Certifying Authority that the construction of the car parking, passing bays and internal accesses has been completed in accordance with the certified design.
- (9) (E053) All public infrastructure works and works on public land shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue the issue of a certificate of completion for any dwelling or release of the security bond, whichever is to occur first.
- (10) (E062) Evidence must be provided to the Principal Certifying Authority that satisfactory arrangements are in place for collection of general waste (rubbish), recycling and food and garden organics from the premises by a private waste contractor. All wastes are to be collected as separate waste streams.
- (14) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:
- 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
- (15) (E064) Provision of street lighting to all new public and internal roads in accordance with AS1158. Certification from the lighting designer, indicating compliance with this condition, shall be submitted prior to the occupation of any dwelling on any site.
- Any proposal to erect non-standard, prestige or Smart Poles (or equivalent)



within public roads shall include:

- Forward of all plans to the service provider for comment;
 - The electricity authority's lighting consent form being completed to the satisfaction of Council;
 - Referral 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;
 - Supply to Council to keep in stock, one (1) extra pole for every six (6) run of poles, for all poles that are non-standard poles.
- (16) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. The copyright for all information supplied, shall be assigned to Council.
- (17) (E072) Lodgement of a security deposit with Council upon practical completion of works.

G – OCCUPATION OF THE SITE

- (1) (F001) 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 for use by both staff, residents and visitors to the Manufactured Home Estate.
- (2) (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.
- (3) (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.
- (4) A community bus service shall be available to the residents of the manufactured home estate. The bus service shall include daily return trips into the Kendall main street and regular trips into Laurieton. A community bus time table is to be developed and distributed to residents and is to be reviewed at annually in consultation with MHE residents by site management to ensure the community bus service is meeting the needs of the MHE residents.
- (5) A community bus timetable is to be developed and distributed to residents. The timetable shall be reviewed annually in consultation with residents by the onsite manager to ensure the community bus service continues to meet the needs of the residents.
- (6) An on-site manager shall reside on the site and be available at all times. The contact details of the manager shall be displayed in prominent positions throughout the estate. The on-site Manager shall police regulation of the use of all recreation facilities.
- (7) All future manufactured homes installed/dwellings are approved for permanent residential use and not for short term tourist and visitor accommodation.
- (8) (F027) The swimming pool filtration motor shall be operated between the following hours only:
 - Monday to Friday (other than a public holiday) 7.00 am – 8.00 pm
 - Saturday to Sunday and Public Holidays 8.00 am – 8.00 pm



Should noise levels exceed 5dBA above the ambient noise level measured at the boundary, the pool filtration motor shall be enclosed with an effective soundproof unit.

- (9) (F028) The operations of the public pool/spa is to comply with the requirements of the:
 - a. Public Health Act 2010,
 - b. Public Health Regulation 2012, and
 - c. NSW Ministry of Health Public Swimming Pool and Spa Pool Advisory Document 2013.
- (10) (F036) Any exterior lighting on the site shall be designed and installed so as not to cause a nuisance or adverse impact on the amenity of the surrounding area by light overspill. The lighting shall be the minimum level of illumination necessary for safe operation and must be designed, installed and used in accordance with AS 4282 - 1997 control of the obtrusive effects of outdoor lighting. No flashing, moving or intermittent lighting is permitted on the site.
- (11) Prepare a MHE Showground Community Engagement Plan to minimise risk of complaints from MHE residents about ongoing showground events and activities. This plan is to be reviewed a minimum every 2 years. This plan is to be developed and subsequently reviewed in consultation with the Showground Executive and the MHE's on-site manager. A copy of this plan is to be provided to both the Showground Executive and the MHE Site Manager.

The reason for this decision is that site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public interest and will not result in significant adverse social, environmental or economic impacts. The conditions referred to in this schedule are imposed in conformity with the relevant provisions of the Environmental Planning and Assessment Act and Regulations, the Local Government Act and Regulations, The Building Code of Australia and with Council's Policies and Development Control Plan or any other ancillary Act or Regulation in force at the time of the date of determination. The conditions are aimed at protecting the natural environment, preserving our heritage and providing a functional, safe and healthy built environment.

Rights of Appeal

If you are dissatisfied with this decision a request for a review of the determination may be made to Council, under the provisions of Section 8.2 of the Environmental Planning and Assessment Act 1979.

If you are dissatisfied with this decision, Section 8.9 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court.

Yours sincerely

Apply electronic signoff



23 May 2019

Job No.5141

The General Manager
Port Macquarie Hastings Council
Corner Lord and Burrawan Street
PORT MACQUARIE NSW 2444

Attention: Dan Croft

Dear Dan,

Re: S.4.55 (1A) Modification to Conditions of Consent - DA 2017/736 - Staged 198 Site Manufactured Housing Estate with Associated Amenities & Infrastructure, 2 Lot Subdivision & Modification to Previous Approved Subdivision – No. 79 Batar Creek Road, KENDALL

Please find attached an application to modify Development Application No. 2017/736 under Section 4.55(1A) (formerly s.96) of the Environmental Planning & Assessment Act, 1979, with respect to conditions of consent only, based on correct technical assessment.

It is important to note that no change is proposed to the approved layout or land use.

1. Background

a) *Development Consent*

DA 2017/736 was granted consent by Council's Development Assessment Panel on 28 November 2018, operating from 5 December 2018, as follows:

Subject Development	Staged 198 Site Manufactured Housing Estate with Associated Amenities & Infrastructure, 2 Lot Subdivision & Modification to Previous Approved Subdivision (DA2006/57)
Property Description	LOT: 1 DP: 122192, LOT: 79 DP: 655658, LOT: 23 DP: 112083, Lot 1, DP 1142845 79 Batar Creek Road KENDALL

Figure 1 below shows extracts of the original approved DA layout.

