



PORT MACQUARIE-HASTINGS  
COUNCIL



# Development Assessment Panel

## Business Paper

date of meeting: Wednesday 28 October 2020

location: Via Skype

time: 2:00pm

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

## **Development Assessment Panel**

### **CHARTER**

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#### **1.0 OBJECTIVES**

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

#### **2.0 KEY FUNCTIONS**

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

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

Pursuant to Section 377 of the Local Government Act, 1993 delegation to:

- Determine development applications under Part 4 of the Environmental Planning and Assessment Act 1979 having regard to the relevant environmental planning instruments, development control plans and Council policies.
- Vary, modify or release restrictions as to use and/or covenants created by Section 88B instruments under the Conveyancing Act 1919 in relation to development applications for subdivisions being considered by the panel.
- Determine Koala Plans of Management under State Environmental Planning Policy 44 - Koala Habitat Protection associated with development applications being considered by the Panel.

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

#### **3.0 MEMBERSHIP**

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

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

be the Chairperson.

- Group Manager Development Assessment (alternate - Director Development & Environment or Development Assessment Planner)

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

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

- Not applicable

### **3.3 Obligations of members**

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

### **3.4 Member Tenure**

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

### **3.5 Appointment of members**

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

## **4.0 TIMETABLE OF MEETINGS**

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

## **5.0 MEETING PRACTICES**

### **5.1 Meeting Format**

- At all Meetings of the Panel the Chairperson shall occupy the Chair and preside. The Chair will be responsible for keeping of order at meetings.
- Meetings shall be open to the public.
- The Panel will hear from applicants and objectors or their representatives.
- Where considered necessary, the Panel will conduct site inspections which will be open to the public.

### **5.2 Decision Making**

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

### **5.3 Quorum**

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

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

- Independent Chair (alternate, second independent member)

### **5.5 Secretariat**

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

### **5.6 Recording of decisions**

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



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

Not applicable.

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

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

## **8.0 LOBBYING**

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

## Development Assessment Panel

### ATTENDANCE REGISTER

Member	08/07/20	22/07/20	12/08/20	26/08/20	09/09/20	30/09/20	14/10/20
Paul Drake	✓	✓	✓	✓	✓	✓	✓
Robert Hussey		✓		✓	✓		
David Crofts (alternate member)	✓		✓			✓	✓
Dan Croft (Group Manager Development Assessment) (alternates) - Development Assessment Planner	✓	✓	✓	✓	✓	✓	✓

**Key:** ✓ = Present

A = Absent With Apology

X = Absent Without Apology

### Meeting Dates for 2020

22/01/2020	Function Room	2:00pm
12/02/2020	Function Room	2:00pm
26/02/2020	Function Room	2:00pm
11/03/2020	Function Room	2:00pm
25/03/2020	Function Room	2:00pm
8/04/2020	Function Room	2:00pm
6/05/2020	Function Room	2:00pm
27/05/2020	Function Room	2:00pm
10/06/2020	Function Room	2:00pm
24/06/2020	Function Room	2:00pm
8/07/2020	Function Room	2:00pm
22/07/2020	Function Room	2:00pm
12/08/2020	Function Room	2:00pm
26/08/2020	Function Room	2:00pm
9/09/2020	Function Room	2:00pm
30/09/2020	Function Room	2:00pm
14/10/2020	Function Room	2:00pm
28/10/2020	Function Room	2:00pm
11/11/2020	Function Room	2:00pm
25/11/2020	Function Room	2:00pm
16/12/2020	Function Room	2:00pm

# Development Assessment Panel Meeting

Wednesday 28 October 2020

## Items of Business

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05	DA2020 - 475.1 Alterations and Additions to Dwelling and Shed and Construction of Swimming Pool and Retaining Works at Lot 419 DP208523, No. 12 Crummer Street, Port Macquarie .....	<u>17</u>
06	General Business	

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

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

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

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**RECOMMENDATION**

That the apologies received be accepted.

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

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 14 October 2020 be confirmed.

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## **PRESENT**

### **Members:**

Paul Drake (Independent Chair)  
David Crofts (Independent Member)  
Group Manager Development Assessment (Dan Croft)

### **Other Attendees:**

Development Assessment Planner (Chris Gardiner)  
Development Assessment Planner (Fiona Tierney)  
Development Assessment Planner (Ben Roberts)  
Development Compliance Coordinator (Craig Henderson)  
Development Compliance Officer (Chris Townsend)  
Acting Development Engineer Coordinator (Grant Burge)

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The meeting opened at 2:00pm.

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## **01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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## **02 APOLOGIES**

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Nil.

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## **03 CONFIRMATION OF MINUTES**

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### **CONSENSUS:**

That the Minutes of the Development Assessment Panel Meeting held on 30 September 2020 be confirmed.

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

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There were no disclosures of interest presented.

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#### **05 DA2020 - 682.1 STAGED ALTERATIONS AND ADDITIONS TO DWELLING AT LOT 9 DP 18862, 18 BARTLETT STREET, BONNY HILLS**

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George Watt (applicant)

##### **CONSENSUS:**

That DA 2020 - 682.1 for Staged Alterations and Additions to Dwelling at Lot 9, DP 18862, No. 18 Bartlett Street, Bonny Hills, be determined by granting consent subject to the recommended conditions.

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#### **06 DA2020 - 600.1 DUAL OCCUPANCY AND STRATA SUBDIVISION AT LOT 410 DP 1244641 NO.18 OCTAGONAL RISE, PORT MACQUARIE**

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Derek Collins (applicant)

##### **CONSENSUS:**

That DA 2020 - 600.1 for a Dual Occupancy and Strata Subdivision at Lot 410, DP 1244641, No. 18 Octagonal Rise, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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#### **07 DA2019 - 681.1 FARM STAY ACCOMMODATION AT LOT 89 DP 754416, NO. 2001 TOMS CREEK ROAD, TOMS CREEK**

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##### **CONSENSUS:**

That DA2019 - 681.1 for Farm Stay Accommodation at Lot 89, DP 754416, No. 2001 Toms Creek Road, Toms Creek, be determined by granting deferred commencement consent subject to the recommended conditions and as amended below:

- Delete deferred commencement condition 2 in Part A
- Delete condition E(7)

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**08 DA2020 - 433.1 ALTERATIONS AND ADDITIONS TO DWELLING, PART CHANGE OF USE TO SECONDARY DWELLING AND CONSTRUCTION OF SWIMMING POOL INCLUDING CLAUSE 4.6 OBJECTION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 392 DP 236950, NO. 1 VENDUL CRESCENT, PORT MACQUARIE**

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David Weatherley (applicant)

Robert Snow (applicant)

**CONSENSUS:**

That it be recommended to Council that DA2020 - 433.1 for alterations and additions to dwelling, part change of use to secondary dwelling and construction of swimming pool including Clause 4.6 Objection to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 392, DP 236950, No. 1 Vendul Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**09 DA2016.88.9 SUBDIVISION MODIFICATION, LOT 146 DP 1256576 (NOW KNOWN AS LOT 2 DP 1263561), SOUTH ATLANTIC DRIVE, LAKE CATHIE**

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Donna Clarke (applicant)

**CONSENSUS:**

That the Section 4.55(1A) modification to DA 2016.88.9 being a modification to the subdivision layout of the previously approved stage 6 at Lot 146, DP 1256576, South Atlantic Drive, Lake Cathie, be determined by granting consent subject to the recommended conditions.

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**10 GENERAL BUSINESS**

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Nil.

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The meeting closed at 4:12pm.





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Item: 04  
Subject: DISCLOSURES OF INTEREST

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**RECOMMENDATION**

That Disclosures of Interest be presented

**DISCLOSURE OF INTEREST DECLARATION**

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

*(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 (ii)
  - (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.*

<b>By</b> <i>[insert full name of councillor]</i>	
<b>In the matter of</b> <i>[insert name of environmental planning instrument]</i>	
<b>Which is to be considered at a meeting of the</b> <i>[insert name of meeting]</i>	
<b>Held on</b> <i>[insert date of meeting]</i>	
<b>PECUNIARY INTEREST</b>	
Address of the affected principal place of residence of the councillor or an associated person, company or body <i>(the <b>identified land</b>)</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.
<b>MATTER GIVING RISE TO PECUNIARY INTEREST<sup>1</sup></b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP <i>(the <b>subject land</b><sup>2</sup>)</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.

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<sup>1</sup> 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.

<sup>2</sup> 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

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**Item: 05****Subject: DA2020 - 475.1 ALTERATIONS AND ADDITIONS TO DWELLING AND SHED AND CONSTRUCTION OF SWIMMING POOL AND RETAINING WORKS AT LOT 419 DP208523, NO. 12 CRUMMER STREET, PORT MACQUARIE****Report Author: Building Surveyor, Anna Sticker**

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<b>Applicant:</b>	<b>T &amp; KT Soeyland</b>
<b>Owner:</b>	<b>T &amp; KT Soeyland</b>
<b>Estimated Cost:</b>	<b>\$300,000</b>
<b>Parcel no:</b>	<b>5478</b>

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA2020 - 475.1 for alterations and additions to dwelling, shed and construction of swimming pool and retaining works at Lot 419 DP 208523, 12 Crummer Street, Port Macquarie, be determined by granting consent subject to the recommended conditions**

**Executive Summary**

This report considers a development application for alterations and additions to dwelling and shed and construction of 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, three (3) submissions were received. Revised plans were received during the assessment of the application which resulted in one (1) submission being withdrawn.

