



PORT MACQUARIE-HASTINGS
COUNCIL



Development Assessment Panel

Business Paper

date of meeting: Wednesday 20 April 2022

location: via SKYPE

time: 2:00pm

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

Development Assessment Panel

CHARTER

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	01/10/21	21/10/21	18/11/21	16/12/21	03/02/22	17/02/22
David Crofts	✓	✓	✓	✓	✓	✓
Michael Mason			✓	✓	✓	✓
Chris Gee	✓	✓	✓		✓	
Tony McNamara	✓	✓		✓		✓
Dan Croft (Group Manager Development Services) Grant Burge (acting)	✓	✓	✓	✓	✓	✓
Patrick Galbraith-Robertson (Development Planning Coordinator)	✓	✓	✓		✓	✓

Key: ✓ = Present

A = Absent With Apology

X = Absent Without Apology

Meeting Dates for 2022

20/01/2022	Function Room	2.00pm
3/02/2022	Function Room	2.00pm
17/02/2022	Function Room	2.00pm
3/03/2022	Function Room	2.00pm
17/03/2022	Function Room	2.00pm
7/04/2022	Function Room	2.00pm
21/04/2022	Function Room	2.00pm
5/05/2022	Function Room	2.00pm
19/05/2022	Function Room	2.00pm
2/06/2022	Function Room	2.00pm
16/06/2022	Function Room	2.00pm
7/07/2022	Function Room	2.00pm
21/07/2022	Function Room	2.00pm
4/08/2022	Function Room	2.00pm
18/08/2022	Function Room	2.00pm
1/09/2022	Function Room	2.00pm
15/09/2022	Function Room	2.00pm
6/10/2022	Function Room	2.00pm
20/10/2022	Function Room	2.00pm
3/11/2022	Function Room	2.00pm
17/11/2022	Function Room	2.00pm
1/12/2022	Function Room	2.00pm
15/12/2022	Function Room	2.00pm

Development Assessment Panel Meeting

Wednesday 20 April 2022

Items of Business

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

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

Item: 02**Subject: APOLOGIES**

RECOMMENDATION

That the apologies received be accepted.

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

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 17 February 2022 be confirmed.

PRESENT

Members:

David Crofts (Independent Chair)
Michael Mason (Independent Member)
Tony McNamara (Independent Member)
Group Manager Development Services (Dan Croft)

Other Attendees:

Mayor Peta Pinson
Councillor Josh Slade
Pat Galbraith-Robertson (Development Assessment Planning Coordinator)
Grant Burge (Development Engineering Coordinator)
Kate Kennedy (Building Surveyor)
Warren Wisemantel (Building Surveyor)

The meeting opened at 2:00pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 3 February 2022 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA2021 - 889.1 DWELLING-HOUSE INCLUDING CLAUSE 4.6 OBJECTION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 814 DP 1268080, NO 10 GRANTON RIDGE, PORT MACQUARIE

Speakers:

Paul Timmins (opposing the development)

Stephen McNerney (opposing the development)

Boyd Ison (applicant)

CONSENSUS:

That DA2021 - 889.1 for a dwelling-house including a Clause 4.6 objection to Clause 4.3 (height of buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 814, DP 1268080, No. 10 Granton Ridge, 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: 'Prior to the issue of a Construction Certificate a construction and traffic management plan is to be submitted to Council's satisfaction. The plan is to address the following:
 - Maintaining right of access to all properties using the driveway
 - Parking and movement of construction vehicles
 - Condition report on the driveway and means to address any damage caused during construction.'
-

06 DA2021 - 1092.1 ANCILLARY BUILDING - SHED AT LOT 32 DP 1239206, NO 6 OXBOW CIRCUIT KING CREEK

Speakers:

Craig Pickering (opposing the development)

Rudy Ollevou (opposing the development)

Ben Homes (applicant)

CONSENSUS:

Noting that the applicant and neighbours have discussed an amended shed location, DA2021 -1092 be deferred to enable the applicant to submit amended plans generally as follows:

- Increase setback to side western side boundary by approximately 4m.
-

-
- The awning be swapped to the eastern side of the shed.
 - Lowering the shed by approximately 500mm at the centre of the slab.
 - Increased front boundary setback by approximately 1m.

The amended plans be notified to the submitters and that where no significant concerns are raised, noting the DAP Charter, the matter be determined under staff delegation.

07 GENERAL BUSINESS

Nil.

The meeting closed at 3:00pm.

Item: 04
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

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

(Refer to next page and the Code of Conduct)

Pecuniary Interest

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

Non-Pecuniary

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

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the 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.

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

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

Councillor's Signature: **Date:**

This form is to be retained by the council's 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.

¹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest

Item: 05**Subject: DA2021 - 999.1 DWELLING AND SWIMMING POOL INCLUDING A
CLAUSE 4.6 OBJECTION TO CLAUSE 4.3 (HEIGHT OF BUILDING)
OF THE PORT MACQUARIE HASTINGS LOCAL ENVIRONMENTAL
PLAN 2011, LOT 3 DP 238250, NO 5 ORR STREET PORT
MACQUARIE****Report Author: Development Assessment Planner, Steven Ford**

Applicant:	Karen Burke Registered Architect
Owner:	BP & RS Lulham
Estimated Cost:	\$650,000
Parcel no:	15815

Alignment with Delivery Program

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

RECOMMENDATION

That it be recommended to Council that DA 2021-999 for a Dwelling and Swimming Pool Including a Clause 4.6 Objection to Clause 4.3 (Height of Building) of the Port Macquarie Hastings Local Environmental Plan 2011 at Lot 3, DP 238250, No. 5 Orr Street, Port Macquarie, be determined by granting consent subject to the recommended conditions

Executive Summary

This report considers a development application for a Dwelling and Swimming Pool including a Clause 4.6 Objection to Clause 4.3 (Height of Building) of the Port Macquarie-Hastings Local Environmental Plan 2011 at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, three (3) submissions were received.

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.

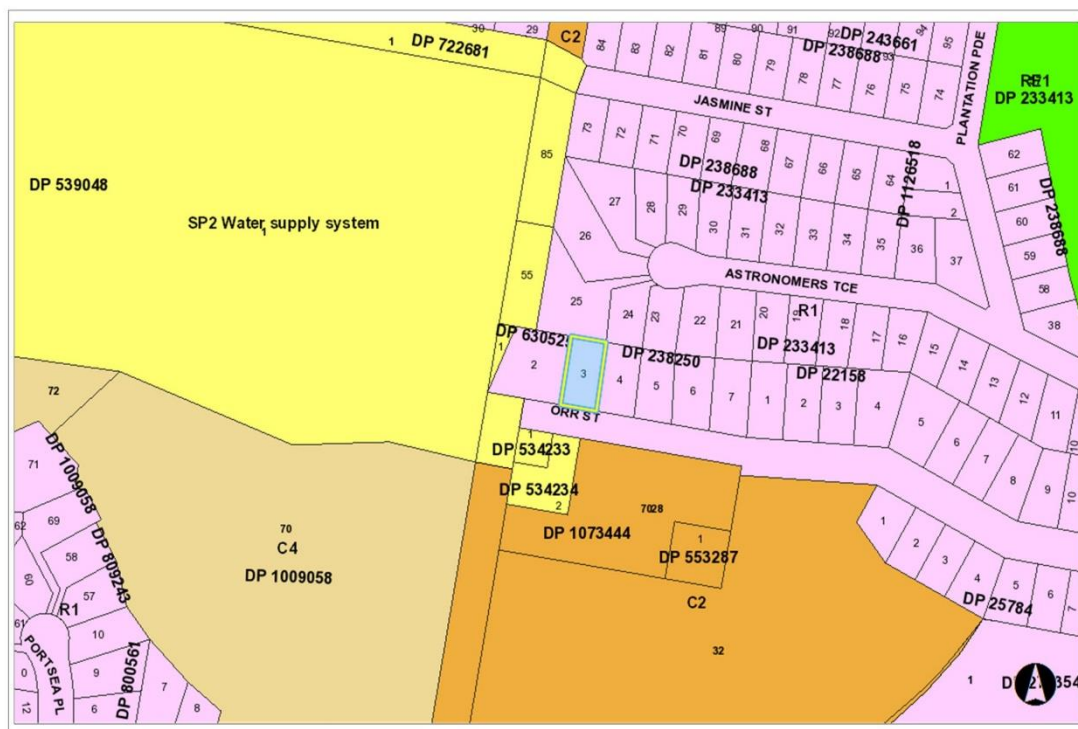
This report recommends that the development application be referred to Council for approval subject to the attached conditions as outlined in Attachment 1.

The reason for the application being referred to Council's Development Assessment Panel (DAP) is because the application includes a Clause 4.6 exception to a development standard under the Port Macquarie-Hastings Local Environmental Plan

The application is required to be reported to a meeting of the Ordinary Council following consideration of the application by the DAP.

Existing Sites Features and Surrounding Development

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



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



Key aspects of the proposal include the following:

- Proposed Dwelling and Swimming Pool

- Clause 4.6 Objection to Clause 4.3 (Height of Building) of the Port Macquarie Hastings Local Environmental Plan
- Natural slope is from the street to the rear and falls approximately 12m.

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

Application Chronology

- 08 November 2021 - Application Lodged
- 18 November to 01 December 2021 - Public Notification - 3 submissions received
- 29 November 2021 - Additional information requested
- 22 December 2021 - Further additional information requested
- 7 January 2022 - Concurrence from RFS received
- 7 February 2022 - Amended Plans and Additional information received
- 1 March 2022 - Amended clause 4.6 objection and amended elevations received
- 20 March 2022 - Stormwater drainage and sewer reticulation strategy received

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

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

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

State Environmental Planning Policy (Koala Habitat Protection) 2021

Clause 6 - This SEPP applies to all non-rural zoned land within the Port Macquarie-Hastings Local Government Area.

Clause 12 (other land - no KPOM and less than 1 hectare) - Having considered the SEPP, the application and on completion of a site inspection, Council is not prevented from granting consent in this case for the following reasons:

1. The property is not subject to a KPOM, or
2. The site is not considered to be core koala habitat.

State Environmental Planning Policy No. 55 - Remediation of Land

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

State Environmental Planning Policy (Coastal Management) 2018

Clause 7, this SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

The site is not located within a coastal use area.

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

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 - Development in proximity to electricity infrastructure - referral to Essential Energy has been completed having regard for any of the following:

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
- (b) development carried out:
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
 - (ii) immediately adjacent to an electricity substation, or
 - (iii) within 5m of an exposed overhead electricity power line,
- (c) installation of a swimming pool any part of which is:
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool.

Essential Energy have no specific concerns regarding the development, but have provided some general advice. The advice received from Essential Energy has been forwarded the Applicant for consideration.

Port Macquarie-Hastings Local Environmental Plan 2011

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

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

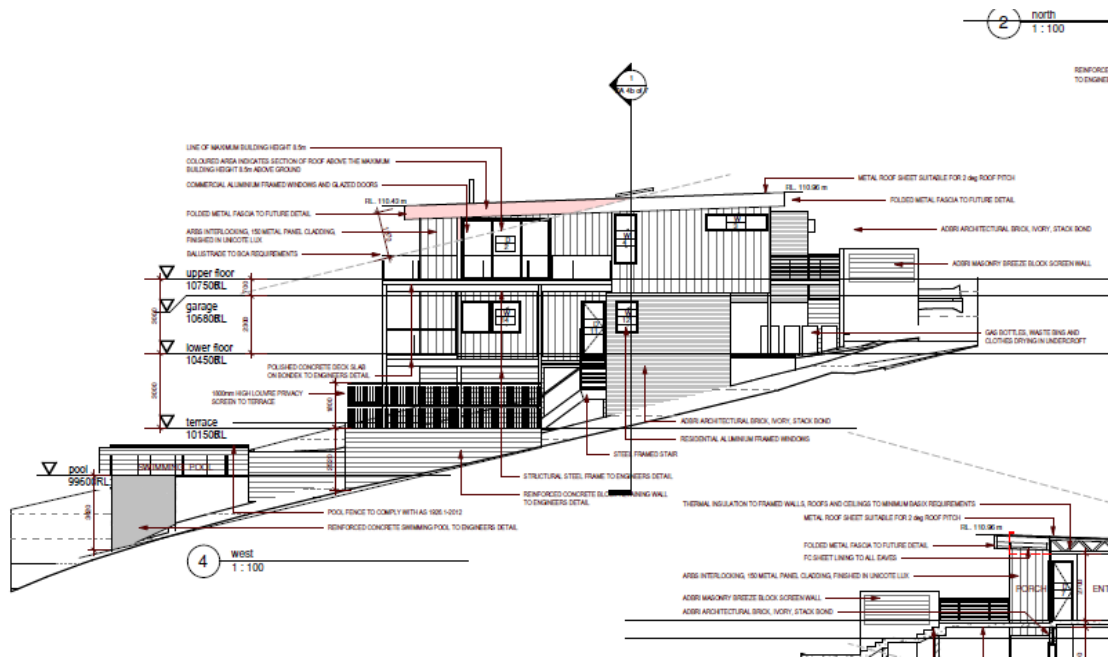
The objectives of the R1 zone are as follows:

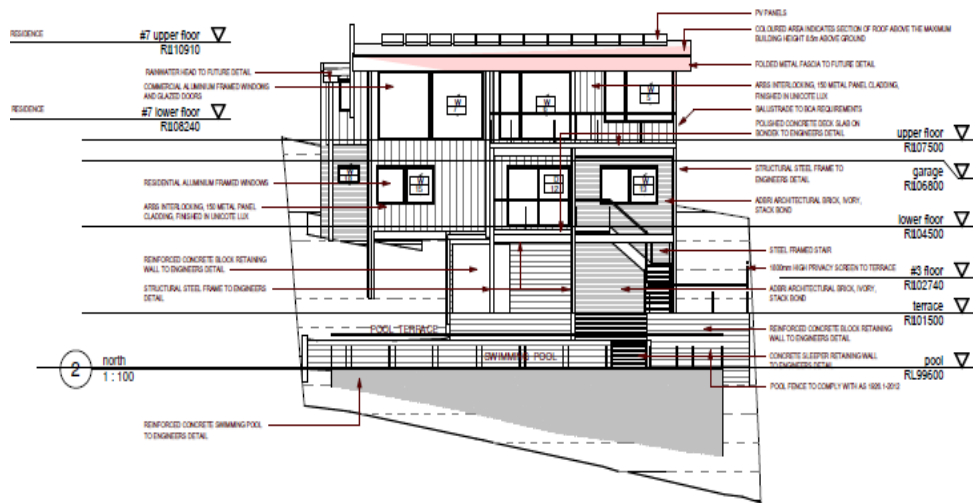
- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- Clause 2.3(2) - The proposal is consistent with the zone objectives as it contributes to the range of housing options in the locality.
- Clause 4.3 - This clause establishes the maximum "height of a building" (or building height) that a building may be built to on any parcel of land. The term "building height (or height of building)" is defined in the LEP to mean: *"the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like".* The term "ground level (existing)" is also defined in the LEP to mean *"the existing"*.

(i)

DEVELOPMENT ASSESSMENT PANEL
20/04/2022

The attached elevation plans, demonstrate the areas of the building that exceed the height limit. It is noted by the elevations that it is small sections of the roofline where the land slopes away steeply, that result in the height variation.





In considering the height variation, compliance with the objectives of Clause 4.3 of the LEP have been considered below:

(a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,

Comments:

The locality and Orr Street are characterised by a number of other dwellings with similar heights, due mainly to the steepness of the land.

A key aspect of this proposal is that it presents as a single storey dwelling to the street/public domain.

The proposed variation does not create any additional habitable floor levels above the height of building provisions.

Based on the above, the proposed height, bulk and scale of the development is considered compatible with the existing and future character of the locality.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,

Comment:

The visual impact of the building is considered satisfactory for the following reasons:

- The main variations are located behind the front facade of the building and are therefore less distinctive from Orr Street.
- The building height is similar to the existing dwellings in the area and will therefore not be visually dominant.
- The variation is created by the land sloping steeply away from the street.
- Due to semi-open nature of the decks along the northern elevation to take advantage of views and solar access, the adjoining neighbours view is not disrupted by the height of building variation.

- Shadow diagram demonstrated the proposed variation does not create adverse any overshadowing.
- Potential privacy impacts are considered under the relevant DCP provisions below and have been satisfactorily addressed in the building design.

(c) to minimise the adverse impact of development on heritage conservation areas and heritage items,

Comment:

The site does not contain or directly adjoin any known heritage items or sites of significance.

(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.

Comment:

The proposed height is consistent with other dwellings in the area and attempts to balance the site constraints of the topography. The variation does not compromise this intent of the standard.

In addition to the above, the applicant has lodged a written request in accordance with Clause 4.6 of the LEP objecting to the 8.5m building height standard applying to the site, which is established under Clause 4.3 (see comments below under Clause 4.6).

- Clause 4.4 - The floor space ratio of the proposal is 0.38:1, which complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 4.6 - This clause establishes a degree of flexibility for certain development standards in certain circumstances which have demonstrated that a better planning outcome will occur from that flexibility.

In this regard, the proposal seeks a variation to the building height standard as identified under clause 4.3 of this report. Assistance on the approach to variation to this standard is also taken from NSW Land and Environment Court and NSW Court of Appeal decisions in:

1. *Wehbe v Pittwater Council (2007) NSW LEC 827 (Wehbe);*
2. *Four2Five Pty Ltd v Ashfield Council (2015) NSWLEC 1009; and*
3. *Al Maha Pty Ltd v Huajun Investments Pty Ltd (2018) NSWCA 245*

Having regard to specific requirements of clause 4.6(3) and 4.6(4) the following assessment comments are provided:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The Applicant has submitted a request in writing - Refer Attachment 3 - to justify the contravention of the building height standard for the following reasons (as summarised):

1. Compliance with the development standard is unnecessary as the proposal has demonstrated to be consistent with the objectives of the height of buildings standard.

2. The natural slope of the site falls 12m over approximately 36m, from the front to the rear. To avoid extensive cut and fill, an elevated 2 level residence with a garage on a mid-level was considered an appropriate design solution.



(Above: North and West Elevations)

3. The height variation would not result in increased overshadowing of the adjoining properties as compared with a compliant proposal.
4. The height variation would not result in any additional loss of views across the site compared with a compliant proposal.
5. The development is considered to be a good contextual fit for an infill development and is consistent with the streetscape and bulk and scale outcomes envisaged for the area.
6. The height exceedance occurs at the rear of the existing 2-storey building due to the steepness of the slope and this part of the building will not be highly visible in the streetscape.
7. The height of building variation will not have an adverse impact to the public domain.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), Having regard to: 3(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:

In *Wehbe* 'five methods' have been developed to test whether a compliance with the standard is unreasonable or unnecessary.

1. *The objectives of the height standard are achieved/not achieved notwithstanding the non-compliance with the numerical 8.5m height standard.*
2. *The underlying objective or purpose of the standard is/not relevant to the development and therefore compliance is unnecessary.*
3. *The underlying object or purpose would be/not be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*

4. *The development standard hasn't been virtually abandoned or destroyed by the Council's own actions in granting a consent to the proposal departing from the 8.5m standard and hence compliance is unreasonable or unnecessary.*
5. *The zoning of the particular land is reasonable or appropriate so that a development standard appropriate for that zoning is also reasonable and necessary as it applies to the land.*

The proposed variation relies upon the first test. It is considered that the Applicant's written request has satisfactorily demonstrated that the proposed development will achieve the objectives of the height of building development standard despite the numerical non-compliance.

While it is acknowledged that consent has been granted for other buildings in the precinct that have exceeded the height controls they have been appropriately tested on merit in accordance with the provisions of Clause 4.6 and found to be acceptable. Therefore, it is not considered that these decisions have abandoned or destroyed the integrity of the development standard. The decisions do, however, provide some context for how the development will fit into the locality.

The first method (1) is sufficient to establish that compliance with the development standard is unnecessary in the circumstances of the case.

Comments:

On the basis of the above, it is considered that the Applicant's clause 4.6 variation request has adequately addressed the matters required to be demonstrated by clause 4.6(3).

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out,

The consistency of the proposal with the zone objectives has been discussed above under Clause 2.3. Consideration of the proposal's consistency with the objectives of height of buildings standard (Clause 4.3) is provided as follows: '

(a) To ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality.

(ii) Comments:

In this regard, the proposed dwelling is similar in height, bulk and scale to other dwellings in the area and maintains an FSR below the numerical control and commensurate with other dwellings in the locality.

Although the variation is 22%, when viewed from the North and Western elevations of the proposal, the encroachment relates to a small section of the upper storey verandah roof.

The locality is characterised by a number of other residential buildings ranging in height from two to three storeys above ground level, mainly due to the steepness of the terrain and north-east views.

The floor space ratio for the proposal is below the maximum of 0.65:1 for the area.

The proposed height, bulk and scale of the development are considered compatible with the character of the locality in this regard.

(iii) (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development;

(iv) Comments:

The visual impact of the building is considered satisfactory for the following reason/s:

- Given the topography of the site and orientation of adjoining dwellings there will be no significant view sharing or overshadowing impacts.
- The proposal will not result in the disruption of any significant views. No submissions were received regarding concern for loss of views in the locality.

(v)

(c) to minimise the adverse impact of development on heritage conservation areas and heritage items;

(vi) Comments:

The site does not contain any known heritage items or sites of significance.

(d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.

(vii) Comments:

- The site is located within an established locality maintaining consistent zoning and numerical controls.
- The public benefit of the standard is not compromised by the proposed development.
- The development is consistent with the zoning and height objectives of the LEP 2011 and is unlikely to have any implications on State related issues or the broader public interest.

(b) the concurrence of the Secretary has been obtained.

(viii) Comments:

In accordance with Planning Circular PS 20-002, the Secretary's concurrence can be assumed for development contravenes a numerical standard by greater than 10%. However, as the numerical variation being sort is 22%, this Application is required to be reported to the Development Assessment Panel, which then needs to be referred to an Ordinary meeting of Council for determination. A public register of variations is maintained and quarterly reporting made to the Department.

Based on the above, the development is consistent with the height control objectives and also the zoning objectives as discussed previously in this report. It is recommended that the Clause 4.6 variation to Clause 4.3 be supported.

- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

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

No draft instruments apply to the site.

(iii) Any Development Control Plan in force

Port Macquarie-Hastings Development Control Plan 2013

DCP 2013: Part B - General Provisions - B2: Environmental Management			
DCP Objective	Development Provisions	Proposed	Complies
3	a) Development must comply with Council's Developments, Public Place & Events - Waste Minimisation and Management Policy.	Satisfactory arrangements can be put in place for storage and collection of waste. Standard condition recommended for construction waste management.	Yes
Cut and Fill Regrading			
4	a) Development shall not exceed a maximum cut of 1.0m and fill of 1.0m measured vertically above the ground level (existing) at a distance of 1.0m outside the perimeter of the external walls of the building (This does not apply to buildings where such cut and fill is fully retained within or by the external walls of the building).	<p>Minimal earthworks are proposed. The site falls 12m from front to rear and the proposed retaining walls are proposed to be fully retaining within the building line, under the elevated terrace and pool areas.</p> <p>To transition between to each level and create level useable private open space areas, elevated terraces are proposed with reinforced concrete block retaining walls to create useable level space with minimum cut that could impact adjoining properties.</p> <p>The ground floor terrace on the western side of the dwelling has an area of fill greater than the 1m standard to 2.8m in height at the highest point directly below the terrace.</p> <p>The design has minimised the use of excessive cut and fill by minimising the retaining walls to area directly below the proposed terraces.</p> <p>The proposal does not adversely impacts drainage of adjoining properties and</p>	No, but considered acceptable due to the merits of the site.

		will somewhat reduce the water existing stormwater runoff.	
5	a) A certified practicing structural engineer must certify any retaining wall greater than 1.0m.	Engineering detail is noted on proposed plans. A draft condition have also been included to confirm structural engineering for the retaining walls and footings prior to release of the Construction Certificate.	No, but capable of being managed with recommended condition.
	b) Where a combination of a fence and a wall is proposed to be greater than 1.2m high: <ul style="list-style-type: none"> – be a maximum combined height of 1.8m above existing property boundary level; – be constructed up to the front boundary for a maximum length of 6.0m or 30% of the street frontage, whichever is less; – the fence component has openings which make it not less than 25% transparent; and – provide a 3m x 3m splay for corner sites, and – provide a 900mm x 900mm splay for vehicle driveway entrances. 	No Front fence proposed.	N/A

DCP 2013: Part B - General Provision - B3: Hazards Management**Bushfire Hazard Management**

18	a) APZs are to be located outside of environmental protection zones and wholly provided within private land. Note perimeter roads provided as part of a residential subdivision are classified as being part of the subdivision and not a separate permissible land use within environment protection zones.	APZ not reliant on land beyond the road reserve. No identifiable adverse impacts.	Yes
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Flooding

19	a) Development must comply with Council's Floodplain Management Plan and Flood Policies.	NA	NA
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DCP 2013: Part B- General Provisions- B4: Transport, Traffic Management, Access and Car Parking

DCP Objective	Development Provisions	Proposed	Complies
Parking Provision			
24	a) Off-street Parking is provided in accordance with Table 3: - 1 parking space per each dwelling for dwelling-house.	Proposal provides a double garage.	Yes
Parking Layout			
28	c) Parking spaces shall generally be behind the building line but may be located between the building line and the street when: <ul style="list-style-type: none"> - it is stacked parking in the driveway; or - it can be demonstrated that improvements to the open space provided will result; and - the spaces are screened (densely landscaped or similar) from the street by a landscaping with a minimum width of 3.0m for the entire length of the parking area. 	Proposed Garage is behind the building line. The proposed plans have also been amended to comply with minimum 4.5m building line front setback. However, the driveway length is limited to a 4.6m length inside of the front boundary to provide casual stacked parking opportunities on the driveway.	Yes
	d) Parking design and layout is provided in accordance with AS/NZS 2890.1 - Parking facilities - Off-street car parking.	Capable of complying.	Yes
34	a) All parking and manoeuvring spaces must be designed to avoid concentrations of water runoff on the surface.	Residential driveway only, capable of complying.	Yes
	b) Council will not permit the discharge of stormwater directly into kerbing and guttering or table drains for any development other than that of a minor nature.	Capable of complying with appropriate driveway.	yes

DCP 2013: Part B - General Provisions - B5: Social Impact Assessment and Crime Prevention

DCP Objective	Development Provisions	Proposed	Complies
Crime Prevention			
43	<p>a) The development addresses the generic principles of crime prevention:</p> <ul style="list-style-type: none"> - Casual surveillance and sightlines; - Land use mix and activity generators; - Definition of use and ownership; - Basic exterior building design; - Lighting; - Way-finding; and - Predictable routes and entrapment locations; - as described in the Crime Prevention Through Environmental Design (CPTED) principles. 	No concealment or entrapment areas proposed. Adequate casual surveillance available.	Yes

DCP 2013: Part C - Development Specific Provisions - C1: Low Density Residential Development

DCP Objective	Development Provisions	Proposed	Complies
Front Setbacks			
44	<p>a) Dwellings may incorporate an articulation zone to a street frontage at no less than 3m from property boundary. The following building elements are permitted within the articulation zone:</p> <ul style="list-style-type: none"> - an entry feature or portico; - a balcony, deck, patio, pergola, terrace or verandah; - a window box treatment; - a bay window or similar feature; - an awning or other feature over a window; - a sun shading feature. 	<p>Setback of 3m to elevated front porch.</p> <p>Note there is a breeze block feature adjoining the entrance path, this is a balustrade due to the elevation, do not extend above the eave and somewhat characterised as a fence. This is considered acceptable based on the merit of the site and safety.</p>	Yes

	b) These building elements should not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the dwelling house.		
	c) The primary road front setback shall be: Classified road = any frontage 6.0m Primary frontage = 4.5m Secondary frontage = 3.0m Ancillary Lane = 2.0m Large lot residential and rural zones = 10.0m	The primary setback to a external wall of a habitable room is 6m and to the proposed garage external facing wall is 4.5m.	Yes.
45	a) A garage, carport or car parking space should: —be at least 1m behind the building line, where the dwelling(s) has a setback from a front boundary of 4.5m or more, or —be at least 5.5m from a front boundary, where the dwelling(s) has a setback of less than 4.5m.	The garage is setback more than 1m behind the Breeze block feature and front porch elements of the proposal. The garage opening however, is only setback 4.6m. see justification below.	No, but considered acceptable based on the site constraints.
	b) The total width of the garage/carport openings should not be more than 6m and not more than 50 per cent of the width of the building.	Proposed garage opening is 5.5m and approximately 40% of the width of the building.	Yes
	c) Driveway crossovers are no greater than 5.0m in width.	Proposed 5m driveway.	Yes
	d) Where a dual occupancy or attached dwelling is proposed on a corner lot a garage and driveway is provided on each road frontage.	NA	NA
Side and Rear Setbacks			
46	a) A minimum rear boundary setback of 4m is to be provided to dwellings (including verandahs, patios and decks).	Proposed rear setback of 4m to the elevated pool area. The proposed rear building line of the dwelling is 16.48m.	Yes

	b) A minimum rear boundary setback of 900mm applies to sheds and swimming pools subject to achieving minimum required private open space area.	Proposed pool is setback 4m.	Yes
	c) Council may consider varying rear setback requirements where it is demonstrated that the private open space could achieve better solar access between the building and the side setback. In that instance, one side setback should be a minimum 4m in width (for an equivalent length of rear boundary, behind building line) and the rear setback may be reduced to 900mm.	NA	NA
47	a) Ground floors (being <1m above existing ground level) should be setback a minimum of 900mm from side boundaries.	Setbacks Eastern Boundary - 1.3m Western Boundary - 3m	Yes
	b) First floors and above (including single storey with floor level >1m) should be setback a minimum of 3m from the side boundary, or reduced down to 900mm where it can be demonstrated that the adjoining property's primary living rooms and principal private open space areas are not adversely overshadowed for more than 3hrs between 9am - 3pm on 21 June.	First floor Setbacks Eastern Boundary - 3.05m Western Boundary - 3.08m Note, the elevated terrace under the lower level is setback a minimum 190mm to 300mm from the western boundary. This is considered unacceptable due to bulk and scale, with a maximum height being 4.3m directly adjoining the proposed dwelling. It will be acceptable if the side setback achieved the minimum setback for a single level development, providing more separation and access for future maintenance. A condition has been recommended to amend plans prior to the release of the Construction Certificate.	Acceptable when the western elevation of the terrace is increased to a 1m side setback.

