

Development Assessment Panel

Business Paper

date of meeting: Wednesday 6 March 2024

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

time: 2:00 PM

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 (approve or refuse) 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 being considered by the panel.
- Determine Koala Plans of Management under State Environmental Planning Policy (Biodiversity and Conservation) 2021 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

- 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 Services (alternate - Director Community, Planning 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 media.

3.4 Member Tenure

The independent external members will be appointed for the term of 4 years or until such time as an expression of interest process to source panel members is completed for the proceeding 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 Wednesday each month at 2.00pm at the Port Macquarie offices of Council. Meetings may be conducted on-line or a combination of in person and on-line.
- Special Meetings of the Panel may be convened by the Director Community, Planning and Environment Services with 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 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

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 Community, Planning 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 3 days prior to each meeting. Minutes shall be appropriately approved and circulated to each member within 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 of the DAP and how each member votes for each item before the Panel. Meetings may be recorded via an on-line platform where practical.

6.0 CONVENING OF “OUTCOME SPECIFIC” WORKING GROUPS

Not applicable.

7.0 CONFIDENTIALITY AND CONFLICT OF INTEREST

- Members of the Panel must comply with 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 i.e. not disrupt the conduct of the meeting, 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	19/07/23	15/08/23	20/09/23	18/10/23	15/11/23	7/02/24
David Crofts (Independent Chair)	✓	✓		✓	✓	A
Chris Gee (Independent Member)		✓	✓	✓	✓	✓
Michael Mason (Independent Member)	✓	✓	✓	✓		✓
Dan Croft (Group Manager Development Services)	✓	✓	✓	✓	✓	✓
Tony McNamara (Independent Member)			✓		✓	✓
Other attendees						
Mayor Peta Pinson						
Melissa Watkins (Director Community, Planning and Environment)	✓					
Grant Burge (Development Engineering Coordinator)	✓	✓	✓			✓
Kerrod Franklin (Acting Development Engineering Coordinator)						
Patrick Galbraith-Robertson (Development Planning Coordinator)						
Steven Ford (Development Assessment Planner)			✓			
Chris Gardiner (Development Assessment Planner)			✓			
Vanessa Penfold (Development Assessment Planner)						
Clinton Tink (Development Assessment Planner)			✓			
Jon Power (Act Development Engineer Coordinator)						
Beau Spry (Development Assessment Planner)						
Ben Roberts (Development Assessment Planner)	✓				✓	✓
Councillor Josh Slade						
Councillor Sharon Griffiths						
Kate Kennedy (Building Surveyor)						
Warren Wisemantel						
Deputy Mayor Adam Roberts						
Bob Slater (Development Assessment Planner)						
Alton Dick (Stormwater Engineer)						
Fiona Tierney (Development Assessment Planner)		✓		✓		

Key: ✓ = Present, **A** = Absent With Apology **X** = Absent Without Apology

Development Assessment Panel

Meeting Dates for 2024

7 February	Function Room	2.00pm
21 February	Function Room	2.00pm
6 March	Function Room	2.00pm
20 March	Function Room	2.00pm
3 April	Function Room	2.00pm
17 April	Function Room	2.00pm
1 May	Function Room	2.00pm
15 May	Function Room	2.00pm
5 June	Function Room	2.00pm
19 June	Function Room	2.00pm
3 July	Function Room	2.00pm
17 July	Function Room	2.00pm
7 August	Function Room	2.00pm
21 August	Function Room	2.00pm
4 September	Function Room	2.00pm
18 September	Function Room	2.00pm
2 October	Function Room	2.00pm
16 October	Function Room	2.00pm
6 November	Function Room	2.00pm
20 November	Function Room	2.00pm
4 December	Function Room	2.00pm

Development Assessment Panel Meeting

Wednesday 6 March 2024

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AGENDA

DEVELOPMENT ASSESSMENT PANEL

06/03/2024

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 7 February 2024 be confirmed.

PRESENT

Members:

Tony McNamara (Independent Chair)
Michael Mason (Independent Member)
Chris Gee (Independent Member)
Dan Croft (Group Manager Development Services)

Other Attendees:

Grant Burge (Development Engineering Coordinator)
Ben Roberts (Senior Development Assessment Planner)

The meeting opened at 2.00pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

CONSENSUS:

That the apology received from David Crofts be accepted.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 15 November 2023 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA2023 - 268.1 MIXED USE DEVELOPMENT COMPRISING RESIDENTIAL FLAT BUILDING, COMMERCIAL PREMISES AND SHOP-TOP HOUSING WITH STRATA SUBDIVISION AT LOT 102 DP 1293926 SURFERS DRIVE, LAKE CATHIE.