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.

This report recommends that the development application be approved subject to the attached conditions (**Attachment 1**).

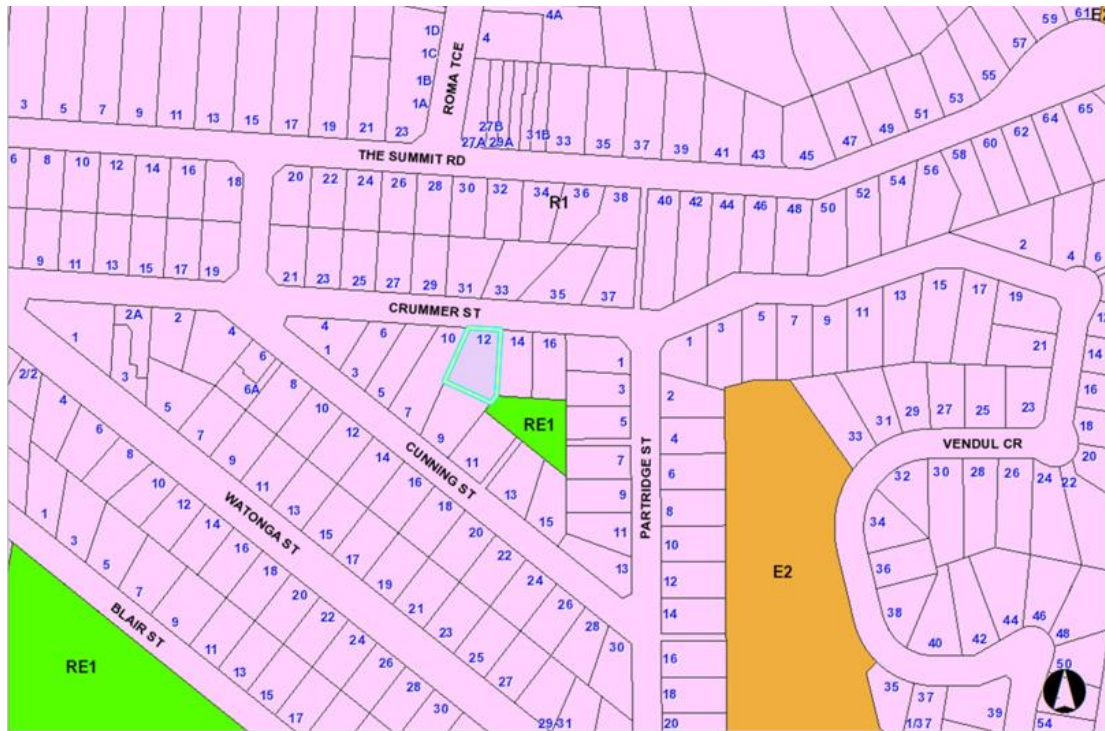
**1. BACKGROUND**



**Existing Sites Features and Surrounding Development**

The site has an area of 746m<sup>2</sup>.

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



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





**2. DESCRIPTION OF DEVELOPMENT**

Key aspects of the proposal include the following:

- Alterations and additions to dwelling;
- Alterations and additions to an existing shed;
- Construction of a new swimming pool and associated fencing;
- Construction of new retaining works.

Refer to **Attachment 2** at the end of this report for plans of the proposed development.

**Application Chronology**

- 17 June 2020 - Application lodged.
- 23 June 2020 - 9 July 2020 - Neighbour notification.
- 30 June 2020 - 2 submissions received.
- 5 July 2020 - 1 additional submission received.
- 22 July 2020 - Additional information requested from applicant.
- 11 August 2020 - Revised plans submitted.
- 25 August 2020 - Revised plans forwarded to objectors.
- 25 August 2020 - Additional information requested from applicant.
- 27 August 2020 - Additional information submitted by applicant.
- 31 August 2020 - New concerns raised by 1 objector.
- 1 September 2020 - 1 submission withdrawn.
- 4 September 2020 - New concerns raised by initial objector.
- 7 September 2020 - New concerns advised to applicant.
- 25 September 2020 - Revised plans submitted by applicant.
- 1 October 2020 - Revised plans forwarded to objectors.
- 13 October 2020 - Concerns remain for objectors.

**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 (Koala Habitat Protection) 2019**

Clause 5 - This SEPP applies to the Port Macquarie-Hastings Local Government Area.

Clause 10 - The site isn't identified on the Koala Development Application Map or under a Koala Plan of Management and the land has an area less than 1 hectare including adjoining land in the same ownership. The SEPP does not prevent the granting of consent on the land being less than 1 hectare in area. The application has

also demonstrated that no habitat will be removed or modified 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 (Building Sustainability Index: BASIX) 2004**

A BASIX certificate A379487\_03 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 or ancillary structure to a dwelling) is a permissible landuse with consent.
- Clause 2.3(2) - 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.*
  - 
  - 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 meet the provisions of SEPP (Exempt and Complying Development Codes) 2008.
- Clause 4.3 - The maximum overall height of the building above ground level (existing) is 6.778 m, which complies with the standard height limit of 8.5 m applying to the site.
- Clause 4.4 - The floor space ratio of the proposal is 0.41:1.0, which complies with the maximum 1.0:1.0 floor space ratio applying to the site.
- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

No draft instruments apply to the site.

## (iii) Any Development Control Plan in force

## Port Macquarie-Hastings Development Control Plan 2013

<b>DCP 2013: Part C - Development Specific Provisions - C1: Low Density Residential Development</b>			
<b>DCP Objective</b>	<b>Development Provisions</b>	<b>Proposed</b>	<b>Complies</b>
<b>Front Setbacks</b>			
44	Dwellings may incorporate an articulation zone to a street frontage at no less than 3m from property boundary.	There is nothing proposed within the articulation zone.	N/A
	The primary road front setback shall be: Primary frontage = 4.5m	5.5m.	Yes
45	a) A garage, carport or car parking space should: <ul style="list-style-type: none"> <li>– 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</li> <li>—be at least 5.5m from a front boundary, where the dwelling(s) has a setback of less than 4.5m.</li> </ul>	Garage door setback is compliant with the 5.5m front setback requirements however it is not 1m behind the building line. Garage door recessed.	No - considered acceptable. See justification below
	b) The total width of the garage/carport openings should not be more than 6m and not more than 50 per cent of the width of the building.	Width of garage door/s are compliant with the maximum width requirements	Yes
	c) Driveway crossovers are no greater than 5.0m in width.	Driveway crossing/s width existing and remains unaltered	N/A
	d) Where a dual occupancy or attached dwelling is proposed on a corner lot a garage and driveway is provided on each road frontage.		N/A
<b>Side and Rear Setbacks</b>			
46	a) A minimum rear boundary setback of 4m is to be provided to dwellings (including verandahs, patios and decks).	7.4m	Yes

	b) A minimum rear boundary setback of 900mm applies to sheds and swimming pools subject to achieving minimum required private open space area.	The swimming pool has a proposed setback of 2.21m, which complies. Shed maintains existing rear setback which is compliant	Yes
	c) 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. In that instance, one side setback should be a minimum 4m in width (for an equivalent length of rear boundary, behind building line) and the rear setback may be reduced to 900mm.		N/A
47	a) Ground floors (being <1m above existing ground level) should be setback a minimum of 900mm from side boundaries.	<p>The minimum side setback requirements are compliant for the dwelling. The existing shed is to be extended however will maintain the existing side boundary setback.</p> <p>A condition to require a set-out survey has been included in the recommended conditions of consent.</p> <p>The proposed building works are satisfactory to address the objective intent of the development provision.</p>	No - see justification below.
	b) First floors and above (including single storey with floor level >1m) should be setback a minimum of 3m from the side boundary, or reduced down to 900mm where it can be demonstrated that the adjoining property's primary living rooms and principal private open space areas are not adversely overshadowed for more than 3hrs between 9am - 3pm on	The proposal is for alterations and additions to the existing 2 storey dwelling located on the site. The minimum side setback requirements for the proposed new works are compliant.	Yes

	21 June.		
	c) First floors and above should have building walls that step in and out at least every 12m by a minimum of 500mm articulation. Where first floors and above are setback >3m, wall articulation is not required.	The proposed building works address the objective intent of the development provision.	Yes
<b>Private Open Space</b>			
48.	a) All dwellings should have a minimum area of private open space of 35m <sup>2</sup> , which includes a principal private open space area with: <ul style="list-style-type: none"> <li>– a minimum dimension of 4m x 4m, and</li> <li>– a maximum grade of 5% for minimum 4m x 4m of the total open space requirement, and</li> <li>– direct accessibility from a ground floor living area and orientated to maximise use.</li> </ul>	The site contains 35m <sup>2</sup> open space in one area including a useable 4m x 4m space.	Yes
<b>Bulk and Scale</b>			
51	a) Direct views between indoor living rooms and principal private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots, including possible dwellings on future lots, should be obscured or screened where: <ul style="list-style-type: none"> <li>– Ground and first floor (and above) indoor living room windows are within a 9m radius.</li> <li>– Direct views between principal private open space areas where within a 12m radius.</li> <li>– Direct views between indoor living rooms of dwellings into the principal area of private open space of other dwellings within a 12m radius.</li> </ul>	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. Privacy screens are not recommended.	Yes
	b) A balcony, deck, patio,	There is an existing first	Yes