	c) First floors and above should have building walls that step in and out at least every 12m by a minimum of 500mm articulation. Where first floors and above are setback >3m, wall articulation is not required.	The external walls of the proposed building are well articulated with external finishes and no single span of wall exceeding 12m	Yes
Private Open Space			
48.	a) All dwellings should have a minimum area of private open space of 35m ² , which includes a principal private open space area with: <ul style="list-style-type: none"> – a minimum dimension of 4m x 4m, and – a maximum grade of 5% for minimum 4m x 4m of the total open space requirement, and – direct accessibility from a ground floor living area and orientated to maximise use. 	Suitable private open space is provided on lower terrace and pool area. There are multiple terraces that comply with the objectives of this clause. No adverse concerns.	Yes
	b) Private open space may include clothes drying areas and garbage storage.	Noted on plans adjoining lower level laundry.	Yes
Public Domain and Fencing			
49	a) Front fences built forward of the building line for the primary road frontage should be detailed on the development application plans.	Note that a breeze block wall is proposed on along the front porch and entrance path. Due to site constraints the porch is elevated and a balustrade is required. This is not a front fence for the intent of this clause.	NA
	b) Solid Front fences up to 1.2m high should be: <ul style="list-style-type: none"> – Setback 1.0m from the front boundary, and – Suitably landscaped to reduce visual impact, and – Provide a 3m x 3m splay for corner sites. 	NA	NA
	b) Front fences proposed to be more than 1.2m high should be a maximum of 1.8m in height, above existing front property boundary level, and either:	NA	NA

	<ul style="list-style-type: none"> - Include landscaped recesses having minimum dimensions of 1.8m long x 900mm deep which occupy no less than 50% of the total length of the fence, or - be erected up to the front boundary for a maximum length of 6.0m or 50% of the street frontage, 		
	c) have openings which make it not less than 25% transparent (no individual opening more than 30mm wide);	NA, but the breeze block construction will provide adequate transparency.	NA
	d) provide a 3m x 3m splay for corner sites, and	NA	NA
	e) provide a 900mm x 900mm splay for vehicle driveway entrances.	NA - adequate separation provided to driveway.	Yes
50	a) For tennis courts or other similar areas, chain wire fences should be black or dark green plastic coated mesh.	NA	NA
	b) Solid fences enclosing these facilities should not be permitted over 1.8m.	NA	NA
Bulk and Scale			
51	<p>a) Direct views between indoor living rooms and principal private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots, including possible dwellings on future lots, should be obscured or screened where:</p> <ul style="list-style-type: none"> - Ground and first floor (and above) indoor living room windows are within a 9m radius. - Direct views between principal private open space areas where within a 12m radius. - Direct views between indoor living rooms of dwellings into the principal area of private 	The development will not compromise privacy in the area due to a combination of lack of windows on relevant boundaries, use of obscure windows, high sill windows, limiting living areas/windows that face adjoining living areas/open space, compliant separation, fencing and use of screening to obscure views/direct views towards the rear boundary.	Yes

	open space of other dwellings within a 12m radius.		
	<p>b) A balcony, deck, patio, pergola, terrace or verandah should have a privacy screen where there are direct views of:</p> <ul style="list-style-type: none"> Indoor living room windows of adjacent dwellings, including proposed dwellings approved on adjoining lots within 9m radius; or Principal areas of private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots within a 12m radius. 	<p>From certain areas on the elevated terraces and decks, some minimal side views into neighbouring open space areas will still be possible. However, the proposed screening directs the view more to the rear and such minimal side views would require a specific effort to look into the neighbouring properties.</p> <p>Private open space adjoining the rear boundary are further than 12m from the proposed terrace and decks. The site is naturally more elevated than the adjoining developments. These areas appear to be screened for landscaping and there are no adverse impacts.</p>	Yes
	<p>c) Privacy protection is not required for:</p> <ul style="list-style-type: none"> Any Indoor living room windows with a sill height of greater than 1.5m above the finished floor level of that room or where fixed non-openable translucent glass is installed to the same height. 	Refer to comments on 51(a) above.	Yes
	<p>d) Direct views described above may be reduced or obscured by one of the following measures (details to be submitted with the development application):</p> <ul style="list-style-type: none"> 1.8m high fence or wall between ground-floor level windows or between a dwelling and principal private open space Screening of minimum 1.7m height, that has 	Refer to comments on 51(a) above.	Yes

	<p>25% openings (max), with no individual opening more than 30mm wide, is permanently fixed and is made of durable materials.</p> <ul style="list-style-type: none"> - A window, the whole of which has translucent glass and is not able to be opened. 		
Roof Terraces			
52	<p>a) Direct views between roof terraces and indoor living room windows or principal areas of private open space of adjacent dwellings should be screened where:</p> <ul style="list-style-type: none"> - Ground and first floor (and above) indoor living room windows are within a 9m radius of the trafficable area of the roof terrace; <p>Direct views between roof terraces principal areas of private open space within a 12m radius of the trafficable area of the roof terrace.</p>	NA	NA
	<p>b) Screening should only be considered where:</p> <ul style="list-style-type: none"> - the height of the screen does not exceed the maximum building height; and - the screening contributes to the building form, and - the screening is integrated into the design of the roof; and - is constructed and designed with materials complementary to the building. 	NA	NA
	<p>c) Lighting installations on roof terraces should be:</p> <ul style="list-style-type: none"> - contained within the roof terrace area and located at a low level, and - appropriately shaded and fixed in a non-adjustable manner so that light is projected 	NA	NA

	downwards onto the floor surface of the terrace. – designed in compliance with Australian Standards AS4282 - <i>Control of obtrusive effects of outdoor lighting.</i>		
Ancillary Development			
56	a) For ancillary development in R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, R5 Large Lot Residential and RU5 Village zones: – The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot should not be more than 4.8m above ground level (existing). – The building should be single storey construction with a maximum roof pitch of 24 degrees. – The maximum area of the building should be 60m ² for lots less than 900m ² and maximum of 100m ² for larger lots. – Ancillary development that is a garage, or an outbuilding, or a rainwater tank should not be located in front of the main building line with the exception of swimming pools.	Proposed elevated pool is a maximum 3.02m high from natural ground level and less than 60m ² . Generally, this complies with this clause. Rainwater tanks and onsite stormwater detention generally complies.	Yes

The proposal seeks to vary Development Provision relating to clause 45 variation to minimum garage setback.

The relevant objectives are:

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

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

- The proposed garage is setback 4.6m from the front setback, creating a front setback consistent with front building line setback.
- The design was attempting to minimise the need for engineering and support of an elevated garage floor.
- The visual dominance towards the street scape has been minimised with proposed feature cladding and articulation of the front building line.
- The proposal is in keeping with the established character of Orr Street with many examples of garages being forward of the building line due to the site constraints.
- The submitted plans have been amended to provide a 4.5m setback which now provides casual stacked car parking between the building and the kerb.
- There are no residential properties adjoining the site across Orr Street.
- Based on the merit of the location at the end of Orr Street, the proposed variation will not add any adverse impacts to the proposed design or if the minimum garage setback of 5.5m was achieved.

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

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

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

(iv) Any matters prescribed by the Regulations

Demolition of buildings AS 2601 - Clause 92

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

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

Context and Setting

The proposal will not have any significant adverse impacts on existing adjoining properties and satisfactorily addresses the public domain.

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

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

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts.

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

View Sharing

The overall notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. Taking all the view away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.

Having considered the principles of NSW Land and Environment Court case law - *Tenacity Consulting v Warringah 2004 NSW LEC 140* and following an inspection of the area, an assessment against the four (4) step process will be provided below to establish whether the view sharing is acceptable.

The four (4) steps are also listed below for context.

Step 1

Assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g. of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Step 2

Consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Step 3

Assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Step 4

Assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

On balance, whilst a design change may reduce the perceived impact from side facing windows of the adjoining development. The part of the proposed building that

is impacting the views enjoyed across the current vacant land would be potentially blocked by a complying development building envelope on the subject lot. Note that the height of building variation discussed earlier in this report does not impact views from the adjoining developments.

The proposal is considered reasonable when reviewing compliance against key view sharing principle criteria for the immediate neighbours to the west (1-3 Orr Street). The proposed development complies with the side and rear setback requirements. It is also common to find 2-3 storey dwellings in the locality due to the site constraints so the bulk and scale are also considered reasonable. The proposal will not have any adverse view sharing impacts that would warrant refusal of the application and the proposal is considered acceptable.

Access, Traffic and Transport

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

Water Supply Connection

Service available – details required with Section 68 application.
An appropriate standard condition is recommended in this regard.

Sewer Connection

The proposed works are to be clear of the existing sewer junction and main traversing the site. The required distance off the junction is to be determined in relation to the depth.

The swimming pool is proposed over the sewer main traversing the site. This has been assessed as being acceptable subject to appropriate engineering design to be prepared prior to the issue of the Construction Certificate.

Service available - details required with Section 68 application.
An appropriate standard condition is recommended in this regard.

Stormwater

Service available - details required with Section 68 application.
An appropriate standard condition is recommended in this regard.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

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

Other land resources

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

Water cycle

The proposed development will not have any significant adverse impacts on water resources and the water cycle.

Soils

The proposed development will not have any adverse impacts on soils in terms of quality, erosion, stability and/or productivity subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction.

Air and microclimate

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

Flora and fauna

Construction of the proposed development will not require any removal/clearing of any native vegetation and therefore does not trigger the biodiversity offsets scheme. Part 7 of the Biodiversity Conservation Act 2016 is considered to be satisfied.

Waste

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

Energy

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

Noise and vibration

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

Bushfire

The site is identified as being bushfire prone.

The Applicant has submitted a bushfire report prepared by a Certified Consultant.

As the assessment has determined that a BAL 40/Flame Zone construction is required, and referral to the Local Rural Fire has been made. The RFS have reviewed the proposal and made recommendations which will be required to be imposed via conditions of consent.

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

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

The proposal is not considered to have any significant adverse economic impacts on the locality. A likely positive impact is that the development will maintain employment

in the construction industry, which will lead to flow impacts such as expenditure in the area.

Site design and internal design

The proposed development design satisfactorily responds to the site attributes and will fit into the locality. Particularly having regard to the steep topography of the site.

Construction

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

Cumulative impacts

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

(c) The suitability of the site for the development

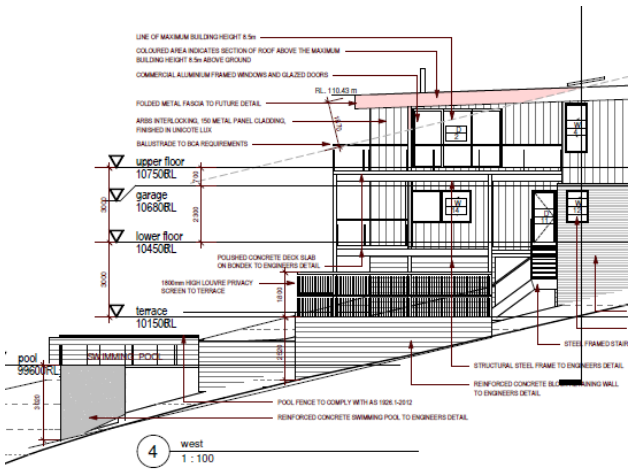
The proposal will fit into the locality and the site attributes are conducive to the proposed development.

Site constraints of bushfire, stormwater and slope have been adequately addressed and appropriate conditions of consent recommended.

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

Following exhibition of the application in accordance with the Community Participation Plan, three (3) submissions were received. The key issues raised are addressed below;

Submission Issue/Summary	Planning Comment/Response
The proposal in its current form does not comply with building height regulations of 8.5m.	<p>As discussed earlier in this report. The applicant submitted amended plans including a Clause 4.6 exception to Development Standard to Clause 4.3 (Height of Buildings) of the Port Macquarie-Hastings Local Environmental Plan 2011</p> <p>The proposed development (new works) exceed the height standard by 1.87m (at the northern covered deck) which represents a variation of 22%. Key issues raised in the clause 4.6 exception is severe sight constraints due to slope, variation is only part of the roof line, proposed variation is not for additional habitable floor level, variation does not create adverse overshadow or view loss and is not out of character for the locality.</p> <p>Based on the assessment, the variations proposed to the provisions of the DCP and the LEP 2011 are both considered acceptable and the relevant objectives have been satisfied. Cumulatively, the variations do not amount to</p>

	an adverse impact of a significance that would justify refusal of the application.
<p>Variation to Side Setbacks - Western raised terrace is 190mm from the side boundary and elevated a maximum 2.8m.</p>	<p>The lower terrace is elevated to create a level usable space to transition from the Lower level of the dwelling to the proposed pool area. The proposed terrace is a secondary outdoor area. The proposed elevated terrace does not have adverse overshadowing impacts, however, there is a perception of bulk, due to the proposed height of 2.8m and an additional 1.8m privacy screening.</p> <p>In terms of the level of the terrace proposed, it is considered to be consistent with other sites in the area, due to the steep terrain.</p>  <p>The proposed side setback does appear to be unnecessary impact to the adjoining development as it is a side setback variation and will have future issues with regards to maintenance. Due to the size of the lower terrace, increasing the side setback will not impact the function of the secondary area.</p> <p>As a mitigation measure, it is recommended that a condition be included to requires prior to the release of the construction certificate that the lower terrace be amended to provide a 1m side setback.</p>
<p>The bulk and scale of the development along with inadequate setbacks results in unreasonable impacts on privacy and amenity.</p>	<p>The proposed development complies with the floor space ratio complying to the site.</p> <p>The height of building variation has been discussed earlier and is considered not out of character for the locality due to site constraints with various examples of similar variations.</p>

	<p>Privacy impacts have been assessed in the DCP 2013 component of this report and considered compliant. It is considered that adequate design, implementation of privacy screening, window location and separation has softened the perceived impacts of an elevated site.</p> <p>The proposed bulk and scale is considered consistent with the envisaged development of this locality.</p>
Access, traffic and manoeuvring	<p>The proposed plans have been amended to comply with the minimum front building line. The proposed garage is now setback 4.6m from the front boundary and has been considered acceptable earlier in this report. This provides more appropriate site lines for manoeuvring entering and exiting the garage.</p> <p>With regards to site management, the construction management plan will need to include site access as part of the management. This should include adequate notification of road closures during construction.</p>
Visually prominent to the existing landscape and out of character	<p>Orr Street is one of the highest positioned residential areas within the locality. The built form of the locality is well established as buildings appearing to be 2 to 3 storey in height. The proposed development will not be out of character to the built form of adjoining residential developments along Orr street. There are no adverse impacts with regards to visual prominence to support refusal of this application.</p>
Stormwater disposal	<p>As discussed earlier in this report, stormwater management plans have been provided and provided with concurrence from Council's stormwater engineers. The proposed roofline will drain to Orr street and the remaining catchment will drain to an onsite detention basin at the rear. This will improve the current overland flows experience.</p>
Concerned about the proposed development's proximity to existing rubble/rock retaining wall on adjoining property. regarding structural impact and stormwater.	<p>The drainage and structure of the adjoining properties rubble retaining wall appears to have existing issues with regards to drainage and structural capacity. The proposed development has satisfied proposed stormwater drainage and overland flows; this should soften some of the existing issues.</p> <p>The proposed swimming pool is proposed to be setback 4m from the rear boundary. Prior to the construction certificate engineering plans are to</p>

	<p>confirm the footings over the sewer line to support the elevated structure. Being over 4m from the boundary it is anticipated that this is capable of being outside of the zone of influence of the adjoining landscaping rubble retaining wall on the adjoining site.</p> <p>Based on the above, the excavation, levels and associated impacts are acceptable and capable of being managed.</p>
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(e) The Public Interest

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

The proposed development satisfies relevant planning controls and will not have any significant adverse impacts on the wider public interest.

Ecologically Sustainable Development and Precautionary Principle

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

The four principles of ecologically sustainable development are:

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

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

Climate change

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

The proposed development will comprise a new single dwelling and does not involve the creation of any additional residential component. As a result, s7.11 contributions do not apply.







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   DA2021 - 999.1 Recommended Conditions
- 2   DA2021 - 999.1 Plans
- 3   DA2021 - 999.1 Clause 4.6 Variation Report

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2021/999****DATE: 12/04/2022****PRESCRIBED CONDITIONS**

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Plans	DA1b, DA2b, DA3b, DA4b	Karen Burke	03/02/2022
Stormwater Drainage and sewer reticulation strategy	Burke - 01 Orr (DA) dwg (sheet 1 of 1)	Kevin Hall	17/03/2022
BASIX Certificate	1251244S	Karen Burke	04/11/2022
Bushfire Hazard Assessment	5 Orr street, Port Macquarie	David Pensini	July 2021

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- a) the appointment of a Principal Certifying Authority and
 - b) the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (4) (A009) The development site is to be managed for the entirety of work in the following manner:

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

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

- (5) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (6) (A053) The required relocation and/or replacement of the sewer pipe that traverses the land is the responsibility of the proponent. Any costs associated with these works shall be the responsibility of the proponent.
- (7) (A013) The general terms of approval from the following authorities, as referred to in section 4.50 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
 - NSW Rural Fire Service - The General Terms of Approval, Reference DA20211121005060-Original-1 and dated 7 January 2022, are attached and form part of this consent.

B - PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
 - Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
 1. Sewerage reticulation.

2. Water supply reticulation.
 3. Retaining walls.
 4. Stormwater systems.
 5. Erosion & Sedimentation controls.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.
- Such works include, but not be limited to:
- i. Footway and gutter crossing
 - ii. Functional vehicular access
- (4) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate.
- (5) (B039) Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting:
- i. earthworks that are more than 600mm above or below ground level (existing); or
 - ii. located within 1m of the property boundaries; or
 - iii. earthworks that are more than 1m above or below ground level (existing) in any other location;
- are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (6) (B046) The building shall be designed and constructed so as to comply with the Bushfire Attack Level (BAL) 40 and flame zone requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.
- Please note: Compliance with the requirements of the current Planning for Bush Fire Protection Guidelines to prevail in the extent of any inconsistency with the Building Code of Australia.
- (7) (B071) Prior to the release of the Construction Certificate, a CCTV inspection to assess the condition of Council's sewer mains shall be undertaken prior to construction work commencing and at the completion of all construction work in accordance with the Conduit Inspection Reporting Code of Australia WSA 05, at no cost to Council. Any damage to Council's sewer mains as a result of the construction work shall be rectified using a method approved by Council, at no cost to Council.
- (8) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:
- a) The legal point of discharge for the proposed development is defined as Council's piped drainage system for hardstand areas capable of gravity fall

to Orr St, and on-site disposal for remaining areas via a suitably designed and sized system to mimic existing natural overland flow behaviour and flow rates to receiving downstream private property.

In regards to the piped drainage system, the system in Orr Street must be extended by an appropriately sized pipeline (minimum 225mm diameter) to the frontage of the site, where a junction pit must be installed, to allow direct piped connection from the development site into the public drainage system.

The pipeline must be designed to have the capacity to convey flows that would be generated by a 5% AEP storm event.

- b) The design is to be generally in accordance with the stormwater drainage concept plan on Drawing No Burke - 01 prepared by Kevin Hall Civil Engineering Designs and dated 17/03/2022.
 - c) All allotments must be provided with a direct point of connection to the public piped drainage system. Kerb outlets are not permitted.
 - d) The design shall incorporate facilities to limit site stormwater discharge from catchment areas unable to be discharged to the Council piped drainage system, ensuring discharge is less than or equal to pre development flow rates for all storm events up to and including the 1% AEP event. Note that pre development discharge shall be calculated assuming that the site is a 'greenfield' development site as per AUSPEC requirements.
 - e) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
 - f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
 - g) Existing redundant driveway laybacks shall be re-instated to match existing kerb and gutter profiles.
 - h) Detail to be confirmed with regards to the overland flow from the on-site level spreader / landscape berm.
- (9) (B073) (Note: Where work is within 1m of public infrastructure)
- A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to Council prior to the issue of a Construction Certificate.
- a) Councils existing kerb inlet pit on Orr St, where proposed pipe extension is to connect.
- The dilapidation report is to be prepared by a practising Structural/Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.
- The applicant shall be responsible for public infrastructure. Any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition will be borne by the applicant.
- (10) Prior to the release of the construction certificate, the proposed plans are to be amended to increase the western side setback of the lower terrace to provide a minimum 1m side setback for the length of the proposed terrace.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C013) Where a sewer manhole and/or Vertical Inspection Shaft exists within a property, access to the manhole/VIS shall be made available at all times. Before during and after construction, the sewer manhole/VIS must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.

D – DURING CONSTRUCTION

Nil

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (4) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (5) (E053) All works relating to public infrastructure shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation Certificate or release of the security bond.
- (6) (E056) Certification that the construction of footings and piers adjacent to the sewer lines has been carried out in accordance with the approved drawings and specifications, shall be provided by a practising chartered professional civil and/or structural engineer to Council with the application for the Section 307 - Certificate of Compliance/Occupation Certificate.
- (7) (E057) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation or subdivision certificate.
- (8) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (9) (E039) An appropriately qualified and practising consultant is required to certify the following:
 - a. all drainage lines have been located within the respective easements, and
 - b. any other drainage structures are located in accordance with the Construction Certificate.
 - c. all stormwater has been directed to a Council approved drainage system

- d. all conditions of consent/ construction certificate approval have been complied with.
 - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (10) (E047) Prior to the issue of any Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to ensure the ongoing maintenance of the proposed on-site stormwater level spreader / landscaped berm downstream of surcharge pit to ensure discharge mimics natural stormwater sheet flow to downstream private property.

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

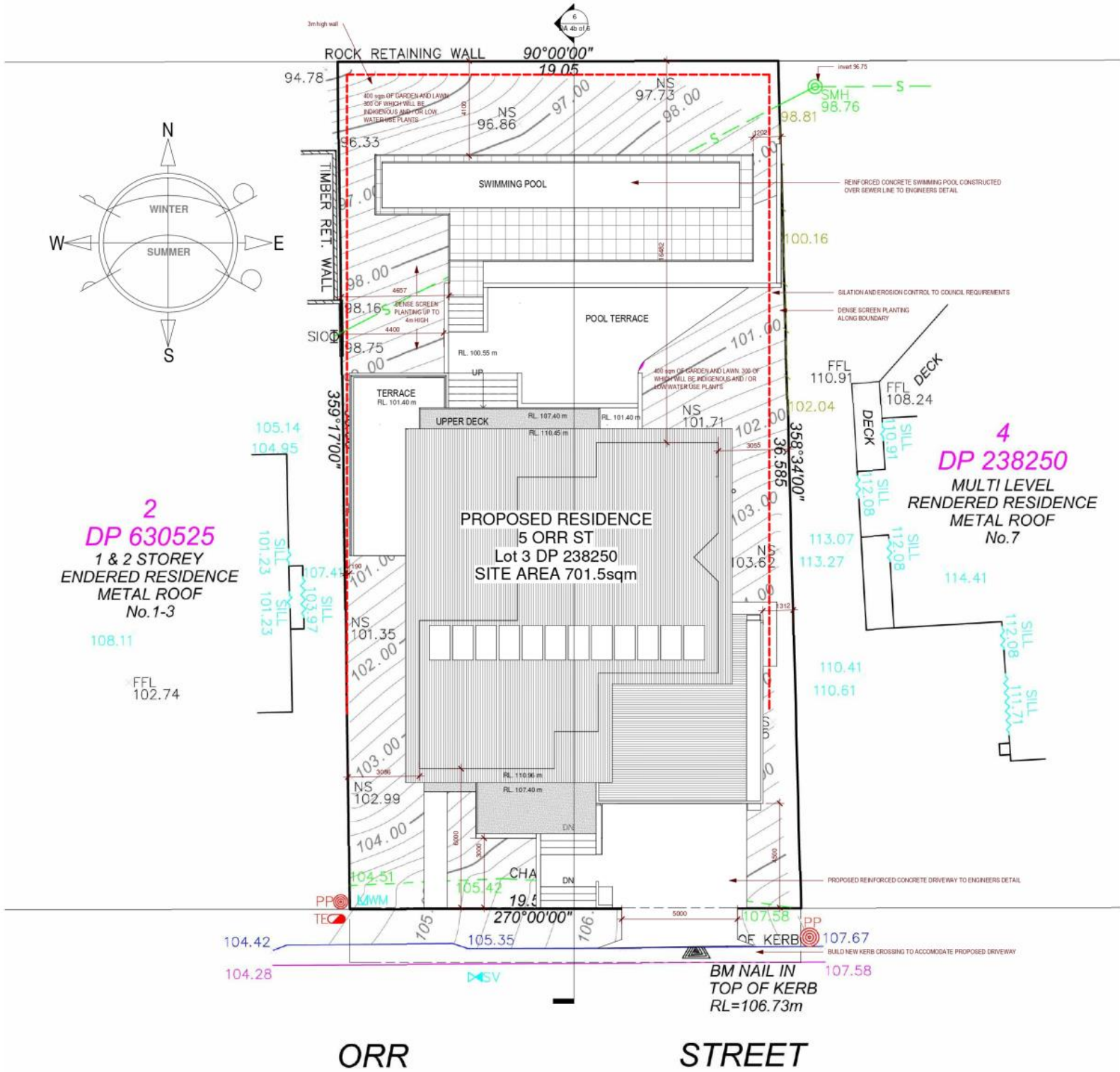
- a. The proprietor of the property shall be responsible for maintaining and keeping clear the on-site level spreader / landscaped berm.
- b. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in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

Evidence of registration with the Lands and Property Information NSW shall be submitted to and approved by the Principal Certifying Authority prior to the issue of any Occupation Certificate.

- (11) Prior to occupation or issue of the occupation certificate, all privacy screens are to be installed.

F – OCCUPATION OF THE SITE

- (1) (F035) The consent only permits the use of the building as a single dwelling and does not permit the adaption or use of the building so as to create a second occupancy.



- BASIX REQUIREMENTS FOR CERTIFICATE # 12512445 - ISSUE DATE 4-11-2021**
- LANDSCAPE**
INDIGENOUS OR LOW WATER SPECIES OF VEGETATION THROUGHOUT 300 sqm OF THE SITE.
- FIXTURES**
ALL SHOWERHEADS HAVE A MINIMUM 4 STAR WATER RATING OR FLOW RATE >6 BUT <7.5L/MIN.
ALL TOILETS HAVE A FLUSHING SYSTEM WITH MINIMUM 4 STAR WATER RATING.
ALL TAPS HAVE A MINIMUM 4 STAR WATER RATING.
- ALTERNATIVE WATER**
MINIMUM 23,000L RAINWATER TANK INSTALLED TO COLLECT RUNOFF FROM MINIMUM 200sqm ROOF AREA.
RAINWATER TANK CONNECTED TO AT LEAST 1 OUTDOOR TAP, PLUS A TAP LOCATED WITHIN 10m OF THE SWIMMING POOL.
THE SWIMMING POOL MUST HAVE A MAXIMUM VOLUME OF 30 kilolitres.
THE SWIMMING POOL MUST HAVE A POOL COVER, THE POOL PUMP MUST BE ON A TIMER AND MUST NOT BE HEATED.
- NEW CONSTRUCTION**
EXTERNAL CAVITY BRICK WALLS TO HAVE ADDITIONAL INSULATION TO OBTAIN A TOTAL RATING OF R1.17 INCLUDING CONSTRUCTION.
EXTERNAL FRAMED WALLS TO HAVE ADDITIONAL INSULATION TO OBTAIN A TOTAL RATING OF R2.4 INCLUDING CONSTRUCTION.
FRAMED ROOF TO HAVE 75mm FOIL BACKED BLANKET AND ANY ADDITIONAL INSULATION TO OBTAIN A TOTAL RATING INCLUDING CONSTRUCTION OF R4.5 UP.
ROOF SHEET TO MEDIUM COLOUR (SOLAR ABSORPTANCE SA 0.475 - 0.7)
- GLAZING REQUIREMENTS**
ALL WINDOWS AND GLAZED DOORS TO MEET THE REQUIREMENTS SPECIFIED IN THE GLAZING REQUIREMENT SECTION OF THE BASIX CERTIFICATE #12512445
- LIGHTING**
LIGHT FIXTURES ARE TO BE DEDICATED FLUORESCENT, COMPACT FLUORESCENT OR LED, IN ALL ROOMS.
- HOT WATER**
HOT WATER SYSTEM TO BE MINIMUM ENERGY RATING OF ELECTRIC BOOSTED SOLAR.
- COOLING AND HEATING**
INSTALL CEILING FANS IN AT LEAST ONE BEDROOM AND 1 LIVING AREA.
3 PHASE AIRCONDITIONER WITH MINIMUM 3 - 3.5 STAR IN AT LEAST 1 BEDROOM AND 1 LIVING ROOM.
- VENTILATION**
MECHANICAL EXHAUST SYSTEM, DUCTED TO FACADE OR ROOF, WITH MANUAL ON/OFF SWITCH TO BE INSTALLED IN THE KITCHEN, LAUNDRY AND AT LEAST 1 BATHROOM.
- ALTERNATIVE ENERGY**
A PHOTOVOLTAIC SYSTEM WITH THE CAPACITY OF A MINIMUM OF 1 PEAK KILOWATT TO BE INSTALLED AND CONNECTED TO THE RESIDENCES ELECTRICAL SYSTEM.
- APPLIANCES**
THE APPLIANCE WILL INSTALL:
• A GAS COOKTOP WITH ELECTRIC OVEN.
• A FIXED OUTDOOR SHELTERED CLOTHES DRYING LINE.
• A WELL VENTILATED REFRIGERATOR SPACE
- BUSHFIRE REQUIREMENTS**
- EXCERPT FROM:**
BUSHFIRE HAZARD ASSESSMENT 5 ORR STREET, PORT MACQUARIE JULY 2021
DAVID PEASINI - BUILDING AND ENVIRONMENTAL SERVICES
4.0 REQUIREMENTS
- All deck areas of the proposed dwelling including the entire roof area of the proposed dwelling are to be constructed so as to comply with Section 3.5, with the exception of Clause 3.5, and 9 (BAL FZ) of Australian Standard AS 3959 - 2018 (Construction of Buildings in Bushfire Prone Areas) or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas - 2014 and Section 7.5 of NSW Rural Fire Services, Planning for Bushfire Protection, 2019.
 - The northern, eastern, southern and western elevations of the enclosed areas of the proposed dwelling are to be constructed to comply with the BAL 40 construction requirements of AS3959 - 2018 as amended by NSW Rural Fire Services, Planning for Bushfire Protection, 2019 as amended by NSW Rural Fire Services, Planning for Bushfire Protection, 2019.

