



PORT MACQUARIE-HASTINGS  
COUNCIL



# Development Assessment Panel

## Business Paper

date of meeting: Thursday 19 August 2021

location: Via Skype

time: 4:30pm

**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, transparent and expert determinations of development applications that fall outside of staff delegations.

#### **2.0 KEY FUNCTIONS**

- To review development application reports and conditions. The focus of the Panel's review is to be on those issues raised in submissions received following exhibition of development applications;
- To determine development applications where there are 3 or more unique submissions or where an application is 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**

- Three (3) independent external members will be selected for each scheduled DAP meeting from an appointed pool of members. One of the independent external members to be the Chairperson. Independent members will be rostered onto meeting on a rotational basis where possible.
- Group Manager Development Assessment (alternate - Director Development and Environment or Development Assessment Planning Coordinator).

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.

### **3.4 Member Tenure**

The independent external members will be appointed for the term of Four (4) years or until such time as an expression of interest process to source Panel members is completed for the proceeding four (4) year term.

### **3.5 Appointment of members**

- A pool of independent external members (including the Chair) shall be appointed by the Chief Executive Officer following an external Expression of Interest process. Previous Panel members are eligible to be reappointed on the Panel following this expression of interest process.
- Independent members will be rostered on to Panel meetings on a rotational basis where possible to suit Panel member availability and Panel operational needs.
- Staff members on the Panel shall be appointed by the Chief Executive Officer.

#### **4.0 TIMETABLE OF MEETINGS**

- The Development Assessment Panel will generally meet on the 1st and 3rd Thursday each month at 2.00pm at the Port Macquarie offices of Council.
- Special Meetings of the Panel may be convened by the Director Development and Environment 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 an applicant and objectors or their representatives. Speakers are required to register to speak by close of business on the day prior to the Panel meeting.
- The Panel shall have the discretion to ask the applicant and objectors questions relating to the proposal and their submission. There is no 'right of reply' for an objector or applicant.
- Where there are a large number of persons making submissions with common interests, the Panel shall have the discretion to hear a representative of those persons rather than multiple persons with the same interest.
- Council assessment staff will be available at Panel meetings to provide technical assessment advice and assistance to the Panel.
- Where considered necessary, the Panel will conduct site inspections prior to the meeting.

##### **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**

Three (3) members must be present at a meeting to form a quorum.

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

Independent Chair (alternate - independent member).

##### **5.5 Secretariat**

- The Director Development and 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 be limited to the recording of decisions only 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 interest at the start of each meeting or before discussion of a relevant item or topic. Details of any conflicts of interest are to 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.

## **9.0 CONDUCT AT MEETINGS**

All parties in attendance at a DAP meeting shall conduct themselves respectfully ie. not disrupt the conduct of the meeting, not interject, act courteously and with compassion and

empathy and sensitivity and will not insult, denigrate or make defamatory or personal reflections on or impute improper motives to the DAP, Council staff or other members of the public.

## Development Assessment Panel

### ATTENDANCE REGISTER

Member	18/03/21	15/04/21	17/06/21	01/07/21		
David Crofts	✓	✓	✓	✓		
Michael Mason	✓	✓	✓			
Chris Gee		✓		✓		
Tony McNamara	✓		✓	✓		
Dan Croft (Group Manager Development Assessment) Grant Burge (acting)	✓	✓	✓	✓		

**Key:** ✓ = Present

A = Absent With Apology

X = Absent Without Apology

### Meeting Dates for 2021

21/01/2021	Function Room	2:00pm
11/02/2021	Committee Room	2:00pm
25/02/2021	Committee Room	2:00pm
18/03/2021	Committee Room	2:00pm
1/04/2021	Function Room	2:00pm
15/04/2021	Function Room	2:00pm
6/05/2021	Function Room	2:00pm
20/05/2021	Committee Room	2:00pm
3/06/2021	Function Room	2:00pm
17/06/2021	Function Room	2:00pm
1/07/2021	Function Room	2:00pm
15/07/2021	Function Room	2:00pm
19/08/2021	Function Room	2:00pm
2/09/2021	Function Room	2:00pm
16/09/2021	Function Room	2:00pm
7/10/2021	Function Room	2:00pm
21/10/2021	Function Room	2:00pm
4/11/2021	Committee Room	2:00pm
18/11/2021	Committee Room	2:00pm
2/12/2021	Function Room	2:00pm
16/12/2021	Function Room	2:00pm

# Development Assessment Panel Meeting

Thursday 19 August 2021

## Items of Business

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

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

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

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**RECOMMENDATION**

That the apologies received be accepted.

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

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 1 July 2021 be confirmed.

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## **PRESENT**

### **Members:**

David Crofts (Independent Chair)  
Chris Gee (Independent Member)  
Tony McNamara (Independent Member)  
Acting Group Manager Development Assessment (Grant Burge)

### **Other Attendees:**

Acting Development Engineering Coordinator (Jon Power)  
Development Assessment Planner (Clinton Tink)  
Development Assessment Planner (Fiona Tierney)  
Development Assessment Planner (Steven Ford)  
Building Surveyor (Kate Kennedy)

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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 17 June 2021 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 DA2019 - 614.1 HOME BUSINESS AT LOT 5 DP 20579, NO.13 SWIFT STREET, PORT MACQUARIE**

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Speakers:

J Watson (Opposing the application)

M Cockshutt (Applicant)

CONSENSUS:

That DA2019 - 614 for a Home Business at Lot 5, DP 20579, No. 13 Swift Street, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

“Consent be limited to 2 years and if operations continue in compliance with the development consent, Council remove the time limitation from the currency of the consent.”

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#### **06 DA2021 - 325.1 SECONDARY DWELLING AT LOT 6 DP 229523, NO 131 KENNEDY DRIVE, PORT MACQUARIE**

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Speakers

K Barlow (Opposing the application)

J Collins (Applicant)

CONSENSUS:

That DA 2021 - 325.1 for a Secondary Dwelling at Lot 6, DP 229523, No. 131 Kennedy Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**07 DA2021 - 202.1 FOR 2 LOT TORRENS TITLE SUBDIVISION AT LOT 114 DP 258304, NO. 10 JUNGARRA CRESCENT, BONNY HILLS**

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Speakers:

W Howell (Opposing the application)

R Barlow (Opposing the application)

Representative from Bonny Hills Rural Fire Service (Opposing the application)

T Stafford (Applicant)

CONSENSUS:

That DA2021 - 202.1 for a 2 lot Torrens title subdivision at Lot 114, DP 258304, No. 10 Jungarra Crescent, Bonny Hills, be determined by granting consent subject to the recommended conditions.