	<p>pergola, terrace or verandah should have a privacy screen where there are direct views of:</p> <ul style="list-style-type: none"> <li>– Indoor living room windows of adjacent dwellings, including proposed dwellings approved on adjoining lots within 9m radius; or</li> <li>– Principal areas of private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots within a 12m radius.</li> </ul>	<p>floor rear deck which has no screening in place. The proposal includes a larger first storey rear deck with potential impacts to be of a similar nature to the existing. The deck has a side boundary setback of 7.362m. There are no direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. The common area in front of the adjoining units is not deemed private open space.</p> <p>No screening is recommended for the rear deck.</p> <p>An upper first storey deck on the western side has screening proposed.</p> <p>The proposed rear yard deck is located primarily at existing ground level.</p> <p>The surrounding pool area is slightly elevated however has been reduced 500mm below the initial proposed levels to accommodate the adjoining neighbours' concerns. A 1.8m high boundary fence was initially proposed above the proposed finished pool level however was removed to satisfy neighbour objections. The natural topography of the site results in a degree of privacy impact however this is considered to be acceptable and not of a significance to justify</p>	
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	refusal of the application.	
<p>c) Privacy protection is not required for:</p> <ul style="list-style-type: none"> <li>Any Indoor living room windows with a sill height of greater than 1.5m above the finished floor level of that room or where fixed non-openable translucent glass is installed to the same height.</li> </ul>		N/A
<p>d) Direct views described above may be reduced or obscured by one of the following measures (details to be submitted with the development application):</p> <ul style="list-style-type: none"> <li>1.8m high fence or wall between ground-floor level windows or between a dwelling and principal private open space</li> <li>Screening of minimum 1.7m height, that has 25% openings (max), with no individual opening more than 30mm wide, is permanently fixed and is made of durable materials.</li> <li>A window, the whole of which has translucent glass and is not able to be opened.</li> </ul>		N/A
<p>c) Lighting installations on roof terraces should be:</p> <ul style="list-style-type: none"> <li>contained within the roof terrace area and located at a low level, and</li> <li>appropriately shaded and fixed in a non-adjustable manner so that light is projected downwards onto the floor surface of the terrace.</li> <li>designed in compliance with Australian Standards AS4282 - <i>Control of obtrusive effects of outdoor lighting</i>.</li> </ul>		N/A



Ancillary Development			
56	<p>a) For ancillary development in R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, R5 Large Lot Residential and RU5 Village zones:</p> <ul style="list-style-type: none"> <li>– The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot should not be more than 4.8m above ground level (existing).</li> <li>– The building should be single storey construction with a maximum roof pitch of 24 degrees.</li> <li>– The maximum area of the building should be 60m<sup>2</sup> for lots less than 900m<sup>2</sup> and maximum of 100m<sup>2</sup> for larger lots.</li> <li>– Ancillary development that is a garage, or an outbuilding, or a rainwater tank should not be located in front of the main building line with the exception of swimming pools.</li> </ul>	The water tank is appropriately located and the shed complies with the GFA and height controls, and is not located in the front setback	Yes

DCP 2013: Part B - General Provisions - B2: Environmental Management			
DCP Objective	Development Provisions	Proposed	Complies
3	a) Development must comply with Council's Developments, Public Place & Events - Waste Minimisation and Management Policy.	<p>Satisfactory arrangements are in place for storage and collection of waste.</p> <p>A standard condition is recommended for construction waste management.</p>	Yes
Cut and Fill Regrading			
4	a) Development shall not exceed a maximum cut of 1.0m and fill of 1.0m measured vertically above the	Cut and fill >1.0m change 1m outside the perimeter of the external building walls - Front entry tiered	No - but deemed acceptable. See

	ground level (existing) at a distance of 1.0m outside the perimeter of the external walls of the building (This does not apply to buildings where such cut and fill is fully retained within or by the external walls of the building).	garden. Justification provided and deemed acceptable	justification below
5	a) A certified practicing structural engineer must certify any retaining wall greater than 1.0m.	Retaining wall likely >1m proposed. Condition recommended to require engineering certification	Yes
	b) Where a combination of a fence and a wall is proposed to be greater than 1.2m high: <ul style="list-style-type: none"> <li>– be a maximum combined height of 1.8m above existing property boundary level;</li> <li>– be constructed up to the front boundary for a maximum length of 6.0m or 30% of the street frontage, whichever is less;</li> <li>– the fence component has openings which make it not less than 25% transparent; and</li> <li>– provide a 3m x 3m splay for corner sites, and</li> <li>– provide a 900mm x 900mm splay for vehicle driveway entrances.</li> </ul>	No retaining wall front fence combination proposed.	N/A

The proposal seeks to vary Development Provision relating to 4. a) which states:

*Development shall not exceed a maximum cut of 1.0m and fill of 1.0m measured vertically above the ground level (existing) at a distance of 1.0m outside the perimeter of the external walls of the building (This does not apply to buildings where such cut and fill is fully retained within or by the external walls of the building).*

The relevant objectives are to:

- *Minimise the extent of site disturbance caused by excessive cut and fill to the site.*
- *Ensure there is no damage or instability to adjoining properties caused by excavation or filling.*
- *Ensure that there is no adverse alteration to the drainage of adjoining properties.*
- *Ensure the privacy of adjoining dwellings and private open space are protected.*

- *Ensure that adequate stormwater drainage is provided around the perimeter of buildings and that overflow paths are provided.*

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

- The front retaining wall is proposed to have a maximum height of 1.2m and is located below the existing road frontage to allow for a levelled area at the proposed entry.
- The retaining works within the back yard include battering of the site down to the pool level and a 1.48 m retaining wall which will allow the existing boundary fences to remain to address privacy concerns raised through submissions.
- The proposed works in the rear of the site will not increase the current natural overland flow of the site. The existing site topography falls to the rear.

The proposal seeks to vary Development Provision relating to 45. a) which states:

*A garage, carport or car parking space should:*

- *be at least 1m behind the building line, where the dwelling(s) has a setback from a front boundary of 4.5m or more.*

The relevant objectives are:

- *To minimise the impact of garages and driveways on the streetscape, on street parking and amenity,*
- *To minimise the visual dominance of garages in the streetscape.*
- *To provide safe and functional vehicular access.*

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

- The proposed garage has a compliant front boundary setback of 5.543m however does not achieve the 1m setback behind the building line. The existing dwelling setback is 6.13m which is 0.63 behind the minimum requirement of 5.5m for a garage.
- The garage is positioned below street level which will aid in reducing the visual dominance of the garage on the streetscape.
- The driveway crossover is existing. The impact of the driveway in relation to on street parking and amenity is not increased.
- The adjoining property on the western boundary has an approved garage located in front of the building line. The proposed garage maintains consistency with the adjoining property and is not out of character for the locality.

The proposal seeks to vary Development Provision relating to 47. a) which states:

*Ground floors (being <1m above existing ground level) should be setback a minimum of 900mm from side boundaries.*

The relevant objectives are:

- *To reduce overbearing and perception of building bulk on adjoining properties.*

- *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 proposal is for an addition to an existing shed which is located on the boundary. The proposal is for a 2 m extension on the boundary which is deemed minimal.
- The shed is located in the rear yard which ensures that visual acoustic and visual privacy between dwellings is maintained.
- The maximum height of the shed on the boundary is 2.345m. An existing 1.8m high boundary fence will aid in reducing the overbearing perception of building bulk on the adjoining property.
- The proposal was notified and no submissions were received in relation to extension of the existing shed.

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

**(iiia) Any planning agreement that has been entered into under section 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 relating to the site.

**(iv) Any matters prescribed by the Regulations**

**Demolition of buildings AS 2601 – Clause 92**

Demolition of the existing building on the site is capable of compliance with this Australian Standard and is recommended to be conditioned.

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

**Context and setting**

The proposal will 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 S.68 application.

**Sewer connection**

Service available – details required with S.68 application.

**Stormwater**

Service available – details required with S.68 application.

**Other utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

This site does not contain or adjoin any known heritage item or site of significance. 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 not require any removal/clearing of any native vegetation and therefore does not trigger the biodiversity offsets scheme. Part 7 of the Biodiversity Conservation Act 2016 is considered to be satisfied.

**Waste**

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

**Energy**

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

**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. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.

**Social impacts in the locality**

Given the nature of the proposed development and its location the proposal is 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.

**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. There are no significant site constraints that adversely impact on the proposal.

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

Three (3) submissions were received following public exhibition of the application. One submission was subsequently withdrawn. Copies of the written submissions have been provided separately to members of the DAP. Details of the issues raised are assessed below.