The granting of development consent allows appeal to the Land and Environment Court within 6 months of the decision, i.e. by 28 May 2019. In considering these rights, we have had discussions with Barrister Peter Tomasetti, a leading Senior Counsel with significant experience with MHE matters and were preparing for lodgement of an appeal on conditions of consent. However, following discussions with Council Officers, we have decided to pursue the condition amendments via Section 4.55(1A) of the Environmental Planning & Assessment Act, 1979, rather than the Court.

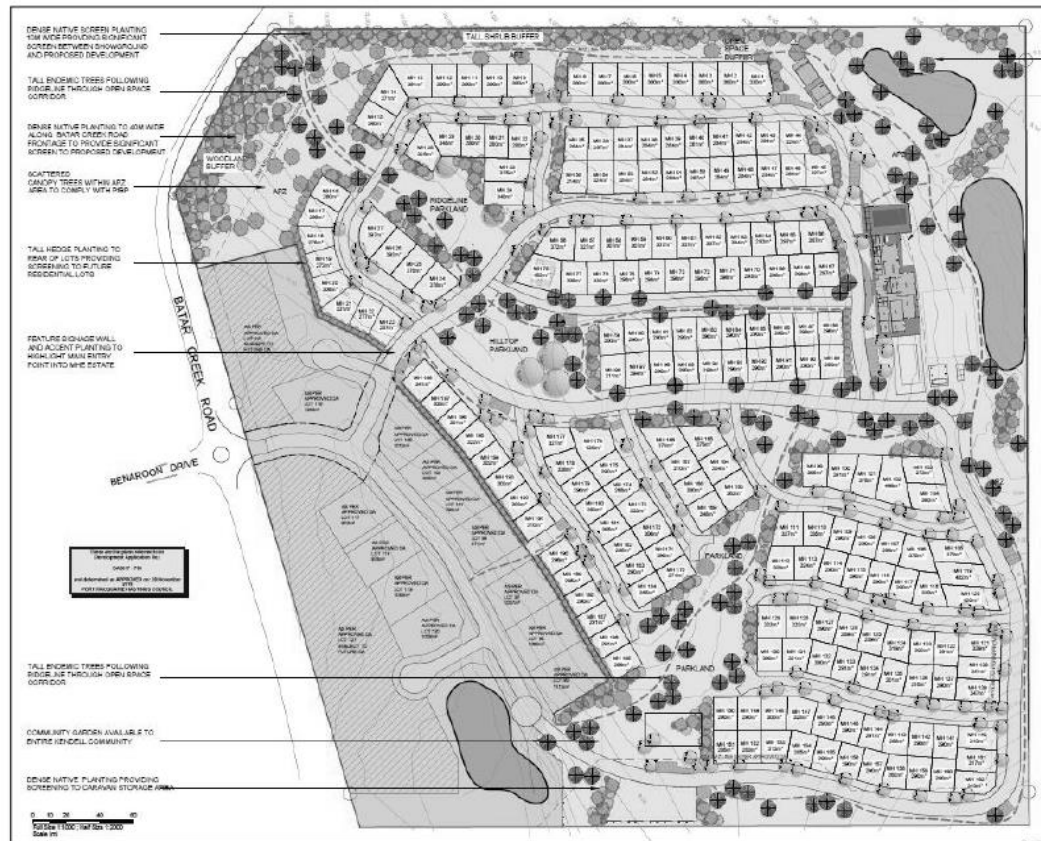


Figure 1 - DA 2017/736 Approved Layout – Extract

b) Discussions with Council Officers

A meeting was held on 1 April 2019 with Council's Director, Development and Environment and Group Manager, Development Assessment regarding the above development consent and modification of conditions which we believe were unfairly imposed on the consent.

Following this meeting, Land Dynamics provided further background and explained the issues and conditions for which we are seeking further review and consideration, via way of a letter dated 6 April 2019.

A response was received from Council dated 23 April 2019, where the key points were confirmed and lodgement of a modification to the consent, rather than an appeal to the Land & Environment Court was recommended.

A further letter was submitted to Council dated 30 April 2019 by Land Dynamics to ensure a correct understanding of the response, which stated:

"In this regard, we note the following key points from your letter:



- A traffic generation rate of 4 vehicle movements per day per site is accepted by Council based on a limit on occupancy to 2 bedrooms per dwelling. The conditions relating to roadworks will be requested to be amended to reflect this rate.
- Sewer:
 - Capacity is being reviewed by our Engineer in consultation with Council's Sewer & Water Section. The conditions relating to sewer will likely be requested to be amended to reflect this capacity review.
 - We note your comment regarding Council's Policy to extend sewer to adjoining properties, however, am unsure why this would be necessary given the showground is already sewered and does not rely on the sewer connection from the subject site. The condition relating to sewer to the showground will likely be requested to be deleted.
 - We note your comment regarding sewerage upgrades on DA 2006/57 consent and acknowledge that the consent did require works, however they were considerably less than the recent 2018 consent, even though more intense in ET than the MHE ET equivalent, and utilised a SPS in close proximity of the site, rather than requiring kilometres of works to reach a SPS to the north as per the recent DA consent. The conditions relating to sewer will likely be requested to be amended to reflect this capacity review.
 - We note your comment that there is the opportunity for a Works in Kind arrangement, which we can discuss with Council's Sewer & Water Section once capacity is fully known. This could assist with the future capacity needs of Kendall and to avoid further upgrade works by other developments.
- A seniors rate for contributions will not be accepted for MHE anymore by Council. No change to conditions will be requested.
- Lodgement of Section 82 objections under the Regulations is permitted, without the need to amend conditions. No change to conditions will be requested."

A further email confirmation from the Director, Development and Environment dated 2 May 2019 stated:

"You are correct in your understanding of my previous correspondence on the matter. The main area still requiring resolution relates the sewer capacity and infrastructure issues. It is recommended that you continue to discuss this with Council sewer staff in preparing the modification application. If a difference of opinion remains following these discussions, it is considered that it would be most appropriate for this to be addressed and responded to through the formal modification application process."

Council's Sewer Section then provided information regarding the existing sewer infrastructure and advice indicating there is no capacity in the network.