Speakers:
Daniel Hadley (applicant)
Brad Lane (applicant)

CONSENSUS:

That DA 2023 - 268.1 mixed use development comprising residential flat building, commercial premises and shop top housing with strata subdivision at Lot 102, DP 1293926, Surfes Drive, Lake Cathie, be determined by granting consent subject to the recommended conditions noting the Panel emphasises the importance of enhancing the landscaping and communal space detail as part of the construction documentation and delivery of the development.

06 GENERAL BUSINESS

Nil

The meeting closed at 2.40pm

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:
- your interest, or
 - the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - 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:
- Your "relative" is any of the following:
 - your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - the spouse or de facto partner of a person referred to in paragraphs (i) and (i)
 - "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)
- if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - 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
 - 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 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
 - 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.
 - 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.
 - 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
 - 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
 - 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:
- 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
 - 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.

AGENDA

DEVELOPMENT ASSESSMENT PANEL

06/03/2024

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 (the <i>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 (the <i>subject land</i>)² <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: DA2023 - 700.1 DUAL OCCUPANCY AND STRATA SUBDIVISION AT LOT: 1 DP: 1227144, NO. 5A TREETOP CRESCENT PORT MACQUARIE.

Report Author: Development Assessment Planner, Beau Spry

Applicant: Kristy Roberts c/o Pycon Homes & constructions
Owner: Stephen and Treena Heslop
Estimated Cost: \$1,077,358.00
Parcel no: 65897

Alignment with Delivery Program

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

RECOMMENDATION

That DA2023 - 700.1 for a Dual Occupancy and Strata Title Subdivision at Lot 1, DP1227144, No. 5A Treetop Crescent, Port Macquarie, be determined by granting consent subject to the recommended conditions.

Executive Summary

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

Following exhibition of the application, 3 submissions were received.

The proposed design has been amended during assessment to include reorientation of Dwelling #1 to minimise overshadowing impacts, incorporation of privacy screening and landscaping treatments.

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

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

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.

AGENDA

DEVELOPMENT ASSESSMENT PANEL 06/03/2024

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 914.13m².

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 x 3-bedroom Dual Occupancy Dwellings and Strata Subdivision.

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

Application Chronology

- 27/10/2023 - Application lodged with Council.
- 02/11/2023 - 15/11/2023 - Notification period.
- 22/11/2023 - Council staff requested additional information.
- 08/12/2023 - Applicant responded to submissions and request for additional information and provide updated plans.
- 19/01/2024 - Council staff requested additional information.
- 16/02/2024 - Applicant provide updated plans.

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

AGENDA

DEVELOPMENT ASSESSMENT PANEL

06/03/2024

Chapter 4 Koala Habitat Protection 2021

Clause 4.4 - This SEPP applies to all non-rural zoned land within the Port Macquarie-Hastings Local Government Area.

Clause 4.10 - 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;
2. The site has a land area less than 1 hectare; and
3. The site not considered to be core koala habitat.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 2 Coastal Management

Clause 2.5 - This SEPP prevails over the Port Macquarie-Hastings LEP 2011 in the event of any inconsistency.

Having regard to clause 2.8, 2.10 and 2.11, the proposed development is not located in proximity to coastal wetlands or littoral rainforest of this SEPP. Additionally, the site is not located within a coastal use area or a coastal environment area. Therefore, the provisions of the SEPP do not apply to the site.

Chapter 4 Remediation of Land

Clause 4.6 - Following an inspection of the site and a search of Council records, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

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

A BASIX certificate 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 (Transport and Infrastructure) 2021

Clause 2.48 - Development in proximity to electricity infrastructure - referral to Essential Energy has been complete. The following advice has been provided:

“Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- *As the plans provided do not show the distances from Essential Energy’s infrastructure and the development, there may be a safety risk. THE LOW VOLTAGE SERVICE CABLE WILL NEED TO BE LOOKED AT BY A LEVEL 2 ELECTRICIAN TO MAKE SURE IT IS IN LINE WITH THE SERVICE AND INSTALATION RULES AND AS3000*
- *It is also essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a [Request for Safety Advice](#) if works cannot maintain the safe working clearances set out in the [Working Near Overhead Powerlines Code](#)*

of Practice, or CEOP8041 - Work Near Essential Energy's Underground Assets.