Submission Issue/Summary	Planning Comment/Response
Bulk and scale of proposed retaining wall and boundary fence	The applicant has provided amended plans and removed the proposed boundary retaining wall and fence. The existing boundary fence is to remain unchanged. Objections were addressed and this submission has been withdrawn.
Cut to site	Amended plans were provided by the applicant. The proposed rear yard retaining works are to be confined to the pool area and are capable of being engineered so as not to adversely impact on neighbouring properties. Stormwater is also capable of being managed. The requirements of the DCP have been met - refer to DCP comments.
Loss of privacy	<p>The original plans submitted to Council included a privacy barrier, however, following objections the plans were amended to remove the boundary privacy barrier, despite providing significant privacy separation to the adjoining dwelling. With the removal of the barrier concerns have now been raised in relation to privacy.</p> <p>The deck proposed in the rear yard is sited primarily at existing ground level and no screening is proposed or recommended.</p> <p>The area surrounding the pool has been lowered 500mm to accommodate neighbour privacy concerns. Overlooking from this area is considered to be minimal. The natural topography of the site results in some potential overlooking of adjoining properties however this is not considered to be of a significance that would justify refusal of the application.</p> <p>A concern was raised that people could walk around the 500mm wide pool coping adjacent the western boundary. The pool coping is 300mm and is not considered a highly trafficable area.</p> <p>There is an existing first storey rear deck which has no screening. The proposal includes a new first storey rear deck with potential impacts to be of a similar nature. The deck has a side boundary setback of 7.362m and achieves compliance with DCP screening requirements. The first storey deck on the western boundary is proposed to have privacy screening.</p> <p>Overall, it is considered that the design of the proposal has had sufficient regard to managing privacy impacts - refer to DCP comments.</p>



**(e) The Public Interest**

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

**(f) Ecologically Sustainable Development and Precautionary Principle**

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

The four principles of ecologically sustainable development are:

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

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

**(g) Climate change**

The proposal is not considered to be vulnerable to any risks associated with climate change.

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

Development contributions will not be required under S64/S7.11 as the proposal is for a single dwelling only on an existing residentially zoned lot.




**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 (**Attachment 1**) section of this report.

**Attachments**

1.  DA2020 - 475.1 Recommended Conditions
2.  DA2020 - 475.1 Plans
3.  DA2020 - 475.1 Statement of Environmental Effects



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2020/475****DATE: 19/10/2020****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

<b>Plan / Supporting Document</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
Plan Set	Dwg No. D4325 Revision R	Collins W Collins	15/09/2020
SOEE	CWC Ref D4325 Revision B	Collins W Collins	October 2020

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- a) the appointment of a Principal Certifying Authority and
  - b) the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
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 an 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 is to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (4) (A008) Any retaining wall greater than 1.0m must be certified by a practising structural engineer.

**B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

  - i. Footway and gutter crossing
  - ii. Functional vehicular access
- (3) (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.

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

- (1) A peg out survey must be undertaken by a registered land surveyor prior to any footings and/or slab being poured. Such survey shall set out the

boundaries of the site and the actual location of the proposed buildings in accordance with the stamped approved plans.

#### **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.

#### **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 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(s) 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 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
- 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.

## CURRENT REVISION + NOTES

Date: 15/09/20  
Description: POOL LEVEL LOWEREDIssue: R  
Drawn: MS

## ALTS & ADDS

LOT No: 419

DP No: 208523

STREET No: 12

STREET NAME: CRUMMER STREET, PORT MACQUARIE

CWC JOB #: D4325

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2	EXISTING/DEMO FLOOR PLAN
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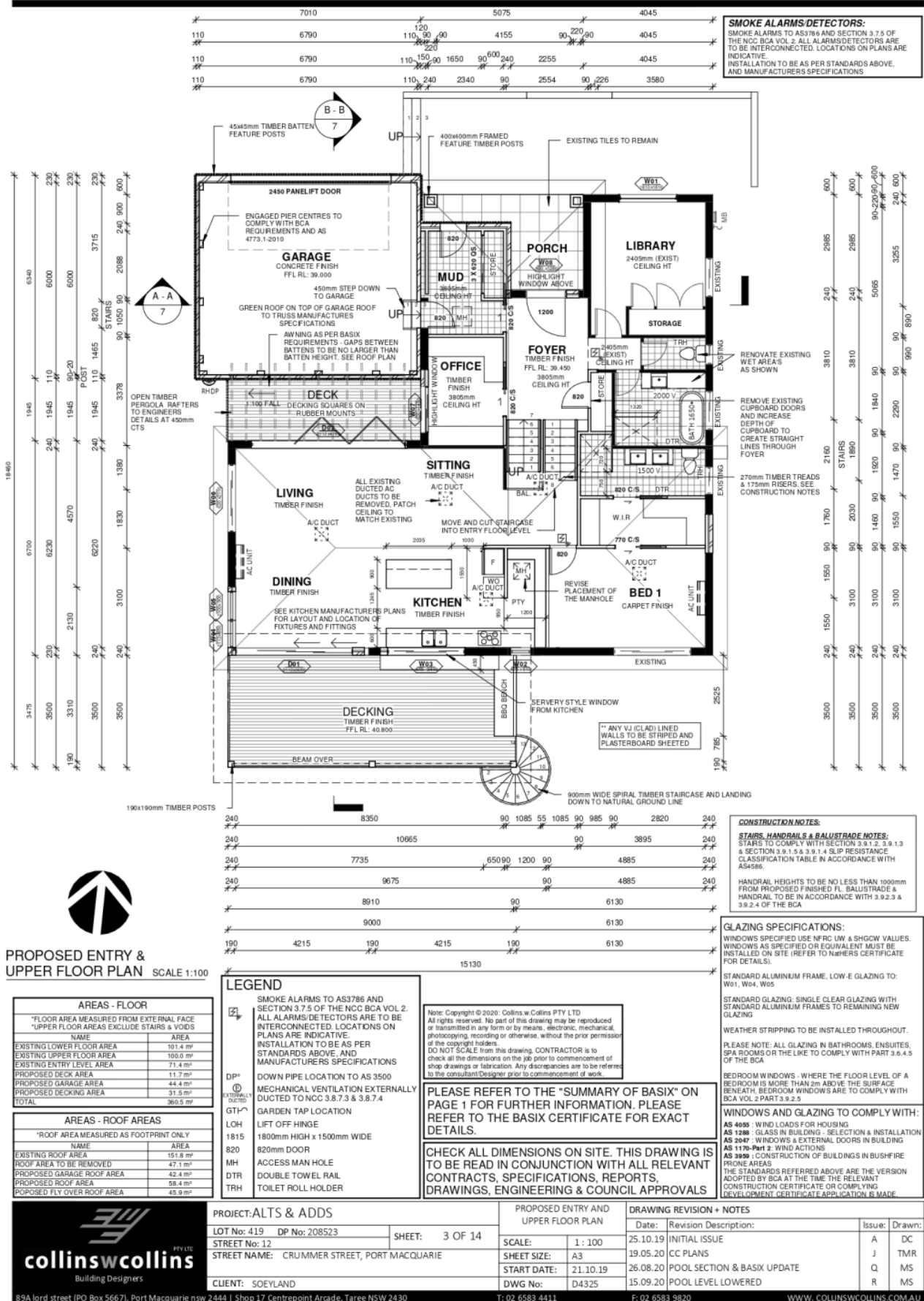




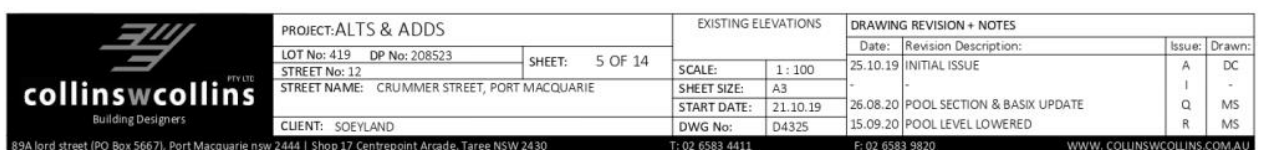


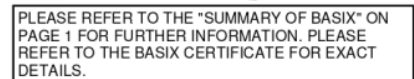
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	PROJECT: ALTS & ADDS		EXISTING/DEMO FLOOR PLAN		DRAWING REVISION + NOTES			
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	STREET No: 12				25.10.19	INITIAL ISSUE	A	DC
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					15.09.20	POOL LEVEL LOWERED	R	MS
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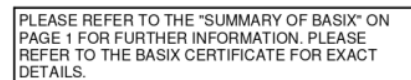