1 site
1 : 100



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PO BOX 4015, HARDYS BAY, NSW, 2257 m 0414 907782

CLIENT
LULHAM
ADDRESS
5 ORR STREET, PORT MACQUARIE
SHEET
SITE PLAN, BASIX

- ALL BUILDING WORKS TO BE CARRIED OUT IN ACCORDANCE WITH:
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 - REQUIREMENTS OF THE RELEVANT BUSH FIRE ATTACK LEVEL

THE BUILDER IS TO COMPLY WITH THE REQUIREMENTS OF ALL LEGALLY CONSTITUTED AUTHORITIES HAVING JURISDICTION OVER THE BUILDING WORKS AND THE PROVISIONS OF THE HOME BUILDING ACT.

ANY WORK NOT FULLY DETAILED SHALL, WHERE APPROPRIATE, BE SUFFICIENTLY PERFORMED IF CARRIED OUT IN ACCORDANCE WITH THE NATIONAL CONSTRUCTION CODE SERIES, THE RELEVANT MANUFACTURER'S INSTRUCTIONS OR ENGINEERS INSTRUCTION.

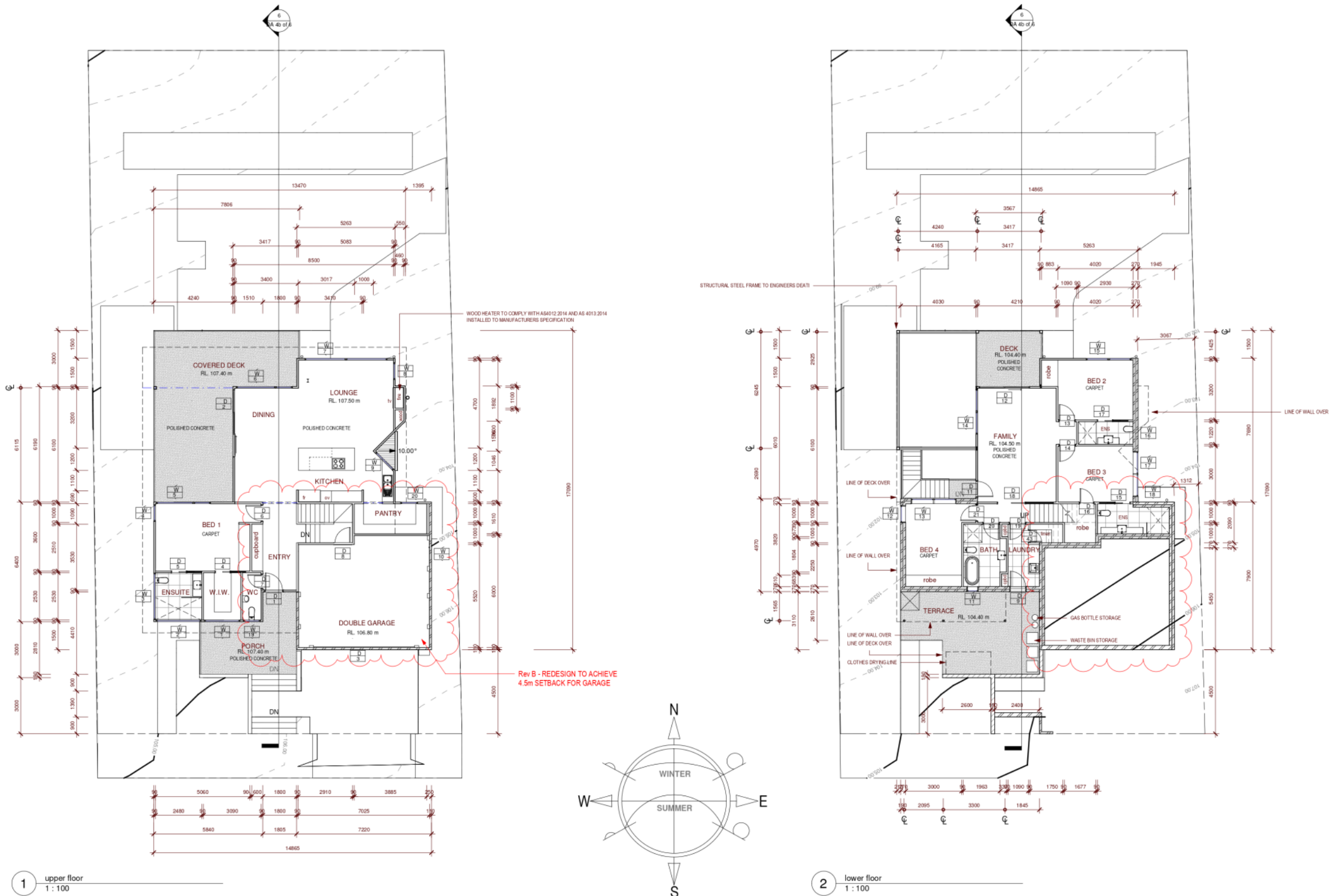
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CLIENT
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PLANS

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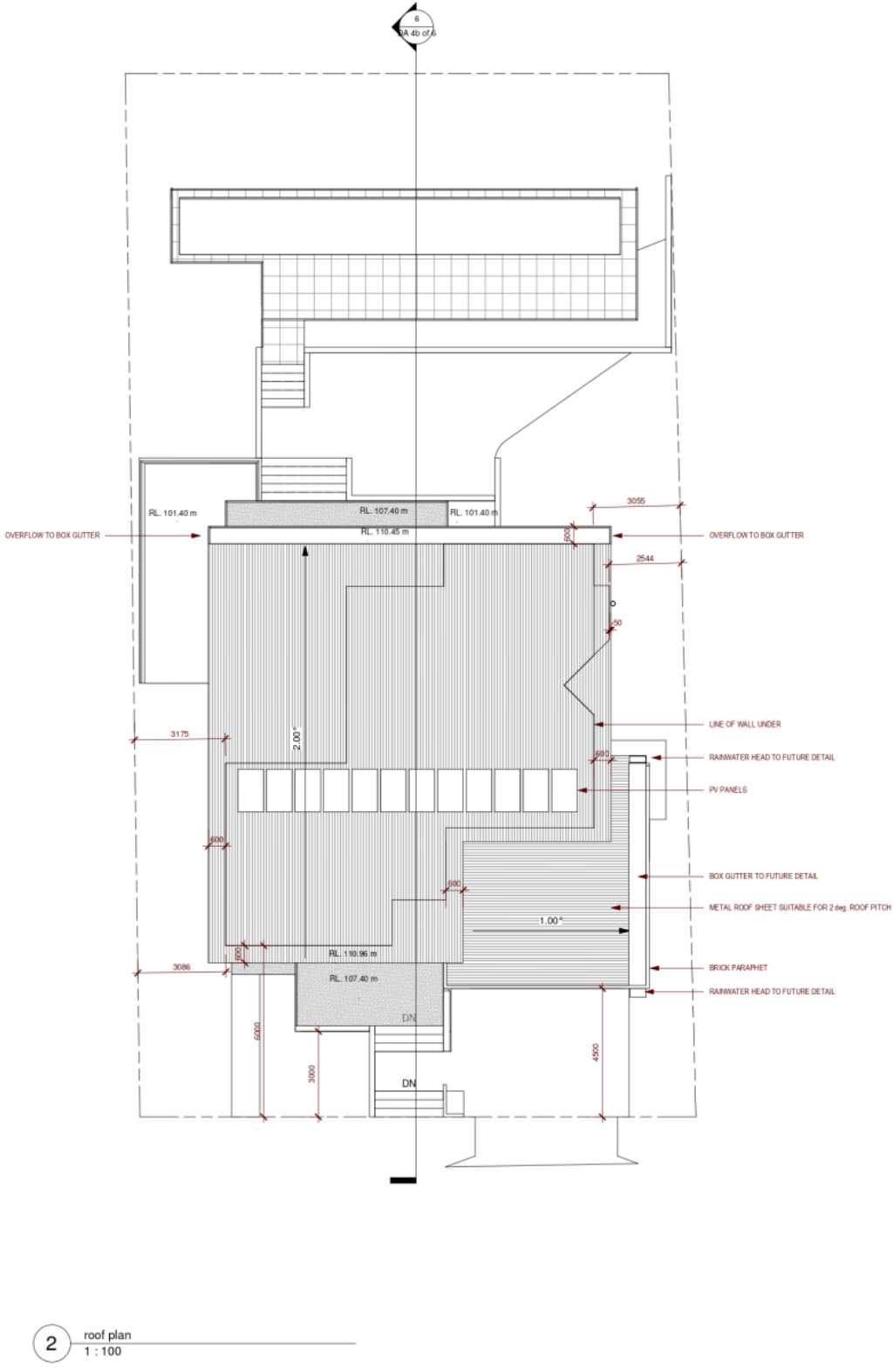
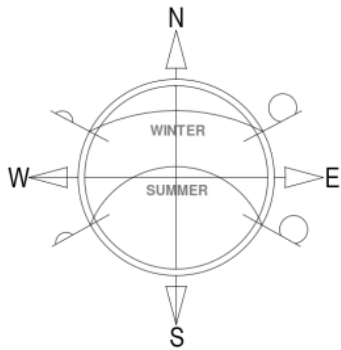
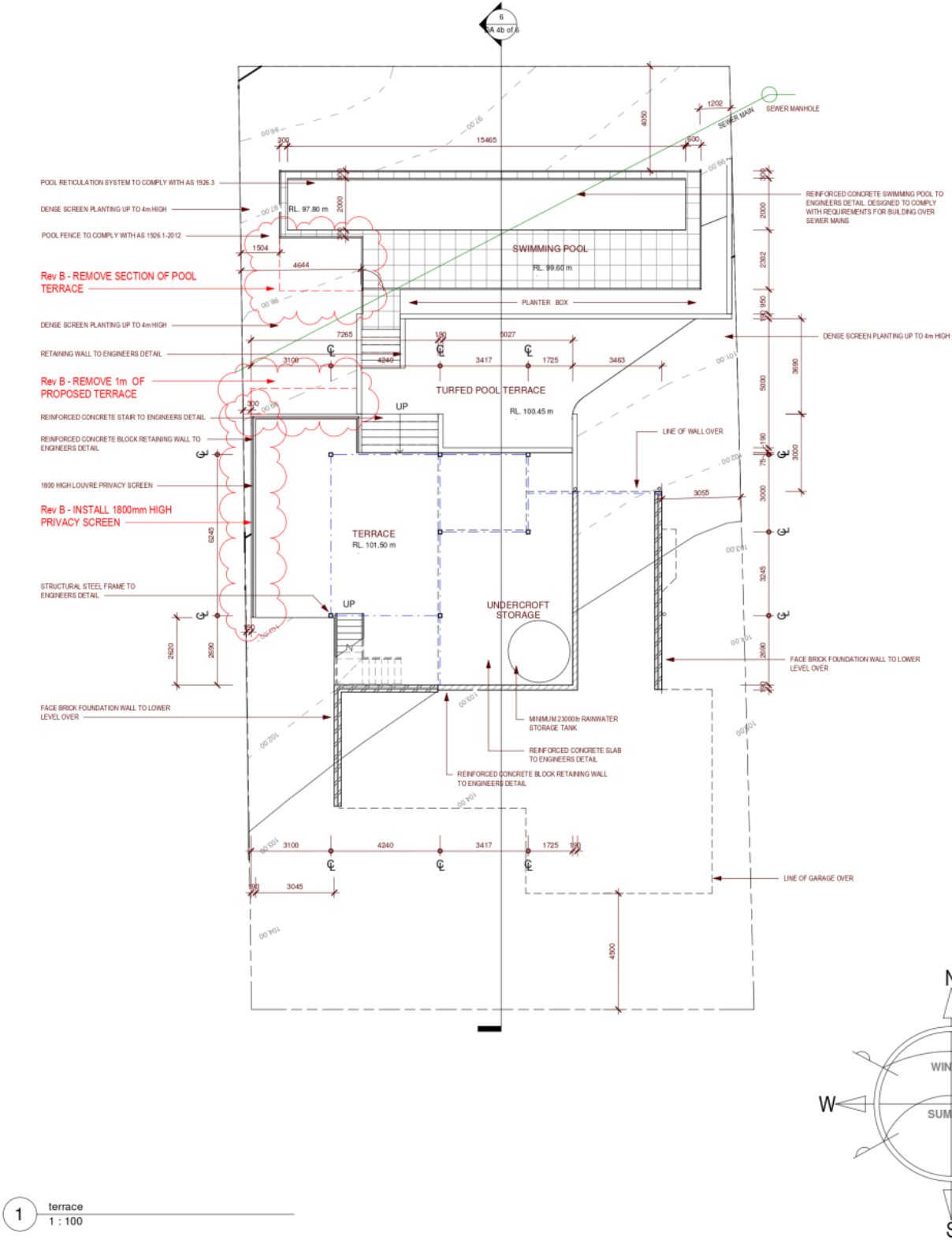
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CLIENT
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ADDRESS
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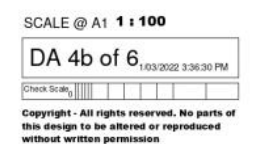
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No.	DATE	REVISIONS	BY

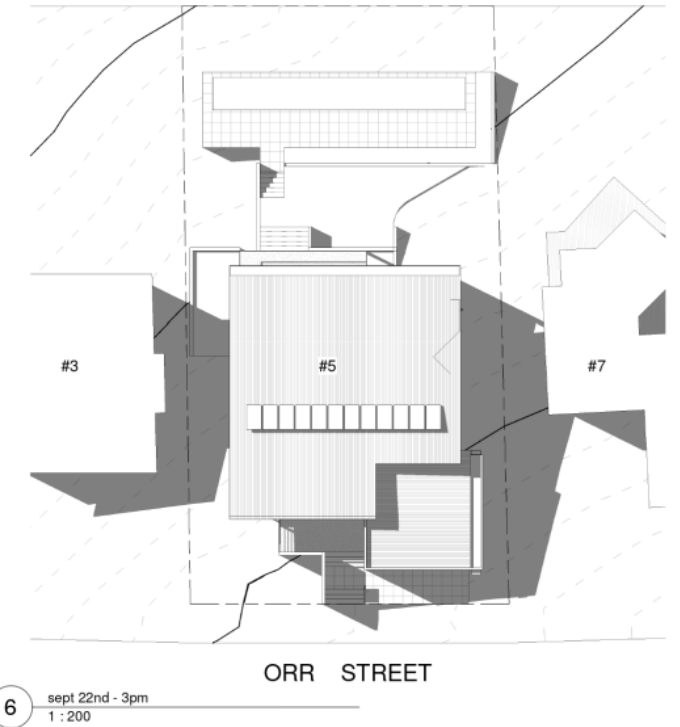
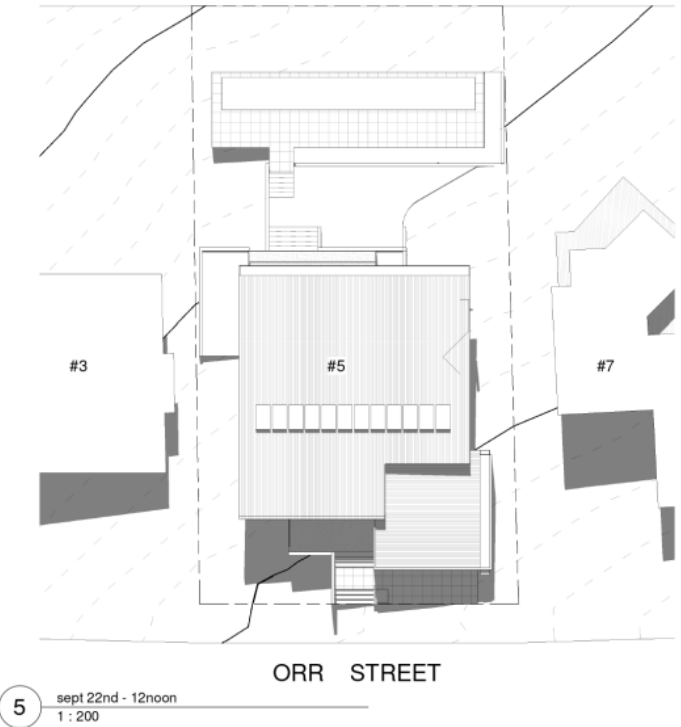
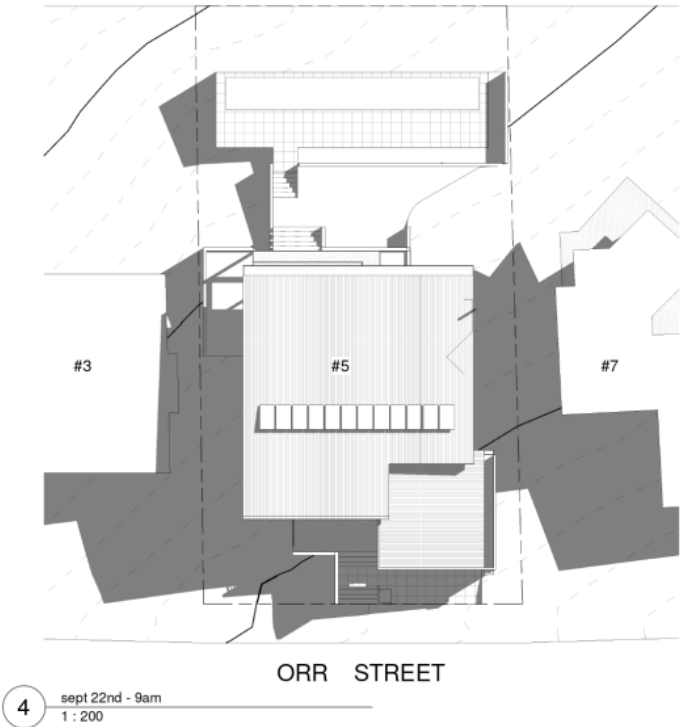
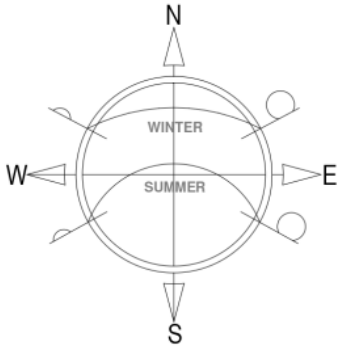
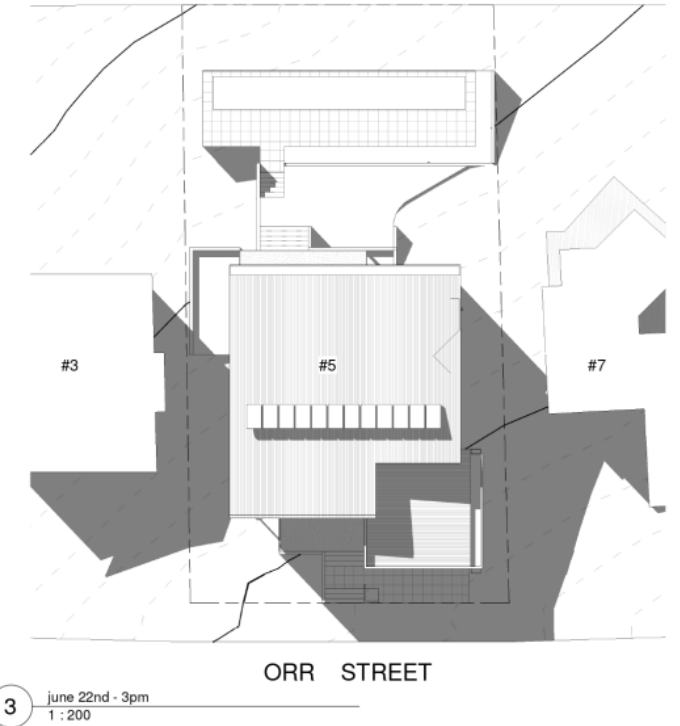
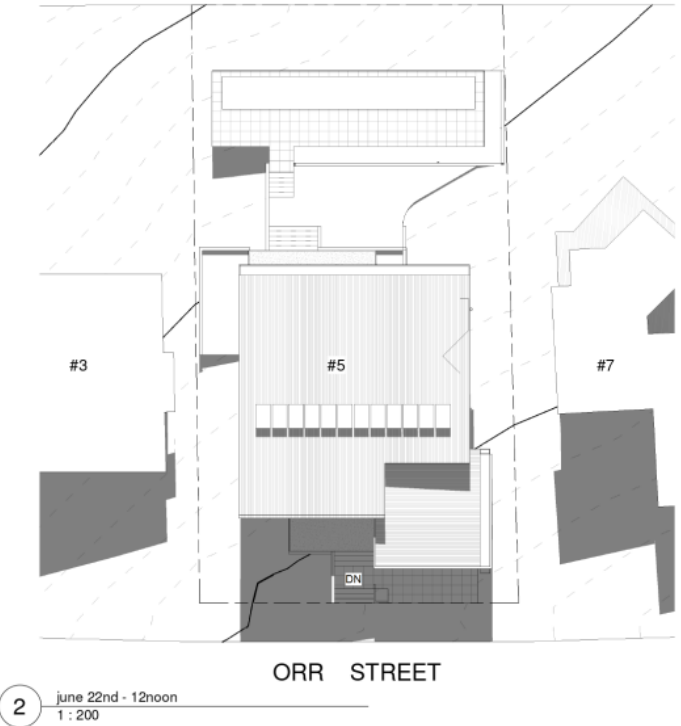
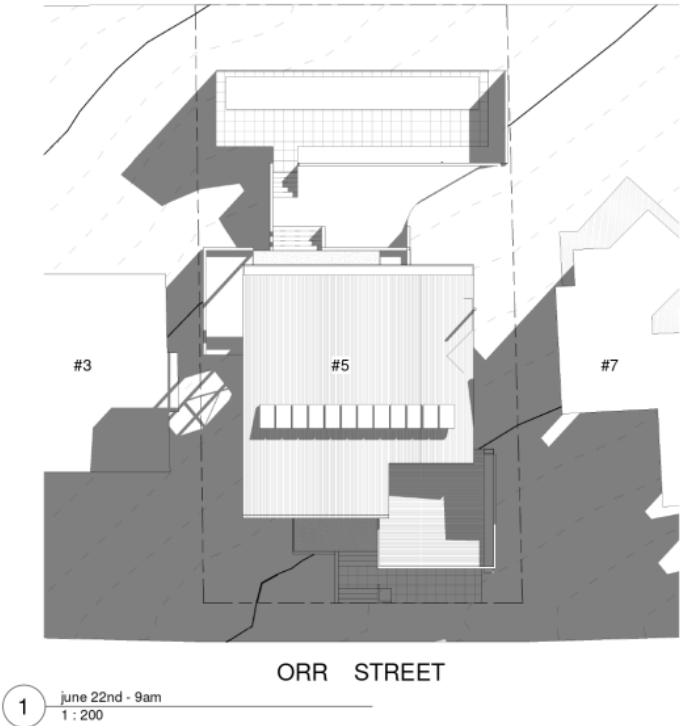
PROPOSED RESIDENCE
No 5 ORR STREET,
PORT MACQUARIE
DA - 2021/999
CLIENT - LULHAM

KEVIN HALL
CIVIL ENGINEERING DESIGNS
FOR THE CONSTRUCTION OF
ROADWORKS, DRAINAGE WORKS,
SEWERAGE WORKS & WATER SUPPLY
P.O. BOX 2740, PORT MACQUARIE N.S.W. 2444
TELEPHONE - 0402 401 202 E-MAIL - civil.designs@bigpond.com

Reduction Ratio : (1:200 @ A1)
Date : 17-3-2022
Datum : A.H.D.

STORMWATER DRAINAGE
& SEWER RETICULATION
STRATEGY

Ref. No.
Burke - 01
Burke - 01 Orr (DA).dwg
Drawing No.
1 of 1



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CLIENT
LULHAM
ADDRESS
ORR STREET, PORT MACQUARIE
SHEET
SHADOWS

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K A R E N



B U R K E

EXCEPTION TO DEVELOPMENT STANDARDS (PMHC LEP 2011 Clause 4.6 Variation).

- Front Setback to Garage
 - Height of Building
 - Side Setback to Garage
- 5 ORR STREET, PORT MACQUARIE

Port Macquarie – Hastings DCP 2013
C1: LOW DENSITY RESIDENTIAL DEVELOPMENT.

45.Objective

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

Development Provisions

a) A garage, carport or car parking space should:

- be at least 1m behind the building line, where the dwelling(s) has a setback from a front boundary of 4.5m or more, or
- be at least 5.5m from a front boundary, where the dwelling(s) has a setback of less than 4.5m.

Note: The distance to the garage/carport or parking space may be measured to the entry point of the garage/carport or parking space or front posts or walls.

Front Setback

A variation to the front setback to the garage is requested.

The proposed garage setback of 4.5m meets the objectives of the DCP, minimizing its visual dominance on the streetscape and provides functional access. The proposal is also in keeping with surrounding development, as the adjacent residences have similar site conditions, so have located their garages forward of the dwellings. (as demonstrated in the following images)



#3



#7

#9



#11

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Port Macquarie – Hastings Local Environment Plan - 2011
Part 4: PRINCIPAL DEVELOPMENT STANDARDS.

4.3. Height of Buildings

1. The objectives of this clause are as follows—
 - (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
 - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
 - (c) to minimise the adverse impact of development on heritage conservation areas and heritage items,
 - (d) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan.

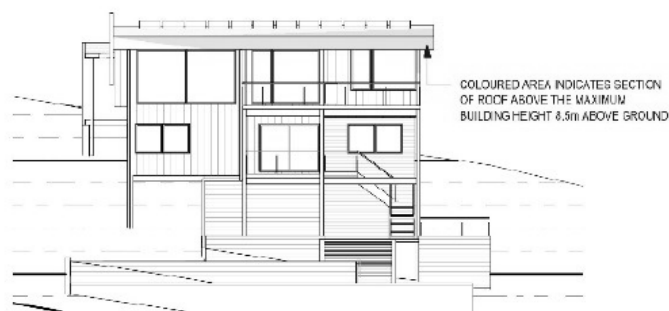
8.5m Maximum Height

A variation to the 8.5m maximum height is requested.

The natural slope of the site falls 12m from the southern street boundary to the northern rear boundary. On such a steep site, to avoid extensive cut and fill, a steel framed, 2 level residence has been proposed, with an attached garage on a mid-level. The outcome of this approach has a section of the roof of the north east corner, exceeding the 8.5m building height. (as indicated on the following images)

NORTH ELEVATION

Coloured area on elevation indicates section of building above the 8.5m height limit. Maximum of 22% variation which is 1.87m.



WEST ELEVATION

The height variation does not create loss of amenity to the adjacent neighbours regarding view loss, loss of privacy or overshadowing.



The eastern neighbour is much higher and is oriented toward the north-east to capture the ocean views. As evident in the image of the western wall of #7, there is one small window on the lower floor, and the windows on the upper floor look across the top of the proposed residence at #5.