A further meeting was held with Council to discuss the proposed sewer infrastructure required by the consent and a response was provided from Council's Acting Water and Sewer Planning Manager on 22 May 2019 which



confirmed the northern portion of the sewer route could be strapped to the bridge across the river, and not under-bored, and also identified Council's Sewer Design Specification referring to servicing surrounding areas.

2. Newbury Tests

As background, conditions imposed by a consent authority under Section 4.17 of the Environmental Planning and Assessment Act 1979 must have a planning purpose, must relate to the development and must not otherwise be unreasonable, applying the "Newbury tests" set out in *Newbury District Council v Secretary of State for the Environment* [1981] AC 578 at 607. Further, in the decision of *Lorenzato v Burwood Council* [2017] NSWLEC 1269, the Newbury tests were applied to conditions of consent being sought to be imposed by the consent authority relating to extensive and costly stormwater drainage works, with the NSW Land and Environment Court finding that the respective conditions were unreasonable.

The Newbury tests are important in this consent as we feel there are instances where there is not a clear nexus between the development and the requested infrastructure works to warrant the imposition of conditions under Section 4.17 of the Environmental Planning and Assessment Act 1979.

3. Proposed Amendments

The conditions of consent as they currently stand, have in our opinion been unfairly imposed beyond that required or generated by the approved development based on a true and correct technical assessment and are placing the project in jeopardy given the excessive costs, primarily from sewer and road upgrades and large contributions payable without offsets for the extra works.

The key issues which we are seeking modification of the conditions of consent relate to:

- Extent of road upgrade works, given the agreed traffic generation rate of 4 vehicle movements per day (vpd) per site accepted by Council after issue of the consent.
- Width of pedestrian footpath / cycleway to ensure maximum tree retention and protection of character of Kendall.
- Provision of sewer to the adjoining Showground.
- Ability for works in kind arrangements for works beyond those generated by this development.

4. Consent Conditions to Modify

We understand that conditions of consent must be for a town planning purpose and must reasonably relate to the purpose of the development. We feel that the conditions, primarily related to sewer and traffic, are unreasonable and seek Council's further consideration.

Below are the suggested changes:

Delete the follow conditions:

- B2 – point 14
- B18 – point c)
- B20 – points b) and c)
- B30

**Amend the following conditions:**

- B2 – point 13
- B18 – point a)
- B20 – heading and point a)
- B28
- B38 (should be 39)
- E4
- E5

Addition of a condition:

- Restricting the occupancy to correlate with a rate of 4 vehicle movements per day per site is accepted by Council based on a limit on occupancy to 2 bedrooms per dwelling.

The proposed modification relates to changes to the following conditions of consent, with a comment provided and amendments suggested in bold.

Condition No.:	Condition B2
Relates to:	Outlines requirements for footpaths, bus bay etc.
Condition: B(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: <ol style="list-style-type: none"> 1. Road works along the frontage of the development. 2. New roads within the subdivision. 3. Earthworks, including filling of the land for flood protection. 4. Sewerage reticulation. 5. Water supply reticulation. 6. 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. 7. Stormwater systems. 8. Erosion & Sedimentation controls. 9. Landscaping. 10. Bridges/Major Culverts. 11. Traffic management control plan. 12. Provision of a bus bay in accordance with Council's adopted AUSPEC Design and Construction Guidelines and shelter in accordance with Council standard drawings. 13. Provision of pedestrian access ways/shareways a minimum of 2.5m wide, from proposed intersection on Batar Creek Road (at Benaroon Drive) to the Showground entrance on Batar Creek Road. Such access ways to include a concrete pathway including kerb ramps where necessary. 14. Provision of a 1.5m wide concrete footpath along Batar Creek Road from the showground to Albert Street. Such access ways to include a concrete pathway including kerb ramps where necessary. 15. Provision of a 1.5m wide concrete footpath along the public roads inside proposed Lot 1 from the proposed intersection on Batar Creek Road to the entrance to the Manufactured Home Estate. Such access ways to include a concrete pathway including kerb ramps where necessary. 16. Detailed intersection layout at the junction of Benaroon Drive in accordance with the current version of the AUSTROADS 	



guidelines for Intersection design, giving particular attention to sight distance.

Comment:

Point 13 of the condition - The MHE consent requires a pedestrian accessway / shareway along Batar Creek Rd to the northern entrance of the Showground, being 2.5m wide. The original subdivision consent required a combined cycle and pedestrian path with a width of 2.1m from the northern corner of the site to the northern entry of the Showground. The latter is considered the most appropriate in order to provide to best opportunity for tree retention, and corresponding character protection, in this area. Refer to further detailed discussion regarding character and tree retention in Section 4 below in considering the environmental impact of the amendments. No footpath or cycleway was required along the frontage of the site under the 2006 consent and is not deemed necessary under this less intense development. The north-west corner of the site will then connect to the pathways within the development and are safer than along Batar Creek Rd. **Amend Point 13 of the condition to reference a 2.1m wide combined cycle and pedestrian path from the northern corner of the site to the northern entry of the Showground.**

Point 14 of the condition – Given the agreed revised traffic rate, the extent of roadworks, including footpath requirements is reduced. There is no need for a footpath along Batar Creek Rd from the Showground to Albert St. **Delete Point 14 of the condition.**

Condition No.:	Condition B18
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Relates to:	Outlines requirements for footpaths
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Condition:

B(18) The provision, at no cost to Council, of concrete foot paving in the following locations in accordance with Council's footpath policy and AUS-SPEC standards:

- a) A minimum 2.5m wide concrete footpath shall be constructed from the proposed intersection on Batar Creek Road (at Benaroon Drive), and north along the road to the northwest corner of the showground land (Lot 2 DP 1048212);
- b) A minimum 1.5m wide concrete footpath from the internal subdivision roads to Batar Creek Road, i.e. 1.5m footpath along future local roads;
- c) A footpath, min width of 1.5m shall be provided from the showground to the intersection with Albert Street. Pram ramps shall be constructed as necessary. Details shall be provided as part of the Construction Certificate/Roads Act Application.
- d) All paths shall be linked together and to bus stops by kerb ramps located safely outside of intersections, and shared cycleways shall connect with on-road cycleways; and
- e) Approaches to kerb ramps and other hazards or changes in direction shall be fitted with Tactile Ground Surface Indicators to the extent recommended by AS/NZS 1428.4.