Information relating to developments near electrical infrastructure is available on our website Development Applications (essentialenergy.com.au). If the applicant believes the development complies with safe distances or would like to submit a request to encroach then they will need to complete a Network Encroachment Form via Essential Energy's website Encroachments (essentialenergy.com.au) and provide supporting documentation. Applicants are advised that fees and charges will apply where Essential Energy provides this service.

Council's and the applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.

Essential Energy makes the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); the location of overhead and underground powerlines are also shown in the Look Up and Live app essentialenergy.com.au/lookupandlive."

The advice received from Essential Energy has been forwarded the Applicant for consideration.

Clause 2.118 refers to development with frontage to a classified road. In this case, the development does not create any additional crossovers onto the classified road or substantial increase in traffic. Therefore, no adverse impact on the road network will occur.

The development does not trigger any of the traffic generating development thresholds of Clause 2.121. Referral to the NSW Roads and Maritime Services (RMS) is not required.

Based on the above, the proposed development addresses relevant clauses in the SEPP and will not to create any significant adverse conflict in terms of traffic or noise.

State Environmental Planning Policy (Primary Production) 2021

Part 2.5 Division 4 - The proposed development will create no adverse impact on any oyster aquaculture development or priority oyster aquaculture area.

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.

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- Clause 2.3(1) and the R1 zone landuse table - The proposal is best characterised as dual occupancy and strata subdivision and 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 the development will contribute to the variety of housing types and densities to meet the housing needs of the community.
- Clause 4.1 - The minimum lot size for subdivision is 450m². However, pursuant to Clause 4.1(4) this control does not apply to the proposal as strata subdivision is sought. The existing residential lot has an area of 914.13m²
- Clause 4.3 - The maximum overall height of the building above ground level (existing) is 6.5m which complies with the standard height limit of 8.5 m applying to the site. Refer to plans for compliance.
- Clause 4.4 - The floor space ratio of the proposal is less than 0.45:1, which complies with the maximum 0.65:1 floor space ratio applying to the site. Refer to plans for compliance.
- Clause 5.10 - The site does not contain or adjoin any known heritage items or sites of significance. The site is also disturbed from past activities/works on-site.
- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development. Provision of electricity will be subject to obtaining satisfactory arrangements certification prior to construction as recommended by a condition of consent.

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

No relevant 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).	A max 1.2m cut is proposed for a small portion of the north-eastern corner, principally to realign an existing retaining wall.	Yes
5	a) A certified practicing structural engineer must certify any retaining wall greater than 1.0m.	The height of proposed retaining walls vary from 600mm to 1.2m. Condition recommended for all retaining walls to be engineered.	Yes
	b) Where a combination of a fence and a wall is proposed to be greater than 1.2m high: <ul style="list-style-type: none"> - 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. 	N/A	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	Site is not identified as bushfire prone.	N/A
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	use within environment protection zones.		
Flooding			
19	a) Development must comply with Council's Floodplain Management Plan and Flood Policies.	Site is not identified as flood prone.	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	Vehicle driveway crossings are minimal in number and width (while being adequate for the nature of the development), and positioned: – to avoid driveways near intersections and road bends, and – to minimise streetscapes dominated by driveways and garage doors, and – to maximise on-street parking.	No change to existing driveway crossover.	N/A
Parking Provision			
24	a) Off-street Parking is provided in accordance with Table 3. 1 parking space per each 1 or 2-bedroom unit + 1 visitor's space per 4 units. 1.5 spaces per each 3 or 4-bedroom unit + 1 visitor's space per 4 units.	Dual occupancy proposed. <u>Required:</u> 1x parking space for each dwelling required. <u>Proposed:</u> Attached double garage proposed for each dwelling + opportunity for stacked parking within the driveway. Proposal exceeds the minimum requirements.	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:	Dwelling parking spaces are contained within attached garages.	Yes



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	<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. 		
	d) Parking design and layout is provided in accordance with AS/NZS 2890.1 - Parking facilities - Off-street car parking.	Garage dimensions are 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. No adverse impacts identifiable.	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.	The proposed development will drain to an OSD system before being discharged to the street. Details of the stormwater system are to be provided to Council for review prior to the issue of the construction certificate.	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 	The proposed development will be unlikely to create any adverse concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The development will also provide a level of natural surveillance within the locality.	Yes