WESTERN WALL OF #7



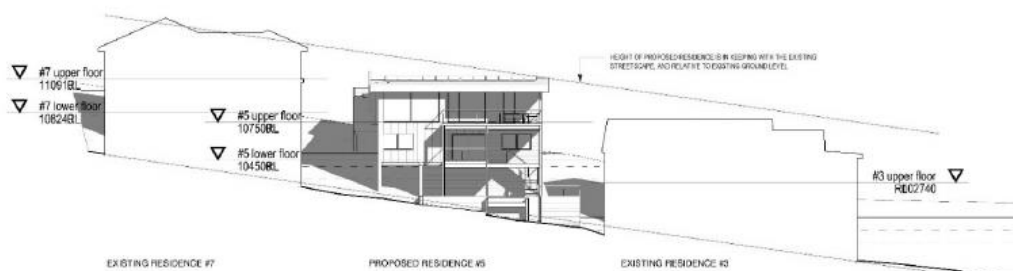
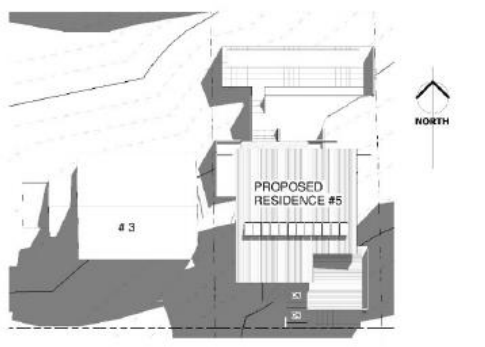
The western neighbour is much lower and living areas orient toward the north west taking in the bushland views of the adjacent reserve. There are also minimal windows on the eastern wall of #3. Thus, views and privacy will not be significantly impacted by the proposed residence.

Due to the North South orientation of the site, there is minimal overshadowing created by the proposed residence, to the lower, western neighbour's living areas, both internal and external. The shadows are off the northern façade and yard area by 10am in June, which is the worst-case scenario. (see following image)

EASTERN WALL OF #3



SHADOWS CAST AT 10AM- JUNE 22



STREETSCAPE – NORTHERN VIEW

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In addition:

NSW Land and Environment Court and NSW Court of Appeal decisions in Wehbe v Pittwater Council (2007)

NSW LEC 827 (Wehbe). 5 part test excerpt.

Note; Test 1, is sufficient to establish that compliance with the development standard is unreasonable in the circumstances of this site

As demonstrated in the above discussion, compliance with the development standard of 8.5m maximum height, would be unreasonable in the circumstances of this site. The proposed development meets all objectives of the DCP and does not impact the amenity of the adjacent neighbours. The proposed development is compatible with the height, bulk and scale of the existing character of the area, does not create visual impact, disruption of views, loss of privacy and loss of solar access to existing development. As demonstrated in the streetscape image, the proposed height provides a transition in built form within the area.

Port Macquarie – Hastings DCP 2013

C1: LOW DENSITY RESIDENTIAL DEVELOPMENT.

46 - 47 .Side and Rear Setback

47 - Objective

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

Development Provisions

- a) Ground floors (being <1m above existing ground level) should be setback a minimum of 900mm from side boundaries.
- b) First floors and above (including single storey with floor level >1m) should be setback a minimum of 3m from the side boundary or reduced down to 900mm where it can be demonstrated that the adjoining property's primary living rooms and principal private open space areas are not adversely overshadowed for more than 3hrs between 9am - 3pm on 21 June.
- c) First floors and above should have building walls that step in and out at least every 1.2m by a minimum of 500mm articulation. Where first floors and above are setback >3m, wall articulation is not required.

Rear Setback

The proposed residence complies with the rear setback requirement of 4m

Side Setback

A variation to the side setback to the garage is requested.

Due to the steepness of the site, and the need to achieve a 4.5m setback, the eastern wall of the garage structure starts at ground level and climbs to 2m above ground at the northern wall. A minimum setback of 1300mm to the eastern boundary is proposed. The reduced setback does not create loss of amenity to the adjacent neighbour at #7 regarding view loss, loss of privacy or overshadowing as the adjacent residence is much higher than the proposed garage and has a 9m setback in this corner of the site.

The remainder of the proposed residence complies with side setback requirements.

Port Macquarie – Hastings DCP 2013
C1: LOW DENSITY RESIDENTIAL DEVELOPMENT.

51 .Bulk and Scale - Objective

- To protect the visual privacy of on-site and nearby residents

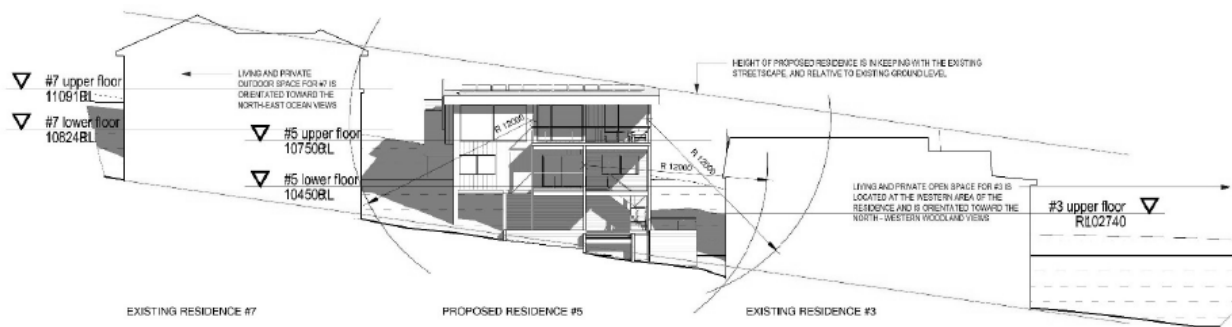
Development Provisions

- a) Direct views between indoor living rooms and principal private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots, including possible dwellings on future lots, should be obscured or screened where:
 - Ground and first floor (and above) indoor living room windows are within a 9m radius.
 - Direct views between principal private open space areas where within a 12m radius.
 - Direct views between indoor living rooms of dwellings into the principal area of private open space of other dwellings within a 12m radius.
- b) A balcony, deck, patio, pergola, terrace or verandah should have a privacy screen where there are direct views of:
 - Indoor living room windows of adjacent dwellings, including proposed dwellings approved on adjoining lots within 9m radius; or
 - Principal areas of private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots within a 12m radius.



APPROX. LOCATION OF ADJACENT LIVING AREAS AND PRIVATE OPEN SPACES

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OUTLOOK WITHIN 12m RADIUS OF PROPOSED UPPER DECK

The elevated residence at #7 is lightweight construction with suspended floors, high on the site to obtain the expansive ocean views to the north east. Thus, indoor living areas and private outdoor decks are both orientated toward the north east, and much higher than the proposed living areas of #5.

Alternatively, the residence at #3 is excavated into the site thus sits much lower than #7 and enjoys the western bushland views over the adjacent reserve. The indoor living areas and related private open spaces are also on the western side of the residence.

As demonstrated in the previous images, there will be no direct views between indoor living areas and related private open spaces, to either neighbour, within a 12m radius of the subject properties proposed living areas and decks.

The steep sites and available views have been governing factors in the existing development on the adjacent lots. Most homes along the northern side of Orr St, have indoor living areas and private open spaces oriented toward the northern views. As the homes are mostly elevated, due to the steepness of the sites, it is impossible not to overlook adjacent residences both to the side and rear.

Port Macquarie – Hastings DCP 2013 *C1: LOW DENSITY RESIDENTIAL DEVELOPMENT.*

56 Ancillary Development - Objective

- To facilitate and sustain certain development as ancillary development.
- Have regard to the desired scale, bulk and height of existing residential development as well as streetscape in the locality.

Development Provisions

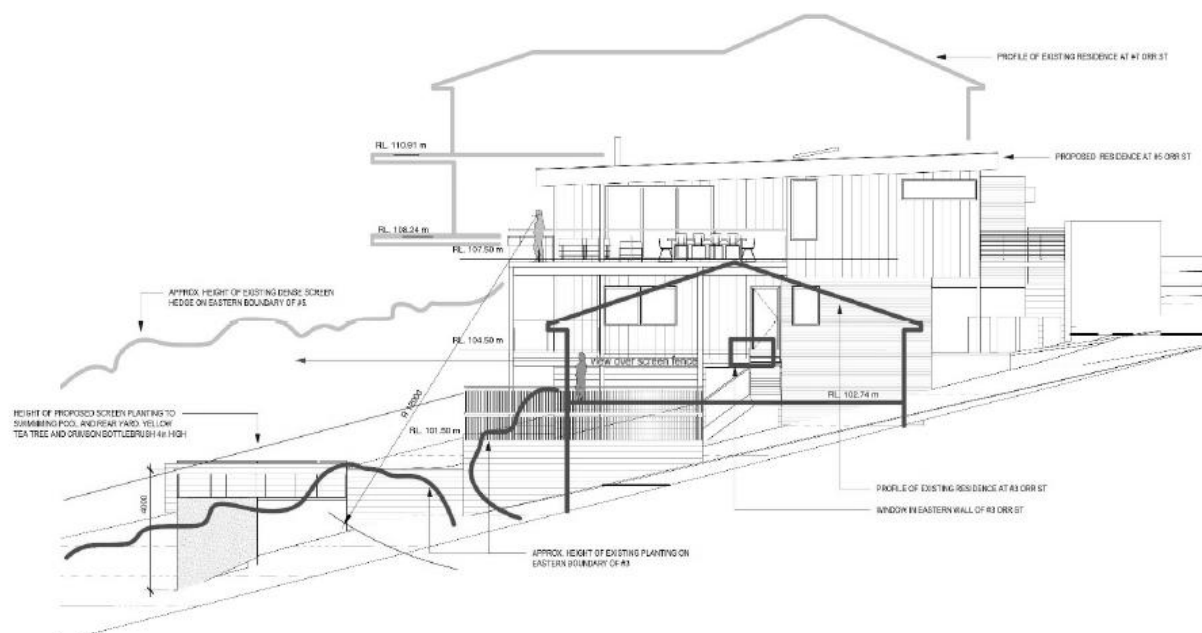
- For ancillary development in R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, R5 Large Lot Residential and RU5 Village zones:
 - The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot should not be more than 4.8m above ground level (existing).
 - The building should be single storey construction with a maximum roof pitch of 24 degrees.
 - The maximum area of the building should be 60m² for lots less than 900m² and maximum of 100m² for larger lots.
 - Ancillary development that is a garage, or an outbuilding, or a rainwater tank should not be located in front of the main building line with the exception of swimming pools.



EXISTING SCREEN PLANTING #3



EXISTING SCREEN PLANTING #7



PROFILES – EXISTING RESIDENCES AND PLANTING

As demonstrated in the above image, there will be no view loss for #3 created by the proposed terrace, swimming pool and screen planting. The existing screen planting on the eastern boundary of #7 blocks any potential view to the east from the upper level of #3. The proposed screen planting of Tea Tree and Bottlebrush will grow to an approx. height of 4m which will add to the existing screen and create privacy from the pool.

To create level areas of open space a terrace design has been incorporated to the rear yard of the proposed residence. As the site is very steep the terrace area sits well above ground level on the northern extent. A minimal offset has been adopted to avoid inaccessible areas that would be difficult to maintain. Given the proximity of the terrace to the boundary, an 1800mm high privacy screen is proposed for the western wall, thus reducing the potential loss of privacy between the rear yards of #3 and #5. This screen will not impact the existing views or increase overshadowing to the living and private open space of #3.

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STREETSCAPE - SOUTH WESTERN VIEW

As demonstrated, the proposed residence is compatible with the scale, bulk and height of surrounding residential development as well as streetscape and landscape in the locality. Given the site constraints of views and the steep topography, the design of the proposed residence, including the variations requested, meets the relevant planning objectives of the zone:

- Have regard to the desired scale, bulk and height of existing residential development as well as streetscape and landscape in the locality
- Be attractive and functional
- Not unduly affect the amenity of neighbours
- Have adequate and functional onsite parking
- Have adequate and functional common and private open space areas on site
- Preserve the building's relationship to natural features
- Provide optimum solar access to public open spaces within the development and adjoining properties
- Ensure ongoing privacy of neighbouring properties

Item: 06

Subject: DA2021 - 1047.1 HEALTH SERVICES FACILITY AT LOT 1 DP
1273684, NO 11 NGAMBA PLACE, BONNY HILLS

Report Author: Development Assessment Planner, Steven Ford

Applicant:	Ngamba Road Pty Ltd
Owner:	Ngamba Road Pty Ltd
Estimated Cost:	\$4,463,000
Parcel no:	69414

Alignment with Delivery Program

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

RECOMMENDATION

That DA2021 - 1047.1 for a Health Services Facility at Lot 1, DP 1273684, No. 11 Ngamba Place, Bonny Hills, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for a Health Services Facility with ancillary pharmacy and kiosk 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, ten (10) submissions were received.

The site is considered suitable for the proposed development and the proposal adequately addresses relevant planning controls. The development is not considered to be contrary to the public's interest and will not result a significant adverse social, environmental or economic impact.

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

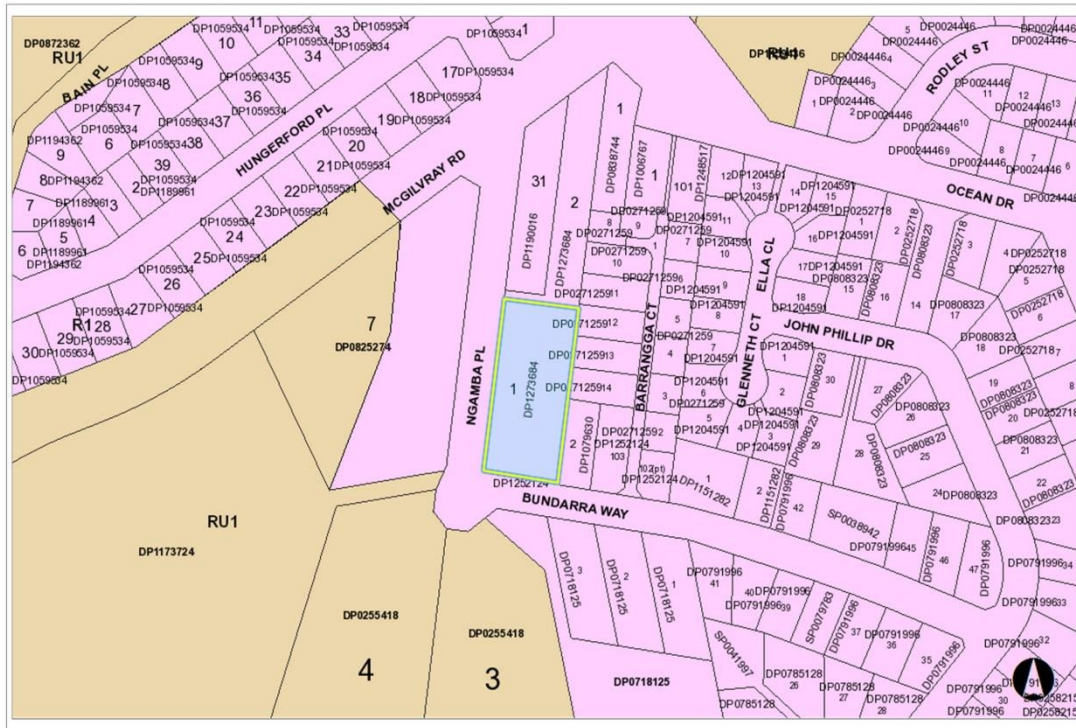
The reason for the application being referred to Council's Development Assessment Panel (DAP) is because three (3) or more objections to the proposal have been received. A copy of the DAP Charter outlining the delegations and functions of the DAP is available on Council's website.

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 3,682.9m².

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



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- 2 Storey health services facility with ancillary pharmacy and café
- All vegetation proposed to be removed is consistent with the existing approval under DA2018/130.
- Approved 128 student childcare facility and manager's residence component to DA2018/130 to be surrendered.
- Intersection of McGilvary Road and Ngamba Place to be upgraded.
- A footpath and kerb and gutter along the Ngamba Road frontage, as well as the installation of stormwater infrastructure

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

Application Chronology

- 25 November 2021 - Application received
- 08 December 2021 to 14 January 2022 - Public Notification Period
- 04 January 2022 - Essential Energy comments received
- 28 January 2022 - Request for Information sent to Applicant
- 08 March 2022 - Amended Plans, Stormwater management report and additional information received from Applicant
- 05 April 2022 - Tree clearing commenced under DA2018/130

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 (Biodiversity and Conservation) 2021
Chapter 4 Koala Habitat Protection 2021

Clause 6 - This SEPP applies to all non-rural zoned land within the Port Macquarie-Hastings Local Government Area.

Clause 12 (other land - not subject to Clause 10 or 11) - Having considered the SEPP, the application and on completion of a site inspection, Council is not prevented from granting consent in this case for the following reasons:

1. The property is not subject to a KPOM, or
2. The site not considered to be core koala habitat.
3. the site does not have evidence or signs of a resident Koala, hence the loss of the current Koala food trees is not likely to lead to stress on any existing local population. The tree loss will be offset via planting of 6 Tallowwoods and other natives.

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 (Industry and Employment) 2021
Chapter 3 Advertising and Signage

The proposed development includes proposed advertising signage in the form of business/building identification on the Northern and Southern Façade and Driveway entrance.

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:

Applicable clauses for consideration	Comments	Satisfactory
Clause 8(a) Consistent with objectives of the policy as set out in Clause 3(1)(a).	Proposed signage is generally consistent with the aims and objectives of the SEPP.	Yes
Schedule 1(1) Character of the area.	The character of the locality is primarily residential. The immediate street frontage of Ngamba Place. has large lot residential properties. No adverse impacts to character can be identified noting the signage is limited in scale.	Yes

Schedule 1(2) Special areas.	NA	NA
Schedule 1(3) Views and vistas.	There are no identifiable significant views or vistas from adjoining residential properties impacted by the proposed development that would support refusal. The proposal does not dominate the skyline or reduce quality vistas	Yes
Schedule 1(4) Streetscape, setting or landscape.	The proposed signs are business identification purposes. One at the car park entry facing Ngamba Place, southern façade and northern façade. The signs do not protrude above the building and cause any adverse impacts. The signs will contribute to identify the building and land use.	Yes
Schedule 1(5) Site and building.	The proposal is sympathetic to the scale of the building and respects the future character of the R1 land zoning.	Yes
Schedule 1(6) Associated devices and logos with advertisements and advertising structures.	The signs have been kept minimal, do not advertise any products and do not require regular maintenance or safety platforms.	Yes
Schedule 1(7) Illumination.	No flashing lights proposed. Proposed Illumination is capable of being controlled by standard conditions.	Yes
Schedule 1(7) Safety.	There are no adverse impacts to safety identifiable that could be caused by the proposed signage.	Yes

State Environmental Planning Policy (Transport and Infrastructure) 2021

Clause 45 - Development in proximity to electricity infrastructure - referral to Essential Energy has been completed having regard for any of the following:

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
- (b) development carried out:
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
 - (ii) immediately adjacent to an electricity substation, or
 - (iii) within 5m of an exposed overhead electricity power line,
- (c) installation of a swimming pool any part of which is:
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool.

Essential Energy have no specific concerns regarding the development, but have provided some general advice. The advice received from Essential Energy has been forwarded the Applicant for consideration.

Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 2.2 - The subject site is zoned R1 General Residential.
- Clause 2.3(1) and the R1 zone landuse table - The proposed development for a Health Services Facilities with ancillary uses are permissible landuses with consent. The Applicant has demonstrated that the ancillary pharmacy and café will be ancillary to the primary proposed use. These additional facilities will predominately service clients and staff using the health services facility.

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 and achieves the zone objectives
 - Clause 4.3 - The maximum overall height of the building above ground level (existing) is 8.5 m 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 0.5:1, which complies with the maximum 0.65:1 floor space ratio applying to the site.
 - 1. Note: The site has an area of 3,683m² enabling a maximum floor area on
 - 2. site of 2,393.95m². The proposed building has a total floor area of
 - 3. 1,198.71m² (including vertical circulation areas).
 - 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. Provision of electricity will be subject to obtaining satisfactory arrangements.

4.

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

No draft instruments apply to the site.

(iii) Any Development Control Plan in force

Port Macquarie-Hastings Development Control Plan 2013

DCP 2013: Part B - General Provisions - B1: Advertising and Signage			
DCP Objective	Development Provisions	Proposed	Complies
1	a) Signs primarily identifying products or services are not acceptable, even where relating to products or services available on that site.	Application indicates that signs will be business identification sign only.	Yes

	b) 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 signage may separately be approved by Council under the Roads Act 1993 or section 68 of the Local Government Act 1993.	Signs contained within property boundaries.	Yes
	c) 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 ² , and should contain a sign written heading indicating the premises to which it refers.	N/A	N/A
	d) On-premise signs should not project above or to the side of building facades	Signs do not project above or to the sides of the fence or building facades.	Yes
2	a) 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.	Signs not proposed to be illuminated or digital.	N/A

DCP 2013: Part B - General Provisions - B2: Environmental Management			
DCP Objective	Development Provisions	Proposed	Complies
3	a) Development must comply with Council's Developments, Public Place & Events - Waste Minimisation and Management Policy.	The Statement of Environmental Effects indicates that medical waste will be collected by a private contractor within the north-west corner of the site. A standard condition is recommended regarding the management of construction waste.	Yes
Cut and Fill Regrading			
4	a) Development shall not exceed a maximum cut of 1.0m and fill of 1.0m measured vertically above the ground level (existing) at a distance of 1.0m outside the perimeter of the external walls of the building (This does not apply to buildings where such cut and fill is fully retained within or by the external walls of the building).	Site slopes from south to north by approximately 11m. The application therefore seeks to provide a number of retaining walls to ensure suitable levels and grades for the building, car parking and access in between. Retaining walls are proposed within the lot boundary and provide level car parking facilities and appropriate access circulation.	No, but considered acceptable. See justification below.
5	a) A certified practicing structural engineer must certify any retaining wall greater than 1.0m.	None provided. However, a draft condition is proposed for structural engineering to be provided prior to the construction certificate.	No, but capable of being managed by the recommended condition
	b) Where a combination of a fence and a wall is proposed to be greater than 1.2m high: – be a maximum combined height of	N/A	N/A

	1.8m above existing property boundary level; – be constructed up to the front boundary for a maximum length of 6.0m or 30% of the street frontage, whichever is less; – the fence component has openings which make it not less than 25% transparent; and – provide a 3m x 3m splay for corner sites, and – provide a 900mm x 900mm splay for vehicle driveway entrances.		
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DCP 2013: Part B - General Provision - B3: Hazards Management

DCP Objective	Development Provisions	Proposed	Complies
Bushfire Hazard Management			
18	a) APZs are to be located outside of environmental protection zones and wholly provided within private land. Note perimeter roads provided as part of a residential subdivision are classified as being part of the subdivision and not a separate permissible land use within environment protection zones.	N/A - No bushfire management measures required.	N/A
	b) Perimeter roads are to be provided to all urban areas adjoining environmental management areas and their buffers. Refer to Figure 2.	N/A	N/A
Flooding			
19	a) Development must comply with Council's Floodplain Management Plan and Flood Policies.	All works associated with the proposed development are located above the flood planning level.	N/A

DCP 2013: Part B- General Provisions- B4: Transport, Traffic Management, Access and Car Parking			
DCP Objective	Development Provisions	Proposed	Complies
Road Hierarchy			
23	a) New direct accesses from a development to arterial and distributor roads is not permitted. Routes should differ in alignment and design standard according to the volume and type of traffic they are intended to carry, the desirable traffic speed, and other factors.	No direct access proposed from arterial or distributor roads proposed.	Yes
	b) Existing direct accesses from a development to arterial and distributor roads are rationalised or removed where practical.	N/A	N/A
	c) Vehicle driveway crossings are minimal in number and width (while being adequate for the nature of the development), and positioned: <ul style="list-style-type: none"> – to avoid driveways near intersections and road bends, and – to minimise streetscapes dominated by driveways and garage doors, and – to maximise on-street parking. 	Proposed driveways are considered to be appropriately positioned and do not have any identifiable adverse impacts to the existing streetscape. The proposed access crossovers have been reviewed by Council's Development Engineers and are considered suitable.	Yes
Parking Provision			
24	a) Off-street Parking is provided in accordance with Table 3. Health Facility - 3 per consultant + 1 per 2 employees for medical centres Retail premises - 1 space per 30m ² Kiosks - Outside of commercial zones: 1 per 6m ² serviced floor area.	Health service facility - Total of Nine (9) F/T equivalent consultants. = 27 spaces Total of twelve (12) employees/staff. = 6 spaces Tenancy 2 (Pharmacy), total area of 89.01m ² . = 3 spaces Tenancy 1 (Kiosk), total area of 65m ² . = 11 spaces	Yes

		<p>Total required = 47 spaces</p> <p>The submitted plans provide 47 spaces, including 4 accessible spaces, for the total development. This is considered to satisfy the objectives of this clause and minimum onsite car parking.</p> <p>A condition is recommended requiring appropriate signposting/line marking to confirm the use of these spaces, and to ensure that the client parking remains available for use.</p>	
	b) Where a proposed development does not fall within any of the listed definitions, the provision of on-site parking shall be supported by a parking demand study.	N/A	N/A
	c) Where a proposed development falls within more than one category Council will require the total parking provision for each category.	Noted and has been considered above.	N/A
25	a) A development proposal to alter, enlarge, convert or redevelop an existing building, whether or not demolition is involved, shall provide the total number of parking spaces calculated from the schedule for the proposed use, subject to a credit for any existing deficiency, including any contributions previously accepted in lieu of parking provision.	No parking credits applicable.	N/A

Parking Layout			
28	a) Visitor and customer parking shall be located so that it is easily accessible from the street.	Proposed parking is considered to be easily accessible. The two car parks have two-way driveway entries off Ngamba Place appropriately located in the context of the streetscape.	Yes
	b) Internal signage (including pavement markings) should assist customers and visitors to find parking and circulate efficiently and safely through a car park.	The parking area is relatively small and wayfinding signage is not considered necessary.	N/A
	c) Parking spaces shall generally be behind the building line but may be located between the building line and the street when: <ul style="list-style-type: none"> – it is stacked parking in the driveway; or – it can be demonstrated that improvements to the open space provided will result; and – the spaces are screened (densely landscaped or similar) from the street by a landscaping with a minimum width of 3.0m for the entire length of the parking area. 	<p>Parking spaces are at either side of the proposed building. The proposed site plans indicate adequate landscaping is proposed between the car parking area and the street.</p> <p>The position of the carparks provides accessibility to each level and minimises the impact of the proposed development to the streetscape.</p>	Yes
	d) Parking design and layout is provided in accordance with AS/NZS 2890.1 - Parking facilities - Off-street car parking and AS 2890.6 - Off-street parking for individuals with a disability and AS/NZS 2890.2 - Parking facilities - Off-street commercial vehicle facilities.	The proposal is capable of complying with AS2890. Standard conditions recommended requiring certification of the design and construction of the parking area.	Yes
	e) Stack or tandem parking spaces will not be included in assessment of parking provision except where: <ul style="list-style-type: none"> – the spaces are surplus to that required; – in motor showrooms; – for home business; 	N/A	N/A

	<ul style="list-style-type: none"> - for exhibition homes; - in car repair stations; - staff parking spaces are separately identified and delineated; - it is visitor parking associated with a dual occupancy multi dwelling and/or terrace housing, directly in front of the garage with a minimum depth of 5.5m. 		
29	a) Parking is provided in accordance with AS/NZS 2890.1 - Parking facilities - Off-street car parking, AS/NZS 2890.2 - Parking facilities - Off-street commercial vehicle facilities, AS 1428 - Design for access and mobility and AS 2890.6 - Off-street parking for individuals with a disability.	The proposal is capable of complying with AS2890. Standard conditions recommended requiring certification of the design and construction of the parking area.	Yes
Surface Finishes			
35	<p>a) All parking and manoeuvring areas shall be constructed with a coarse base of sufficient depth to suit the amount of traffic generated by the development, as determined by Council. It shall be sealed with either bitumen, asphaltic concrete, concrete or interlocking pavers.</p> <p>Preliminary details of construction materials for access and car parking areas shall be submitted with the development application. Detailed plans shall be prepared for the construction certificate by a practising qualified Civil Engineer.</p>	Sealed parking indicated on the plans. Condition recommended confirming this requirement.	Yes
	b) In special cases (e.g. where traffic volumes are very low) Council may consider the use of consolidated unsealed gravel pavement for car parks. However, this should not be assumed and will need to be justified by the applicant at the Development Application stage.	N/A	N/A

Drainage			
36	a) All parking and manoeuvring spaces must be designed to avoid concentrations of water runoff on the surface.	Engineering plans provided. Standard conditions recommended requiring certification of the design and construction of stormwater drainage.	Yes
	b) Council will not permit the discharge of stormwater directly into kerbing and guttering or table drains for any development other than that of a minor nature.	No discharge to kerb and gutter proposed.	Yes
37	a) Car parking areas should be drained to swales, bio retention, rain gardens and infiltration areas.	All runoff from parking areas to be directed to on-site detention facilities.	Yes

DCP 2013: Part B - General Provisions - B5: Social Impact Assessment and Crime Prevention

DCP Objective	Development Provisions	Proposed	Complies
Crime Prevention			
43	a) The development addresses the generic principles of crime prevention: <ul style="list-style-type: none"> – Casual surveillance and sightlines; – Land use mix and activity generators; – Definition of use and ownership; – Basic exterior building design; – Lighting; – Way-finding; and – Predictable routes and entrapment locations; – as described in the Crime Prevention Through Environmental Design (CPTED) principles. 	<p>The proposal provides for a land use mix and activity generator, there will be an increase in casual surveillance during business hours and the building is capable of including security measures for other times.</p> <p>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.</p>	Yes

The proposal seeks to vary Development Provision relating to Clause 4 - earthworks exceeding the 1m standard.