Comment:

Point a) of the condition – as above, the width should be 2.1m wide and from the northern corner of the site to the northern entry of the Showground only. **Amend Point a) of the condition.**

Point c) of the condition – as above, deleted as not generated by this development. **Delete Point c) of the condition.**

Condition No.:	Condition B20
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Relates to:	Requires upgrading from Batar Creek Rd
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Condition:

B(20) Batar Creek Road shall be upgraded to a Collector Standard with the first stage of the development, between Benaroon Drive and Albert Street, in accordance with Port Macquarie-Hastings Council AUS-SPEC standards and the following items:



a) Benaroon Drive (Intersection) – Showground

- i. The section of Batar Creek north of the proposed intersection with Benaroon Drive and south of the entry to the showground, shall have a min. pavement width of 7m and 1m sealed shoulder to both sides of the pavement in accordance with Aus-Spec Collector Standard.
- ii. A 2.5m concrete footpath shall be required along this section of road in accordance with Aus-Spec
- iii. A detailed Geotech report shall be provided to Council as part of the Roads Act application and shall detail all reconstruction works along this length of road that is required as a result of the road classification upgrade.

b) Showground – Albert Street

- i. This section of Batar Creek road shall be upgraded to Collector standard with kerb and gutter provided to both sides of the road for the full length, matching into existing sections of kerb and gutter.
- iv. The culvert sections shall be widened to suit the collector standard requirements and provide adequate provision for future 1.5m footpaths both sides of the culvert (min. width 12m).
- v. As part of this development and for connectivity to the town, a 1.5m footpath shall be provided on one side of Batar Creek for this section of road.
- vi. A detailed Geotech report shall be provided to Council as part of the Roads Act application and shall detail all reconstruction works along this length of road that is required as a result of the road classification upgrade.
- vii. Piped stormwater drainage shall be incorporated into the road design to ensure that the upgraded carriageway complies with the requirements of AUSPEC D5

c) Batar Creek Road south of the Benaroon Intersection

- i. A Geotech report shall confirm the integrity of the pavement section of Batar Creek Road south of the proposed intersection, within the 50km/h zone. Any reconstruction works highlighted from the geotech shall be addressed within the first stage of the development. At a minimum the surface of the existing pavement shall be re-sealed in accordance with the requirements of Aus-Spec.

Comment:

The three components are excessive, based on Council's Traffic assessment with higher numbers than other MHE developments, without due consideration of the Traffic Impact Assessment or further discussion in letters in Attachment T & U in Rev A submission with the original DA. The higher rate also has implications with respect to the overall traffic generation, roadworks and Collector Road standards.

Subsequent advice from Council's Director, Development and Environment confirms a rate of 4 vehicle movements per day per site is accepted by Council based on a limit on occupancy to 2 bedrooms per dwelling. This condition therefore must be amended to reflect this rate.

In doing so, it is ascertained that the extent of traffic works must be amended to be reflective of the agreed traffic rate of 4 vehicle movements per day per site.

The Traffic Impact Assessment prepared for the development was based on comparable developments, as per the RMS guidelines. A Manufactured Housing Estate is not directly comparable with a residential subdivision given the low occupancy rate, the resident peak movement times and a community bus.

Ocean Club was used as a direct comparison due to its approved land use as a Manufactured Housing Estate and given its comparable size to the original proposal, noting the revised proposal on this site is now considerably less than Ocean Club.



The actual traffic counts provide an accurate view of the likely traffic generation for this proposed development. This is the RMS's preferred approach to assessment, that an actual count be undertaken of a similar development. In the absence of a standard rate for MHE, assessment has to consider the RMS Guide to Traffic Generating Developments, which suggests review of a comparable development, stating "Surveys of existing developments similar to the proposal, can also be undertaken and comparisons may be drawn".

We have also considered similar development applications for MHE both in the LGA and wider. Council approved in February this year, a development application for an MHE at Thrumster and applied a traffic generation rate of 4 trips per new dwelling per day, which is not dissimilar to the 3.6 vehicle movements per day rate adopted from the actual counts at Ocean Club Resort. Similarly, an MHE at Wauchope was approved by Council at the rate of 4.5, which would also be similar in characteristics to the subject site.

Our legal advisor has advised that it is common in proceedings before the Court for traffic experts to predict traffic generation rates by examining similar development.

Therefore, the rate now being adopted by Council of 4 vehicle movements per day per site is appropriate.

Based on this rate, the traffic generation is as follows:

- 198 MHE sites at 4 vehicle movements per day – 792
- 12 standard residential lots at 7 vehicle movements per day – 84
- Total – 876 vehicle movements per day

Below is an extract from the TIA regarding impact on road network:

"In determining the impact of the development on the local road network the adjoining Batar Creek Road, Albert Street, Comboyne Street and Kendall Road were assessed as the predominant traffic route to be considered.

The following classifications and capacities were applied to the above route referencing PMHC Auspec Design Specification D1 – Geometric Road Design.

Batar Creek Road - Collector Road – 6000 vehicles per day (vpd)

Albert Street/Comboyne Street – Local street – 2000 vpd

Kendall Road – Collector Road – 6000 vpd

Traffic Count Data obtained from Port Macquarie Hastings Council indicates the traffic volumes for Batar Creek Road north of the development site to be approximately 885 vehicles per day while volumes south of the development site are approximately 150 vehicles per day.

Currently this indicates the roadway to be operating at a capacity of a Local Street (up to 2000 vpd) under council's road hierarchy network.