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**08 DA2021 - 243.1 DWELLING AND SWIMMING POOL INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 2 DP 1242804, 47 VENDUL CRESCENT, PORT MACQUARIE**

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Speakers:

B Scaysbrook (Opposing the application)

G Scott (Opposing the application)

G Buttigieg (Applicant)

CONSENSUS:

That DA 2021 - 243.1 for a dwelling and swimming pool including a Clause 4.6 variation to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 2, DP 1242804, No. 47 Vendul Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

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**09 DA2021 - 306.1 DUAL OCCUPANCY AND STRATA SUBDIVISION AT LOT 170 DP 1229414 NO. 27 ALLPORT AVENUE THURMSTER.**

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Speakers:

M Love (Applicant)

CONSENSUS:

That DA 2021 - 306 for a Dual Occupancy and Strata Subdivision at Lot 170, DP 1229414, No. 27 Allport Avenue, Thurmster, be determined by granting consent subject to the recommended conditions.

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**10      DA2021 - 349.1 DUAL OCCUPANCY AND STRATA SUBDIVISION AT LOT 171, DP 1229414, NO. 29 ALLPORT AVENUE, THRUMSTER**

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Speakers:  
M Love (Applicant)

**CONSENSUS:**

That DA 2021 - 349 for a Dual Occupancy and Strata Subdivision at Lot 171, DP 1229414, No. 29 Allport Avenue, Thrumster, be determined by granting consent subject to the recommended conditions and as amended below:

“A variation in colours, materials and landscaping treatments be utilised to achieve differentiation with the front facade appearance of the approved DA 2021-306.1”

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**11      GENERAL BUSINESS**

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Nil.

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The meeting closed at 4:50pm.

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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 (i)
  - (b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c)
  - (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

### Non-Pecuniary

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

#### Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the Chief Executive Officer, such a disclosure is to be made to the staff member's manager. In the case of the Chief Executive Officer, 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 Chief Executive Officer, 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 Chief Executive Officer, 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 Chief Executive Officer 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: DA2018 - 555.2 MODIFICATION TO HOME BUSINESS (HAIR AND BEAUTY SALON), LOT 246 DP 828767, NO. 10 SPINDRIFT ROW, PORT MACQUARIE****Report Author: Chris Gardiner**

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<b>Applicant:</b>	<b>J A Thompson</b>
<b>Owner:</b>	<b>G S &amp; J A Thompson</b>
<b>Estimated Cost:</b>	<b>Nil</b>
<b>Parcel no:</b>	<b>22548</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 DA 2018 – 555.2 for Modification to Home Business (Hair and Beauty Salon) at Lot 246, DP 828767, No. 10 Spindrift Row, Port Macquarie, be determined by granting consent subject to the recommended modified conditions.**

**Executive Summary**

This report considers modification of a development consent for alterations and additions to dwelling and use as a home business (hair and beauty salon) 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 have been received.

The original Development Application was granted consent by the Development Assessment Panel on 24 October 2018. A number of the conditions imposed by the Panel at the time are sought to be modified in the subject application.

The proposal has been amended during the assessment process to remove the requested extended trading hours on Thursday evenings, and also the sale of salon items to customers.

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 modified conditions recommended in (**Attachment 1**).

The reason for the application being referred to Council's Development Assessment Panel (DAP) is because three (3) or more objections to the proposal have been received. A copy of the DAP Charter outlining the delegations and functions of the DAP is available on Council's website.

## **1. BACKGROUND**

### **Original development consent**

The original development application was subject to five (5) written submissions and was considered by the Development Assessment Panel (DAP) on 24 October 2018. The consensus of the DAP was:

*That DA 2018 – 555.1 for Alterations and Additions to Dwelling and Use as a Home Business (Hair and Beauty Salon) at Lot 246, DP 828767, No. 10 Spindrift Row, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:*

- *Additional condition in Section B of the consent to read: 'B(4) A privacy screen shall be provided for the full length of the southern end of the porch. The privacy screen shall be 1.8m high and a maximum of 25% transparent. Details are to be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate.'*
- *Amend condition F(5) to read: '(F025) Hours of operation of the development are restricted to the following hours:  
- 9.00 am to 5.00 pm – Mondays to Fridays  
- 9.00 am to 12.00 noon – Saturdays  
- No work is to be carried out on Sundays and Public Holidays'*
- *Additional condition in Section F to read: 'F(8) A maximum of 6 customers per day are permitted on weekdays, and a maximum of 3 customers per day on Saturdays.'*
- *Additional condition in Section F to read: 'F(9) The consent for the home business is granted on the basis of a trial period of 1 year from the date of the issue on the Occupation Certificate to ensure that the development operates within a reasonable residential amenity standard. Prior to the expiration of the trial period the Applicant may make application for the home business to operate permanently. The performance of the home business during the trial period will be taken into account in considering whether to grant consent on a permanent basis.'*

*During the trial period the proponent shall provide contact details in a clearly visible location and maintain a register of complaints and any actions taken to resolve them. The register is to be submitted with the application for the home business to operate on a permanent basis.'*

A copy of the original Section 4.15(1) DAP assessment and consent is also attached to this report for context (**Attachment 2**).

Condition F(9) of the consent provides for the performance of the home business during the trial period to be considered in making a decision about whether to allow it to operate permanently.

The site has an area of 750.9m<sup>2</sup>.

[illegible]

PORT MACQUARIE  
HASTINGS  
COUNCIL





## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the modified proposal include the following:

- Deletion of the 1-year trial period to allow the home business to operate permanently;
- Extension to hours of operation to 9.00am - 5:30pm Monday to Friday, and 9.00am - 1.00pm Saturday;
- Increase in the maximum number of customers to 9 customer vehicles on weekdays and 4 customer vehicles on Saturdays. No limit on customer numbers per day (as customers walk and share vehicles to/from the salon).

### Application Chronology

- 23 June 2021– Application lodged.
- 1 July 2021 to 14 July 2021– Neighbour notification.

## 3. STATUTORY ASSESSMENT

### ***Section 4.55(1A)(a) Satisfied that the proposed modification is of minimal environmental impact?***

The modification will result in minimal environmental impact for the following reasons:

- The modified development includes the same building footprint and the same land uses;
- The modification relates to operational aspects of the consent and the extent of changes proposed will not significantly alter the impacts when compared with the approved development.

**Section 4.55(1A)(b) Is the proposal substantially the same?**

Section 4.55 has been described as "beneficial and facultative" in *Houlton v Woollahra Municipal Council* (1997) 95 LGERA 201 at [213] and *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 97 LGERA 433 at [440]. Accordingly, the provisions of s4.55 should not be artificially constrained by allowing a narrow construction.

In *Vasic Pty Ltd v Penrith City Council* [1992] NSWLEC 8, Stein J held that "substantially" meant "essentially all material or having the same essence."

In *Moto Projects (No 2) Pty Ltd v North Sydney Council* (1999) 106 LGERA 298 at [56] Bignold J held that the task for determining whether a development as proposed to be modified is substantially the same as the consent granted was as follows:

*"The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where that comparative exercise is undertaken in some type of sterile vacuum. Rather, the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)."*

In the context of the current application, the proposal can be considered to be substantially the same as the development to which consent was originally granted for the following reasons:

- The modified proposal remains for additions to the dwelling and use of part of the dwelling as a home business (hair and beauty salon).
- The proposed modifications to the operational conditions of consent for the home business are not of a degree that would alter the overall essence of the development.