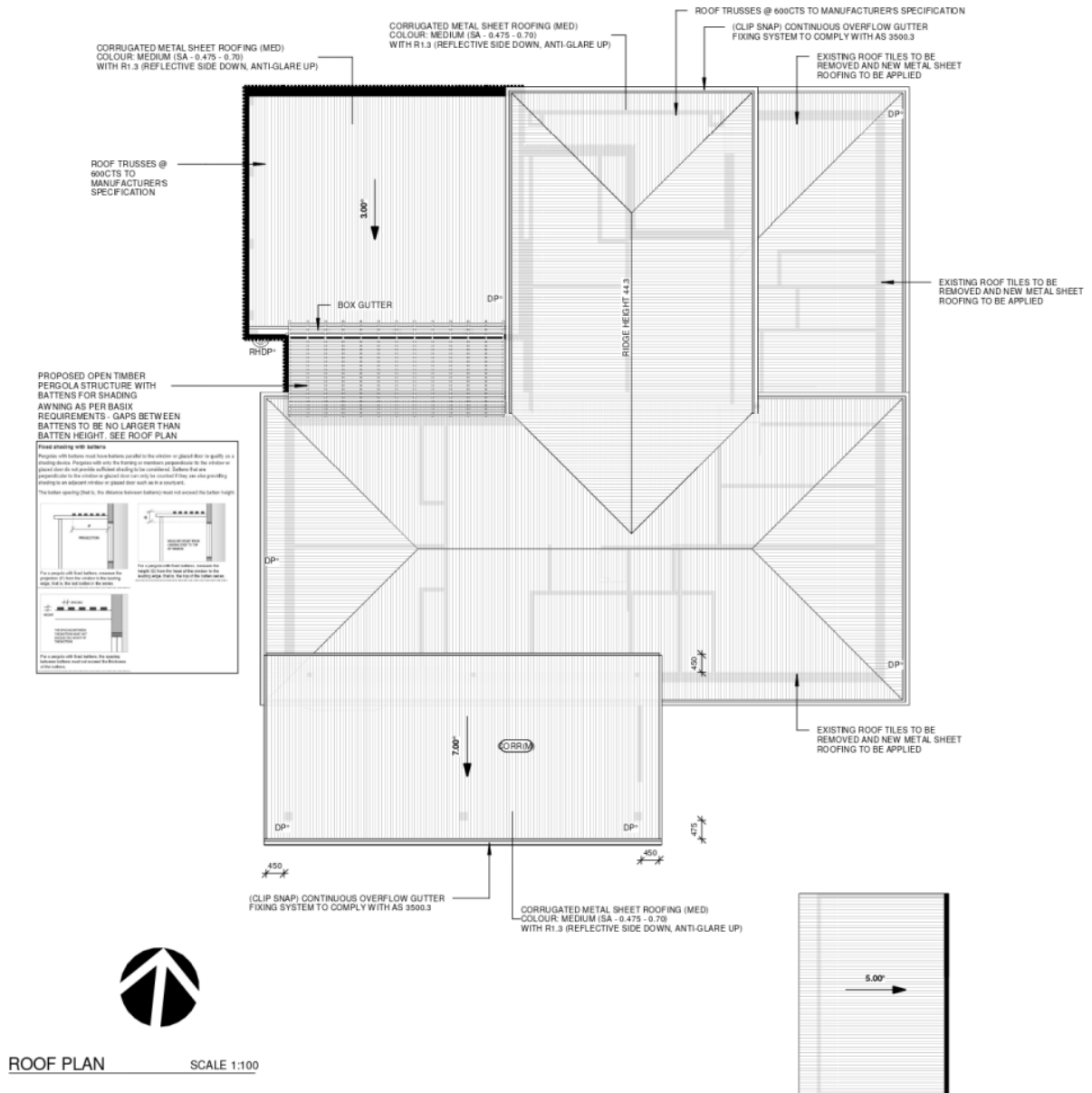
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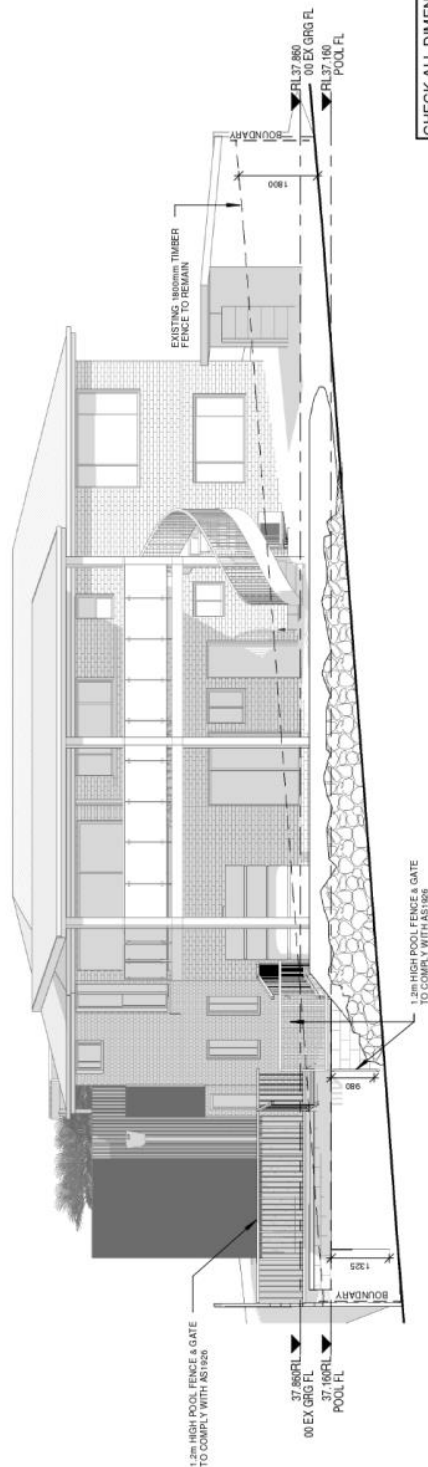
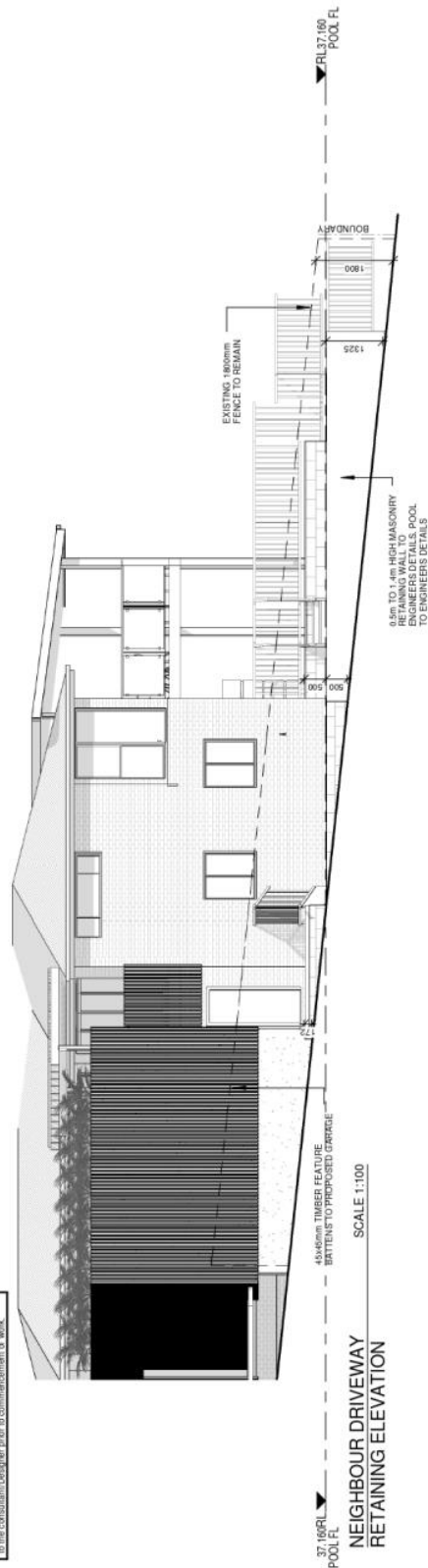






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					15.09.20	POOL LEVEL LOWERED	R	MS
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REAR BOUNDARY  
RETAINING ELEVATION



**collinswcollins**  
Building Designers

100 Lord Street (PO Box 5667), Port Macquarie NSW 2444 | Shop 17 Centrepark Arcade, Tree NSW 2430

PROJECT: ALTS & ADDS	
LOT NO: 419	DP NO: 208523
SHEET: 10 OF 14	
STREET NAME: CRUMMER STREET, PORT MACQUARIE	
CLIENT: SOEVI AND	

2	SCALE:	1 : 100
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CHECK ALL DIMENSIONS ON SITE. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT CONTRACTS, SPECIFICATIONS, REPORTS, DRAWINGS, ENGINEERING & COUNCIL APPROVALS

F: 02 6583 9820 [www.fox.com.au](http://www.fox.com.au)

[illegible]

Section P-P shows a cross-section of the proposed pool area. The pool is labeled "PROPOSED POOL 424L" and has a depth of 1800. The pool is surrounded by a wall with a height of 900. The pool is located below the ground level, with the ground level indicated by a dashed line. The pool is adjacent to a building with a brick wall and a staircase. The pool is also adjacent to a wall with a height of 900. The pool is located below the ground level, with the ground level indicated by a dashed line. The pool is adjacent to a building with a brick wall and a staircase. The pool is also adjacent to a wall with a height of 900.