Volumes further along the route also suggest the route to be operating at a capacity of up to a Local Street with 1500 vpd just south of the northern urban limit of Kendall.



Kendall Road north of this point operates at a capacity of 4000 vpd as a Collector Road under the hierarchy network.

Using the predicted volumes generated by the development (5.1 above) the Batar Creek Road development proposal will generate.

- Batar Creek Rd south of the site – 150 vpd (Minimal change)
- Batar Creek Rd north of the site – $885 + 792 \text{ vpd} = 1677 \text{ vpd}$. (edit: total should be $885 + 792 + 84 = 1761 \text{ vpd}$)

Some of these generated trips will more than likely be contained to the Kendall area, say 50%. Therefore, the following assumptions can be derived for Graham Street and Kendall Road,

- Graham Street – $1500 + 396 = 1896 \text{ vpd}$, and
- Kendall Road – $4000 + 396 = 4396 \text{ vpd}$.

Based on this full development traffic generation it can be assumed the development will generate traffic that is consistent with the existing derived road hierarchy capacities.”

Based on these figures, there is capacity within the road network to not require any road upgrades, especially not to Collector Road standard as the total existing and proposed vpd is below 2000 and therefore only operates as a Local Road and should remain at Local Road standard.

Council applied the rate of 7 vehicle movements per day, rather than the now agreed and appropriate rate of 4 vehicle movements per day. This is a considerable difference in traffic generation and therefore the road upgrades are not necessary as depicted in the condition of consent. The condition as it currently stands does not reasonably relate to the purpose of the development and therefore can easily be challenged in a review to the Court.

Council's letter dated 23 April 2019 stated:

“...with the imposition of an appropriate mechanism limiting the number of bedrooms in the dwellings there is considered scope to use a trip generation rate of 4 per site. This would significantly reduce any upgrading of Batar Creek Road and is likely to be similar to the requirements of the DA2006 - 57 subdivision consent (road shoulder and table drain upgrade). It is noted that DA2006 - 57 did include a requirement for a shareway from the site into the township of Kendall. There is considered to be a genuine nexus to provide a footpath/cycle link from the site to Kendall, however there may be some scope to explore a Works in Kind Agreement (WIK) for some of this work.”

The 2006 consent required the following roadworks:

- Road shoulder and table drain to frontage of the site only
- Round-a-bout at Benaroon Drive intersection
- Combined cycle and signed way/pedestrian path 2.1m wide across the frontage of the Kendall Showground to the northern corner of the Showground site.

The traffic generation based on the now accepted rate results in marginally less traffic generation than the 2006 consent.

Heading – **Amend to Local Road not Collector.**



Point a) of the condition – the traffic generation rate does not require upgrade to Collector Road standard. The total existing and proposed vpd is below 2000 and therefore only operates as a Local Road and should remain at Local Road standard and not unnecessarily upgraded to be a Collector standard and associated unwanted tree removal and character change. The pedestrian pathway should be 2.1m wide to ensure maximum tree retention. Further, the road works are only required for the frontage of the site, not to the southern entry to the Showground **Amend point a) of the condition to require minor roadworks only, not to Collector Standard, for the frontage of the site only and alter the width of the shareway to 2.1m. It could be beneficial to break up the components for the site frontage and from the north-west corner to the northern part of the Showground, as occurred in the 2006 consent, for clarity.**

Point b) of the condition – should be deleted as the proposal does not generate works to this extent. No works are required **Delete point b) of the condition.**

Point c) of the condition – should be deleted as the proposal does not generate works to the south based on figures above. This section south of the site is generally used for passing / through traffic (including logging trucks). The residents of the development are most likely to head north to into Kendall or beyond, not south. **Delete point c) the condition.**

Condition No.:	Conditions B27, B28, B29
Relates to:	Outlines requirement for sewer
Condition:	
<p>B(27) The Council sewerage system adjacent to the proposed development does not have sufficient sewerage capacity to cater for this development. A Sewerage Reticulation Strategy shall be submitted to the Water and Sewer Section for approval prior to release of the Construction Certificate. The internal village sewerage lines are to be private owned and maintained.</p> <p>B(28) A sewerage pumping station shall be constructed to Council's requirements and discharge into manhole KK04P008MH with an odour control device installed at no cost to Council. If flushing of the proposed sewer pump station is required to facilitate a sufficiently sized turnover of sewage then this is to also occur at no cost to Council.</p> <p>B(29) The extension of Council's sewerage system to serve the development by the applicant involves under boring of the North Coast Railway and as such requires Council to enter into a licence with the Australian Rail Track Corporation (ARTC). Prior to the issue of the construction certificate, the applicant is required to submit sewerage plans that satisfy both Council's and the ARTC's requirements. During construction the applicant must adhere to the requirements of Council for the construction of sewer and the ARTC with regard to the licence for the construction of infrastructure within the railway corridor.</p>	
Comment:	
<p>We note that the final sewer route was not approved as part of the consent and the condition requires the full investigation and creation of a sewer reticulation strategy prior to the release of the construction certificate. This allows for the detailed design to occur. Our approved services plan indicates a likely sewer location to demonstrate it could be serviced. It is not expected that the approved services plan would need amendment as the full detailed design has not yet occurred, the route, necessary SPS and pipes location and sizing has not yet been determined. Further, the condition of consent above override the plans as necessary, as stated in Condition A1.</p> <p>Based on the discussions and advice from Council via email dated 22 May 2019, it is requested that a line be added to Condition B(28) which confirms under boring on the creek is not required. Amend Condition B(28) to add line regarding no underboring of the creek.</p>	