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	<ul style="list-style-type: none"> - Predictable routes and entrapment locations; - as described in the Crime Prevention Through Environmental Design (CPTED) principles. 	Lighting and CCTV can be installed retrospectively by the owner, should they wish to have further security in the future.	
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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>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.</p>	Being a battleaxe lot, the development does not have an articulation zone	N/A
	<p>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</p>	Being a battleaxe lot, the development does not have a front setback.	N/A
45	a) A garage, carport or car parking space should:	Being a battleaxe lot, the development does not	N/A

	<ul style="list-style-type: none"> - 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. 	have a front setback, therefore the garage setback is not relevant.	
	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.	Not relevant battleaxe block.	N/A
	c) Driveway crossovers are no greater than 5.0m in width.	Existing shared driveway crossover no greater than 5.0m in width	Yes
Side and Rear Setbacks			
46	a) A minimum rear boundary setback of 4m is to be provided to dwellings (including verandahs, patios and decks).	<p>The proposal is provided with a 4m setback to rear setback.</p> <p>The applicant has provided an equivalent 4m setback on other frontages to allow natural light and ventilation.</p> <p>Useable yard areas and open space are also achieved.</p>	Yes
	b) A minimum rear boundary setback of 900mm applies to sheds and swimming pools subject to achieving minimum required private open space area.	N/A	N/A
	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	N/A	N/A

	the rear setback may be reduced to 900mm.		
47	a) Ground floors (being <1m above existing ground level) should be setback a minimum of 900mm from side boundaries.	Ground floors minimum side setbacks: Dwelling 1: 3.55m to western boundary Unit 2: 1.82m to eastern boundary;	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.	Second storey minimum side setbacks: Dwelling 1: 3.55m to western boundary; Unit 2: 1.82m to eastern boundary; The proposal has been modified during assessment and updated shadow diagrams demonstrate that the adjoining property's primary living rooms and principal private open space areas, principally at No. 4 Treetop Crescent, are not adversely overshadowed for more than 3hrs between 9am - 3pm on 21 June.	Yes
	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.	N/A	N/A
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: - a minimum dimension of 4m x 4m, and - a maximum grade of 5% for minimum 4m x	Both units are provided with private open space compliant with the minimum 35m ² area inclusive of useable 4m x 4m area directly accessible from ground floor living area.	Yes

	4m of the total open space requirement, and - direct accessibility from a ground floor living area and orientated to maximise use.		
	b) Private open space may include clothes drying areas and garbage storage.	Drying areas noted on site plans.	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.	No front fence proposed.	Yes
	b) Solid Front fences up to 1.2m high should be: - Setback 1.0m from the front boundary, and - Suitably landscaped to reduce visual impact, and - Provide a 3m x 3m splay for corner sites.	N/A	N/A
	c) 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: - 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,	N/A	N/A
	d) have openings which make it not less than 25% transparent (no individual opening more than 30mm wide);	N/A	N/A
	e) provide a 3m x 3m splay for corner sites, and	N/A	N/A

	f) provide a 900mm x 900mm splay for vehicle driveway entrances.	N/A	N/A
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 open space of other dwellings within a 12m radius. 	<p>Direct views between indoor living rooms and principal private open space of adjacent dwellings are sufficiently obscured in regard to:</p> <ul style="list-style-type: none"> - Ground and first floor indoor living room windows within a 9m radius of existing dwellings. - Direct views between principal private open space areas 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. <p>The proposal has been revised during assessment to increase setbacks in some cases and/or provide for privacy screening.</p>	Yes
	<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>Direct views from al-fresco/patio areas will be obscured by boundary fencing.</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. 	No additional privacy protection required.	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 25% openings (max), with no individual opening more than 30mm wide, is permanently fixed and is made of durable materials. - A window, the whole of which has translucent glass and is not able to be opened. 	Direct views will be obscured by a combination of side boundary fencing and additional screening.	Yes
Ancillary Development			
56	<p>a) For ancillary development in R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, R5 Large Lot Residential and RU5 Village zones:</p> <ul style="list-style-type: none"> - 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). 	Water tanks appropriately located.	Yes

	<ul style="list-style-type: none"> - 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. 		
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(iiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

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

(iv) Any matters prescribed by the Regulations

No matters prescribed by the regulations are applicable to the proposal.