**Section 4.55(1A)(c) Does the application require notification/advertising in accordance with the regulations and/or any Development Control Plan?**

Neighbour notification has been undertaken in accordance with the regulations and Council's Community Participation Plan.

**Section 4.55(1A)(d) Any submissions made concerning the modification?**

Three (3) written submissions were received on the proposal. Copies of the submissions have been provided separately to members of the DAP.

Key issues raised in the submission and comments from Council staff are provided in the table below:

Submission Issue/Summary	Planning Comment/Response
A maximum of 9 vehicles at a time is not practical for the site. Request that conditions clarify that this is the maximum number of vehicles total spread across the whole day	The recommended modified conditions clarify that the maximum permitted number of vehicles is the total number of vehicles for the day.
Increase in business hours will result in greater traffic and parking issues. The	The limitations on street parking were noted in the assessment of the original

Submission Issue/Summary	Planning Comment/Response
<p>site has a narrow frontage to the street and is located on a bend. This provides limited opportunity for on-street parking directly in front of the site. The on-street parking issue is exacerbated by the nearby traffic calming measures and residents vehicles and boats parking in this area.</p>	<p>development application. Given that street parking is not desirable in this location, the conditions of consent require that parking in the garage be available for use by residents, to ensure that the parking at the top of the driveway is available for customers to park off-street.</p>
<p>The conditions of consent required residents to park in the garage and customers to park in the driveway. Up until 9 June 2021, the garage was full of household items and the owners' cars were constantly parked in the driveway. On 9 June 2021 the garage was partially cleared to provide enough space for one of the owners' vehicle for the first time since it was built.</p>	<p>Noted. The site was inspected on a number of occasions during the assessment of the application to review the use of the parking area. At the time of the inspections, the off-street parking at the top of the driveway was vacant and there was no evidence of customers parked nearby in the street. When the building was inspected there was one resident vehicle parked in the garage, and another parked off the driveway in front of the garage. The customer parking was available at this time.</p> <p>However, all inspections by Council staff were carried out after 9 June 2021, and the comments could not be verified for the period leading up to this date. There does not appear to have been any complaints to either Council or the operator of the home business prior to 9 June 2021.</p>
<p>The steep and narrow nature of the driveway makes it common for customers to park on the street on customers generally choose to park a few houses away, which means that the traffic and parking impacts are experienced further afield and by more residents.</p>	<p>The driveway grade complies with the requirements of AS 2890 for a residential driveway. Given that the proposal is for a home business, it is not necessary for the access and parking to meet the requirements that would apply to a commercial development.</p> <p>The Applicant has indicated that they have been actively advising customers of the requirement to park in the driveway and have even provided assistance to customers having difficulty navigating the driveway.</p> <p>There is potential to widen the existing driveway and crossover if necessary to improve the ease and safety of the reversing manoeuvre.</p>



Submission Issue/Summary	Planning Comment/Response
Street parking on the bend in the site frontage makes it difficult for traffic to safely navigate the bend and causes loss of safety and congestion issues. The increase in traffic to the home business from the extended trading hours would further exacerbate this problem.	With appropriate management of parking in accordance with the conditions of consent, it is not considered that the proposal would significantly contribute to this existing problem.
The site has insufficient off street parking for the proposed use. The home business has potential for two customers at a time and a further two customers waiting for their appointment.	For home businesses, the DCP requires the dwelling parking requirements (minimum 1 space) + 1 space for visitors + 1 space per 2 employees. The existing conditions of consent restrict the home business to being operated by a single resident, with no additional staff being able to be employed. On this basis, the DCP only requires 2 parking spaces for the development. The proposal includes a double garage and stacked parking for two vehicles in the driveway, which satisfies the requirements of the DCP. It is not possible to impose a more onerous parking requirement for a development that complies with the DCP.
For the proposed extended trading hours on Thursday evenings, the corner is extremely dangerous for cars parked on the street after dark.	The Applicant has amended the proposal during the assessment process to remove the proposed extended trading hours on Thursday evenings.

***Section 4.55(3) Any matters referred to in section 4.15(1) relevant to the modification, and the reasons given by the consent authority for the grant of the consent sought to be modified.***

Overall, the modification remains consistent with the original Section 4.15(1) assessment and a revised summary follows the Section 4.55(4) comment below. Unless specifically discussed, the modification was deemed to remain consistent with the original 4.15(1) assessment comments.

A copy of the original Section 4.15(1) DAP assessment is also attached to this report for context.

***Section 4.55(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.***

Noted.



**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**

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

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

- Clause 2.2 - The subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the alterations and additions to a dwelling and home business are a permissible landuse with consent.

The objectives of the R1 zone are as follows:

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

It is noted that by definition a home business includes the following restrictions;

**home business** means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) *the employment of more than 2 persons other than those residents, or*
- (b) *interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or*
- (c) *the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or*
- (d) *the exhibition of any signage (other than a business identification sign), or*
- (e) *the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.*

Conditions were imposed on the original consent confirming a number of the restrictions within the above definition. The modification originally sought to amend the wording of condition F(6) to allow the retail sale of salon items to customers. This is inconsistent with the definition of a home business and the Applicant has amended the proposal to remove this request.

- (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**

No provisions of the Development Control Plan are applicable to the proposed modification.

**(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**

No matters prescribed by the regulations are applicable to the proposed modification.

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

The modified proposal would result in a maximum of 9 vehicles (18 trips) per day in addition to the 9 trips per day generated by the dwelling. This is an increase of a maximum of 3 vehicles (6 trips) compared with the current approved development.

Spindrift Row currently contains 34 dwellings and the existing development in the street is estimated to generate approximately 300 vehicles per day. The increase in traffic associated with the modification is a small proportion of the existing traffic (approximately 2%) and the existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

The modified proposal does not include any changes to the approved access or parking arrangements.

**Noise and vibration**

The approved hours of operation for the home business are 9.00am to 5.00pm Monday to Friday, and 9.00am to 12.00 noon Saturdays.

The modified proposal seeks to extend these hours to 9.00am - 5:30pm Monday to Friday, and 9.00am - 1.00pm Saturday.

The proposed modified hours are considered to be reasonable in a residential context and it is recommended that condition F(5) be modified accordingly.

Noise from the operation of the home business is expected to be manageable, with the loudest equipment used in the salon being a hand-held hair dryer. The building has been designed with only a single fixed glass window on the southern elevation which would reduce potential noise impacts on the closest neighbour to the south.

The Applicant has submitted a copy of the complaints register required to be maintained under the conditions of the original consent. The complaints register indicates that the Applicant did not receive any complaints during the trial period.

Council also has no record of any noise complaints relating to the home business during the trial period.

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

The modified proposal does not alter the suitability of the site for the development.

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

Three (3) written submissions have been received and are discussed earlier in this report.

**(e) The Public Interest**

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

**4. DEVELOPMENT CONTRIBUTIONS**

No development contributions are applicable to the proposed modification.

**5. CONCLUSION AND STATEMENT OF REASON**

The application has been assessed in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979.

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

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

- Amending condition F(5) relating to hours of operation;
- Amending condition F(8) relating to maximum number of customers per day; and
- Deleting condition F(9), which restricted the home business to a 12-month trial period.