The relevant objectives are:

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

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

- Along the eastern property boundary the site slopes from south to north falling 11.1 metres (SE corner RL 27.5m AHD down to NE corner RL 16.4m AHD).
- There are a number of retaining walls across the site to provide suitable grades for car parking, building footprint, pedestrian access and landscaping.
- The large proposed retaining wall is up to 3m in height on the southern part of the site between the boundary and car parking. This is the highest point of the site and the retaining wall is cut into the slope to provide suitable car parking grades.
- A servicing strategy has been prepared in support of the proposal ensuring that the existing and proposed stormwater is managed appropriately and is not impacted by the proposed retaining walls.
- The site is a corner allotment, the proposed retaining walls are not considered likely to detrimentally impact the adjoining properties.
- Setting down the southern car park will be beneficial to the streetscape, and reduce visibility of the car park from the adjoining housing to the east and south.
- The retaining walls are proposed to be set a minimum of 1m from the adjoining boundaries, providing sufficient room for landscaping treatment and drainage. Engineering detail will be required to be finalised prior to the Construction Certificate.

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

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

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

(iv) Any matters prescribed by the Regulations

N/A

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

Context and Setting

The site is located on the corner of Ngamba Place and Bundarra Way, Bonny Hills.

The site is located centrally in the context of Bonny Hills. The site is located in an area that is predominately occupied by residential dwellings. The immediate locality has undergone considerable development in recent years with residential development.

The proposal will not have significant adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.

The setbacks for the proposed building are similar to residential development setbacks and considered appropriate.

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

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

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts.

There are no significant adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June between the hours of 9am and 3pm.

Traffic and Transport

The site has road frontage to Ngamba Place on the West, and Bundarra Way to the South. Ngamba Place is a Council owned road consisting of an approximately 6.5m wide spray seal pavement with 0.3m gravel shoulders on each side. The road reserve is approximately 20m wide, and is classified by PMHC as a local access street. In accordance with Auspec table D1.5, a local road typically caters for up to 2000 vehicles per day.

Bundarra Way is a Council owned road consisting of an approximately 7m wide spray sealed pavement, within a 19m wide road reserve. Bundarra Way has type SM (rollover) kerb and gutter immediately to the east of the site and is classified as a local street.

In close proximity to the site, McGilvray Road is a sealed road approximately 9 metres in width and is classified as a Collector Road. In accordance with Auspec table D1.5, a collector road typically caters for up to 6000 vehicles per day.

Under a previously approved DA (2018-130), the site was granted consent to contain a 128 place Childcare Centre. A traffic assessment was prepared in support of this application, which identified that the Childcare Centre would generate potential peak vehicle trips of 103 (AM) and 90 (PM). This assessment was based on the RMS' Guide and included SIDRA modelling which identified the intersection between McGilvray Road and Ocean Drive as experiencing the greatest impact from the proposed development.

The applicant noted in their Statement of Environmental Effects (SOEE) that relevant to the previous traffic assessment, the RMS's Guide to Traffic Generating Development (2002) only provides traffic generation rates for extended hour's medical centres. This proposal is not for an extended hour's medical centre. The

SOEE notes that the previous medical centre surveys carried out resulted in a variance in generation rates and states:

“The proposed medical centre will operate via appointment only during typical operating hours and is therefore considered unlikely to experience peaks similar to the previously approved childcare centre. Appointments will typically be 15 minutes to half an hour in length and it is therefore considered that traffic generation will be more consistent throughout the proposed opening hours.”

The submitted details have been reviewed as being satisfactory, and considers that the proposal will not have any significant adverse impacts in terms of access, transport and traffic, the existing road network will satisfactorily cater for any increase in traffic generation as a result of the development. It should be noted that the previous Traffic Impact Assessment of 2018 for the childcare centre, estimated that Ngamba place has 639 daily trips (Vehicles per day), significantly under the maximum of 2000 V/pd considered applicable for a local street.

Conditions have been imposed to construct intersection improvement works at the intersection of Ngamba Place & McGilvray Road. These works will help accommodate the safe access of vehicles due to the increase in traffic associated with the proposed development.

Site Frontage and Access

The proposal seeks to provide two (2) separate two-way driveway entries off Ngamba Place. (Note, there is a narrow parcel of private land between the proposed development and Bundarra Way)

The southern car park includes a circular movement pattern allowing forward in and forward out traffic movements. Similarly, the northern car park includes a turnaround bay to enable forward in and forward out traffic movements.

The southern driveway entrance is located approximately 30 metres from the corner of Bundarra Way, whilst the northern driveway entrance is approximately 75m from Bundarra Way and 90m from the intersection of Ngamba Place and McGilvray Road. The driveway locations are considered appropriate for the site. All accesses shall comply with Council AUSPEC and Australian Standards, and conditions have been recommended to reflect these requirements.

Due to the type and size of development, additional works are required to include:

- kerb and gutter along the full road frontage
- concrete footpath paving (minimum 1.2m wide) along the full frontage

Site plans submitted in support of the Development Application indicate above works have been included.

Parking and Manoeuvring

Plans submitted as a part of this application demonstrates the sites ability to accommodate a total of 47 spaces on-site including 4 disability compliant spaces. An emergency bay has also been provided.

Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been imposed to reflect these requirements.

Due to the type of development, car park circulation is required to enable vehicles to enter and exit the site in a forward manner without reversing or exiting the car parking facility whilst looking for a parking space internally. Site plans show adequate area is available and conditions have been recommended to reflect these requirements.

Water Supply Connection

The proposed development site is located at 11 Ngamba Place, Bonny Hills, on the corner of Bundarra way. There is an existing 20mm metered water service from the 100mm water mains on the same side of Ngamba Place. An application shall be made to Council to disconnect this service. Minimum 25mm water services are to be provided for Commercial developments and include an RPZ.

Final water service sizing will need to be determined by a hydraulic consultant to suit the development as well as addressing fire service coverage to AS 2419 and backflow protection.

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

Appropriate conditions are recommended in this regard.

Sewer Connection

There is existing Council sewer located in the road reserve of Ngamba Place. This development exceeds 2ET and is required to discharge to a manhole. Manholes located in driveways shall require trafficable lids and any alterations to lid levels shall be in accordance with Aus-Spec. Details to be provided on the plans. Detailed plans will be required to be submitted for assessment with the S.68 application.

Appropriate conditions are recommended in this regard.

Stormwater

The site naturally grades towards the northern boundary and is currently (un)served. The legal point of discharge for the proposed development is defined as direct connection into the proposed 375mm pipe along Ngamba Place. A detailed site stormwater management plan will be required to be submitted for assessment with the S.68 application and prior to the issue of a CC. In accordance with Councils AUSPEC requirements, the following must be incorporated into the stormwater drainage plan:

- On site stormwater detention facilities.
- Water quality controls

Appropriate conditions are recommended in this regard.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

Following a site inspection (and a search of Council records), no known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated.

As a precaution, a condition of consent has been recommended that works are to cease in the unexpected event heritage items are found. Works can only recommence when appropriate approvals are obtained for management and/or removal of the heritage item.

Other land resources

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

Water cycle

The proposed development will not have any significant adverse impacts on water resources and the water cycle.

Soils

The proposed development will not have any significant adverse impacts on soils in terms of quality, erosion, stability and/or productivity subject to a standard condition requiring erosion and sediment controls to be in place prior to and during construction.

Air and microclimate

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

Flora and fauna

The proposed development includes clearing of 3 primary koala food trees. However, it is noted that these trees have been cleared during the assessment under an existing approval (DA2018/130). The Biodiversity Offset Scheme doesn't apply for the following reasons:

- The land isn't identified on the Biodiversity Values Map;
- The extent of clearing is below the thresholds in Clause 7.2 of the Biodiversity Conservation Regulation 2017;
- The application of test of significance (5 Part Test) demonstrates that the development will not have a significant impact on biodiversity values.
- Offset planting is proposed with 6 koala food trees.

Conditions have been recommended requiring evidence of offset planting has been established prior to occupation.

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 Section J of the Building Code of Australia. No adverse impacts anticipated.

Noise and vibration

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

Noise during the operation of the health care facility will likely be generated from traffic movement, outdoor areas, patients and staff during the operating hours.

Noise emitted would be infrequent depending on time of day. Noise at the boundary of adjoining properties is likely to be acceptable levels having regard for the residential uses, the typical hours of operation, the site being within the proximity of a busy road (Ocean Drive).

Acoustic fencing in proposed adjoining the proposed car parks along the eastern boundary. This is consistent with the mitigation measure of the previous approval for a Childcare Facility. The plans also provide for acoustic screening for air conditioning units along the eastern elevation, to dampen external noise from plant equipment. This will be further managed by recommended conditions.

Bushfire

The site is identified as being bushfire prone. The site will remain predominately cleared and will not require any special asset protection zones. In this regard, the proposed building is considered an infill development and Class 5 building, being used by general medical practitioners and medical specialists, without leaving patients unconscious or non-ambulatory. The aims and objectives of the Planning for Bushfire Protection 2019 will be satisfied.

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. Adequate casual surveillance is available.

Social impacts in the locality

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

Economic impact in the locality

The proposal is not considered to have any significant adverse economic impacts on the locality. A likely positive impact is that the development will maintain employment, less reliance of travel for general medical appointments, which will lead to flow impacts such as expenditure in the area.

Site design and internal design

The proposed development design satisfactorily responds to the site attributes and will fit into the locality.

Construction

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

Cumulative impacts

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

(c) The suitability of the site for the development

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

Site constraints of bushfire risk, access, slope and drainage have been adequately addressed and appropriate conditions of consent recommended.

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

Ten (10) written submissions were received following public exhibition of the application. Copies of the written submissions have been provided separately to members of the DAP.

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

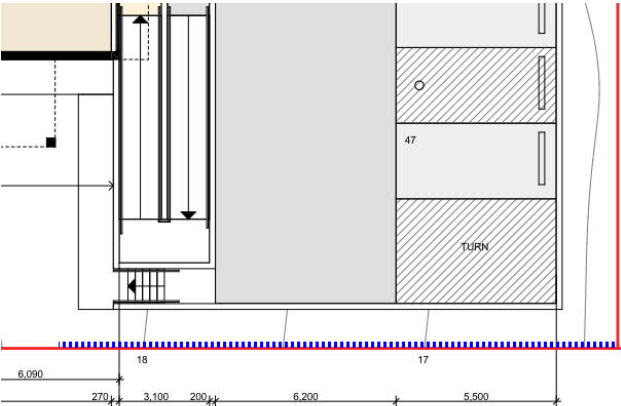
Submission Issue/Summary	Planning Comment/Response
<p>Consideration of privacy screening on the staff rooms and verandah to the neighbouring dwellings to the east.</p>	<p>The proposal includes a 3 metre wide verandah off the eastern elevation of the building to provide an external break out space for staff only and not for the general public or consultations. Given the nature it is anticipated that the use of the space will be infrequent.</p> <p>With respect to screening, the application seeks to provide a solid 1 metre high balustrade which will ensure that seated views to the east are obscured.</p> <p>The proposed 6.9 metre setback of the verandah from the eastern boundary is considered to suitable separation to the adjoining dwellings to the east and would generally comply with side and rear setbacks in the Port Macquarie Hastings Development Control Plan 2013.</p> <p>The application also seeks to provide a number of trees between the building and the eastern property boundary. These trees are detailed external works/planting plan. These trees are considered to provide suitable visual screening and positively contribute to the amenity once established.</p> <p>In addition, the nature of the use of the building is limited to the hours of operation and it will be unlikely used outside of these times.</p> <p>It is considered that that adequate design provisions have been included and the verandah is unlikely to cause significant adverse impact to privacy and amenity to adjoining dwellings.</p>
<p>The presented plans identify the building structure is situated 9,929mm off the eastern boundary. This places the</p>	<p>Clause 51 is contained within the <i>Low Density Residential Development</i> section of the DCP and does not technically apply to the proposed medical centre.</p>

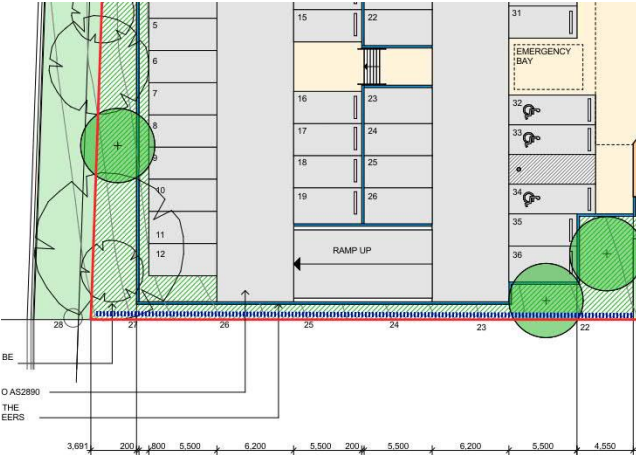
Submission Issue/Summary	Planning Comment/Response
<p>eastern consult windows and staff deck areas within a 12m radius of the principle areas of private open spaces of our dwelling. Clause 51 bulk and scale development provisions of the DCP 2013 have not been considered.</p>	<p>However, the Applicant notes that due to the nature of the proposed landuse, doctor/patient confidentiality typically applies to the medical centre. This includes ensuring consultation discussions are not overheard by neighbours and client privacy is maintained just as much as adjoining development.</p> <p>Further, the intent of Clause 51 of the DCP is to <i>'protect the visual privacy of on-site and nearby residents'</i>. As described above, the proposed setback coupled with the fencing and landscaping treatment is considered satisfactory to ensure that the proposed medical centre is consistent with the objective of this provision.</p>
<p>Commercial premises and business premises are not permitted in R1 General Residential Zoning. A health facility is a "Business" therefore should be rejected by council. Please provide additional comment to the justification of a Healthcare Facility within a R1 zone.</p>	<p>The subject site is zoned R1 General Residential zone and the proposed development for a Health Services Facility is a permissible landuse with consent.</p> <p>The proposed development is not characterised and specifically excluded as a business premises by the definition in the Port Macquarie Hastings Local Environmental Plan 2011.</p> <p>The Applicant has demonstrated that the Health Care Facility is the primary use and the Pharmacy and Café will be ancillary use to this primary use.</p>
<p>Cafés and Kiosks are not permissible within R1 zones.</p> <p>In addition, outdoor door dining will increase opportunity for noise generation impacting the amenity of the area.</p>	<p>The proposed kiosk is considered an ancillary use to the primary use, being the Health Services Facility (Medical Centre). The café and pharmacy is considered small scale will predominately service patients and staff, all likely to be from the immediate locality.</p> <p>The kiosk has been positioned not directly adjoining existing residence, addressing the lower car park and street frontage. The kiosk is considered unlikely to generate any detrimental noise impacts and will have limited service times.</p> <p>The Applicant anticipates the kiosk will be similar to the mobile food trailer at the Lake Cathie Medical Centre. However, it will be positioned within the building rather than a exempt mobile food trailer positioned on private land.</p>
<p>A development of this scale this is far from the character of the streetscape with semi-rural</p>	<p>The bulk and scale if the proposed development is generally consistent with the childcare centre approved under DA2018/130</p>

Submission Issue/Summary	Planning Comment/Response
properties fringe and general residential premises. The proposed development will have adverse impacts on the existing amenity.	<p>with regards to the building.</p> <p>The built form is considered less than the Floor Space Ratio provisions defined by the Port Macquarie Hastings Local Environmental Plan 2011. All side setbacks are considered consistent with the Port Macquarie Hastings Development Control Plan 2013.</p> <p>The proposal is considered to have a reduction in peak traffic and is considered not to have identifiably more adverse impacts regarding noise when compared to a childcare centre.</p>
The area will become busy and congested due to a major increase in continuous traffic throughout the day.	<p>The application seeks to undertake improvement works at the intersection of Ngamba Place and McGilvray Road to adequately manage traffic at the intersection.</p> <p>The application also seeks to provide kerb and guttering along the Ngamba Place frontage as well as within Bundarra Way. This will result in a slight widening of the sealed road surface and therefore improve traffic flow within the immediate area.</p>
Additional traffic will only be detrimental to the existing road surface and traffic concerns. With the extra traffic due to the development, and not being completely sealed, the water will continue to undermine both new and old works making it an ongoing maintenance issue.	<p>The Applicant seeks to provides intersection and road improvements, refer to comments above and earlier in this report.</p> <p>With respect to drainage and stormwater, the development seeks to manage stormwater such that pre and post development flows will not change. This will be managed by installation of kerb and guttering, extension of existing public piped stormwater network, and onsite detention. Council's Stormwater Engineers have reviewed the engineering detail and support the proposal subject to conditions.</p>
<p>Has there been owner's consent regarding clearing of the narrow strip of land between the proposed development and Bundarra Way (Lot 102 DP1252124)?</p> <p>Confirm whether or not works proposed extend or impact this land</p>	<p>The site is currently separated from Bundarra Way by Lot 102 DP1252124, which is a 1m wide allotment running for the full length of the subject site's southern boundary. The Applicant is aware of this concern, advises that previous discussions with the landowner regarding purchase were not successful. The proposal therefore does not extend onto to this land.</p>
The location of the parking area entry and exit is a traffic safety issue due to its proximity to Bundarra Way. There are many near misses with the way it is now, due to sightlines. With the	<p>The site is currently vacant and there are no formal driveway crossovers.</p> <p>The proposed driveway to the southern car park is 30m from the corner of Ngamba Place and Bundarra Way. The location is considered</p>

Submission Issue/Summary	Planning Comment/Response
<p>increase in traffic, it makes it unsafe for the road user along with the patients entering and exiting the facility. What traffic safety measures have been considered for the corner of Bundarra Way and Ngamba Place?</p>	<p>to have appropriate separation to the intersection with regards to sightlines. The nature of traffic the traffic is limited to 50km/h speed limit, and vehicles should slow entering the corner should have enough time to react to vehicles entering and exiting the proposed development.</p> <p>As discussed earlier in this report, kerb and guttering and pedestrian path will be provided for the entire frontage of this site which will improve road safety.</p>
<p>Traffic exiting Bundarra way consistently cross to the wrong side of the road and travel too fast which is a menace itself. The anticipated overflow of vehicles from the proposal making it even more dangerous to all road users, especially those of the immediate neighbourhood.</p>	<p>As discussed earlier, the proposed development does not adjoin Bundarra Way and access to the site is restricted to Ngamba Place.</p> <p>The proposed development complies with the minimum off street car parking spaces required when the Health Care Facility is operating at capacity of health care professionals and ancillary uses. The concern raised regarding the dangerous corner, appears to be an existing issue which will not be adversely affected. Following the development of the site and Ngamba Place, regular road users will become more aware and naturally slow down.</p>
<p>The small upgrades on the proposed healthcare facility side do nothing to increase the overall long-standing issues of services, fully curbed road, paths, or lighting. Has there been consideration towards upgrading both sides of Ngamba Place.</p>	<p>The proposed development seeks to provide the following improvements within the public road reserve:</p> <ul style="list-style-type: none"> • Line-marking and raised median at the intersection of Ngamba Place and McGilvray Road, • Upgrading of the eastern side of Ngamba Place to include a wider road surface and upright kerb and gutter, • Improved piped stormwater network for the full length of the sites Ngamba Place frontage, and • Installation of a 1.2m wide concrete footpath for the full length of the sites Ngamba Place frontage. <p>It is noted that the other side of Ngamba Place is zoned R1 General Residential and is capable of being development. At which time the other side of Ngamba Place will be upgraded with kerb and guttering. The application does not seek to undertake works to the western side of Ngamba Place.</p>

Submission Issue/Summary	Planning Comment/Response
<p>The off street car parking justification seems to underestimate the number of consultants. If the centre is fully staffed and tenanted the off street car parking provided will be insufficient.</p>	<p>As discussed earlier in this report, the proposed car parking proposed complies with the numerical requirements of the Port Macquarie Hastings Development Control Plan 2013.</p>
<p>Based on the proposed use of the tenants on the ground floor a total of 24 car spaces has been identified as being required, with 11 required for the kiosk alone. However, the total 4 separate tenancies on the lower ground will be serviced directly by 11 car spaces only.</p> <p>The concern is that patrons would not utilise the car spaces on the southern end of the site (that provide access to the upper floor of the development) as it would not be convenient to do so. The concern is that people attending the premises will opt to park on the street.</p>	<p>Both car parking areas will be available for use by all tenancies and clients. There will be no dedicated or restricted parking spaces for health care professionals. The number of spaces provided on-site is consistent with the numerical requirements of the Port Macquarie-Hastings Development Control Plan 2013.</p> <p>It is also noted that the allied health services offered on the lower floor level will be complimentary to the primary use, being the medical centre. As such, it is considered likely that the majority of patrons will utilise the larger, upper level car park and will use the internal lift and stairs to access the lower level services.</p> <p>The design provides access to car parking for both of the proposed levels. If no parking was provided at the northern end, then it would be likely that people would park on the street to access the lower level. The proposed plans demonstrate that suitable access is provided between each level.</p> <p>Additionally, the development provisions require a minimum of on-site parking space and does not require the spaces to be evenly distributed with regards to direct access.</p> <p>Refusal of the application on parking grounds would be unjustifiable.</p>
<p>There are many examples of similar healthcare facilities not catering for enough off street car parking. Concerns regarding overflow car parking will substantially increase the risk of accidents due to the narrowness of Ngamba Place and increased on street car parking.</p>	<p>As outlined earlier in this report and in the above comments, the proposed off-street parking is consistent with the numerical requirements of the Port Macquarie-Hastings Development Control Plan 2013.</p>
<p>With no room available for future expansion of car park in the development, and, with the current increase in demand for</p>	<p>The proposed number of consultants and support staff is limited and is proposed to be conditioned in the draft consent.</p>

Submission Issue/Summary	Planning Comment/Response
medical services with the increase of population in the area, it is predicted that vehicle parking will overflow to Ngamba Place and become a long-term concern.	The proposed number of car parking spaces comply with the requirements of the Port Macquarie Hastings Development Control Plan 2013. No further consideration is required for future expansion.
Please confirm stormwater consideration have been considered in the design and that it will not undermine properties to the east.	An engineering servicing strategy has been provided and been reviewed by Council's Development Engineers and Stormwater Engineers as being acceptable. See additional comments earlier in this report.
Issue of noise emanating from the development will have adverse impacts to adjoining residential development from air conditioning and plant equipment.	<p>The Applicant has amended the proposed plans to indicate the location of air conditioning units within the eastern portion of the site.</p> <p>These units are proposed to be surrounded by an acoustic screen and located within the landscaped garden area to ensure visual amenity. This is demonstrated on the plans and will be conditioned to be installed prior to occupation and standard conditions.</p>
It is noted that a condition of the childcare centre D.A. was for acoustic lining or fencing for the eastern boundary of 11 Ngamba Place and that this would be beneficial for all interested parties if required on the eastern and northern boundary of the development site.	<p>The provision of acoustic lining or fencing along the eastern boundary adjacent to the proposed car parks, in a manner similar to the previous consent, has been accepted by the Applicant.</p> <p>This is considered to include 15m along the northern-most portion of the eastern boundary fence (refer Figure 3) and 45m along the southern-most portion of the eastern boundary fence (refer Figure 4).</p>  <p>Figure 3: Proposed location of the acoustic lining or fencing (dashed blue line) along the northern most portion of the eastern boundary fence.</p>

Submission Issue/Summary	Planning Comment/Response
	 <p>Figure 4: Proposed location of the acoustic lining or fencing (dashed blue line) along the southern most portion of the eastern boundary fence. This is proposed to be managed in the recommended conditions to be clearly demonstrated on the plans prior to the Construction Certificate and installed prior to Occupation.</p>
<p>Concern of noise generation from the proposed coffee shop and outdoor waiting area.</p>	<p>The location of the proposed kiosk within the medical centre is not considered likely to generate any detrimental noise impacts. The location of the café in the context of the site is not directly adjoining residential development. The Café is an ancillary use for patients and staff of the primary use. As discussed earlier, the use of the café is envisaged to be similar to the mobile food trailer at the Lake Cathie Medical Centre. The café is not proposed to be a restaurant or food and drink premises with extended hours. The proposed café is unlikely to generate any additional adverse impact that have not been considered as part of the primary proposed use.</p>
<p>Lighting impacts to adjoining residential dwellings has not been considered.</p>	<p>The proposed business identification signage has no proposed lighting. The proposal seeks to operate during normal business hours (Monday to Friday 8am to 5pm and Saturdays 9am to 12noon). It is therefore considered unlikely that the site would be illuminated outside of these hours. There are no adverse lighting impacts that cannot be managed or lead to refusal of this application.</p>
<p>Has there been consideration of directional signs and No parking zones.</p>	<p>The application does not seek to provide any signage within Ngamba Place or change the current parking provisions. Internal directional signage will be provided in accordance with the</p>

Submission Issue/Summary	Planning Comment/Response
	relevant Australian Standards.
Has a landscaping plan been included? Replaced landscaping with more than the proposed plan. Native shrubs should also be required. Shrubs such as Callistemon and Banksias would serve to both encourage native birds, be in keeping with the surrounds, and better screen an unsightly car park.	Landscaping plans have been provided and are considered consistent with the Port Macquarie Hastings Development Control Plan 2013. Planting of native vegetation is encouraged and understood to be the intent of the Applicant.

(e) The Public Interest

The proposed development satisfies relevant planning controls and will not have any significant adverse impacts on the wider public interest.

Ecologically Sustainable Development and Precautionary Principle

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

The four principles of ecologically sustainable development are:

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

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

Climate change

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE







- Development contributions will be required towards augmentation of town water supply and sewerage system head works under Section 64 of the Local Government Act 1993.
- Development contributions will be required in accordance with Section 7.12 of the Environmental Planning and Assessment Act 1979.
- A copy of the contributions estimate is included as Attachment 3.

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.   DA2021 - 1047.1 Recommended Conditions
- 2.   DA2021 - 1047.1 Plans
- 3.   DA2021 - 1047.1 Contributions Estimate

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2021/1047****DATE: 6/04/2022****PRESCRIBED CONDITIONS**

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

A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
Plans	6600 (Revision E)	King & Campbell	21/02/2022
Statement of Environmental Effects	6600_SoEE	King & Campbell	November 2021
Stormwater Management Report	6600_stormwater management report REVB	King & Campbell	28/02/2022
Ecological Assessment	Ngamba Place, Bonny Hills	JBEnviro	11/11/2021

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 building or subdivision work shall commence until a Construction Certificate or Subdivision Works Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority; and
 - the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (4) (A009) The development site is to be managed for the entirety of work in the following manner:

1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
2. Appropriate dust control measures;
3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
4. Building waste is to be managed via appropriate receptacles into separate waste streams;
5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (5) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (6) (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.
- (7) (A029) The provision, at no cost to Council, of concrete foot paving for the full street frontages of the development. For Ngamba Place a 1.5 metre wide footpath(unless varied in writing by Council) is required with design details in accordance with AUSPEC and Council Standard drawing. The design plans must be approved by Council pursuant to Section 138 of the Roads Act.
- (8) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (9) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
 - a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
 - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

- i. deposit with the Council, or

ii. an unconditional bank guarantee in favour of the Council.

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

- (10) (A036) Approval under Section 61 and/or an application under Section 138 of the Roads Act 1993 is to be submitted to and approved by Council for works associated with the development on or within the Public Road.
- (11) (A041) Where a proper floor waste facility is not provided or not required by Council, a suitable "slop-sink" shall be provided as designated by Council for the disposal of bucket wastewater. Bucket waste floor wash water shall not be disposed of into kitchen sinks, basins or into the environment (gardens or drains).
- (12) (A045) Submission to Council of an application for water meter/s hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid. This application is also to include an application for the disconnection of any existing service not required.
- (13) (A055) Existing water services no longer required are to be disconnected at the main and a request for this free service is to accompany the application for water meter hire.
- (14) (A057) The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.
- (15) (A062) The applicant shall submit to Port Macquarie-Hastings Council plans for the management of trade waste including pre-treatment facilities to the sewerage authority for approval pursuant to Section 68 of the Local Government Act. Upon approval the proponent shall enter into a written "Trade Waste Agreement" with Council prior to discharging wastes.
- (16) (A063) The disposal of wastewater from a commercial or industrial business to Port Macquarie-Hastings Council's sewage system requires specific approval under Section 68 of the Local Government Regulation, 1999.

In this regard, whilst you have indicated that trade waste will not be discharged from the subject development, should you wish to discharge liquid trade wastes to Council's sewer in the future, a further application under Section 68 of the Local Government Regulation, 1999 will be required.

- (17) (A196) Six Koala food trees are to be planted within the site as detailed in the submitted site plan (King & Campbell Drawing no 6600_DA1.3_E, dated 21/02/2022). Species are to be consistent with the Port Macquarie Hastings Development Control Plan 2013 and not planted within the road reserve. Trees are to be a minimum 75L Nat Spec plants. 12 months maintenance is required as part of the defects liability period for the development.

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:

- Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Subdivision Works Certificate or Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:
1. Road works along the frontage of the development.
 2. Earthworks.
 3. Public parking areas including;
 - a. Driveways and access aisles;
 - b. Parking bays
 - c. Delivery vehicle service bays & turning areas in accordance with AS2890.
 4. Sewerage reticulation.
 5. Water supply reticulation.
 6. Retaining walls.
 7. Stormwater systems.
 8. Erosion & Sedimentation controls.
 9. Location of all existing and proposed utility services including:
 - a. Conduits for electricity supply and communication services (including fibre optic cable).
 - b. Water supply
 - c. Sewerage
 - d. Stormwater
 10. Landscaping/waste management facilities.
 11. Traffic management control plan in accordance.
 12. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASDASD202/207, Port Macquarie-Hastings Council current version
 13. Provision of a concrete footpath across the full road frontage of the property.
 14. Detailed intersection layout at the junction of McGilvray Road & Ngamba Place in accordance with the current version of the AUSTROADS guidelines for Intersection design, giving particular attention to sight distance.
 15. The slope of the cut/fill batter shall be in accordance with Council's adopted AUSPEC Design and Construction Guidelines. Adequate safety fencing is to be provided if maximum batter slope is exceeded.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

- Civil works

- Traffic management
- Work zone areas
- Hoardings
- Concrete foot paving
- Footway and gutter crossing
- Functional vehicular access

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

- (4) (B011) Prior to the issue of Construction Certificate, a Compliance Certificate under Section 307 of the Water Management Act 2000 must be obtained from the Water Authority.