Condition No.:	Condition B30
Relates to:	Outlines requirement for this development to extend sewer to boundary with Showground, even though they have an existing alternate connection and do not rely on the subject site to be serviced.
Condition:	<p>B(30) The proposed sewer infrastructure for this development shall be extended at no cost to Council to provide Lot 2 DP1048212 with a gravity sewer connection at the boundary.</p>
Comment:	<p>The Showground is already sewered with a SPS in the central area and pipes does not rely on the sewer connection from the subject site. Council Officers have indicated that it is their policy to require sewer connection to adjoining sites, which would be understandable if no sewer is available to the site already. This is not the case with respect to the Showground.</p> <p>Council advised via email as follows:</p> <p><i>"The relevant extract from PMHC's Sewer Design Specification referring to servicing surrounding areas is as follows:</i></p> <p><i>D12.05 DETERMINATION OF AREA TO BE SERVED</i></p> <p><i>1. The area to be served shall be agreed with Council's Manager, Water & Sewer. Provision for future development may be required.</i></p> <p><i>It is deemed that the area to be served shall include the showground by providing a gravity sewer junction to the boundary. As discussed in the meeting, this will facilitate the decommissioning of sewer pump station KKSPS08 should the desire arise in the future. Providing this sewer junction now will also eliminate any potential future impacts on the MHE associated with constructing the junction."</i></p> <p>Further review of Council's online maps now reveals that there is already a stub on the Showground (shown blue below) which could be connected into if Council wishes. As Council already has a receiving manhole on the Showground site, this condition results in a be contravention of the by requiring this development to provide another stub to the Showground. Looking at the invert level of 4.9 and surface level of 7.27, a 2.4m deep manhole is in existence required and Council or the Showground could connect into it if they desired to remove the need for the existing SPS on the Showground site.</p> <p>Extract from Council's Sewer Mapping:</p>



Condition No.:	Condition B38 (should be B39)
Relates to:	Payment of S94 contributions for roadworks
Condition:	<p>B(38) (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 relating to all community and recreation facilities, 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:</p> <ul style="list-style-type: none"> • augmentation of the town water supply headworks • augmentation of the town sewerage system headworks
Comment:	<p>The conditions currently require a large amount of roadworks beyond that generated by the development and then also levy for roadworks, for the same purpose. We note that the extent of traffic works will be reduced given the agreed rate of 4 vehicle movements per day per dwelling now being adopted and as such the double dipping is removed by the deletion of extra works beyond that generated by the development.</p> <p>We had indicated from lodgement of the DA that there is the willingness for a works in kind arrangement, however the conditions do not allow for such arrangement. The conditions relating to contributions should be amended to include the opportunity for offset or WIK agreement, should Council and the developer wish to do so. Amend the condition to allow for WIK.</p>
Condition No.:	Conditions E4 & E5
Relates to:	Payment of S64 contributions for water and sewer
Conditions:	<p>E(4) (E008) Payment to Council, prior to the issue of a Subdivision Certificate of the Section 94 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:</p> <ul style="list-style-type: none"> • Port Macquarie-Hastings Administration Building Contributions Plan 2007 • Hastings S94 Administration Levy Contributions Plan • Port Macquarie-Hastings Open Space Contributions Plan 2018 • Hastings S94 Major Roads Contributions Plan • Port Macquarie-Hastings Community Cultural and Emergency Services Contributions Plan 2005 <p>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.</p> <p>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.</p> <p>E(5) (E009) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Subdivision Certificate of the</p>



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 sewerage system headworks
- augmentation of the local area sewerage system

Comment:

As per comments above. The conditions relating to contributions should be amended to include the opportunity for offset or WIK agreement, should Council and the developer wish to do so. **Amend the condition to allow for WIK.**

We make the following comments regarding other conditions of consent.

We note that Council has confirmed that there is no need to amend the conditions relating to compliance with the Regulations, as there is the mechanism under Section 82 of the Local Government Act for variations to be accepted, under a separate provision of the Regulations. As such, the conditions in this regard remain based on the Council Officer's advice.

Finally, Conditions A5, A10, A16, B18, B19, B21, B28, E6, F14 states all costs relating to roads, footpaths, drainage and Council services for the purposes of the development are at no cost to Council. Given that the current conditions are requiring works beyond that generated by this development, that the reference to no cost to Council should be deleted. This correlates with amendments to contributions conditions to allow for a Works in Kind arrangement if both parties agree. Alternatively, should the extent of traffic and sewer work (including extension to Showground) be amended as per our request, and therefore only the works generated by this development is required by conditions of consent, then these conditions could remain unchanged. If Council does not undertake the changes to conditions requested, then any reference to no cost to Council must be deleted and the conditions amended accordingly.

5. Consideration of S.4.55 Provisions

This application is made under the provisions of Section 4.55(1A) of the Environmental Planning and Assessment Act 1979. S.4.55(1A) states:

"(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*



- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be."

Each point of Section 4.55(1A) has been considered below.

(a) it is satisfied that the proposed modification is of minimal environmental impact,

The likely environmental impacts associated with the modified proposal have been considered below, demonstrating that there is minimal environmental impact.

Bushfire

No change to the approved bushfire conditions is proposed. As the layout is not altered, it is not envisaged that referral to the RFS is necessary and no change to imposed bushfire conditions is required. As such, the bushfire impact remains satisfactory.

Amenity

As no change is proposed to the layout of the development, the nature of the use or the intensification, no amenity impacts are envisaged from this modification application. The amendments to conditions are technical based only.

Character

Prior to issue of the consent, upon review of the draft conditions in the report to the Development Assessment Panel, we raised concerns with Council Officers regarding the proposed traffic conditions and extent of road works and cycleway width, as they would require substantial loss of vegetation in the public road from the site leading into the centre of Kendall. This will have a significant impact upon the character of Kendall, which was considered in detail as part of our application. It is our intention that the pedestrian footpath / cycleway required as a condition of consent, but with a width of 2.1m, will be designed to ensure maximum tree retention. The deletion of unnecessary road upgrade conditions north and south of the site will also ensure tree and character retention.