**Attachments**

1   DA 2018 – 555.2 - Recommended Conditions

2   DA 2018 – 555.2 - DAP Report - 24 October 2018

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2018/555.2****DATE: 5/08/2021**

1	Modification 1	Date TBD
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**PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

Plan / Supporting Document	Reference	Prepared by	Date
Site Plan	9188 Sheet 1 Issue h	R J Cartwright Design & Drafting Service	22 September 2018
Elevations, Floor and Section Plans	9188 Sheet 2 - 5 Issue i	R J Cartwright Design & Drafting Service	28 September 2018
BASIX Certificate	A323254_02	Robert Cartwright	11 September 2018
Statement of Environmental Effects	-	Julia & Geoffrey Thompson	27 July 2018

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

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

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

- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;

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 receptacle;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. Building work being limited to the following hours, unless otherwise permitted by Council;
  - Monday to Saturday from 7.00am to 6.00pm
  - No work to be carried out on Sunday or public holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (4) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (5) (A195) Hair traps are to be installed in all wash basins and dry basket arrestors shall be installed in any floor waste.

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B039) Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting:
  - i. earthworks that are more than 600mm above or below ground level (existing) and located within 1m of the property boundaries; or
  - ii. earthworks that are more than 1m above or below ground level (existing) in any other location;are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (3) (B049) Work associated with the fit out of hairdressing, beauty and skin penetrations salons shall be designed and carried out in accordance with the requirements of:
  - a. The Local Government (General) Regulation 2005,
  - b. The Building Code of Australia,
  - c. Public Health Act 2010,
  - d. Public Health Regulation 2012

Prior to release of the Construction Certificate details demonstrating compliance with the above are to be illustrated on the plans.

- (4) A privacy screen shall be provided for the full length of the southern end of the porch. The privacy screen shall be 1.8m high and a maximum of 25% transparent. Details are to be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate.

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

nil

#### **D – DURING WORK**

- (1) (D003) The site is in an area 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.
- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (3) (D011) Provision being made for support of adjoining properties during construction.
- (4) (D029) Any demolition work shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

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

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

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

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

[Asbestos Awareness](#)

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

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E026) Occupation of the premises shall not occur until a Public Health Act 2010 Notification Form has been submitted to Council's Environmental Health Officer and payment of "Public Health Premises - Notification Fee" has been made.
- (3) (E027) A final site inspection relating to the works carried out on the premises shall be arranged by the applicant and shall be undertaken by Council's Environmental Health Officer.

- (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) (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.

#### **F – OCCUPATION OF THE SITE**

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons. Parking within the garage is to be available for use by the residents to ensure that parking spaces on the driveway are available to customers.
- (2) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (3) (F013) All garbage areas are to be screened from the street, create no adverse odour impact on adjoining properties and be kept free of pests at all times.
- (4) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (5) (F025) Hours of operation of the development are restricted to the following hours:
  - 9.00 am to 5.30 pm – Mondays to Fridays
  - 9.00 am to 1.00pm – Saturdays
  - No work is to be carried out on Sundays and Public Holidays<sup>1</sup>
- (6) (F195) The sale of items (whether goods or materials), or the exposure or offer for sale of items by retail is not permitted, except for goods produced at the dwelling.
- (7) (F196) The home business is to be carried out by one resident of the dwelling only, and additional staff members are not permitted.
- (8) A maximum of 9 customer vehicles per day are permitted on weekdays, and a maximum of 4 customer vehicles per day on Saturdays.<sup>1</sup>
- (9) Deleted.<sup>1</sup>

## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
24/10/2018

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Item: 06

Subject: DA2018 - 555.1 ALTERATIONS AND ADDITIONS TO DWELLING AND  
USE AS A HOME BUSINESS (HAIR AND BEAUTY SALON), LOT 246  
DP 828767, NO. 10 SPINDRIFT ROW, PORT MACQUARIE

Report Author: Chris Gardiner

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Applicant: G S & J A Thompson  
Owner: G S & J A Thompson  
Estimated Cost: \$98,000  
Parcel no: 22548

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

That DA 2018 – 555.1 for Alterations and Additions to Dwelling and Use as a Home Business (Hair and Beauty Salon) at Lot 246, DP 828767, No. 10 Spindrift Row, 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 use as a home business (hair and beauty salon) 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, five (5) submissions have been received.

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

The site has an area of 750.9m<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:



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## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
24/10/2018

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:

**AGENDA****DEVELOPMENT ASSESSMENT PANEL  
24/10/2018**

- Single storey alterations and additions to the existing dwelling;
- Use of the addition as a home business (hair and beauty salon);
- Erection of a small business identification sign.

Refer to attachments at the end of this report.

**Application Chronology**

- 25 July 2018 – Application lodged.
- 30 August 2018 to 12 September 2018 – Neighbour notification.
- 19 September 2018 – Amended plans submitted by the Applicant.
- 21 September 2018 – Additional information requested.
- 4 October 2018 – Additional information and amended plans submitted by Applicant.

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

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

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

**State Environmental Planning Policy No. 44 - Koala Habitat Protection**

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

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

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

**State Environmental Planning Policy No. 62 – Sustainable Aquaculture**

Given the nature of the proposed development and proposed stormwater controls the proposal will be unlikely to have any adverse impact on existing aquaculture industries.

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

The proposed development includes proposed advertising signage in the form of a single business identification sign.

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

The following assessment table provides an assessment checklist against the Schedule 1 requirements of this SEPP:



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## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
24/10/2018

Applicable clauses for consideration	Comments	Satisfactory
Clause 8(a) Consistent with objectives of the policy as set out in Clause 3(1)(a).	The proposed signage complies with the subject Clause. In particular, the proposed signage is not excessive in scale and will not significantly impact on streetscape.	Yes
Schedule 1(1) Character of the area.	The area has a residential character and there is no signage in the immediate locality. The proposed business identification sign is of a low scale and height and is not expected to compromise the character of the area, noting that signs of up to 1m <sup>2</sup> on a building wall or fence are permitted in residential zones as Exempt Development.	Yes
Schedule 1(2) Special areas.	The site is in a residential zone. See comments above regarding the character of the area.	Yes
Schedule 1(3) Views and vistas.	No views or vistas impacted.	Yes
Schedule 1(4) Streetscape, setting or landscape.	The proposed signage is not excessive, and would fit into the streetscape setting.	Yes
Schedule 1(5) Site and building.	The proposed signage fits in with the site and location of buildings.	Yes
Schedule 1(6) Associated devices and logos with advertisements and advertising structures.	None proposed.	N/A
Schedule 1(7) Illumination.	No illumination proposed.	N/A
Schedule 1(7) Safety.	The signage will create no safety impacts.	Yes

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

A BASIX certificate (A323254) 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:



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## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
24/10/2018

- Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the alterations and additions to a dwelling and home business are a permissible landuse with consent.

The objectives of the R1 zone are as follows:

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

In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse and provides a service for residents in the locality.