Note1: Port Macquarie-Hastings Council is defined as a Water Supply Authority under section 64 of the Local Government Act 1993. As part of the Notice of Requirements of the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution is required, prior to the issue of a Construction Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to and included as part of this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied in accordance with either the provisions of the relevant Section 64 Development Servicing Plan or a Planning Agreement.

Note 2: A Section 307 Compliance Certificate issued by the Water Authority at the construction certificate stage only relates to the payment of contributions in accordance with the Development Servicing Plan or a Planning Agreement. A further Compliance Certificate may be required for other water management works prior to occupation or the issue of an Occupation or Subdivision Certificate relating to the development.

Note 3: The Water Authority will accept payment of the equivalent amount of contributions under Section 608 of the Local Government Act 1993.

- (5) (B012) To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all work involving construction or fitting out of the premises shall comply with the requirements of Australian Standard 4674-2004 – "Design, Construction and Fit-Out of Food Premises", Food Act 2003, the provisions of the Food Safety Standards Code (Australia) and the conditions of development consent. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to release of the Construction Certificate.
- (6) (B026) Given the nature of the development the need for backflow prevention devices is to be assessed by a hydraulic consultant. Final water service sizing will need to be determined by a hydraulic consultant to suit the domestic and commercial components of the development, as well as fire service coverage to AS 2419 and backflow protection requirements.
- (7) (B030) Prior to issue of Construction Certificate, a pavement design report shall be prepared by a suitably qualified geotechnical or civil engineer and submitted to Council, including soil test results and in-situ CBR values (NATA certified). Council's minimum pavement compaction testing criteria are as follows:

- a. 98% (modified) base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1
 - b. 95% (modified) sub-base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1
 - c. 100% (standard) subgrade/select layers - Maximum Standard Dry Density test in accordance with AS1289.5.1.1 (or for in-situ subgrade soils only, wet density testing may be used).
- (8) (B034) Prior to release of the Construction Certificate the submission of details to Council for the disposal of any spoil gained from the site and/or details of the source of fill, heavy construction materials and proposed routes to and from the site, including, but not limited to:
- The pavement condition of the route/s proposed (excluding collector, sub-arterial and arterial roads) for the haulage of fill material to the site and/or haulage of excess material from the site. The condition report shall include photographs of the existing pavement and pavement deflection test results taken in the travel lanes;
 - Recommended load limits for haulage vehicles and;
 - A procedure for monitoring the condition of the pavement during the haulage;
 - Bond to guarantee public infrastructure is not damaged as a result of construction activity,
- and;
- Council shall determine the need for and extent of any rectification work on the haulage route/s considered attributable by the haulage of materials to and/or from the site.
- (9) (B037) The finished floor level of the building shall be at least 1050mm above the soffit of Council's sewer main. Details indicating compliance with this are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (10) (B039) Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting:
- i. earthworks that are more than 600mm above or below ground level (existing); or
 - ii. located within 1m of the property boundaries; or
 - iii. earthworks that are more than 1m above or below ground level (existing) in any other location;
- are to be submitted to the Principal Certifying Authority with the application for Construction Certificate.
- (11) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed retaining walls is to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.
- (12) (B048) Prior to the issue of a Construction Certificate, provision shall be made for the storage of garbage containers and containers for recyclable material in a designated garbage area. If an external area is used for the storage of putrescible material then the area shall be:
- a. Bunded with a minimum volume of the bund being capable of containing 110% of the capacity of the largest container stored, or 25% of the total storage volume, whichever is the greatest.

- b. Provided with a hose tape connected to the water supply;
 - c. Paved with impervious material;
 - d. Graded and drained to the sewer system, and
 - e. Roofed to prevent the entry rainwater.
- (13) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Subdivision Works Certificate or Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications, Australian Rainfall and Runoff 2019, the requirements of Relevant Australian Standards and shall make provision for the following:
- a) The legal point of discharge for the proposed development is defined as Council's piped system.

In this regard, Council's piped drainage system must be extended by an appropriately sized pipeline (minimum 375mm diameter) to the frontage of the site, where a kerb inlet pit (minimum 2.4m lintel) must be installed, to allow direct piped connection from the development site into the public drainage system.

The pipeline must be designed to have the capacity to convey flows that would be collected at that section of street as generated by a 20 year Average Recurrence Interval storm event.
 - b) The design is to be generally in accordance with the stormwater drainage concept plan on Drawing No 6600_DA8.2 Rev E prepared by King & Campbell Pty Ltd and dated 21/02/2022.
 - c) All allotments must be provided with a direct point of connection to the public piped drainage system. Kerb outlets are not permitted.
 - d) The design shall incorporate on-site stormwater detention facilities to limit site stormwater discharge to pre development flow rates for all storm events up to and including the 1% AEP event. Summary calculations demonstrating compliance with the above requirements for the median storm in the critical duration for the design AEP shall be submitted (20%, 5% & 1% AEP at minimum). Alternative is to submit an electronic model in DRAINS format for electronic review. For new works, or alterations and additions resulting in the creation of greater than 40m² additional site impervious area, the pre-development site impervious area conditions shall be assumed to be 20% of the total site area. In all cases, the existing condition or better is to be maintained.
 - e) Where the proposal is defined as a 'High Risk' Development as per AUSPEC D7 D7.11, the design shall include water quality controls designed to achieve the targets specified within table D7.7 of AUSPEC D7.
 - f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
 - g) Construction designs to provide detail on proposed end of Council drainage line termination to existing roadside open channel, including depth x velocity calculation demonstrating safe pedestrian thoroughfare north of proposed footpath to existing verge transition. Regrade downstream open channel to achieve compliance as required.
 - h) Construction designs to demonstrate how proposed end of line levels on Ngamba place will be compatible for a future Council pipeline extension to the north i.e. Proposed kerb inlet pit invert level to allow adequate pipe cover compatible for future extension.

- (14) (B073) A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to Council prior to the issue of a Subdivision Works Certificate or Construction Certificate.
- i) The dilapidation report is to be prepared by a practising Structural/Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.
- The applicant shall be responsible for public infrastructure. Any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition will be borne by the applicant.
- (15) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6). Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate.
- (16) (B054) A driveway longitudinal section shall accompany the section 138 application pursuant to section 138 of the *Roads Act, 1993*. The section shall demonstrate compliance with Council's adopted AUSPEC Design and Construction Guidelines.
- (17) (B061) Prior to release of the Construction Certificate submission of a Waste Management Plan, in accordance with Council's current requirements.
- (18) (B090) Payment to Council, prior to the issue of a Construction Certificate of the Section 7.12 contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:
- Port Macquarie-Hastings Council Section 94A Levy Contributions Plan 2007
- The plan may be viewed on Council's website or during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.
- The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plan. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.
- (19) (B196) The proposed development site is located at 11 Ngamba Place, Bonny Hills, on the corner of Bundarra way. There is an existing 20mm metered water service from the 100mm water mains on the same side of Ngamba Place. An application shall be made to Council to disconnect this service. Minimum 25mm water services are to be provided for Commercial developments and include an RPZ. Details to be provided on the plans.
- (20) (B197) There is existing Council sewer located in the road reserve of Ngamba Place. This development exceeds 2ET and is required to discharge to a manhole. Manholes located in driveways shall require trafficable lids and any alterations to lid levels shall be in accordance with Aus-Spec. Details to be provided on the plans.

- (21) (B198) Provision of kerb and gutter along the full frontage of Ngamba Place and Bundarra Way connecting to existing kerb and gutter adjacent to lot 2 DP1079630 (6 Bundarra Way). Kerb to be positioned generally 4.5m from the centre line of Ngamba Place. Provision of road widening adjacent to the kerb along Ngamba Place in accordance with Council AUS-SPEC standards. Construction details shall be included with any Road Act (Section 138).
- (22) (B199) Provision of intersection upgrades at the Ngamba Road & McGilvray Road intersection are required. Intersection improvements to include concrete median and yield line at along on the south leg of Ngamba Place & McGilvray Road intersection generally in accordance with Exhibit 4: Intersection Detail plan on Drawing No 6600_DA8.4 Revision E prepared by King and Campbell and dated Feb 2018. Design plans shall comply with AUSTRoads and AUSPEC Standards. Construction details shall be included with any Road Act (Section 138)
- (23) (B200) Acoustic lining or fencing is to be applied to the eastern boundary adjoining the residential backyards immediately adjacent to the proposed carparks. The fencing is to be designed and certified by an acoustic consultant confirming that noise emanating from use of the car park will not be greater than 5dBA above background noise levels at the neighbouring property. Details are to be illustrated on the plans submitted with the application for Construction Certificate.
- (24) (B201) Prior to the release of the Construction Certificate, the construction management plan is to consider onsite construction car parking to be encouraged and made available for staff and trades during the building construction once earthworks have been completed.
- (25) (B009) The applicant shall surrender the consent relating to DA No. 2018/130 for Stage 2 - childcare centre and Manager's residence at 11 Ngamba Place, Bonny Hills by submitting an application for "Surrender of a Consent" to Council in accordance with the Environmental Planning and Assessment Regulation 2000, prior to release of the Construction Certificate.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C002) Prior to the commencement of any works, a pre-construction meeting shall be organised by the applicant. This meeting is to be attended by the applicant or consultants, principal contractor and Council's development engineer or his representative.
- (3) (C004) Prior to works commencing an application being made to the electricity and telecommunications service providers. Services are required to be underground.
- (4) (C013) Where a sewer manhole and Vertical Inspection Shaft exists within a property, access to the manhole/VIS shall be made available at all times. Before during and after construction, the sewer manhole/VIS must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.
- (5) (C015) Tree protection fencing, compliant with AS 4970/2009 *Protection of trees on development sites* must be provided. The fencing shall be in place

prior to the commencement of any works or soil disturbance and maintained for the entirety of the works.

D – DURING WORK

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

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

- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (3) (D007) A survey certificate from a registered land surveyor is to be submitted to the Principal Certifying Authority at footings and/or formwork stage. Such certificate shall set out the boundaries of the site, the actual situation of the buildings and include certification that siting levels comply with the approved plans.
- (4) (D023) During all phases of demolition, excavation and construction, it is the responsibility of the applicant and their contractors to:
 - a. Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works.
 - b. Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits.
 - c. Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage and the like). All

proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

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

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

- (5) (D033) Should any Aboriginal objects be discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service, Department of Environment and Conservation is to be informed in accordance with Section 91 of the *National Parks and Wildlife Act 1974*. Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the *National Parks and Wildlife Act 1974* may be required before work resumes.
- (6) (D046) Should any historical relics be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW is to be informed in accordance with Section 146 of the *Heritage Act 1977*.
- (7) (D195) During construction onsite car parking is to be encouraged
- (8) (D051) Prior to commencement of any pavement works a material quality report from the proposed supplier shall be submitted to Council. The pavement materials shall meet Council's current specifications at the time of construction.
- (9) (D052) Prior to laying of Asphaltic Concrete (AC) or wearing surface course, submission to Council of pavement and soil test results prepared by a NATA registered person for all road pavement construction, including:
 - a. CBR test results, and
 - b. Subgrade / select fill, sub-base and base pavement compaction reports in accordance with AS1289.5.1.1 & AS1289.5.2.1 as applicable.

E – PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (3) (E007) The owner/applicant is responsible for ensuring that any imported fill is either Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM). Prior to the issue of an Occupation Certificate, certification is to be provided to Council demonstrating that the fill is either VENM or ENM.
- (4) (E010) Driveways, access aisles and parking areas shall be provided with an approved surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (5) (E016) Prior to occupation or the issue of the Occupation Certificate (or Part Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety

certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.

- (6) (E024) Occupation of the premises shall not occur until a registration application has been submitted to Council's Environmental Health Unit for the food premises.
- (7) (E025) Prior to occupation or the issue of an Occupation Certificate, provide a certificate from the installer certifying that the mechanical ventilation system meets the requirements of AS 1668 Parts 1 & 2. The certificate must include:
 - a. Inspection, testing and commissioning details
 - b. Date of inspection, testing and commissioning
 - c. The name and address of the individual/company, who carried out the test
 - d. Statement that the service has been designed, installed and is capable of operating to AS 1668.
- (8) (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.
- (9) (E030) Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use.
- (10) (E031) Provision of a sign at the front vehicular access point within the property, prior to occupation or the issue of the Occupation Certificate, indicating that visitor/customer parking is available on-site.
- (11) (E034) Prior to occupation or the issuing of the Final Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (12) (E036) Certification by a suitably qualified consultant is to be submitted to the Principal Certifying Authority (PCA) confirming that the car park and internal accesses have been constructed in accordance with Port Macquarie-Hastings Development Control Plan 2013 and Australian Standard 2890 (including AS 2890.1, AS 2890.2 and AS 2890.6) prior to occupation or issue of the Occupation Certificate.
- (13) (E039) An appropriately qualified and practising consultant is required to certify the following:
 - a. all drainage lines have been located within the respective easements, and
 - b. any other drainage structures are located in accordance with the Construction Certificate.
 - c. all stormwater has been directed to a Council approved drainage system
 - d. all conditions of consent/ construction certificate approval have been complied with.
 - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (14) (E040) Each onsite detention system is to be marked by a plate in a prominent position which states:

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

This plate is to be fixed into position prior to occupation or the issue of the Occupation or Subdivision Certificate.

- (15) (E046) Prior to the issue of an Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to maintain the on-site stormwater detention facilities on the property.

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

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

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

- (16) (E048) Prior to the issue of an Occupation Certificate, a positive covenant is to be created under Section 88E of the Conveyancing Act 1919, burdening the owner(s) with the requirement to maintain the water quality control facilities within the site.

In addition, a maintenance schedule for the water quality controls must be submitted to Council for approval with the stormwater work-as executed plans. This maintenance schedule and work as executed plan shall be registered and referred to as part of the positive covenant.

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

- a. The Proprietor of the property shall be responsible for inspecting, maintaining and keeping clear all components of and structures associated with the stormwater quality improvement device (SQID) in accordance with the maintenance plan in order to achieve the design system performance targets.
- b. The Proprietor shall have the SQID inspected annually by a competent person.
- c. The Council shall have the right to enter upon the land referred to above, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order all components or structures in or upon the said land

which comprise the SQID and recover the costs of any such works from the proprietor.

- d. The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the SQID, or failure to clean, maintain and repair the SQID.

The instrument shall be created and registered on the title of the relevant lot(s) with the Lands and Property Information (LPI) NSW. The plan and terms of the easement must be endorsed by Council through formal application prior to lodgement at the Lands and Property Information NSW. Evidence of registration shall be submitted to and approved by the Principal Certifying Authority prior to the issue of an Occupation Certificate.

- (17) (E049) A final Dilapidation Report including a photographic survey must be submitted after the completion of works. A copy of this Dilapidation Report together with the accompanying photographs must be provided to the property owners referred to in condition **B073**. A copy must be submitted to Council and the Principal Certifying Authority prior to the issue of an Occupation Certificate.

Any damage identified in the Dilapidation Report must be fully rectified by the applicant or owner at no cost to the Council prior to the issue of an Occupation Certificate.

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

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

- (19) (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.

- (20) (E053) All works relating to public infrastructure shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.

- (21) (E057) A Certificate of Compliance under the provisions of Section 307 of the Water Management Act must be obtained prior to the issue of any occupation or subdivision certificate.

- (22) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:

- a. The relocation of underground services where required by civil works being carried out.
- b. The relocation of above ground power and telephone services
- c. The relocation of street lighting
- d. The matching of new infrastructure into existing or future design infrastructure

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

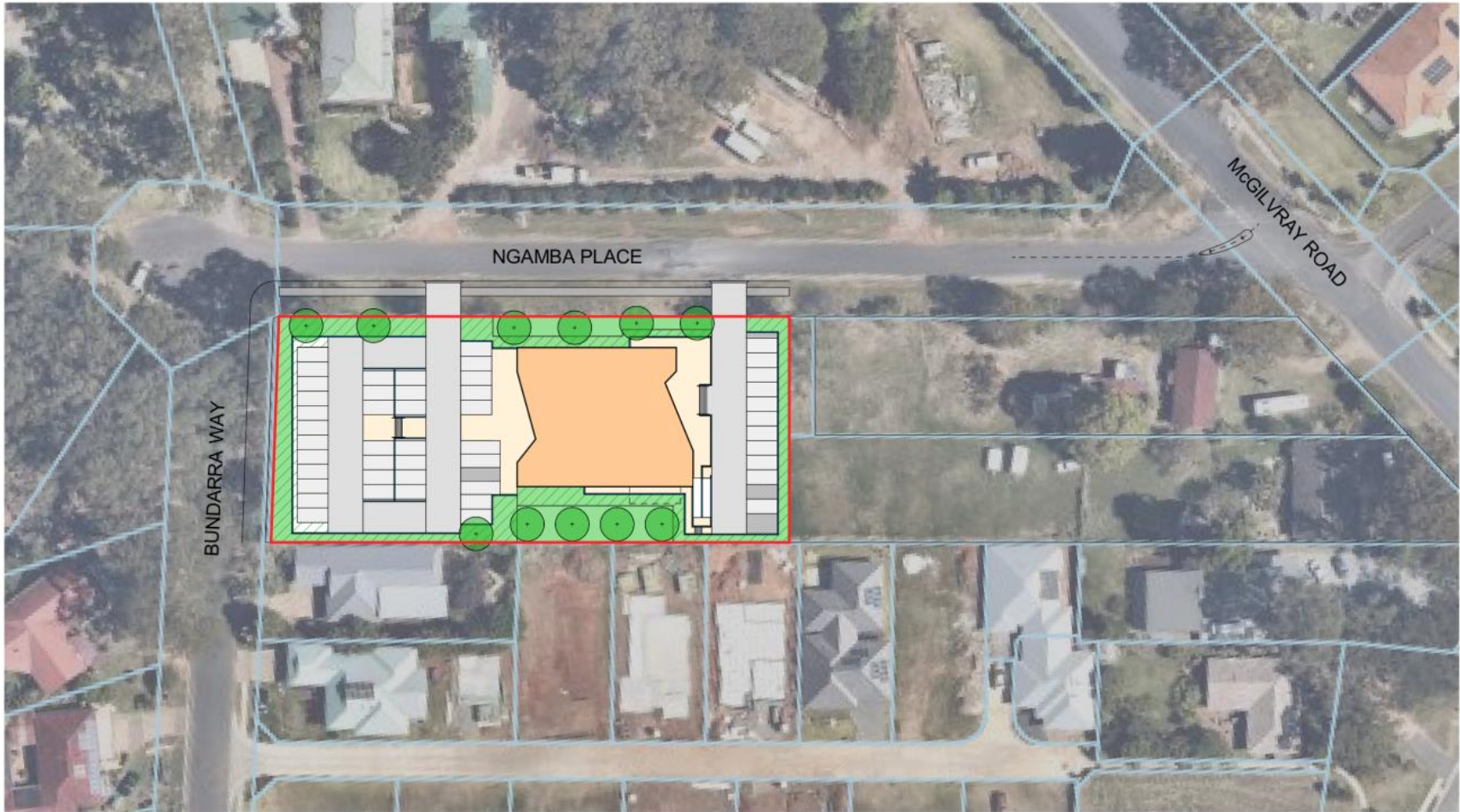
development for use by both staff and patrons. A total of 47 spaces are to be provided onsite.

- (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) (F006) The basin of the outflow control pit and the debris screen must be cleaned of debris and sediment on a regular basis by the owner.
- (4) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (5) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (6) (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.
- (7) (F019) Clinical wastes shall be removed from the site by an approved contaminated waste contractor for disposal at an approved facility.
- (8) (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.
- (9) (F025) Hours of operation of the development are restricted to the following hours:
 - 8 am to 5 pm – Mondays to Fridays
 - 9 am to 5 pm – Saturdays
 - No work is to be carried out on Sundays and Public Holidays
- (10) (F030) Parking onsite is to comply with the parking rates in Port Macquarie-Hastings Development Control Plan 2013 for Medical Centres being 3 spaces per consultant and 1 space per 2 staff. Using the aforementioned parking rates, for Medical centre (First Floor) and Tenancy 3 and 4, the ratio of consultants to staff allowed is not to generate the need for more than 33 spaces (9 F/T consultant and 12 F/T Staff).
- (11) (F036) Any exterior lighting on the site shall be designed and installed so as not to cause a nuisance or adverse impact on the amenity of the surrounding area by light overspill. The lighting shall be the minimum level of illumination necessary for safe operation and must be designed, installed and used in accordance with AS 4282 control of the obtrusive effects of outdoor lighting. No flashing, moving or intermittent lighting is permitted on the site.

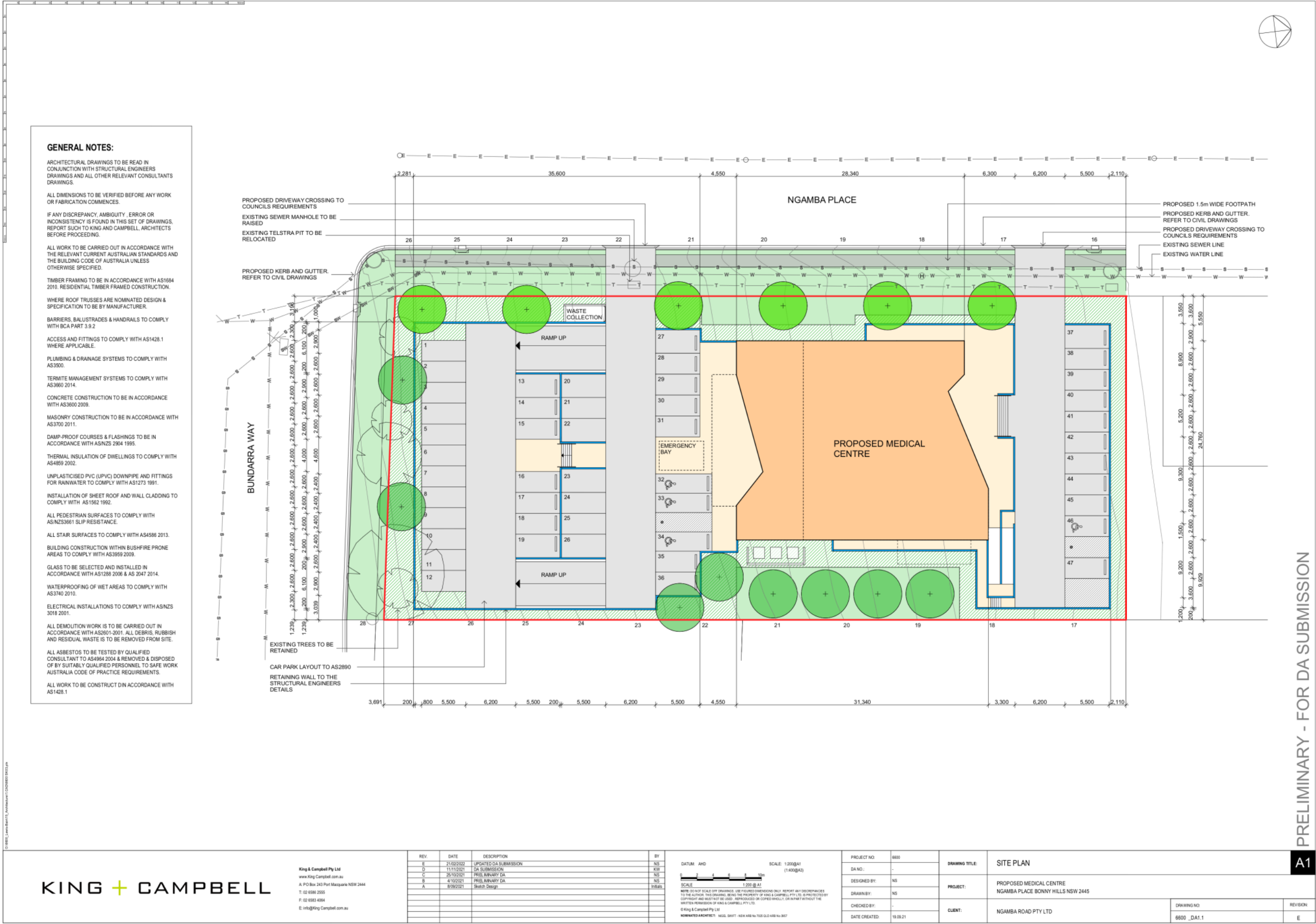
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DA SUBMISSION

PROPOSED MEDICAL CENTRE
NGAMBA PLACE BONNY HILLS NSW 2445



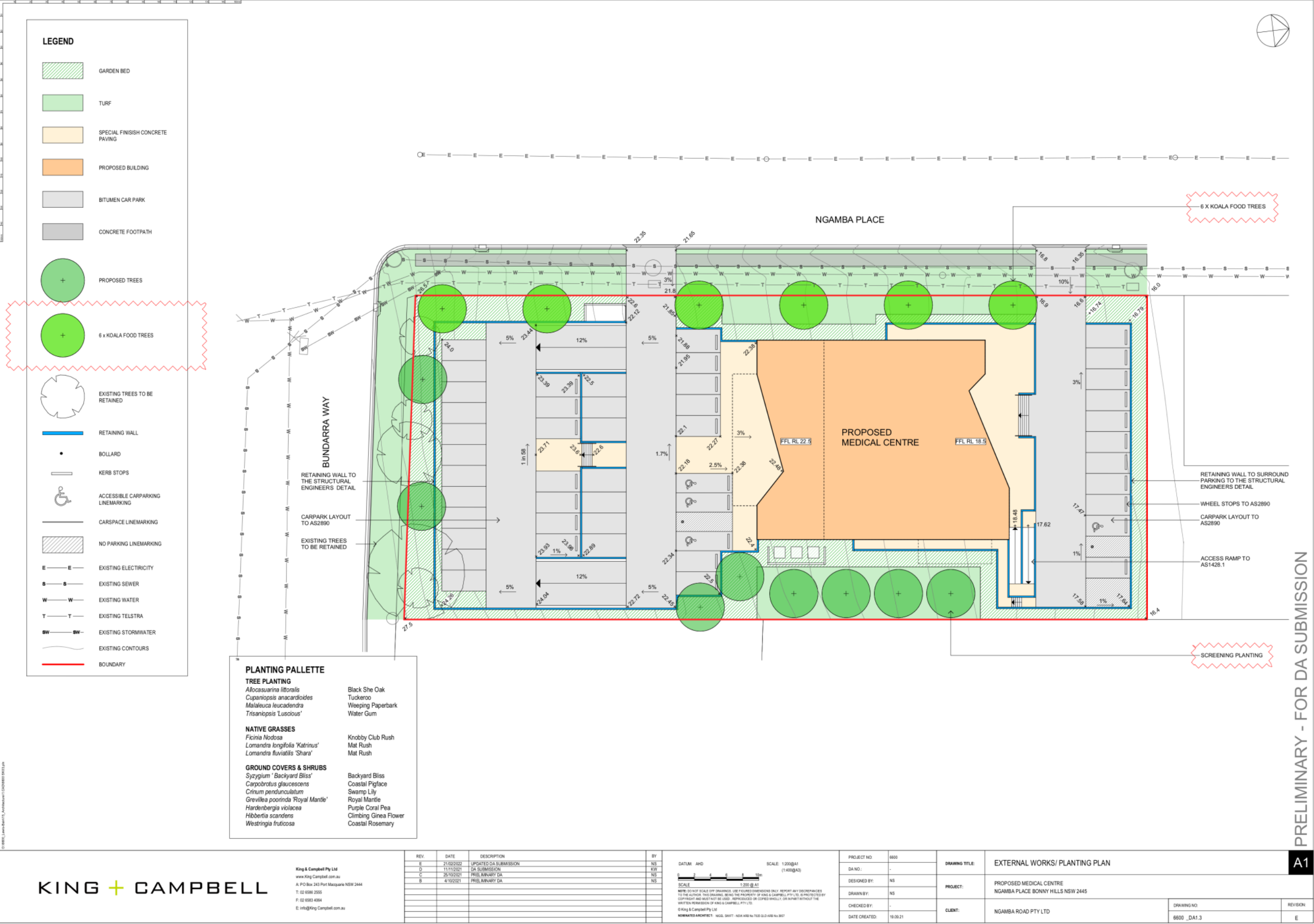
SHEET INDEX		
LAYOUT	NAME	REV
DA0.1	COVER SHEET	E
DA1.1	SITE PLAN	E
DA1.3	EXTERNAL WORKS/ PLANTING PLAN	E
DA1.4	GROUND FLOOR PLAN	E
DA1.5	FIRST FLOOR PLAN	E
DA1.6	ROOF PLAN	E
DA2.1	SECTIONS	E
DA3.1	ELEVATIONS SHEET 1	E
DA3.2	ELEVATIONS SHEET 2	E
DA5.1	AREAS	E
DA7.1	PERSPECTIVE SHEET 1	E
DA8.1	EXHIBIT 1: ROAD WORKS PLAN	E
DA8.2	EXHIBIT 2: SERVICES PLAN	E
DA8.3	EXHIBIT 3: STORMWATER CATCHMENT AREA	E
DA8.4	EXHIBIT 4: INTERSECTION DETAIL	E