(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 a battleaxe block with access from Treetop Crescent. The site is a vacant block within an established urban locality. Adjoining the site to all sides is further R1 residential. The locality is a mix of single- and two-storey dwellings, multi-dwellings and tourist accommodation.

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

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

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts.

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

Access, Traffic and Transport

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

Water Supply Connection

Council's records indicate that there is an existing 20mm sealed water service from the 100mm main in Treetop Crescent. Each unit or lot is to be provided with a separate metered water connection to Council's main, with the meters being located on the road frontage. The design shall be in accordance with Council's Water Supply Services Policy.

A minimum 25mm water service or a water service conduit is to be provided for the full length of the access handle of battle axe lots within a minimum verge, 1.0m wide adjacent to the paved surface.

Detailed plans will be required to be submitted for assessment with the Section 68 application. Appropriate conditions are recommended in this regard.

Sewer Connection

Council's records indicate that the development site is connected to sewer via a junction out of the existing manhole located within the access handle for the lot. The proponent is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.

Appropriate conditions are recommended in this regard.

Stormwater

The development site naturally grades in a north to south direction towards private property at 4 Treetop Crescent and onward to Treetop Crescent public road. As there is no public stormwater piped infrastructure servicing the frontage of the development lot the legal point of discharge, considering the scope of the development, is kerb and guttering to Treetop Crescent.

The submitted plans demonstrate stormwater management is via discharge to kerb and guttering, which is in line with Council requirements and approved Infrastructure CC (CI2015 - 663.1) plans. This has been added as a condition in the consent document for the legal point of discharge.

Lot 1 was created under DA2015 - 663.1, which included what is now 5b Treetop Crescent (Lot 2), and was assessed from a stormwater management perspective taking in consideration already existing structures and hardstand areas to determine future stormwater controls for future development.

A covenant on Lot 1 (and Lot 2) is listed on the 88b instrument for DP1227144 burdening both lots regarding on-site detention (OSD). The requirement for OSD is typically triggered when a development scope is greater than dual occupancy, however, this development is required to provide OSD due to the prior DA2015 - 663.1 consent conditions requiring OSD, and the existence of the positive covenant currently applied on Lot 1.

OSD will be required to limit total site discharge to the lesser of the following:

- 1) 55L/s maximum discharge via single suitably sized kerb adapter
- 2) Pre-development flow rates for a range of storm event up to and including the 1% AEP event. Pre-development site condition is greenfield.

The plans indicate above ground rainwater tanks for each proposed dwelling containing 2000L of storage for each dwelling to treat roof areas only. It is noted that driveway areas do not appear to be directed to OSD, therefore further demonstration on plans, including associated calculations will need to be provided to Council prior to release of S68 / CC. Council stormwater engineering staff do not see difficulties in providing additional OSD storage (i.e. combination of above and below ground systems with orifice control) to treat additional areas (in order to meet the above total site discharge requirements) such as driveway area within the lot 1, outside of the right of access easement. A condition has been listed on the draft consent document to cover this requirement.

All impervious areas within the development lot shall be managed within the development property without concentrating or diverting stormwater to other properties. Details shall be provided on stormwater plans prior to CC/S68 demonstrating how impervious area stormwater runoff i.e driveway will be managed to the legal point of discharge. Typical controls for example may include shaping, kerb, dish drains, and/or stormwater pits / grated drains. Any runoff to adjoining properties must be demonstrated to mimic natural behaviour (unconcentrated and no increase).

An existing drainage easement 1m wide is located along the western boundary of the development lot, which burdens Lot 1. It is unclear if a pipe exists within this easement, however, the terms of the easement do not benefit Lot 1. Therefore, construction of any interallotment drainage will not be required for this proposed development. The drainage easement has been shown on submitted plans and all enclosed structures are clear of the easement, which meets Council requirements.

Other Utilities

Telecommunication and electricity services are available to the site. Service requirements to be addressed during construction.

Heritage

No known items of Aboriginal or European heritage significance exist on the property. No adverse impacts anticipated. The site is in a residential context and 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 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

Construction of the proposed development will not require any removal/clearing of any native vegetation, does not trigger the thresholds and is also not located within a mapped Biodiversity Values area. The site is also heavily disturbed from past activities onsite and unlikely to contain or impact on any threatened species. The development is also achieving the intent of the original subdivision that created the lot. Based on the above, the development is considered to be compliant with the Biodiversity Conservation Act 2016.