It is noted that by definition a home business includes the following restrictions;

**home business** means a business that is carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling and that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any signage (other than a business identification sign), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

Conditions are recommended confirming the neighbourhood amenity and retailing restrictions above.

- Clause 4.3, the maximum overall height of the building above ground level (existing) is 4.36m which complies with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.23:1 which complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 5.4 – The floor area of the proposed home business is 24m<sup>2</sup> and does not exceed the maximum permitted floor area of 60m<sup>2</sup>.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

No draft instruments apply to the site.



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(iii) Any Development Control Plan in force:

Port Macquarie-Hastings Development Control Plan 2013

<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
3.2.2.1	Ancillary development: <ul style="list-style-type: none"> <li>• 4.8m max. height</li> <li>• Single storey</li> <li>• 60m<sup>2</sup> max. area</li> <li>• 100m<sup>2</sup> for lots &gt;900m<sup>2</sup></li> <li>• 24 degree max. roof pitch</li> <li>• Not located in front setback</li> </ul>	No ancillary development proposed.	N/A
3.2.2.2	Articulation zone: <ul style="list-style-type: none"> <li>• Min. 3m front setback</li> <li>• An entry feature or portico</li> <li>• A balcony, deck, patio, pergola, terrace or verandah</li> <li>• A window box treatment</li> <li>• A bay window or similar feature</li> <li>• An awning or other feature over a window</li> <li>• A sun shading feature</li> </ul>	No elements within the articulation zone.	N/A
	Front setback (Residential not R5 zone): <ul style="list-style-type: none"> <li>• Min. 6.0m classified road</li> <li>• Min. 4.5m local road</li> <li>• Min. 3.0m secondary road</li> <li>• Min. 2.0m Laneway</li> </ul>	Front building line setback is compliant with the minimum 4.5m front setback requirements.	Yes
3.2.2.3	Garage 5.5m min. and 1m behind front façade. Garage door recessed behind building line or eaves/overhangs provided	Existing garage with no changes proposed.	N/A
	6m max. width of garage door/s and 50% max. width of building	Existing garage with no changes proposed.	N/A
	Driveway crossover 1/3 max. of site frontage and max. 5.0m width	Existing driveway with no changes proposed.	N/A
3.2.2.4	4m min. rear setback. Variation subject to site	Proposed addition is setback 11.475m from rear	Yes

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<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
	analysis and provision of private open space	boundary.	
3.2.2.5	Side setbacks: • Ground floor = min. 0.9m	The minimum side setback requirements are complied with.	Yes
3.2.2.6	35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade	Proposed additions would not affect existing compliant open space area.	Yes
3.2.2.7	Front fences: • If solid 1.2m max height and front setback 1.0m with landscaping • 3x3m min. splay for corner sites • Fences >1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings • 0.9x0.9m splays adjoining driveway entrances	No front fences proposed.	N/A
3.2.2.8	Front fences and walls to have complimentary materials to context No chain wire, solid timber, masonry or solid steel front fences	No front fences proposed.	N/A
3.2.2.10	Privacy: • Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed • Privacy screen required if floor level > 1m height, window side/rear setback (other than bedroom) is	The proposed addition for a home business would have a floor level below the natural ground level at the fence line along the side boundary. Existing boundary fence is considered to provide adequate privacy screening.  The southern elevation of the addition has only a single window with 2.36m sill height.	Yes

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<b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
	less than 3m and sill height less than 1.5m • Privacy screens provided to balconies/verandahs etc which have <3m side/rear setback and floor level height >1m		
3.2.2.11	Roof terraces	N/A	NA
3.2.2.13 onwards	Jetties and boat ramps	N/A	NA

<b>DCP 2013: General Provisions</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
2.7.2.2	Design addresses generic principles of Crime Prevention Through Environmental Design guideline	No concealment or entrapment areas proposed. Adequate casual surveillance available.	Yes
2.3.3.1	Cut and fill 1.0m max. 1m outside the perimeter of the external building walls	Cut and fill <1.0m change 1m outside the perimeter of the external building walls	Yes
2.3.3.2	1m max. height retaining walls along road frontage	None proposed	N/A
	Any retaining wall >1.0 in height to be certified by structure engineer	Retaining wall maximum 0.95m high.	N/A
	Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway	No retaining wall front fence combination proposed.	N/A
2.3.3.8	Removal of hollow bearing trees	No trees proposed to be removed.	N/A
2.6.3.1	Tree removal (3m or higher with 100mm diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)	No trees proposed to be removed.	N/A
2.4.3	Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater	Refer to main body of report.	
2.5.3.2	New accesses not	No new access proposed to	N/A



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<b>DCP 2013: General Provisions</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
	permitted from arterial or distributor roads	arterial or distributor road.	
	Driveway crossing/s minimal in number and width including maximising street parking	No change to existing crossover proposed.	N/A
2.5.3.3	Parking in accordance with Table 2.5.1. Dwelling requirements + 1 space for visitors + 1 space per 2 employees.	2 spaces in garage, plus stacked parking in driveway suitable for 2 vehicles. The submitted Statement of Environmental Effects indicates that the resident will be the only employee. The two parking spaces in the driveway are therefore expected to be available for customers. A condition is recommended requiring the parking spaces to be available for use during the trading hours for the home business.	Yes
2.5.3.11	Section 94 contributions	Refer to main body of report.	N/A
2.5.3.12 and 2.5.3.13	Landscaping of parking areas	Single dwelling only with 1 domestic driveway. No specific landscaping requirements recommended.	N/A
2.5.3.14	Sealed driveway surfaces unless justified	Sealed driveway existing.	Yes
2.2.2.1	Signs primarily identifying products or services are not acceptable, even where relating to products or services available on that site.	Proposed sign is a business identification sign and does not relate to products or services.	Yes
	Signage is not permitted outside property boundaries except where mounted upon buildings and clear of pedestrians and road traffic. No signage is permitted upon light or power poles or upon the nature strip (the area between the property boundary and constructed roadway). Limited directional signage and "A" frame	All proposed signage is within the property boundaries.	Yes

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<b>DCP 2013: General Provisions</b>			
	<b>Requirements</b>	<b>Proposed</b>	<b>Complies</b>
	signage may separately be approved by Council under the Roads Act 1993 or section 68 of the Local government Act 1993.		
	An on-building 'chalkboard' sign, for the purpose of describing services or goods for sale which vary on a regular basis generally should not be any larger than 1.5m <sup>2</sup> , and should contain a sign written heading indicating the premises to which it refers.	None proposed.	n/a
	On-premise signs should not project above or to the side of building facades	N/A	N/A
2.2.2.2	Where there is potential for light spill from signage in a non residential zone adjoining or adjacent to residential development, illuminated signage is to be fitted with a time switch to dim by 50% or turn off the light by 11pm each night, depending on the nature of the development.	Signage not proposed to be illuminated.	N/A

- (iia) 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:**

The proposal includes some minor demolition work and a condition is recommended to ensure that the work is carried out in accordance with the Australian Standard.