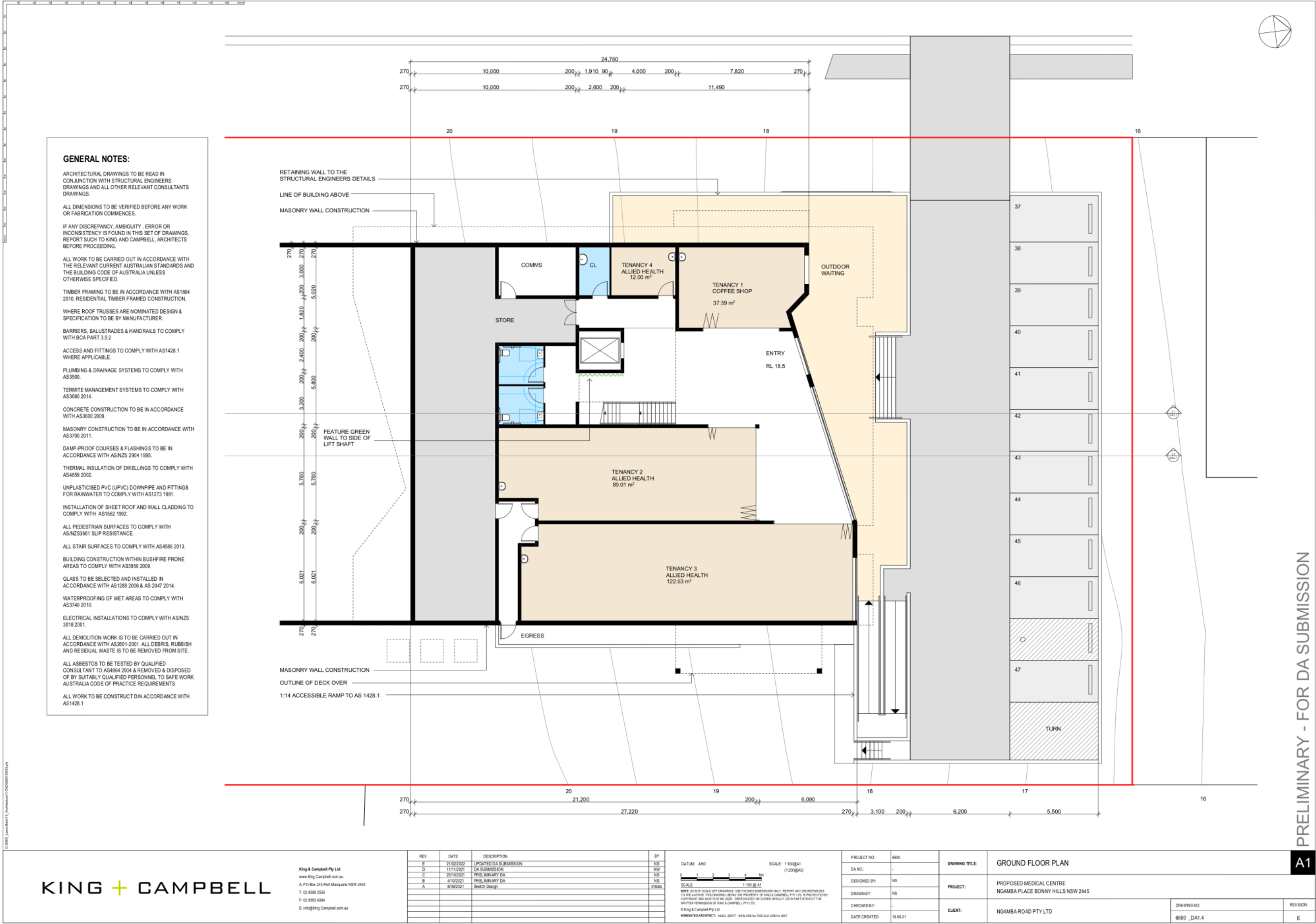


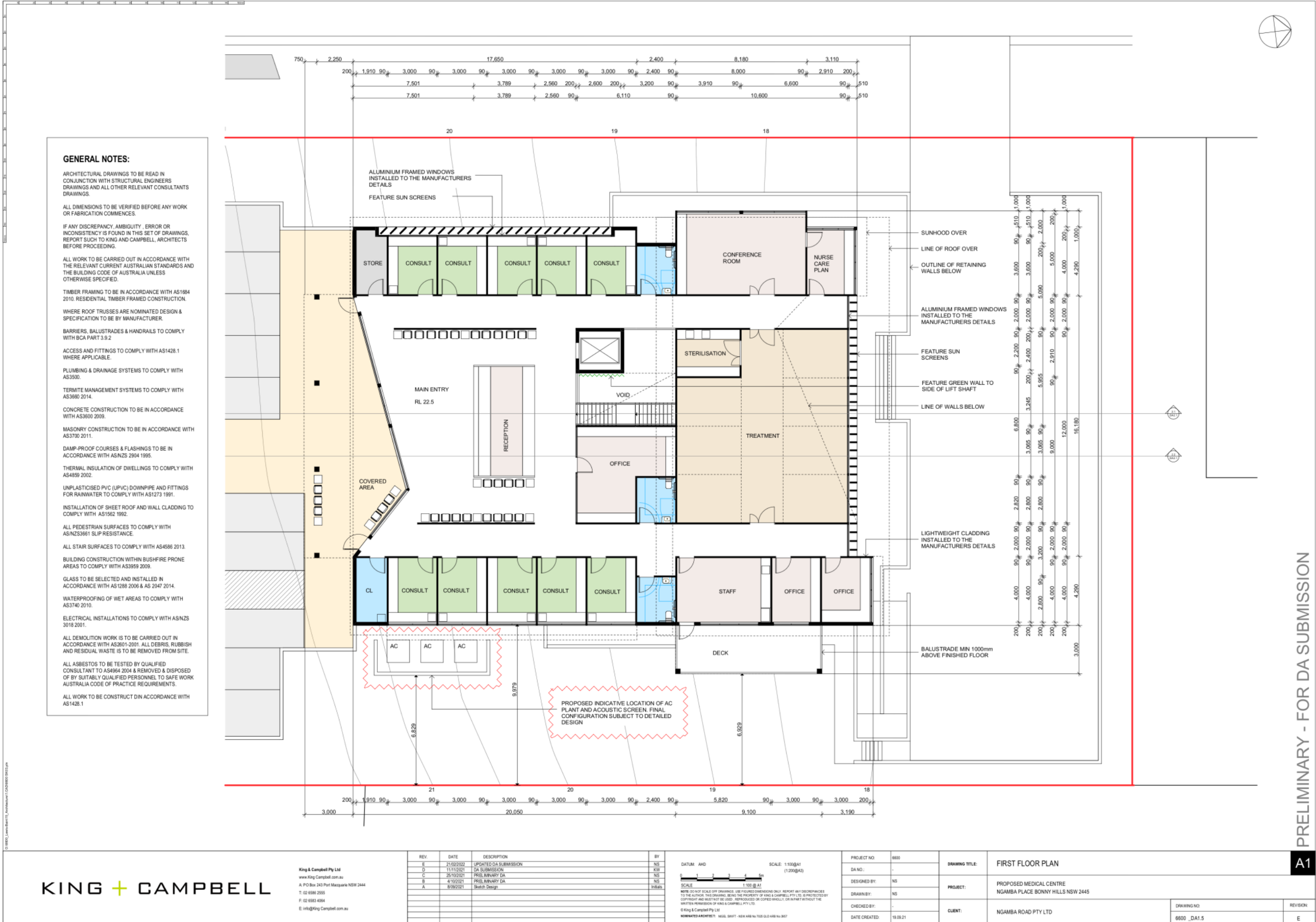
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PRELIMINARY - FOR DA SUBMISSION

A1



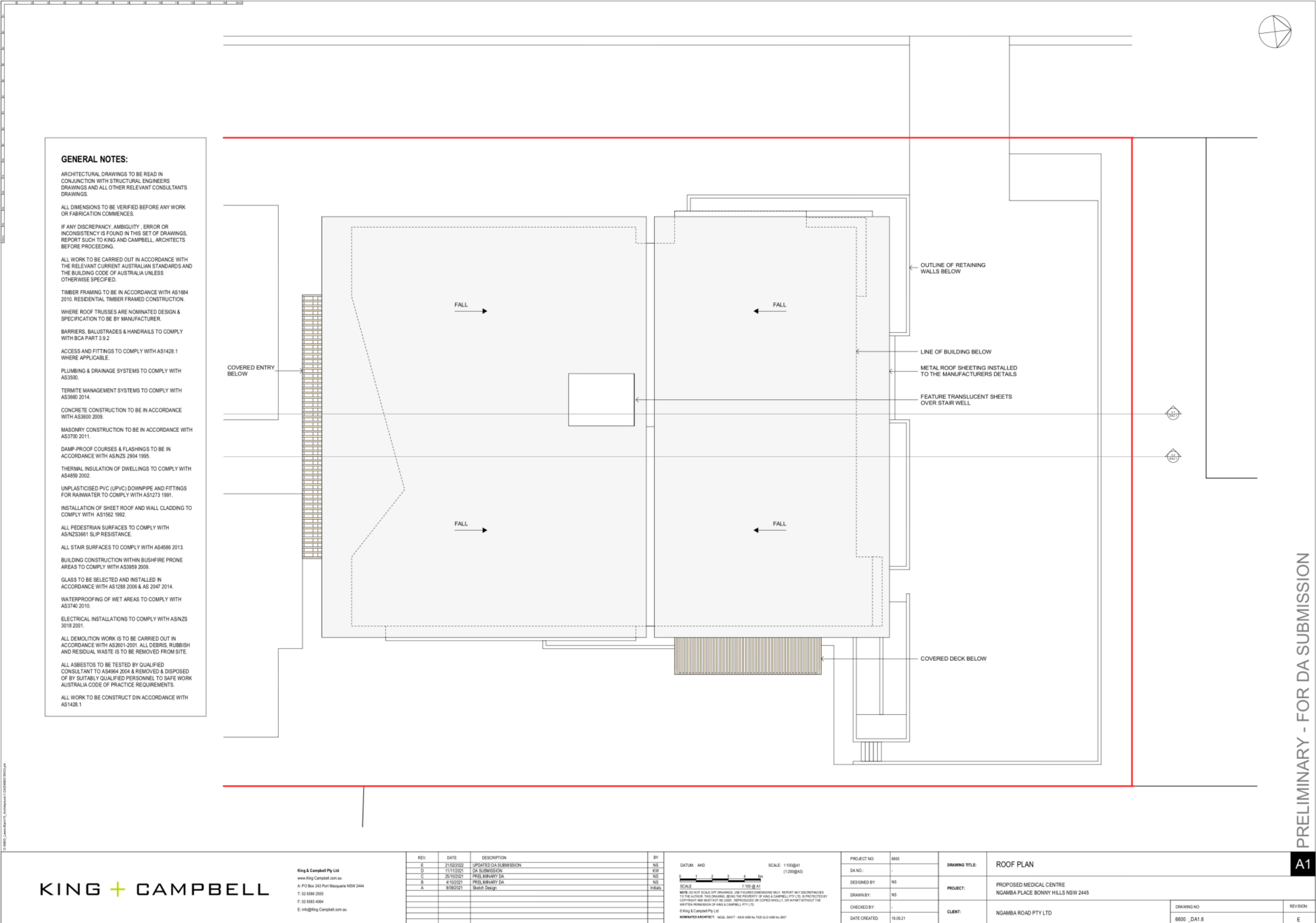


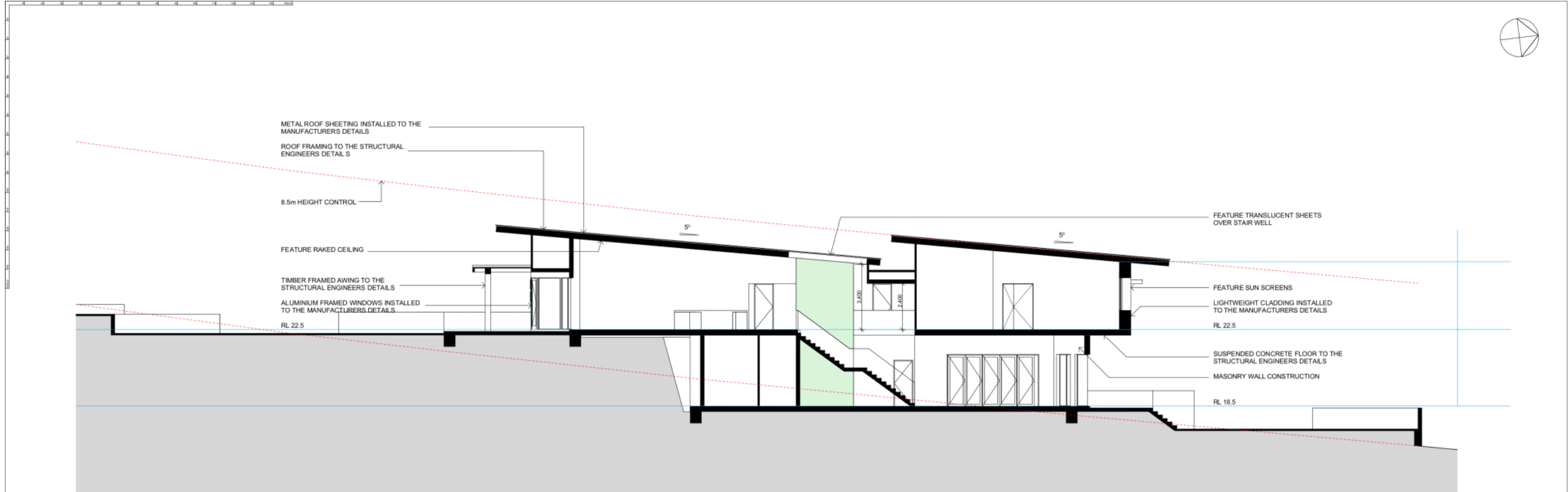


PRELIMINARY - FOR DA SUBMISSION

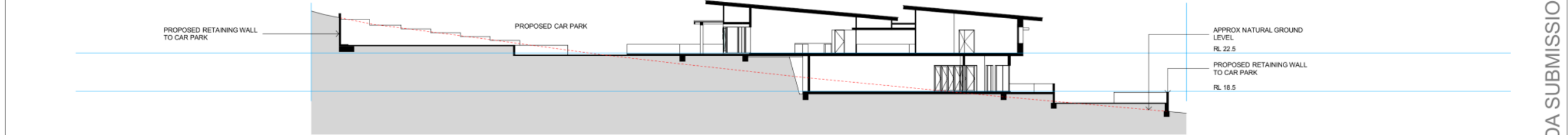
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SECTION 2.1



SECTION 2.2

PRELIMINARY - FOR DA SUBMISSION

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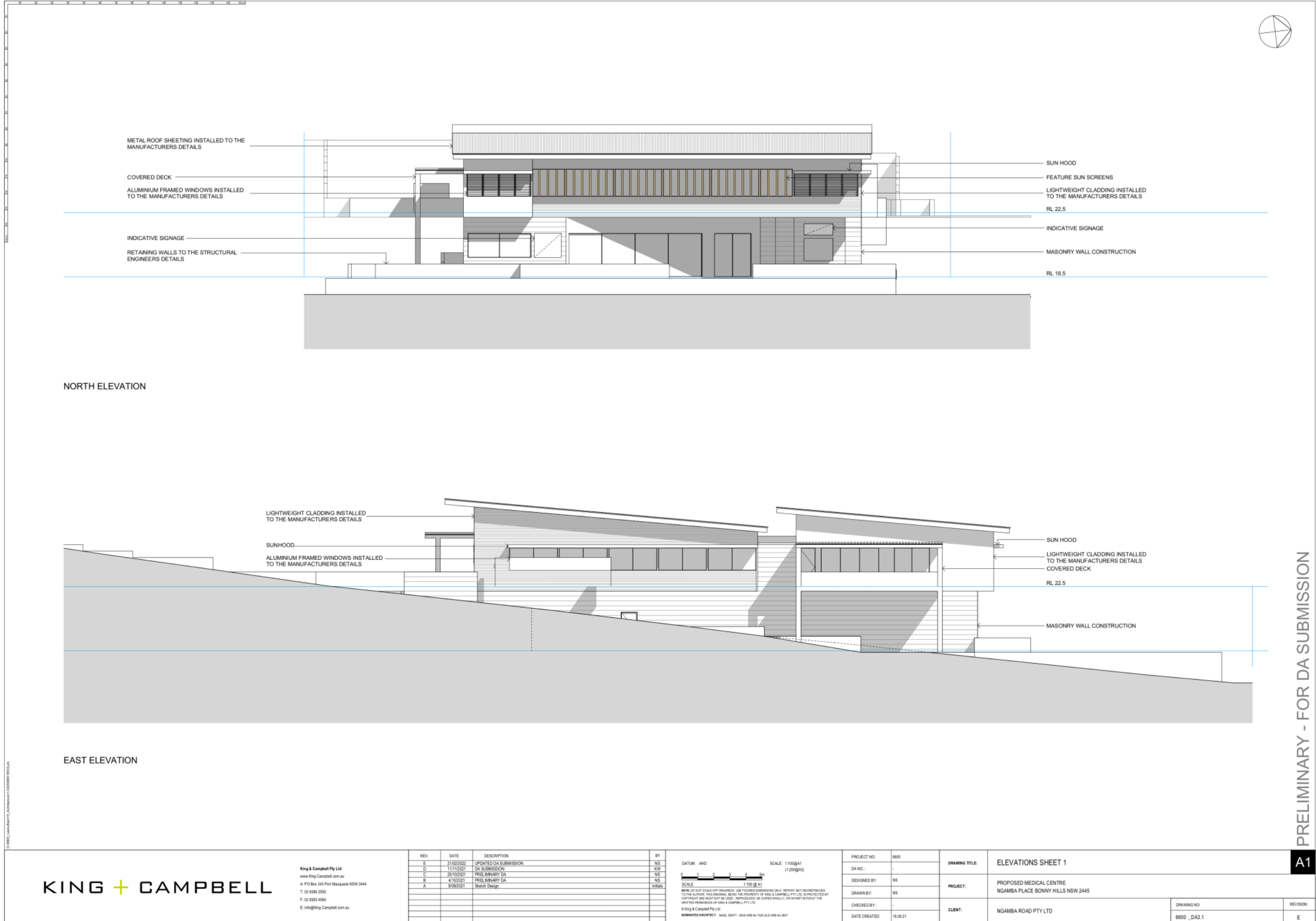
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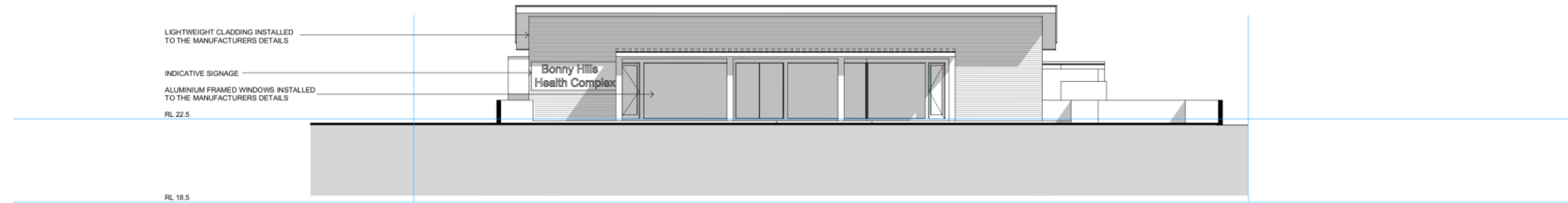
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REV	DATE	DESCRIPTION	BY
E	21/02/2022	UPDATED DA SUBMISSION	NS
D	11/11/2021	DA SUBMISSION	KW
C	26/10/2021	PRELIMINARY DA	NS
B	4/10/2021	PRELIMINARY DA	NS
A	8/09/2021	Sketch Design	INS/NS

DATUM: AHD
SCALE: 1:100, 1:200@A1
(1:200, 1:400@A3)
SCALE: 1:100 @A1
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NOMINATED ARCHITECT - NSL 30077 - NSW AHD No 7523-010 AHD No 3057

PROJECT NO:	6600	DRAWING TITLE:	SECTIONS
DA NO.:	-	PROJECT:	PROPOSED MEDICAL CENTRE NGAMBA PLACE BONNY HILLS NSW 2445
DESIGNED BY:	NS	CLIENT:	NGAMBA ROAD PTY LTD
DRAWN BY:	NS	DRAWING NO:	6600 _DA2.1
CHECKED BY:	-	REVISION:	E
DATE CREATED:	19.05.21		





METAL ROOF SHEETING INSTALLED TO THE MANUFACTURERS DETAILS

SUN HOOD

ALUMINIUM FRAMED WINDOWS INSTALLED TO THE MANUFACTURERS DETAILS

LIGHTWEIGHT CLADDING INSTALLED TO THE MANUFACTURERS DETAILS

RL 22.5

MASONRY WALL CONSTRUCTION

INDICATIVE SIGNAGE

RL 18.5

Bonny Hills Health Complex

LIGHTWEIGHT CLADDING INSTALLED TO THE MANUFACTURERS DETAILS

FEATURE SUN SCREENS

COVERED DECK

RL 22.5

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REV	DATE	DESCRIPTION	
E	21/02/2021	UPDATED DA SUBMISSION	NA
D	11/11/2021	DA SUBMISSION	NA
C	26/10/2021	PRELIMINARY DA	NA
B	4/10/2021	PRELIMINARY DA	NA
A	8/06/2021	Sketch Design	NA

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6600 DA3.2	F

A1



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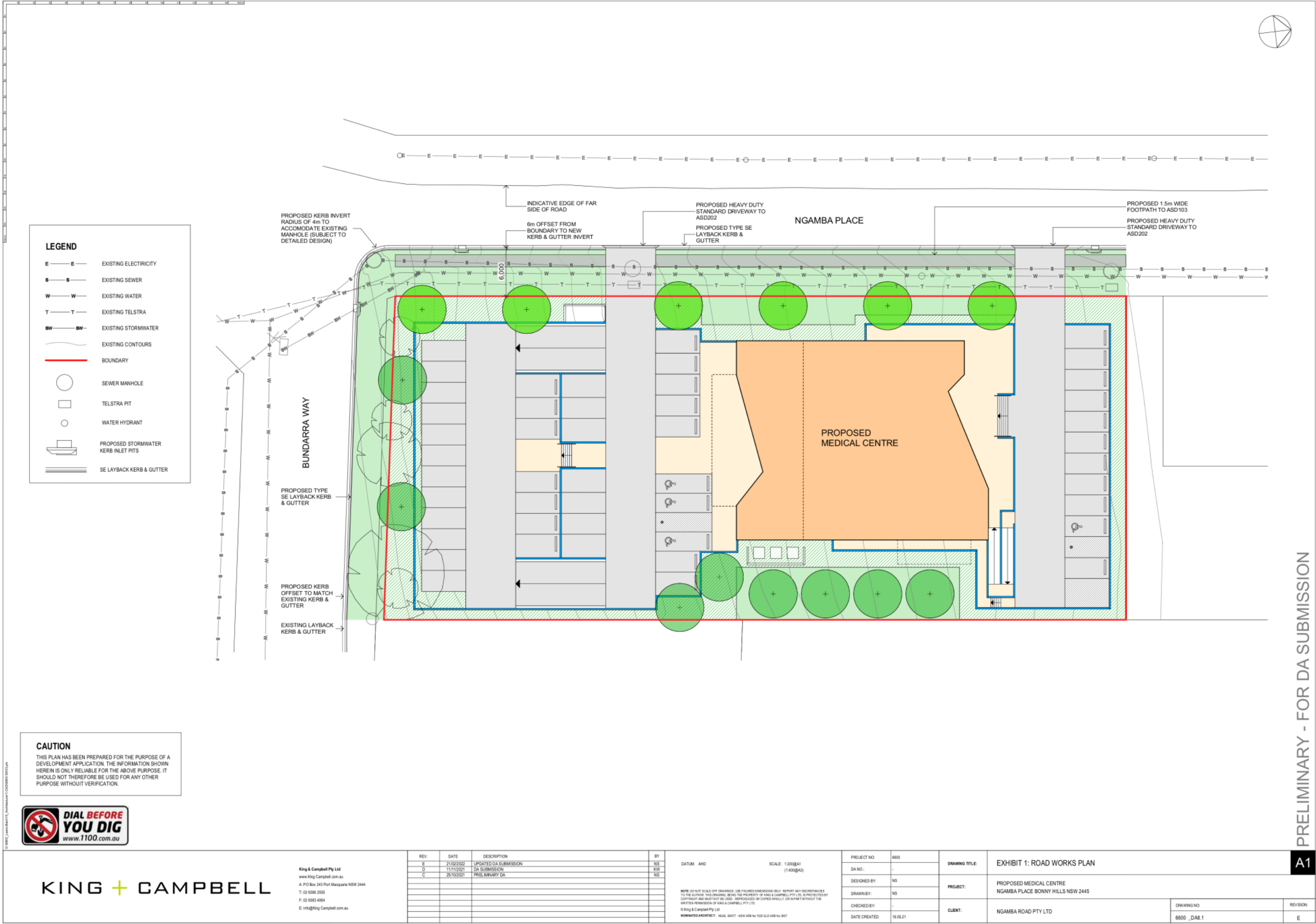
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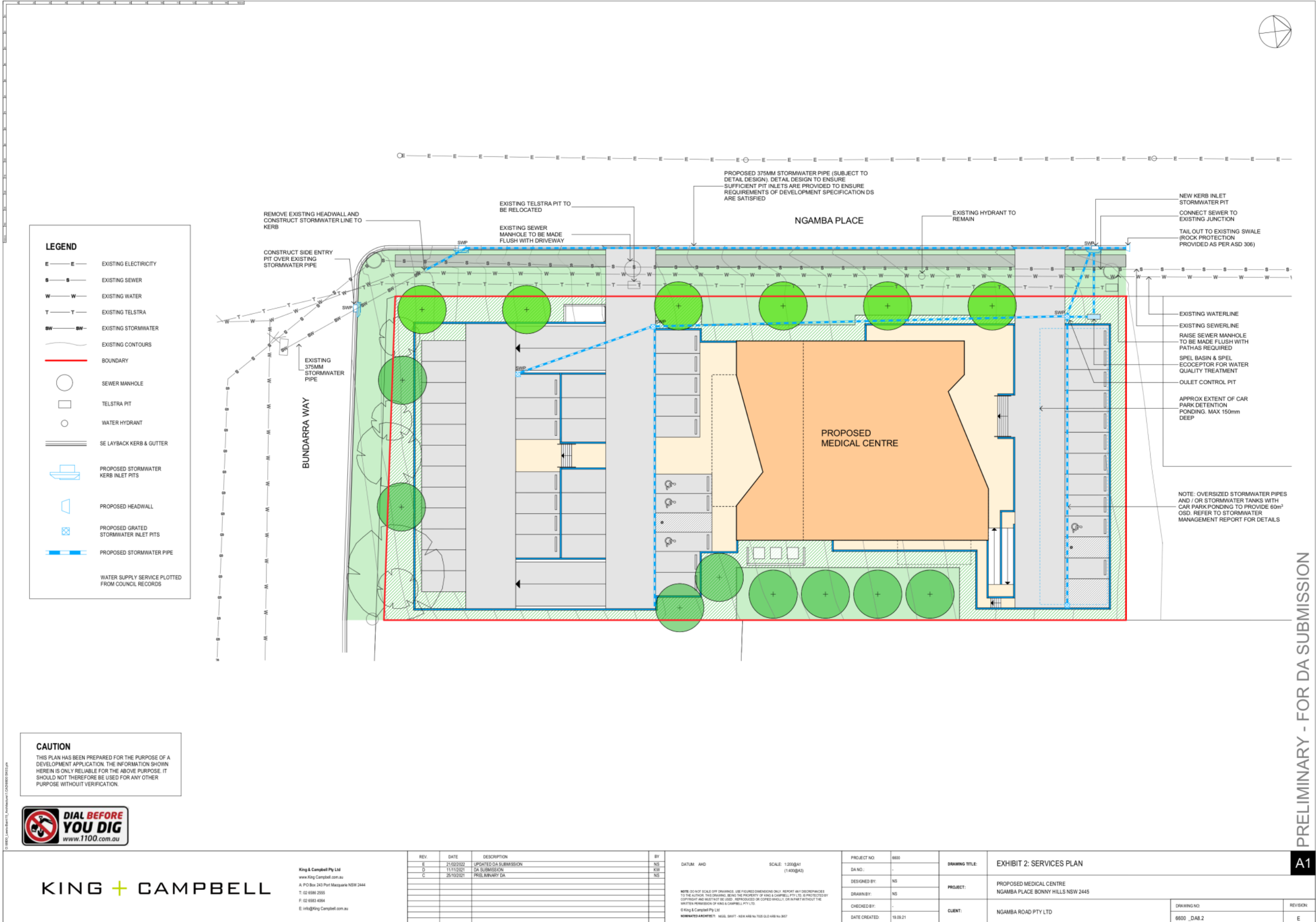
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REV	DATE	DESCRIPTION	BY
E	21/02/2022	UPDATED DA SUBMISSION	NS
D	11/11/2021	DA SUBMISSION	KW
C	25/10/2021	PRELIMINARY DA	NS
B	4/10/2021	PRELIMINARY DA	NS
A	8/09/2021	Sketch Design	NS

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DA NO:	-	PROJECT:	PROPOSED MEDICAL CENTRE NGAMBA PLACE BONNY HILLS NSW 2445
DESIGNED BY:	NS	CLIENT:	NGAMBA ROAD PTY LTD
DRAWN BY:	NS	DRAWING NO:	6600_DAT.1
CHECKED BY:	-	REVISION:	E
DATE CREATED:	19.09.21		









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C	25/10/2021	PRELIMINARY DA	NS

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PROJECT NO:	6600	DRAWING TITLE:	EXHIBIT 4: INTERSECTION DETAIL
DA NO:	-	PROJECT:	PROPOSED MEDICAL CENTRE NGAMBA PLACE BONNY HILLS NSW 2445
DESIGNED BY:	NS	CLIENT:	NGAMBA ROAD PTY LTD
DRAWN BY:	NS	DRAWING NO:	6600_DAB.4
CHECKED BY:	-	REVISION:	E
DATE CREATED:	19.08.21		

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A1

STORMWATER MANAGEMENT REPORT

Medical Centre at
Lots 1 DP1273684,
11 Ngamba Place,
Bonny Hills 2445



Prepared for:

Ngamba Road Pty Ltd

Prepared by:

King & Campbell Pty Ltd

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Revision Schedule

Revision Number	Date	Description	Staff
A	28.10.2021	Issued for approval	CJC
B	28.02.2022	Address Council Comments	CJC

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1. INTRODUCTION

This Stormwater Management Report has been prepared in support of a Development Application for the Medical Centre proposed at 11 Ngamba Road, Bonny Hills.