POOL FENCING NOTE:  
1.2m HIGH POOL FENCING & GATE  
TO COMPLY WITH AS1926.1-2012

37.860RL  
00 EX GRG FL

37.160RL  
POOL FL

900

900

FFL RL 37.160

1800


PROPOSED POOL 424L

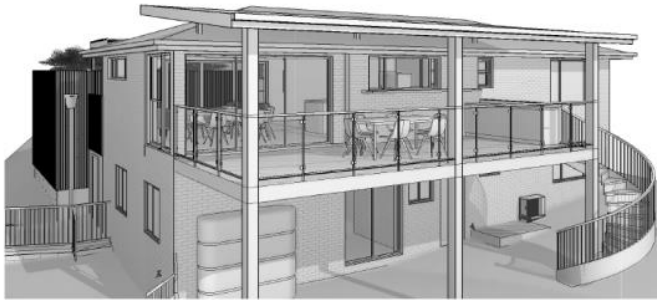
37.860  
00 EX GRG FL

37.160  
POOL FL

ION P-P

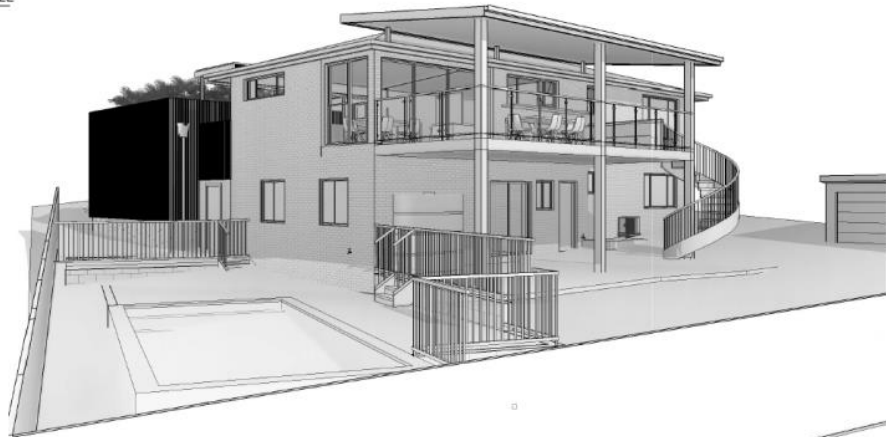
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 <b>collins &amp; collins</b> Pty Ltd Building Designers	PROJECT: ALTS & ADDS			POOL DETAILS		DRAWING REVISION - NOTES			
	LOT No: 419	DP No: 208523	SHEET: 11 OF 14	SCALE:	1 : 100	Date:	Revision Description:	Issue:	Drawn:
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PERSPECTIVE 1 NOT TO SCALE

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PERSPECTIVE 2 NOT TO SCALE



PERSPECTIVE 3 NOT TO SCALE



PERSPECTIVE 4 NOT TO SCALE

 <div>PRIVACY</div>	PROJECT: ALTS & ADDS			BIRDS EYE & PERSPECTIVES		DRAWING REVISION + NOTES			
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	CLIENT: SOEYLAND				15.09.20	POOL LEVEL LOWERED		R	MS
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**THESE NOTES MUST BE READ AND UNDERSTOOD BY ALL INVOLVED IN THE PROJECT.****THIS INCLUDES (but is not limited to): OWNER, BUILDER, SUB-CONTRACTORS, CONSULTANTS, RENOVATORS, OPERATORS, MAINTENORS, DEMOLISHERS.****BUILDING SPECIFICATIONS FOR CLASS 1 AND 10 BUILDINGS**

All works to be completed in accordance with the current version of the National Construction Code Series, including Building Code of Australia (BCA), Volume 2 and the Plumbing Code of Australia (PCA), Volume 3 as applicable.

All Australian Standards listed are the versions that have been adopted by the relevant version of the National Construction Code Series at the time of Construction Certificate or Complying Development Certificate Application.

**STRUCTURAL PROVISIONS**

Structural Design Manuals – is satisfied by complying with:

- a) 3.0.3, 3.0.4, 3.0.5 of the BCA; or
- b) the relevant provisions of other Parts of Section 3 of the Housing Provisions of the BCA relating to structural elements; or
- c) any combination thereof.

3.0.5 - Structural Software – Must comply with the Australian Building Codes Board (ABCB) Protocol for Structural Software and Part 3.4.0.2 of the BCA.

**SITE PREPARATION**

Earthworks – Earthworks are to be undertaken in accordance with Part 3.1.1 of the BCA.

Earth Retaining structures (ie. retaining walls & batter) to be in accordance with AS4478.

Drainage – Stormwater drainage is to be undertaken in accordance with AS/NZS 3500.3, or the Acceptable Construction Practice as detailed in Part 3.1.3 of the BCA.

Termite Risk Management – Where a primary building element is considered susceptible to termite attack the building shall be protected in accordance with the following:

- a) AS 3600.1, and
- b) A durable notice is permanently fixed to the building in a prominent location, such as in a meter box or the like, including the details listed in Part 3.1.4.4 of the BCA.

c) The Acceptable Construction Practice as detailed in accordance with Part 3.1.4 of the BCA.

**FOOTINGS AND SLABS**

The footing or slab is to be constructed in accordance with AS 2870, except that for the purposes of Clause 5.3.3.1 of AS 2870, a damp-proofing membrane is required to be provided; or the Acceptable Construction Practice detailed in Part 3.2 of the BCA.

Piled footings are to be designed in accordance with AS 2159.

**MASONRY**

Unreinforced Masonry – to be designed and constructed in accordance with:

- a) AS 3700; or
- b) AS 4773 Parts 1 and 2.

Reinforced Masonry – to be designed and constructed in accordance with:

- a) AS 3700; or
- b) AS 4773 parts 1 and 2.

Masonry Accessories – to be constructed and installed in accordance with:

- a) AS 3700; or
- b) AS 4773 Parts 1 and 2.

Weatherproofing of Masonry

This Part applies to an external wall (including the junction between the wall and any window or door) of a Class 1 Building.

This Part does not apply to any Class 10 building except where its construction contributes to the weatherproofing of the Class 1 building. The weatherproofing of masonry is to be carried out in accordance with:

- a) AS 3700; except as provided for by Part 3.3.2.0 (a), or
- b) AS 4773 Parts 1 and 2.

**FRAMING**

Sub-Floor Ventilation – is to comply with the Acceptable Construction Practice of Part 3.4.1 of the BCA.

Steel Framing – is to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.4.2 of the BCA, or, one of the following manuals:

- a) Steel structures: AS 4100.
- b) Cold-formed steel structures: AS/NZS 4600.
- c) Residential and low-rise steel framing: NASFI Standard.

Timber Framing – is to be designed and constructed in accordance with the following, as appropriate:

- a) AS 1684.2.
- b) AS 1684.4.

Structural Steel Members – is to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.4.4 of the BCA, or, one of the following manuals:

- a) Steel Structures: AS 4100.
- b) Cold-formed steel structures: AS/NZS 4600.

**ROOF AND WALL CLADDING**

Roof Cladding – is to comply with the Acceptable Construction Practice of Part 3.5.1 of the BCA, or, one of the following:

- a) Roofing tiles: Part 3.5.1 BCA - AS2050.
- b) Metal Roof Cladding: Part 3.5.1 BCA - AS1562.1.
- c) Plastic sheet roofing: AS/NZS 4256 Parts 1, 2, 3 and 5; and AS/NZS 1562.3.

Gutters and Downpipes – are to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.5.3 of the BCA, or, AS/NZS 3500.3 – Stormwater drainage.

Timber & Composite Wall Cladding – is to be designed and constructed in accordance with Acceptable Construction Practice of Part 3.5.4 of the BCA.

Autoclaved Aerated Concrete to AS5146.1

Metal wall cladding to be designed and constructed in accordance with AS 1562.1.

**GLAZING**

Glazing – to be designed and constructed in accordance with the Acceptable Construction Practice of Part 3.6.1 of the BCA, or, one of the following manuals as applicable under Part 3.6.0 BCA

- a) AS 2047.
- b) AS 1288.

**FIRE SAFETY**

Fire Hazard properties of materials to comply with Part 3.7.1 of the BCA.

Fire Separation of external walls to comply with Part 3.7.2 of the BCA.

Fire Separation of separating walls & floors to comply with Part 3.7.3 of the BCA.

Fire Separation of garage top dwelling to comply with Part NSW 1.1 of the BCA.

Smoke Alarms & Evacuation lighting to comply Part 3.7.5 of the BCA.

**BUSHFIRE AREAS**

Bushfire Areas – This section relates to:

- a) A Class 1 building; or
- b) A Class 10a building or deck associated with a Class 1 building.

If it is constructed in accordance with the following:

- c) AS 3959, except as amended by planning for bushfire protection and, except for Section 4 Construction for Bushfire Attack Level F2 (BAL-F2). Buildings subject to BAL-F2 must comply with specific conditions of development consent for construction at this level; or
- d) The requirements of (c) above as modified by the development consent following consultation with the NSW Rural Fire Service under section 706A of the Environmental Planning and Assessment Act 1979; or
- e) The requirements of (c) above as modified by the development consent with a bushfire safety authority issued under section 100B of the Rural Fire Act for the purposes of integrated development.

Alpine Areas – to be constructed in accordance with the Acceptable Construction Practice of Part 3.10.4 of the BCA if located in an alpine area.