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

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



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

**Access, Traffic and Transport**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The Statement of Environmental Effects indicates that the business will have approximately 5 customers per day. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

**Sewer Connection**

The site has an existing sewer connection and the proposed addition can drain to the existing point of connection. Hair traps will be required in wash basins and dry basket arrestors in any floor waste in the salon. Details required with S.68 application.

**Water Supply Connection**

Service available – details required with S.68 application.

**Stormwater**

The site currently drains to a kerb adaptor in Spindrift Row. The proposed addition is capable of connecting to the existing drainage system. Details required with S.68 application.

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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

**Other land resources**

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

**Water cycle**

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

**Soils**

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

**Air and microclimate**

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



**AGENDA****DEVELOPMENT ASSESSMENT PANEL  
24/10/2018****Flora and fauna**

Construction of the proposed development will not require any removal/clearing of any significant vegetation and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Part 7 of the Biodiversity Conservation Act is considered to be satisfied.

**Waste**

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

**Energy**

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

**Noise and vibration**

The submitted Statement of Environmental Effects indicates that the proposed hours of operation for the business are 9.00am to 5.00pm Monday to Friday (with extended hours to 7.00pm on Thursdays) for 3 days per week on average. Following consideration of the submissions received on the application, the Applicant has amended the proposed hours to 9.00am to 5.00pm Monday to Friday, and 9.00am to 1.00pm Saturdays.

The proposed hours are considered to be reasonable in a residential context and a condition is recommended restricting hours to those proposed.

Noise from the operation of the home business is expected to be manageable, with the loudest equipment used in the salon being a hand-held hair dryer. The building has been designed with only a single fixed glass window on the southern elevation which would reduce potential noise impacts on the closest neighbour to the south. A condition is recommended prohibiting offensive noise from being generated by the proposal.

Condition also recommended restricting construction to standard construction hours.

**Bushfire**

The site is not identified as being bushfire prone.

**Safety, security and crime prevention**

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

**Social impacts in the locality**

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

**Economic impact in the locality**

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

**Site design and internal design**

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



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**AGENDA****DEVELOPMENT ASSESSMENT PANEL  
24/10/2018****Construction**

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

**Cumulative impacts**

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

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

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

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

Five (5) written submissions have been received following public exhibition of the application.

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

<b>Submission Issue/Summary</b>	<b>Planning Comment/Response</b>
Proposed hours of operation are not clearly defined and operation until 7.00pm would have adverse amenity impacts on neighbours.	Following consideration of the submissions received on the application, the Applicant has amended the proposed hours to 9.00am to 5.00pm Monday to Friday, and 9.00am to 1.00pm Saturdays. The hours can be confirmed by condition.
Use of a skip bin for waste management would affect the streetscape and result in unsafe storage of hairdressing chemicals.	The skip bin is only proposed for waste management during the construction phase. Operational waste is proposed to be managed using the existing residential bin service.
The parking spaces noted in the application to be available for customers are regularly used for parking vehicles owned by the residents. This will result in customers parking in the street in front of neighbouring residences.	<p>The Applicant has advised that construction of the garage is yet to be completed, and some internal work is still being carried out. Once completed, the garage would provide two parking spaces for the residents' vehicles.</p> <p>Section 4.15(3A)(a) of the Environmental Planning and Assessment Act 1979 provides that if a development satisfies a standard set in a DCP, the consent authority cannot impose a more onerous standard in relation to that aspect of the development. As the proposal satisfies the minimum parking requirement in the DCP, additional off-street parking cannot be required.</p>



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Submission Issue/Summary	Planning Comment/Response
	However, to ensure that the parking on site remains available for use by residents and customers, a condition is recommended requiring parking in the garage to be available for use by residents and parking at the top of the driveway to be available for customers at all times that the home business is operating.
The building additions appear to be designed to allow for future expansion of the business beyond a sole trader.	Following the notification of the proposal, the Applicant has reduced the floor area of the addition that is proposed to be used for the purpose of a home business and confirmed the intention for the business to be operated as a sole trader. A condition is recommended preventing the employment of any additional staff.
Excavation for the proposed retaining wall would potentially impact the stability of the dividing fence.	Given the proximity of the retaining wall to the boundary, a condition is recommended requiring engineering certification of the structural adequacy of the retaining wall.
The proposed development would significantly increase traffic in the street.	The Statement of Environmental Effects indicates that the business will have approximately 5 customers per day (10 vehicle trips). The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.
A Social Impact Assessment should be submitted for the proposed development.	Council's Social Impact Assessment Policy does not require a Social Impact Assessment for home businesses.
Loss of property values in the locality.	Relevant case law confirms that this is not a matter that can be given weight in the assessment of the application.
If the proposal is approved, Council should impose conditions requiring the Applicant to provide double glazing of lounge room windows, privacy screens along the proposed porch addition and footpath, planting mature trees within the adjoining property to the south, and to pay half the cost of a higher dividing fence.	The proposed development is not considered to create a nexus for the suggested works to the neighbouring property. Cost-sharing for the dividing fence is a matter to be determined under the Dividing Fences Act 1991, and Council cannot make a ruling on this matter.
The site has a narrow street frontage and is located on a bend with neighbouring driveways in close proximity. There is no opportunity for street parking in the site frontage, which would lead to customers/residents parking in front of other properties in the street. The	The limitations of street parking in the site frontage are noted, and it is agreed that any customers choosing to park in the street are likely to do so in front of other properties in the locality. However, as noted earlier in this report, the proposal meets the

## AGENDA

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Submission Issue/Summary	Planning Comment/Response
steepness of the driveway would discourage customers from utilising the off-street parking.  Conditions recommended requiring residents to park in the garage when the business is operating to ensure that parking in the driveway is available for customers, and requiring customers to be advised to park on the driveway when they make a booking.	minimum parking requirements in the DCP and the consent authority cannot impose more onerous requirements in this regard.  The driveway grades are less than the maximum permitted under AS2890, and the proposed customer parking is therefore considered to be safely accessible.  Given the limitations on street parking it is important to ensure that the off-street parking proposed is available for use by residents and customers, and conditions have been recommended in this regard.
Amenity impacts on No 8 Spindrift Row from customers accessing the business via the footpath, and customers congregating on the porch.	As the proposal is for one hairdresser and the Statement of Environmental Effects indicates that the business is likely to have a maximum of 5 customers per day, it is not expected that the development would create potential for customers to congregate outside the building or create significant amenity impacts on neighbours.
All activities should be contained within the building and windows and doors closed during operation.	This would be an effective means of managing noise from the proposed home business. However, quieter aspects of the use would likely allow window/doors to be open for ventilation without affecting the amenity of neighbours. It is not considered necessary to impose a condition that is this specific, as a general condition is recommended regarding offensive noise.
Any outside air conditioning unit should be located at the rear of the addition.	The submitted plans do not show any air conditioning unit proposed. Any air conditioning unit would need to be sited in accordance with the requirements of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
Safety impacts of customers backing out of the driveway.	The driveway grades are less than the maximum permitted under AS2890, and the site has safe sight distance in both directions.
Visual impact of proposed sign and loss of residential character.	The proposed business identification sign is of a low scale and height and is not expected to compromise the character of the area, noting that signs



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Submission Issue/Summary	Planning Comment/Response
	of up to 1m <sup>2</sup> on a building wall or fence are permitted in residential zones as Exempt Development.