The amendment to the traffic conditions to reflect the rate of 4 vehicle movements per day per site reduces the extent of road works and allows for maximum tree retention and preservation of the character of the existing streets of Kendall. We feel that this is an important consideration given the level of interest from the residents regarding character and the substantial consideration of the leafy character in the amended and approved design to incorporate this landscaped character. It is not our client's preference to remove trees in the public domain in Kendall to facilitate unnecessary roadworks and alter the character of the area. Therefore, altering the conditions to remove unnecessary roadworks and shareway width of 2.1m ensures character is retained. It is important for character to be a primary consideration, rather than function over form.



General Comparison Residential Lot vs MHE lot

Our argument and accepted for all other MHE developments in our area and state wide, is that a Manufactured Housing Estate is not directly comparable with a residential subdivision given the low occupancy rate (likely 1-2 people per dwelling, with the average being 1.6 as by CCIA and RLLC Alliance) and the use being separately defined. A standard residential allotment could accommodate large dwellings or dual occupancies without a limit on the number of bedrooms, most likely up to 4 bedrooms for a standard dwelling.

Below is a comparison of the approved subdivision on the site (DA 2006/57) and the approved MHE and subdivision. Both the average and a 2 bedroom has been included below in the comparison table.

140 Lot subdivision – 4 bedrooms Plus, child care centre	560 (or double if dual occupancy)
198 MHE sites – 2 bedrooms & 12 standard residential sites – 4 bedrooms	444 (decrease in population of 116 people from that already approved)
198 MHE sites – 1.6 bedrooms (sector average) & 12 standard residential sites – 4 bedrooms	365 (decrease in population of 195 people from that already approved)

Council Officers indicated at the December 2019 meeting that MHE dwellings utilize more sewer as the occupants are at home more. Council Officers also indicated that our larger lots would accommodate larger dwellings (not 2 bedrooms as we indicated was likely). Yet the larger lots respond primarily to the character of the area which was direct request of Council Officers and the community during the assessment period, and the need for more open space and separation between dwellings, not to allow for larger 3 or 4 bedroom dwellings. We have offered up a restriction on dwelling bedroom numbers as part of the contribution's discussions, which also assists with minimising sewer and water usage.

Issues are rising from considering the sites as equivalent to a standard residential lot for the purposes of traffic generation, sewer capacity and contributions, and being reflected in the conditions of consent and extent of upgrade works.

It is also necessary to note that the original consent not only included the standard residential lots, but also a child care centre and development lots which would have additional significant traffic generation and sewer usage beyond that considered in our comparisons. The proposed restriction on dwellings to 2 bedrooms will ensure that the density and population (and associated traffic generation and services usage) will be limited, unlike a standard residential allotment. This restriction corresponds with the amendments to traffic conditions.

Traffic

A Traffic Impact Assessment was prepared for the development which was based on a comparable development being Ocean Club, as per the RMS guidelines, with a rate of 3.6 trips per MHE dwelling.

Council approved in February 2018 (lodged at same time as our application and determined during assessment), a development application for an MHE at Thrumster and applied a traffic generation rate of 4 trips per new dwelling per day, which is not dissimilar to the 3.6 rate adopted from the actual counts at Ocean Club.



The approved residential subdivision has a greater population than the proposed development (as shown above) and as such this proposal is likely to have less traffic impacts. The traffic rate comparison also indicates that the approved 2018 DA generates less traffic than the 2006 approved DA.

Other MHE applications (locally and state wide) did not include a TIA or had a rate of between 1-2 trips per day indicated in their TIA, so it is difficult to compare, noting that the recent 2018 Ocean Club extension had no TIA. Given the established traffic rate for manufactured housing state wide, the need for road upgrading or improvements should be considered against the rate contained within our Traffic Impact Assessment of 3.6 vpd or the recently accepted rate by Council of 4 vpd, or lower, and does not warrant the need for road upgrading indicated in the conditions of consent or the categorization of road.

We have also raised concern with Council Officers regarding the change in character of the public domain which will result from the tree removal due to the road upgrade works required by the current conditions of consent to Collector Standard and the associated community outrage when it occurs. The traffic generation based on the correct rate of 4 vpd results in the development and existing traffic remaining well below the Local Road criteria.

Council applied the rate of 7 vehicle movements per day, rather than the now agreed and appropriate rate of 4 vehicle movements per day. This is a considerable difference in traffic generation and therefore the road upgrades are not necessary as depicted in the condition of consent. The condition as it currently stands does not reasonably relate to the purpose of the development and therefore can easily be challenged in a review to the Court.

The modification does not alter the development and in turn does not result in an increase in traffic generation. The application of the correct traffic generation will ensure that the conditions of consent are accurate and the appropriate road upgrades generated by the proposal are imposed, if any.

The traffic generation rate used for the proposal is altered by this modification in order to be consistent with other approvals granted by Council and standard for this form of development. Advice from Council's Director, Development and Environment confirms a rate of 4 vehicle movements per day per site is accepted by Council based on a limit on occupancy to 2 bedrooms per dwelling. This rate is generally consistent with our Traffic Impact Assessment rate of 3.6 vpd.

As such, the conditions of consent relating to traffic generation are to be amended to reflect this appropriate MHE agreed rate.

Services

Proposed services, drainage and sewer are not proposed to be altered from shown on the approved plans.

Council's condition requiring extension of a sewer connection to the adjoining Showground to the north is proposed to be deleted given that the Showground already has a sewer connection and does not rely on this development, already has a stub on the northern portion and provision of a second stub to the Showground would be contrary to Council's Policy. Council has indicated that it is their policy to require sewer connect to adjoining sites, which would be understandable if no sewer is available to the site already. This is not the case with respect to the Showground, which already has a SPS and stub connection and the levels would allow for this connection to function should Council chose to utilise the existing stub.



It would have been appropriate for this connection from the Showground to have been extended to the development site given it is in place and along the lines of the Council Policy, it would be assumed that this connection would be extended to the subject site if the Showground does any works in the future.

The condition relating to sewer to the Showground is to be deleted and does not impact upon sewer provision to the site or adjoining sites.