**HEALTH AND AMENITY**

Wet Areas and External Waterproofing – building elements in wet areas within a building must:

- a) Be waterproof or water resistant in accordance with Table 3.8.1.1 of the BCA; and
- b) Comply with AS 3740.

Room Heights – are to be constructed in accordance with the Acceptable Construction Practice of Part 3.8.2 of the BCA.

Facilities – are to be constructed in accordance with Acceptable Practice of Part 3.8.3 of the BCA.

Light – is to be provided in accordance with the Acceptable Construction Practice of Part 3.8.4 of the BCA.

Ventilation – is to be provided in accordance with the Acceptable Construction Practice of Part 3.8.5 of the BCA.

Sound Insulation – (only applies to a separating wall between two or more class 1 buildings) is to be provided in accordance with the Acceptable Construction Practice of Part 3.8.6 of the BCA.

Condensation Management to be provided in accordance with ACP Part 3.8.7 BCA.

**SAFE MOVEMENT AND ACCESS**

Stair Construction – to be constructed and installed in accordance with the Acceptable Construction Practice of Part 3.9.1 of the BCA.

Barriers and Handrails – to be constructed and installed in accordance with the Acceptable Construction Practice of Part 3.9.2 of the BCA.

Protection of operable windows to Part 3.9.2 of the BCA.

**ANCILLARY PROVISIONS & ADDITIONAL CONSTRUCTION REQUIREMENTS**

3.10.1 - Swimming Pools

Swimming Pool Access – to be designed and installed in accordance with the Swimming Pool Act 1992, Swimming Pool Regulation 2018 and AS 1926 Parts 1 and 2.

Swimming Pool Water recirculation Systems – is to be designed and constructed in accordance with AS1926.3.

High Wind Areas – Applies to a region that is subject to design wind speeds more than 103 or C1 (see table 1.1.1 of the BCA). To be constructed in accordance with one or more of the relevant manuals of Part 3.10.1 of the BCA.

3.10.2 - Earthquake Areas subject to "seismic activity" to be constructed in accordance with Part 3.0 BCA.

3.10.3 - Flood Hazard Areas – applies to areas on a site (weather or not mapped) encompassing the land (lower than the flood hazard level) as defined by the BCA) which has been determined by the appropriate authority (statutory authority), are to be constructed in accordance with the ASGB Standard for Construction of Buildings in Flood Hazard Areas.

3.10.4 - Construction "Alpine Areas" in accordance with Part 3.10.4.


3.10.5 - Construction in Bushfire Prone Areas in accordance with Part 3.10.5.

3.10.6 - Attachment of Decks & Balconies to external walls of buildings to be in accordance with the acceptable construction practice of Part 3.10.6 of the BCA, or alternatively be engineer designed in accordance with Part 3.0 of the BCA.

3.10.7 - Boilers, Pressure Vessels, Heating Appliances, Fire Places, Chimneys & Flues to be in accordance with Part 3.10.7 of the BCA.

**ENERGY EFFICIENCY**

Energy Efficiency – to comply with the measures contained in the relevant BASIX certificate, and the requirements of NSW parts 3.12.1, 3.12.3 & 3.12.5 of the BCA.

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BUILDING DESIGNERS | INNOVATIVE | AFFORDABLE | INDIVIDUAL



## STATEMENT OF ENVIRONMENTAL EFFECTS

Date October 2020

CWC Ref D4325

Lot 419 DP 208523 No 12 Crummer Street, Port Macquarie



Collins W Collins Pty Ltd  
D4325\_Statement of Environmental Effects\_RevB

CWC Reference – D4325  
October 2020

## Statement of Environmental Effects

### Dwelling Alterations and Additions on Lot 419 DP 208523 No 12 Crummer Street, Port Macquarie

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Collins W Collins Pty Ltd  
D4325\_Statement of Environmental Effects\_RevB

CWC Reference – D4325  
October 2020

## 1.0 Introduction

Collins W Collins Pty Ltd has been engaged to prepare a development application for dwelling alterations and additions. This Statement of Environmental Effects is to accompany the plans and specifications, and forms part of the application.

## 2.0 Property Details

Lot	419	Section No	N/A	DP No	208523
Street No	12	Street Name	Crummer Street		
Suburb	Port Macquarie			Post Code	2444

The area is characterised by existing residential developments and is within proximity to schools, childcare, medical facilities, small shopping village and beaches. The site has easy access to the main road accessing Town Centre and the neighbouring town of Lake Cathie.



Figure 1: Aerial View, image from Six maps (sourced: June 2020)

Collins W Collins Pty Ltd

D4325\_Statement of Environmental Effects\_RevB

CWC Reference – D4325

October 2020



**Figure 2:** Street View, image from Google maps (sourced: June 2020)

## 2.1 Site Characteristics

The subject site has an area of 752.14m<sup>2</sup> with north orientation to the Crummer Street frontage. There is an approximate 4.5m fall across the site from north-east to south-west.

There is an existing two-storey dwelling on the site with an existing detached shed in the rear yard. Access to the dwelling is by way of an existing driveway and crossover off Crummer Street.

The neighbouring property to the east has an existing two-storey dwelling and the neighbouring property to the west comprises of three (3) Strata titled dwellings.

## 2.2 Existing and Proposed Services

### Water

Council's records indicate that there is an existing 20mm metered water service in the north-eastern corner. The proposed works will not affect the existing connection.

### Sewer

Council's records indicate that there is an existing sewer junction in the south-western corner of the site. The proposed works will not affect the existing connection.

### Stormwater

The existing dwelling has existing stormwater drainage connections and the proposed works will utilise the existing drainage connection.

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D4325\_Statement of Environmental Effects\_RevB

CWC Reference – D4325  
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### Telecommunication and Electricity

The existing dwelling has telecommunication and electricity connections via Crummer Street frontage.

## 3.0 Proposal Overview

The proposal is for the construction of dwelling alterations and additions. The proposed works include:

- Internal reconfiguration of the entry and upper floor levels;
- Internal reconfiguration of the existing garage level and convert to habitable space;
- Addition of a new double garage and mud room;
- Removal of the existing rear balcony and construction of a new rear deck with roof over;
- Replacement of existing roof tiles with metal sheet roofing;
- Glazing alterations;
- Installation of an outdoor swimming pool and associated pool surrounds and fencing works;
- Alteration of the existing driveway on site, existing crossover to remain in situ;
- Construction of retaining walls within the front setback and rear yard to create tiered and level areas;
- Extension to the rear shed.

## 4.0 General Information

<b>Site Suitability</b>	
Will the development:	
<ul style="list-style-type: none"> <li>• Affect any neighbouring residences by overshadowing or loss of privacy?</li> </ul>	No <i>Refer to Section 7.3</i>
<ul style="list-style-type: none"> <li>• Result in the loss or reduction of views?</li> </ul>	No
<ul style="list-style-type: none"> <li>• Impact on any item of heritage or cultural significance?</li> </ul>	No
<ul style="list-style-type: none"> <li>• Result in land use conflict or incompatibility with neighbouring premises?</li> </ul>	No
<ul style="list-style-type: none"> <li>• Be out of character with the surrounding areas?</li> </ul>	No
<ul style="list-style-type: none"> <li>• Be visually prominent with the existing landscape/streetscape?</li> </ul>	No
<ul style="list-style-type: none"> <li>• Require excavation or filling in excess of 1 metre?</li> </ul>	Yes
<ul style="list-style-type: none"> <li>• Require the erection or display of any advertising signage?</li> </ul>	No



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Will the proposal:	
• Result in any form of air pollution (smoke, dust, odour)?	No
• Have the potential to cause any form of water pollution?	No
• Emit noise levels that could affect neighbouring properties?	No
• Be considered potentially hazardous or offensive (refer SEPP 33 for definitions)?	No
• Affect native or aquatic habitat?	No
• Have an impact on a threatened species or habitat?	No
• Involve the removal of any trees?	No
<b><u>Access, Traffic &amp; Utilities</u></b>	
• Are electricity and telecommunications services available to the site?	Yes
• Is lawful and practical access available to the site?	Yes
• Will the development increase local traffic movements and volumes?	No
• Are appropriate manoeuvring, unloading and loading facilities available on site?	N/A
<b><u>Social &amp; Economic Impacts</u></b>	
• Will the proposal have any social or economic impacts in the area?	No
• Have you conducted any community consultation	No
• Have you considered Council's Social Impact Assessment Policy?	No
<b><u>Waste Disposal</u></b>	
Provide details of waste management, including reuse and recycling: As per existing arrangement	Existing
How and where will the wastes be stored: As per existing arrangement	
• Does the proposed use generate any special wastes?	No
• Will the use generate trade wastes (ie greasy or medical wastes)?	N/A

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## 5.0 Port Macquarie-Hastings Local Environment Plan 2011

### Land Zoning

The subject site is zoned R1 – General Residential. The objectives of this zoning 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*

The proposed dwelling alterations and additions are a permissible land use and provides a housing type that will meet the needs of a community segment. In this regard, the proposal is consistent with the R1 zone objectives.

### Minimum Lot Size

The proposal does not affect the existing lot size.

### Height of Building

The proposed new development has a maximum ridge height of 6.778m above existing ground level which complies with the LEP and is consistent with the existing and neighbouring developments.