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 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.

Bushfire

The site is not identified as being bushfire prone.

Safety, security and crime prevention

The proposed development will be unlikely to create any adverse concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The development will also provide a level of natural surveillance within the locality. Lighting and CCTV can be installed retrospectively by the owner, should they wish to have further security in the future.

Social impacts in the locality

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

Economic impact in the locality

The proposal is not considered to have any significant adverse economic impacts on the locality. A likely positive impact is that the development will maintain employment in the construction industry, which will lead to flow impacts such as expenditure in the area.

Site design and internal design

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

Construction

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

Cumulative impacts

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

(c) The suitability of the site for the development

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

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

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

3 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	Comment
<p>Stormwater and drainage concerns -</p> <ul style="list-style-type: none"> the proposal will exacerbate existing stormwater issues from 5B Treetops. 	<p>The stormwater implications have been reviewed by Councils Stormwater Engineers who have deemed the proposal acceptable subject to conditions of consent. A detailed stormwater management plan will be required prior to issue of the Construction Certificate (CC), notably requiring onsite-detention (OSD) and ensuring no increase or concentration to the downstream neighbouring properties.</p>
<p>Overshadowing -</p> <ul style="list-style-type: none"> Overshadowing concerns onto 4 Treetops Crescent 	<p>There is a moderately precipitous drop of approximately 2m along the southern boundary of the subject site at Lot 1 down to #4 Treetop Crescent to the south.</p> <p>The proposed design has been amended during assessment, including to reorient the two storey elements further north and away from #4 Treetops Crescent to the south, significantly reducing the shadow impacts into the primary living/private open space areas of #4 Treetop Crescent.</p> <p>Additionally, given the nature of the drop off, modelled shadow diagrams for a hypothetical single storey proposal</p>

	indicate some overshadowing onto #4 Treetop Crescent.
<p>Traffic -</p> <ul style="list-style-type: none"> Concerns around traffic volumes and noise implications. 	<p>The proposal is for residential use and the development does not include any commercial or industrial activities anticipated to generate significant noise.</p> <p>The proposal has been reviewed by Council's Development Engineers. Traffic and Transport has been detailed elsewhere in this report but in particular, notes that the proposal will not have any significant adverse impacts in terms of access, transport and traffic. The suggested speed hump is not supported given the pathway is sufficiently clear of the driveway and the installation of a speed hump could create noise issues in itself.</p> <p>Noise from the proposed dual occupancy housing would be restricted to the expected typical activities of the residents and guests, and vehicles entering and exiting the site (as is the case for neighbouring residential uses). The proposal for dual occupancy housing is permissible in the zoning.</p>
<p>Privacy -</p> <ul style="list-style-type: none"> Concerns around proximity of Dwelling 1 al-fresco area and overlooking into #3 Treetops Crescent to the west. 	<p>The subject site sits naturally higher than Lot 25 (#3 Treetops Crescent). There is a drop of approximately 2m along the western boundary of the subject site at Lot 1 down to #3 Treetop Crescent to the west. The proposed al-fresco areas has a minimum setback of 3.55m. Revised plans have incorporated privacy screening and landscaping along the western aspect of the al-fresco.</p>

(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 adversely impact 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 site has been provided contribution credit based on one residential lot with area between 450m² and 2000m².

The proposed development will comprise 2 x 3-bedroom dwellings on strata title lots and contributions have been charged accordingly.

As a result, s7.11 contributions apply and a condition of consent has been imposed to ensure payment.

Section 7.12 Contributions

The proposed development is for residential purposes only and s7.12 contributions do not apply.

Section 64 Water and Sewer Contributions

Water and sewer contributions will be determined as part of the Notice of Requirements under Section 306 of the Water Management Act 2000.

An estimate of the applicable contributions is included (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 proposed development does not raise any significant general public interest issues beyond matters already addressed in this report. Overall, the proposed development is consistent with the provisions and objectives of the relevant planning controls and will have an acceptable impact on the surrounding natural and built environment. Approval of the application is considered to be in the public interest as it achieves the LEP objectives for development in the zone. No significant adverse







AGENDA

DEVELOPMENT ASSESSMENT PANEL

06/03/2024

environmental, social or economic impacts on the locality have been identified. Accordingly, the proposal is considered to be in the public interest.