**(e) The Public Interest:**

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

**4. DEVELOPMENT CONTRIBUTIONS**

- Development contributions will not be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will not be required under Section 94 of the Environmental Planning and Assessment Act 1979 towards roads, open space, community cultural services, emergency services and administration buildings.

**5. CONCLUSION AND STATEMENT OF REASON**

The application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

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

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

**Attachments**

1. DA2018 - 555.1 Recommended Conditions
2. DA2018 - 555.1 Plans

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2018/555****DATE: 12/10/2018****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

Plan / Supporting Document	Reference	Prepared by	Date
Site Plan	9188 Sheet 1 Issue h	R J Cartwright Design & Drafting Service	22 September 2018
Elevations, Floor and Section Plans	9188 Sheet 2 - 5 Issue i	R J Cartwright Design & Drafting Service	28 September 2018
BASIX Certificate	A323254_02	Robert Cartwright	11 September 2018
Statement of Environmental Effects	-	Julia & Geoffrey Thompson	27 July 2018

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

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

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

- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
  - Appropriate dust control measures;

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

The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (4) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (5) (A195) Hair traps are to be installed in all wash basins and dry basket arrestors shall be installed in any floor waste.

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B039) Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting:
  - i. earthworks that are more than 600mm above or below ground level (existing) and located within 1m of the property boundaries; or
  - ii. earthworks that are more than 1m above or below ground level (existing) in any other location;

are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (3) (B049) Work associated with the fit out of hairdressing, beauty and skin penetrations salons shall be designed and carried out in accordance with the requirements of:
  - a. The Local Government (General) Regulation 2005,
  - b. The Building Code of Australia,
  - c. Public Health Act 2010,
  - d. Public Health Regulation 2012

Prior to release of the Construction Certificate details demonstrating compliance with the above are to be illustrated on the plans.

## ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL  
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nil

**D – DURING WORK**

- (1) (D003) The site is in an area 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.
- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (3) (D011) Provision being made for support of adjoining properties during construction.
- (4) (D029) Any demolition work shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

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

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

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

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

[Asbestos Awareness](#)

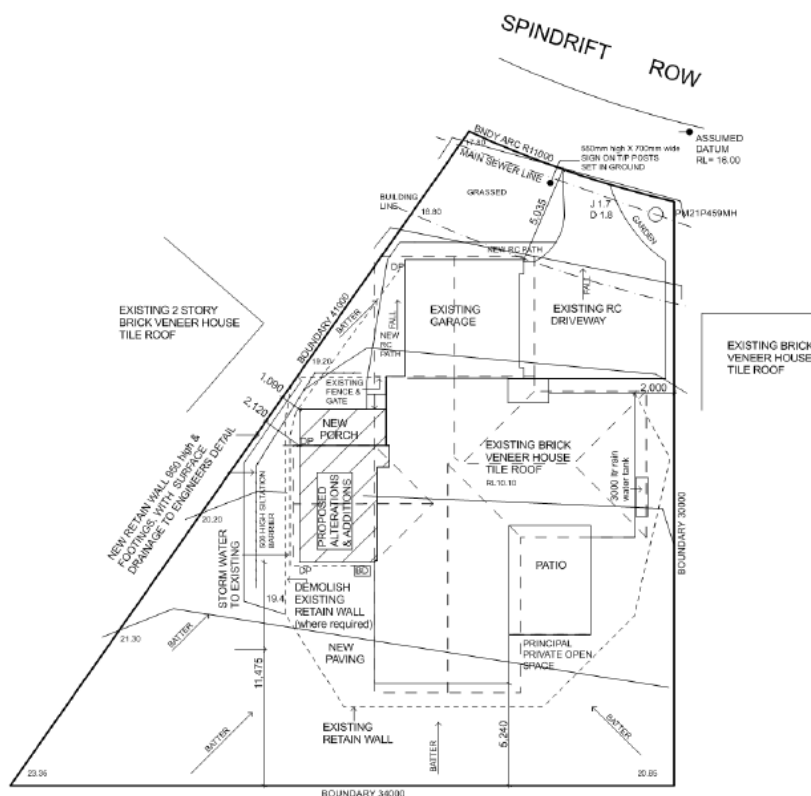
**E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE**

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E026) Occupation of the premises shall not occur until a Public Health Act 2010 Notification Form has been submitted to Council's Environmental Health Officer and payment of "Public Health Premises - Notification Fee" has been made.
- (3) (E027) A final site inspection relating to the works carried out on the premises shall be arranged by the applicant and shall be undertaken by Council's Environmental Health Officer.
- (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) (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.

**F – OCCUPATION OF THE SITE**

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons. Parking within the garage is to be available for use by the residents to ensure that parking spaces on the driveway are available to customers.
- (2) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (3) (F013) All garbage areas are to be screened from the street, create no adverse odour impact on adjoining properties and be kept free of pests at all times.
- (4) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (5) (F025) Hours of operation of the development are restricted to the following hours:
  - 9.00 am to 5.00 pm – Mondays to Fridays
  - 9.00 am to 1.00 pm – Saturdays
  - No work is to be carried out on Sundays and Public Holidays
- (6) (F195) The sale of items (whether goods or materials), or the exposure or offer for sale of items by retail is not permitted, except for goods produced at the dwelling.
- (7) (F196) The home business is to be carried out by one resident of the dwelling only, and additional staff members are not permitted.



## SITE PLAN

SCALE 1 : 200  
PROPOSED WORKS SHOWN  
WITH DIAGONAL HATCH

NOTE:  
IN BUSHFIRE PRONE AREAS CONSTRUCTION  
WILL BE TO AS3959 - 2009.  
THE BAL ASSESSMENT FOR THIS SITE IS "LOW".  
THEREFORE, BAL CONSTRUCTION  
REQUIREMENTS DO NOT APPLY TO THESE  
WORKS.

BASIX NOT REQUIRED  
EXCAVATION REQUIRED FOR  
SLAB & RETAIN WALL FOOTINGS

LEGEND:

DP = DOWN PIPE  
RC = REINFORCED CONCRETE  
NS = NATURAL SURFACE  
RL = RELATIVE LEVELS  
NGL = NATURAL GROUND LEVEL  
FGL = FINISHED GROUND LEVEL  
GTG = GARDEN TAP & GULLY  
YD = YARD DRAIN  
BD = BOX DRAIN  
CLP = CLOTHES LINE PAD

EXISTING AREAS m2

SITE	=	740
RESIDENCE/ LIVING	=	149.05
FRONT PORCH	=	2.59
REAR PATIO	=	24.00
GARAGE	=	35.51
TOTAL	=	212.15

PROPOSED AREAS		
SALON	=	21.07
PORCH	=	8.00

PRINCIPLE PRIVATE  
OPEN SPACE HOUSE = 49.00

GRASS LANDSCAPED = 289.00

DOWN PIPE & STORMWATER  
LOCATIONS ARE APPROXIMATE ONLY  
& WILL BE CONFIRMED BY THE  
BUILDER PRIOR TO COMMENCEMENT  
OF WORKS.