### Floor Space Ratio

The proposal has a floor space ratio of 0.4097:1, calculated in accordance with the LEP definition, which is compliant with LEP provisions.

### Other

The subject site is not mapped as having Acid Sulphate Soils, affected by Flood or within a Koala Habitat zoning.

## 6.0 State Environmental Planning Policy

### 6.1 Building Sustainability Index: BASIX 2004

A BASIX Certificate has been submitted demonstrating that the proposed development will comply with the requirements of the SEPP.

### 6.2 No 62 – Sustainable Aquaculture

Given the nature of the proposed development and the proposed stormwater controls, it is unlikely that the proposal will have any adverse impact on existing aquaculture industries.

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### 6.3 Coastal Management

The subject site is not mapped as being a Littoral Rainforest or Coastal Wetlands and is not within the proximity area for Littoral Rainforests or Coastal Wetlands.

## 7.0 Development Control Plan

### 7.1 Port Macquarie-Hastings Development Control Plan 2013

	DCP Requirements	Proposal	Complies Yes/No
<b>Cut and Fill Regrading</b>	Max cut of 1.0m and fill of 1.0m	Up to 1.2m	No
<b>Front Setback</b>	Articulation Zone: 3.0m	N/A	N/A
	4.5m min to primary frontage	5.543m	Yes
	3.0m min to secondary frontage	N/A	N/A
<b>Garage, Carport or Car Parking Space</b>	1.0m behind dwelling line where dwelling is set back 4.5m or more	600mm forward of building line	No
	5.5m from front boundary where dwelling has less than 4.5m front setback	5.543m	Yes
	6.0m max door width or 50% max of the building width	5.0m = 31% of building width	Yes
	5.0m max crossover width or 1/3 max of site frontage	Existing, not affected by proposal	Existing
<b>Rear Setback</b>	4.0m to any part of building	7.407m	Yes
	900mm to sheds and swimming pools	2.207m	Yes
<b>Side Setback</b>	Ground Floors: 900mm	1.086m (proposed garage) 0mm (proposed shed extension)	Yes No
	First Floors & Above: 3.0m	Existing, not affected by proposal	Existing
	12m max unarticulated wall length	E: Existing, not affected by proposal W: 6.7m	Existing Yes

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<b>Open Space</b>	35m <sup>2</sup> in one area	Exceeds 35m <sup>2</sup>	Yes
	4m x 4m min dimension	Yes	
	5% maximum grade for min 4m x 4m area	Less than 5% after construction	
	Accessible from internal living areas	Yes	
<b>Front Fences</b>	Solid: 1.2m max height, 1.0m setback, landscaped	N/A – no front fences proposed	N/A
	1.8m max height	Note: proposed retaining walls are required for a site cut and will not be visible from the street	
	6m length or 50% of boundary on front boundary OR include landscaped recesses that occupy no less than 50% of overall fence		
<b>Visual Privacy</b>	Ground & First Floor windows 9m radius are screened or obscured	Yes by existing mature vegetation, orientation and highlight glazing	Yes
	Windows with a floor level 1m above NGL and a sill height of less than 1.5m are screened or obscured	Yes by existing mature vegetation, orientation and highlight glazing	Yes
	Other floor windows 12m radius are screened or obscured	N/A	N/A
	Direct views within 12m radius from living rooms and principle areas of open space screened or obscured	Yes by existing mature vegetation, orientation and highlight glazing	Yes
	Privacy screen to deck where setback is less than 3m from side or rear boundary, is greater than 3m <sup>2</sup> and more than 1m above ground level	Proposed rear deck is setback greater than 3m to the side and rear boundaries	Yes
<b>Tree Management</b>	Tree/s listed in Table 2.6.1 to be removed.	N/A – no trees to be removed	N/A
	Removal of tree 3m or more in height; or, Trunk diameter of 100mm, measured 1m above ground; or, Mangrove or cycad		

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<b>Driveway Grades</b>	Driveway crossing max grade of 5% (1 in 20).  Transitional grades min of 2m long.	Existing, not affected by proposal	Existing
<b>Car Parking</b>	1 space per dwelling	2 spaces provided	Yes

## 7.2 Non-Compliances

We provide the following in relation to the non-complying issues identified in the table above:

**Issue:** Cut and fill exceeds 1.0m

### **DCP 2013 Clause 4.0 Objective**

*To ensure that design of any building or structure integrates with the topography of the land to:*

- *Minimise the extent of site disturbance caused by excessive cut and fill to the site.*
- *Ensure there is no damage or instability to adjoining properties caused by excavation or filling.*
- *Ensure that there is no adverse alteration to the drainage of adjoining properties.*
- *Ensure the privacy of adjoining dwellings and private open space are protected.*
- *Ensure that adequate stormwater drainage is provided around the perimeter of buildings and that overflow paths are provided.*

### **DCP 2013 Clause 5.0 Objective**

*To ensure retaining walls are functional, safe and positively contribute to the development and/or the streetscape.*

- A certificated practicing structural engineer must certify any retaining wall greater than 1.0m.*
- Where a combination of a fence and a wall is proposed to be greater than 1.2m high:*
  - *Be a maximum combined height of 1.8m above existing property boundary level;*
  - *Be constructed up to the front boundary for a maximum length of 6.0m or 30% of the street frontage, whichever is less;*
  - *The fence component has openings which make it not less than 25% transparent; and*
  - *Provide a 3m x 3m splay for corner sites, and*

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- Provide a 900mm x 900mm splay for vehicle driveway entrances.

The proposal includes a site cut of up to 1.2m within the front setback, which is not consistent with the provisions of the DCP.

The proposed location of the site cut and retaining walls are not adjacent the neighbouring property and, in this regard, will have minimal, if any, potential to cause damage or instability to the neighbouring property.

The proposed retaining walls will not be visible from the street and as such, will have minimal, if any, impacts to the streetscape.

The proposed retaining walls will be constructed in accordance with engineer details and specifications and, in this regard, will incorporate adequate drainage provisions to ensure that overflow paths are provided and that there are no adverse impacts to drainage of adjoining properties.

**Issue:** Garage positioned forward of the building line

**DCP2013 Front Setbacks Clause 45 Objective**

- To minimise the impact of garages and driveways on the streetscape, on street parking and amenity
- To minimise the visual dominance of garages in the streetscape
- To provide safe and functional vehicular access

The proposed garage is positioned 600mm forward of the building line, which is not consistent with the provisions of DCP 2013.

The proposed garage is positioned below street level and incorporates decorative timber battens to the garage walls and door to minimise the visual dominance of the garage to the streetscape.

The proposal incorporates a green roof to the garage which will further assist to soften the visual impacts to the streetscape and reduce the visual dominance of the garage.

It is noted that the proposal of having the garage forward of the building line is consistent with the garage position of neighbouring properties and, in this regard, would not be considered out of character for the locality.

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**Issue:** Side setback less than 900mm (proposed shed extension)

**DCP 2013 Side and Rear Setbacks Clause 47 Objective**

- *To reduce overbearing and perceptions of building bulk on adjoining properties and to maintain privacy*
- *To provide for visual and acoustic privacy between dwellings*

The proposal provides a 0mm setback to the proposed rear shed extension, which is not consistent with the provisions of DCP 2013.

The height of the shed adjacent the boundary line is 2.345m and the existing 1.8m high boundary fence will provide effective screening, reducing visual impacts to the neighbouring property.

The proposed shed extension is consistent with the existing shed with regard to height, style, material and setback and will have minimal, if any, impacts on residential privacy, solar access and overshadowing.

## 7.3 Additional Comments

### Residential Privacy

The proposal incorporates the construction of a new rear deck that is centrally positioned on the site and overlooks the proposed outdoor swimming pool and rear yard.

The proposed rear deck has a minimum setback of 7.362m to the western boundary. The proposal does not include privacy screening to the proposed deck as the proposed deck does not overlook primary open space or living areas. The proposed deck is similarly positioned to the existing deck and potential impacts will be of a similar nature.

There is existing mature vegetation along the rear boundary that will remain in situ and currently, provides an adequate standard of privacy between the subject and neighbouring property.

The proposed swimming pool surrounds will have a finished surface level of RL37.16, which at its highest point, will be approximately 1.0m above the existing ground level. The primary-use area for sun-lounges and furniture is in the northern end of the pool area, which is adequately screened by the existing boundary fence and will limit overlooking opportunities.



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The eye-level of the swimming pool is below the height of the existing boundary fence, and in this regard, will minimise over-looking opportunities by users of the pool to the neighbouring properties.

It is our opinion that the proposal is consistent with the objectives of Clause 51 of the DCP with regards to protecting and maintaining an appropriate standard of residential privacy between the subject and neighbouring properties.

## 8.0 Conclusion

The above assessment has been completed and the proposed dwelling alterations and additions comply with:

- the State Environmental Planning Instruments;
- Port Macquarie-Hastings Local Environmental Plan 2011; and
- Port Macquarie-Hastings Development Control Plan 2013.

The proposal will not adversely impact on the natural or built environment.

The proposal will benefit the community, both socially and economically.

The proposal is suitable for the site.

This Statement of Environmental Effects is submitted to Port Macquarie-Hastings Council for review.