Contributions

Further, during the assessment of the DA we were led to believe we could enter into the VPA, as well as a works-in-kind (WIK) arrangement for the additional infrastructure, roadworks or sewer beyond that generated by our development. The conditions however are silent on the VPA or WIK arrangements yet required significant extra works beyond that generated by the development.

We have always expressed a willingness since the pre-lodgment to undertake additional infrastructure or roadworks as part of a WIK arrangement, if Council or the community wanted extra upgrades beyond that generated by our development. However, conditions have been imposed which require the additional works based on incorrect infrastructure figures and we wish to see the conditions altered to reflect the actual generation with a clear nexus, not just that desired.

Given this modification will correct the traffic and sewer upgrades to reflect accurately the approved development, less upgrades will be required. The client is still willing to consider and discuss further with Council regarding opportunities for offset or WIK agreement, should Council and the developer both wish to do so, and we request that additional wording be added into the conditions to allow for this to occur.

Section 82 Objection to Regulations

It is expected that a s82 objection under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 will be lodged with the s68 approval to operate. This is common for MHE developments. Following discussion with Council Officers we now understand that the current conditions of consent require compliance with the Regulations, but still allows for variation under Section 82 of the Regulations without further modification of this consent.

Existing Residential Development Consent

The site currently has the benefit of an existing development consent DA 2006/57 that has substantial commencement confirmed. During the community communications it was evident that the local community were concerned that if the residential land consent was developed, they were fearful this development would be a very poor outcome for Kendall and would not address any of the current community concerns relating to character and issues similar to the nearby Poets Ridge development would be experienced.

DA 2006/57 allows for development sites and could include many duplex blocks, the dwellings will have no design criteria and a total lack of amenity and landscaping outcomes relating to open space, setbacks, ridge line views and community benefit. The proposed MHE layout, as approved, we believe has addressed many of the community's concerns evident within the design statements, landscape design, operation and communication plans and the like, and this was reinforced by comments made by the DAP committee chair that in his view the MHE was a well designed, well laid out and well thought-out.

As the proposed amendments will not alter the existing environment of the subject land, it is considered that the proposal involves minimal environmental impact.



(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all),

The revision of the approved subdivision layout is argued to be substantially the same development due to the overall development remaining for residential subdivision purposes, no further loss of vegetation and the development is still for the same use with no material element of change (i.e. no additional land use or varying component added). The additional lots remain above the minimum lot size and therefore do not alter the nature of the approved MHE and subdivision.

With respect to qualitative, the amenity impacts, ability of the road network to withstand the additional traffic and design of servicing remains adequate.

The development is substantially the same as that which was originally approved by Council. The development consent will still relate to the approved land uses. In considering whether the modified development will be "substantially the same development" as authorised by the original development consent, the proposed modified development is to be compared against the development as it was originally approved. That is a factual exercise (comparison of one set of plans and conditions against the proposed modified plans and/or conditions) and in this instance revealed that the proposal remains as an MHE and subdivision for residential purposes.

The material and physical elements of the approved development remain the same. This modification application does not radically transform the approved development and the key issues relating to lot layout, acoustic and aesthetic impacts, tree retention / ecology impacts and bushfire remain satisfactory. A comparison of the approved and modified plans would not easily identify the amendments and would appear as essentially the same development.

The purpose of the modification is primarily to rectify the conditions imposed on an incorrect traffic rate, an unnecessary provision of sewer to an adjoining already serviced site and to allow for a works in kind arrangement of desirable. No change to the layout or land use is proposed.

(c) it has notified the application in accordance with:

- (i) the regulations, if the regulations so require, or***
- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and***

DCP 2013 does not specifically state that notification or advertisement is required for a modification application. It is considered that notification is not required due to the technical and minor nature of the modification, however this is at the Council's discretion. It is our opinion that the amendments are technical issues and do not trigger the need for re-notification.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Council will consider any submissions received to the modification application as part of their assessment.



6. Statutory Matters

As this is a modification and not a Development Application for the purposes of the Act, the impact of the amendments is considered with respect to the original approval and Council's current controls can be set aside to an extent. The main controls have been considered below.

Planning for Bush Fire Protection

The approved APZ can be achieved notwithstanding the change to the lot layout.

Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Compliance with the Regulations is not altered by the proposed amendments to the conditions of consent.

State Environmental Planning Policies

The modified proposal remains satisfactory with respect to the relevant State Environmental Planning Policies, including SEPP 36.

Port Macquarie Hastings Council LEP 2011

The LEP provisions and objectives of the zone remain satisfied by the modifications, noting no changes to the layout from approved.

Port Macquarie Hastings Council DCP 2013

With respect to DCP compliance, the conditions changes remain suitable and do not alter DCP compliance.

Conclusion

The proposal is consistent with the original development consent and provides an efficient use for residential purposes. The proposed amendments will still achieve the intent of the original consent for a Staged 198 Site Manufactured Housing Estate with Associated Amenities & Infrastructure, 2 Lot Subdivision & Modification to Previous Approved Subdivision (DA2006/57), whilst protecting and further enhancing environmental qualities by minimising tree loss from unnecessary infrastructure works.

The revision of the development consent is deemed to be substantially the same development due to no change to the plans or layout, which remain the same, no further loss of vegetation and the development is still for the same use with no material element of change (i.e. no additional land use or varying component added). The nature of the development remains unaltered. As the proposed condition amendments will not alter the existing environment of the subject land, but rather improves due to minimising unnecessary infrastructure and associated tree loss, it is considered that the proposal involves minimal environmental impact.

The changes to conditions are technical based and primarily reflect the imposition of the correct servicing requirements generated by this development, including the correct traffic rate of 4 vehicle movements per dwelling.



The development is substantially the same as that which was originally approved. The consent will still relate to the approved land use within the same land as the original development consent. Council can be satisfied that the modification does not radically transform the approved development.

Thus, there is planning merit in these proposed amendments, and Council's support of same is sought.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Graham Burns'. The signature is fluid and cursive, written over a light grey background.

Graham Burns

Director – Land Dynamics Australia