The report demonstrates how all stormwater impacts (quantity and quality) generated from the development, can be adequately mitigated through implementation of the Stormwater Management Plan, satisfying the stormwater objectives of Port Macquarie-Hastings Council (PMHC).

2. STORMWATER QUANTITY

2.1. OSD Objective

Provide an on-site detention system to meet the objectives of AUS-SPEC D5, including specific reference to section 5.27 Stormwater Detention - Small Detention Systems (controlled by property owner).

2.2. OSD Hydrology (Pre & Post Development)

With the proposed development, there is an increase in impervious area from **0% to 75%**. Note that the pre-development condition is assumed greenfield in accordance with PMHC requirements.

2.3. OSD Hydraulics (Pre & Post Development)

Pre-development, the stormwater sheet flows towards the northern boundary of the development, gradually towards the table drain on the eastern side of Ngamba Road. Post-development the pit and pipe network of the development is proposed to connect to this same table drain at the northwest corner of the subject site, but with a controlled outlet and on site detention system.

2.4. OSD Modelling Results

DRAINS software version 2021.01 with ARR 2019 methodologies has been adopted to model the stormwater quantity requirements. Parameter inputs are in accordance with AUS-SPEC D5.

The DRAINS modelling results illustrated on the following pages indicate that the implementation of a **60m³** detention system with outlet control. Modelled in DRAINS is a 215mm diameter low level flow orifice, with a 220mm diameter high level flow orifice, and an overflow weir. This detention and outlet control system ensures that the post-development site stormwater discharge rate does not exceed the pre-development discharge rate for the 1%, 5%, & 20% AEP storms as illustrated in the Figures below.

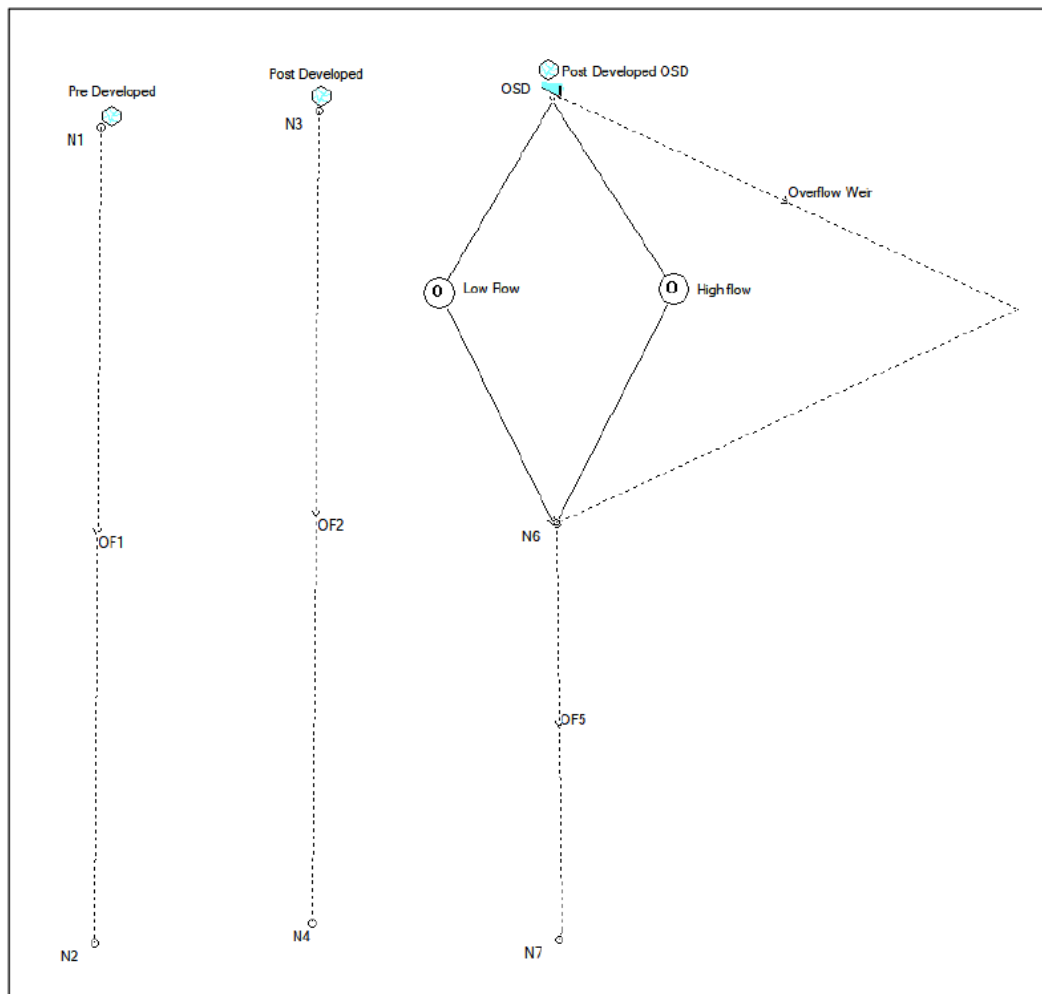


Figure 1 - DRAINS Network for OSD

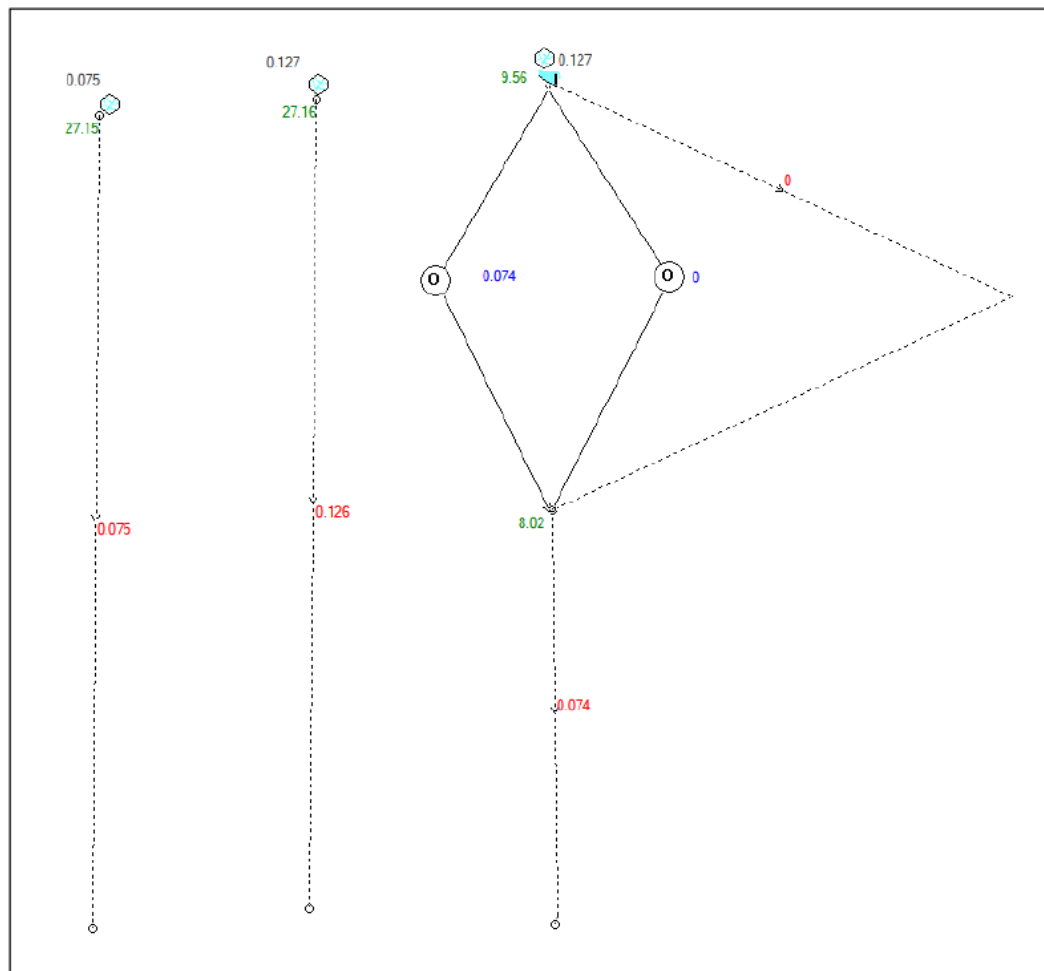


Figure 2 - DRAINS Minor 20% AEP Storm Results for OSD

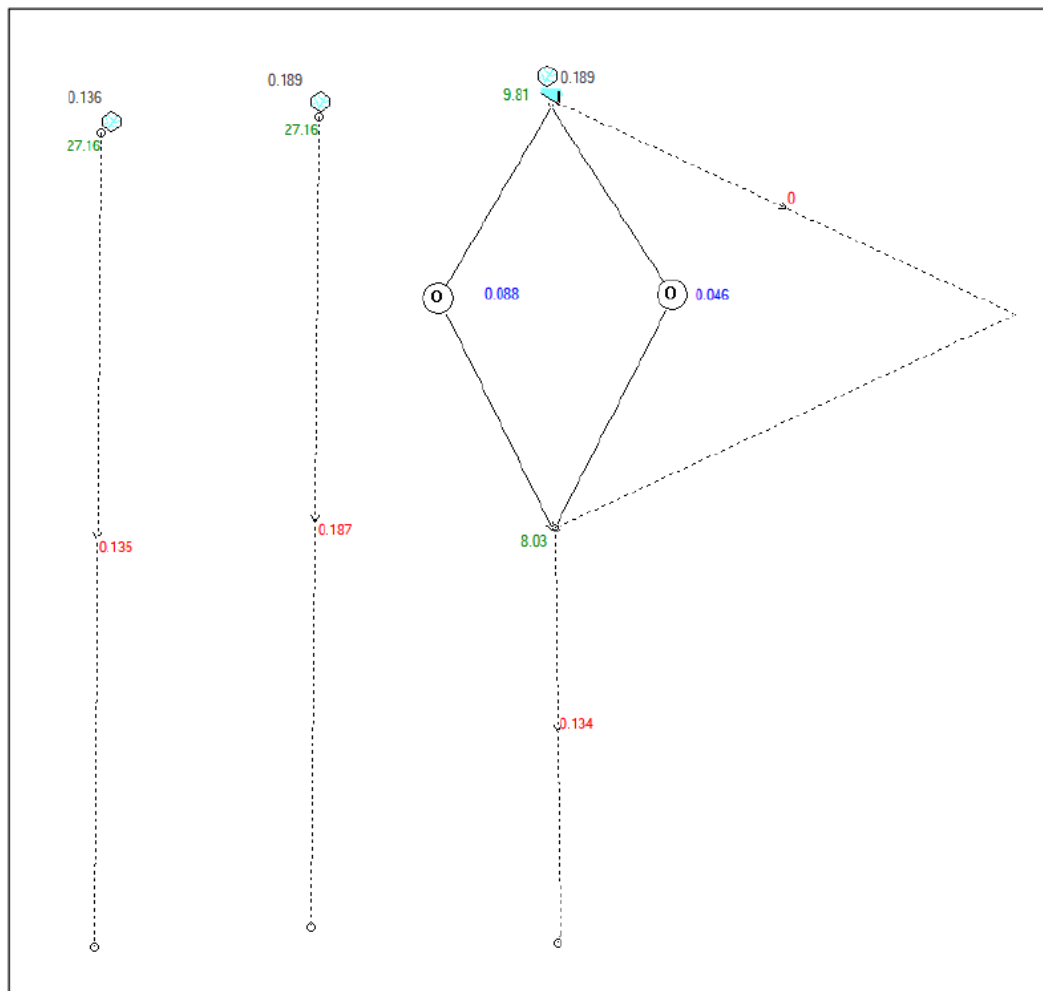


Figure 3 - DRAINS Minor 5% AEP Storm Results for OSD

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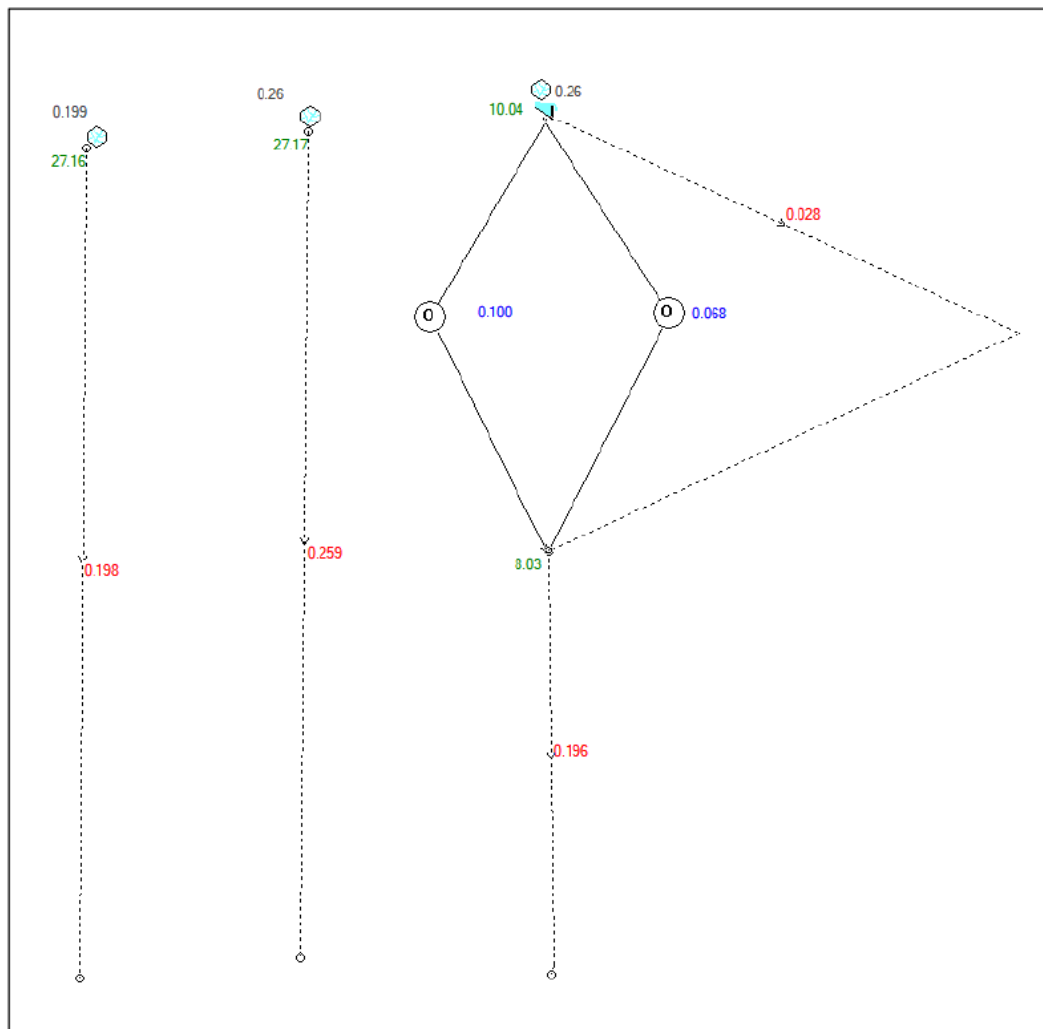


Figure 4 - DRAINS Major 1% AEP Storm Results for OSD

2.5. Ngamba Place

The existing stormwater pits within Bundarra Way are proposed to be connected to a new stormwater line that runs down Ngamba Place to the north. The upstream catchments are shown below.

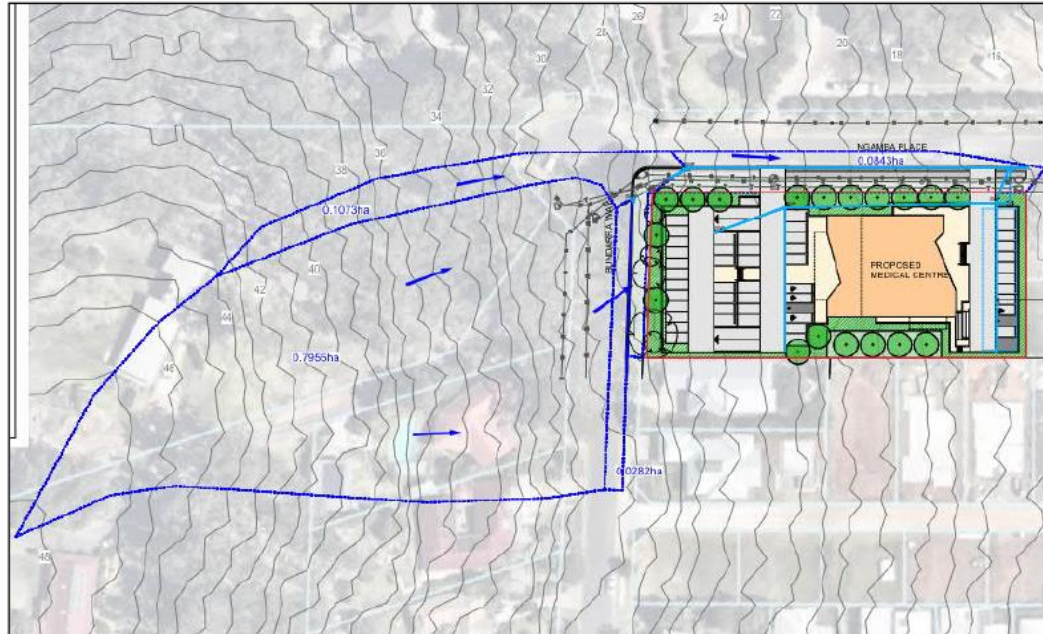


Figure 5 - Ngamba Place Upstream Catchments

To determine the road drainage upgrades required for Ngamba Place, an initial DRAINS analysis was undertaken. The upstream catchments were input at 70% impervious with a direct 6 min time of concentration. The results of the DRAINS analysis are shown on the following page.

2.6. Ngamba Place Modelling Results

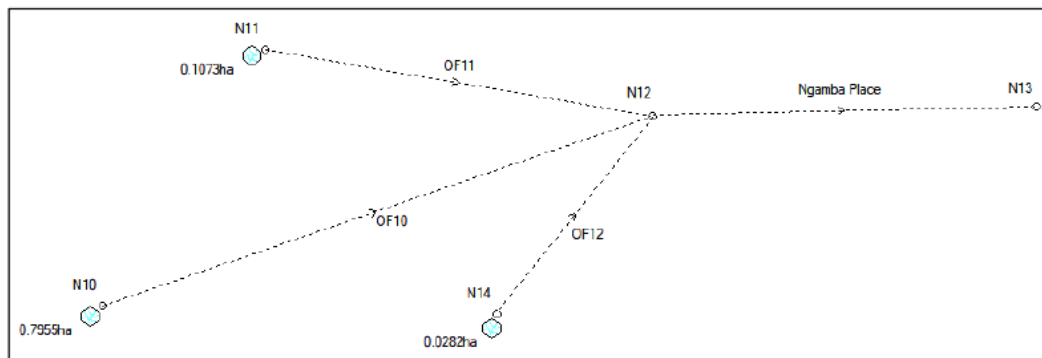


Figure 6 - DRAINS Network for Ngamba Place

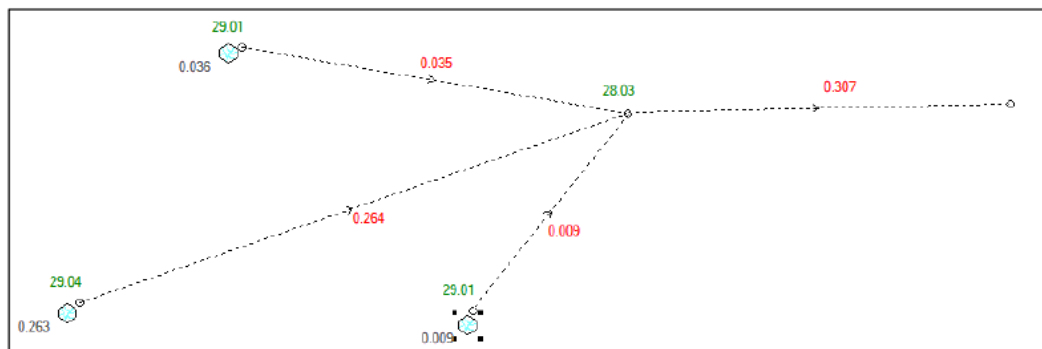


Figure 7 - DRAINS Minor 20% AEP Storm Results for Ngamba Place

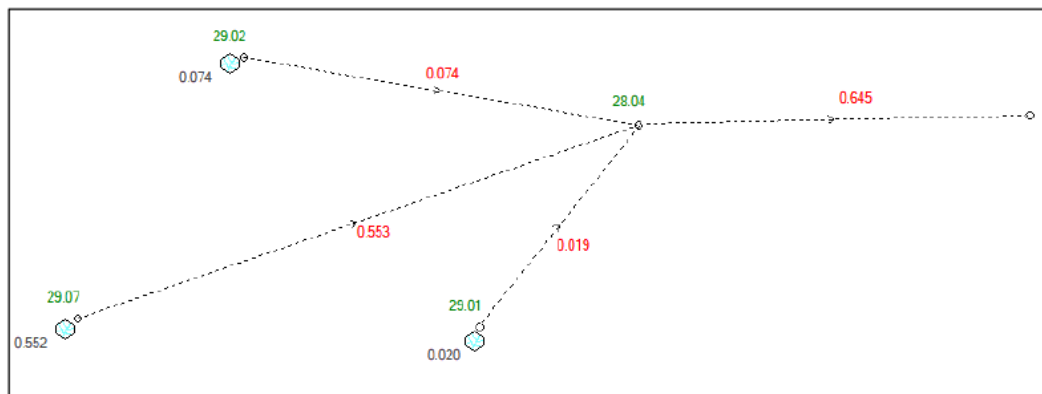


Figure 8 - DRAINS Major 1% AEP Storm Results for Ngamba Place

For the Minor 20% AEP storm event, **307l/s** was modelled. Given the relatively steep grade of the site (12%), a **375mm diameter pipe** should be sufficient to convey this water north (refer to Figure below on 375mm pipe capacity). The existing pipe within Bundarra Way that this network is connecting to is already 375mm. For the detailed design analysis, additional pits will be required along this line to ensure the upstream catchments are captured in the pipe. Two pits may be required side-by-side on Bundarra Way to ensure this initial capture occurs, but this is to be determined at detailed design. This will allow the flow widths to be maintained under the maximum.

Manning Formula Uniform Pipe Flow at Given Slope and Depth				
6600 - PRELIMINARY STORMWATER PIPE CAPACITY				
Ngamba Place				
Inputs			Results	
Pipe diameter, d_0	0.375	m	Flow, Q (See notes)	717.7908 l/s
Manning roughness, n	0.011		Velocity, v	6.4890 m/s
Pressure slope (possibly ? equal to pipe slope), S_0	12	% rise/run	Velocity head, h_v	2.1538 m H ₂ O
Percent of (or ratio to) full depth (100% or 1 if flowing full)	100	%	Flow area	0.1104 m ²
			Wetted perimeter	1.1781 m
			Hydraulic radius	0.0938 m
			Top width, T	0.0000 m
			Froude number, F	0.00
			Average shear stress (tractive force), τ	110.3175 N/m ²

Figure 9 - Preliminary Ngamba Place Pipe Sizing for Minor 20% AEP Storm

For the Major 1% AEP storm event, 645l/s was modelled. Again, the key component will be the number of pits to ensure there is sufficient capture of overland flows. The D x V check will be completed at the detailed design stage, and if required, additional pits added to reduce this.

Scour protection is proposed at the end of the Ngamba Place upgrade, where flows discharge to the existing table drain.

1. STORMWATER QUALITY

1.1. Objective

To meet the load and reduction targets in accordance with AUS-SPEC D7 – Stormwater Management. This includes a reduction of 80% for Suspended Solids, 45% Phosphorus, 45% Nitrogen, and 100% gross pollutants.

1.2. Modelling Results

MUSIC software version 6.3.0 has been adopted to model the stormwater quality requirements. Parameter inputs are in accordance with AUS-SPEC D7 and NSW MUSIC Modelling Guidelines 2015. The model includes a SPEL Ecoceptor 1500 and SPEL Basin MWS-L-3-6 – 2 LPS. The below results illustrate that the water quality objectives can be achieved with the proposed treatment train, noting the gross pollutant capture is deemed acceptable at 99.8% reduction.

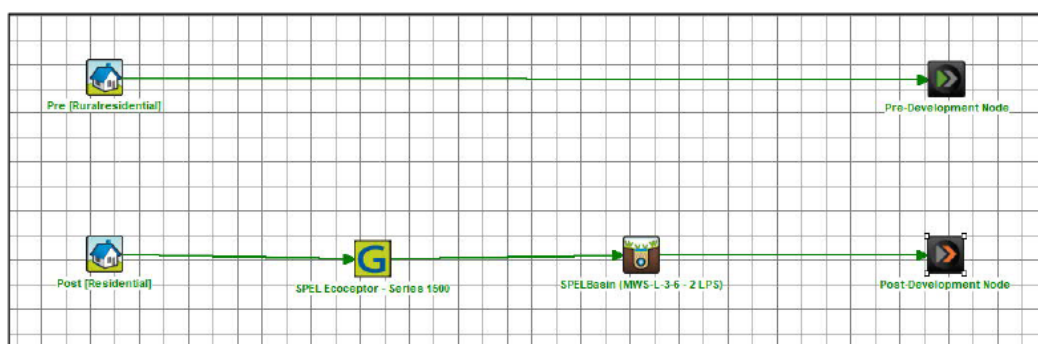


Figure 10 - MUSIC Model

	Sources		Residual Load		% Reduction	
	Pre	Post	Pre	Post	Pre	Post
Flow (ML/yr)	2.5	5.08	2.5	5.08	0	0
Total Suspended Solids (kg/yr)	286	826	286	61.5	0	92.6
Total Phosphorus (kg/yr)	0.518	1.46	0.518	0.268	0	81.6
Total Nitrogen (kg/yr)	5.23	11.4	5.23	4.55	0	60.1
Gross Pollutants (kg/yr)	0	111	0	0.272	0	99.8

Figure 11 - MUSIC Treatment Train Effectiveness

Developer Charges - Estimate

Applicants Name: Ngamba Road Pty Ltd
 Property Address: 11 Ngamba Place Bonny Hills
 Lot & Dp: Lot(s):1,DP(s):1273684
 Development: DA 2021/1047 - Health Care Facility and Ancillary Pharmacy and Café



Water and Sewerage Headworks Levies are levied under S64 of the LGA Act & S306 of the Water Management Act 2000.
 Other contributions are levied under Section 7.11 of the Environmental Planning and Assessment Act and Council's Contribution Plans.

Levy Area	Units	Cost	Estimate
1 Water Supply	2.522	\$10,692.00 Per ET	\$26,965.20
2 Sewerage Scheme Lake Cathie/Bonny Hills	2.722	\$4,056.00 Per ET	\$11,040.40
3 N/A			
4 N/A			
5 N/A			
6 N/A			
7 N/A			
8 N/A			
9 N/A			
10 N/A			
11 N/A			
12 N/A			
13 N/A			
14 S94A Levy - Applicable to Consents approved after 2/12/07	1.00%	\$ 4,514,981	\$45,149.00
15 Admin General Levy - Applicable to Consents approved after 11/2/03	Contribution Not Applicable		
16			
17			
18			
Total Amount of Estimate (Not for Payment Purposes)			\$83,154.60

NOTES: These contribution rates apply to new development and should be used as a guide only.
 Contributions will be determined in conjunction with a Development Application (DA) or Complying Development Application (CDA).
 DAs will be subject to the contributions plans in force at the time of issue of the Consent and for CDCs at time of lodgement.
 Contribution Rates are adjusted quarterly in line with the CPI.

DATE OF ESTIMATE:

8-Apr-2022

Estimate Prepared By Steven Ford

This is an ESTIMATE ONLY - NOT for Payment Purposes

mba Road Pty Ltd, 11 Ngamba Place Bonny Hills, 8-Apr-2022.xls

PORT MACQUARIE-HASTINGS COUNCIL