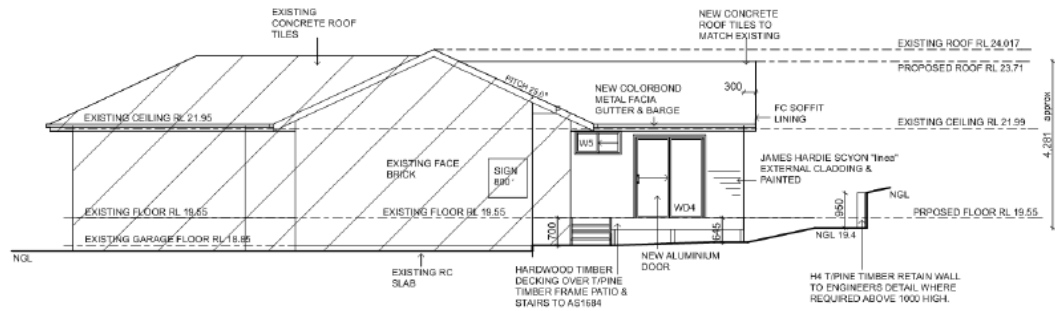
STORMWATER TO ALLOTMENT  
DRAINAGE CONNECTION POINT  
VIA RAINWATER TANK & WILL BE  
LOCATED BY THE BUILDER PRIOR  
TO COMMENCEMENT OF WORKS.

SEWER WILL BE CONNECTED TO  
EXISTING & BE LOCATED ON SITE  
BY THE BUILDER / PLUMBER  
PRIOR TO COMMENCEMENT OF  
WORKS

NOTE:  
EXISTING RLS ARE NOT  
ALTERED FOR THIS  
CONSTRUCTION PROCESS.

EXISTING LANDSCAPING NOT  
EFFECTED BY THESE WORKS.

<b>R J CARTWRIGHT</b> DESIGN & DRAFTING SERVICE		<b>DEVELOPMENT APPLICATION</b>		Project: ALERATION & ADDITIONS ATTACHED HAIR SALON		Drawing Title: <b>SITE PLAN</b>													
21 SOUTHWAY AVENUE LAKE CATHERINE NSW 2155 Email: <a href="mailto:info@rjc.com.au">info@rjc.com.au</a> Tel: 94 96 92 62 or 02 95 96 3118 *CONSULTATION IN PART OR FULL IS AVAILABLE ON REQUEST				Client: G & J Thompson Address: Lot 246 B-10 Spreddell Row, Port Macquarie NSW 2444 DP 828767		<table border="1"> <thead> <tr> <th>Scale</th> <th>Revised</th> <th>Issue</th> <th>Issue Date</th> </tr> </thead> <tbody> <tr> <td>1: 200 A3</td> <td>RC</td> <td></td> <td>22/09/2016</td> </tr> <tr> <td>9/18B</td> <td></td> <td>Issue no: 1 of 5</td> <td>20/09/16</td> </tr> </tbody> </table>		Scale	Revised	Issue	Issue Date	1: 200 A3	RC		22/09/2016	9/18B		Issue no: 1 of 5	20/09/16
Scale	Revised	Issue	Issue Date																
1: 200 A3	RC		22/09/2016																
9/18B		Issue no: 1 of 5	20/09/16																



## WEST ELEVATION.

SCALE 1 : 100

EXISTING SHOWN WITH  
DIAGNOL HATCH.

BASIX Certificate number: A32524\_02

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Glazing requirements	Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check
<b>Windows and glazed doors</b>			
The applicant must install the windows, glazed doors and shading devices, in accordance with the specifications listed in the table below. Relevant overshadowing specifications must be satisfied for each window and glazed door.	✓	✓	✓
The following requirements must also be satisfied in relation to each window and glazed door:			
Each window or glazed door with standard aluminium or timber frames and single clear or tinted glass may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions.	✓	✓	✓
Each window or glazed door with improved frames, or pyrolytic low-e glass, or clear/air gap/clear glazing, or tinted/air gap/clear glazing must have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below. Total system U-values and SHGCs must be calculated in accordance with National Fenestration Rating Council (NFRC) conditions. The description is provided for information only. Alternative systems with complying U-value and SHGC may be substituted.	✓	✓	✓
For projections described in millimetres, the leading edge of each eave, pergola, verandah, balcony or awning must be no more than 500 mm above the head of the window or glazed door and no more than 2400 mm above the sill.	✓	✓	✓
Pergolas with polycarbonate roof or similar translucent material must have a shading coefficient of less than 0.35.	✓	✓	✓
Pergolas with fixed battens must have battens parallel to the window or glazed door above which they are situated, unless the pergola also shades a perpendicular window. The spacing between battens must not be more than 50 mm.	✓	✓	✓

BASIX Certificate number: A32524\_02

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Glazing requirements							Show on DA Plans	Show on CC/DC Plans & Specs	Certifier Check
Window / door no	Orientation	Area of glass inc. frame (m <sup>2</sup> )	Overshadowing Height (m)	Distance (m)	Shading device	Frame and glass type			
W4	W	3.78	0	0	awning (adjustable) >=900 mm	standard aluminium, single clear, (or U-value: 7.63, SHGC: 0.73)			
W5	W	0.72	0	0	awning (adjustable) >=900 mm	standard aluminium, single pyrolytic low-e, (U-value: 5.7, SHGC: 0.47)			
Skylights									
The applicant must install the skylights in accordance with the specifications listed in the table below.							✓	✓	✓
The following requirements must also be satisfied in relation to each skylight:								✓	✓
Each skylight may either match the description, or, have a U-value and a Solar Heat Gain Coefficient (SHGC) no greater than that listed in the table below.								✓	✓
Skylights glazing requirements									
Skylight number	Area of glazing inc. frame (m <sup>2</sup> )	Shading device	Frame and glass type						
S1	1	no shading	timber, double clear/air fill, (or U-value: 4.3, SHGC: 0.5)						
S2	1	no shading	timber, double clear/air fill, (or U-value: 4.3, SHGC: 0.5)						

R J CARTWRIGHT  
DESIGN & DRAFTING SERVICE21 MOUNTAIN AVENUE LAKE CATHERINE  
NSW 2154  
mob: 0418 992 514  
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PROHIBITION IN PART OR FULL IS  
PROHIBITED BY COPYRIGHT

REV | DATE | AMENDMENT

## DEVELOPMENT APPLICATION

Project: ALTERATION & ADDITIONS  
ATTACHED HAIR SALON  
Client: G & J Thompson  
Address: Lot 246 # 10 Spindrift  
Crescent, Port Macquarie  
NSW 2444 DP 628767

Drawing Title:	WEST ELEVATION
Scale:	1 : 100 A3
Sheet:	RC
Date:	28/09/2018
Sheet No.:	9188
Sheet of:	4 of 5
Rev:	1

Item 06  
Attachment 2

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Item 05  
Attachment 2

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