Attachments

1.   Attachment 1 - Recommended Conditions
2.   Attachment 2 - Plans
3.   Attachment 3 - Contributions Estimate

DRAFT CONSENT CONDITIONS**NOTE: THESE ARE DRAFT ONLY**

DA NO: 2023/700

DATE: 6/03/2024

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

GENERAL CONDITIONS

Condition																							
1	<p>A001 - Approved plans and supporting documentation</p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <p>Approved plans</p> <table border="1"> <thead> <tr> <th>Plan number</th> <th>Revision number</th> <th>Plan title</th> <th>Drawn by</th> <th>Date of plan</th> </tr> </thead> <tbody> <tr> <td>Job: TBA</td> <td>Rev: D;</td> <td>Architectural Plans</td> <td>I Want That Design, Pycon</td> <td>21 January 2024</td> </tr> </tbody> </table> <p>Approved documents</p> <table border="1"> <thead> <tr> <th>Document title</th> <th>Version number</th> <th>Prepared by</th> <th>Date of document</th> </tr> </thead> <tbody> <tr> <td>Statement of Environmental Effects</td> <td></td> <td>Michelle Love, Love Project Management</td> <td>September 2023</td> </tr> <tr> <td>BASIX Certificate</td> <td>1353817M_02</td> <td>10 Star Assessments</td> <td>21 July 2023</td> </tr> </tbody> </table> <p>In the event of any inconsistency between the approved plans and documents, the approved plans/documents prevail.</p> <p>In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Plan number	Revision number	Plan title	Drawn by	Date of plan	Job: TBA	Rev: D;	Architectural Plans	I Want That Design, Pycon	21 January 2024	Document title	Version number	Prepared by	Date of document	Statement of Environmental Effects		Michelle Love, Love Project Management	September 2023	BASIX Certificate	1353817M_02	10 Star Assessments	21 July 2023
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BASIX Certificate	1353817M_02	10 Star Assessments	21 July 2023																				
	A002 - Certificates																						

2	<p>The following certificates relevant to the development in accordance with Part 6 of the Environmental Planning and Assessment Act 1979 shall be obtained at the respective stages:</p> <ul style="list-style-type: none"> • Construction Certificate; • Occupation Certificate • Strata Certificate;
	<p>Condition Reason: To ensure that appropriate building and subdivision certification is obtained.</p>
3	<p>A003 - Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed— <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the Home Building Act 1989, Part 6, b. for work to be carried out by an owner-builder— <ol style="list-style-type: none"> i. the name of the owner-builder, and ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989 - the number of the owner-builder permit. 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information. 4. This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.
	<p>Condition Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
4	<p>A004 - Shoring and adequacy of adjoining property</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor. 2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense - <ol style="list-style-type: none"> a. protect and support the building, structure or work on adjoining land from possible damage from the excavation, and b. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation. 3. This section does not apply if - <ol style="list-style-type: none"> a. the person having the benefit of the development consent owns the adjoining land, or b. the owner of the adjoining land gives written consent to the condition not applying.
	<p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
5	<p>A005 - Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work.

	<p>2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out -</p> <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and c. stating that unauthorised entry to the work site is prohibited. <p>3. The sign must be -</p> <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. <p>4. This section does not apply in relation to -</p> <ol style="list-style-type: none"> a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.
	<p>Condition Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
6	<p>A006 - Fulfilment of BASIX commitments</p>
	<p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled -</p> <ol style="list-style-type: none"> 1. BASIX development, 2. BASIX optional development, if the development application was accompanied by a BASIX certificate.
	<p>Condition Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
7	<p>A008 - Public works and utility services alterations</p>
	<p>The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage, public utility services, any easements and Council services at no cost of Council for the purposes of the development.</p>
	<p>Condition Reason: To confirm that the developer is responsible for all public utility costs and alterations.</p>
8	<p>A009 - Construction site management</p>
	<p>The development site is to be managed for the entirety of work in the following manner:</p> <ol style="list-style-type: none"> 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; <ul style="list-style-type: none"> - Monday to Saturday from 7.00am to 6.00pm

	<p>- 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.</p> <p>7. All works within proximity of electrical infrastructure shall be carried out in accordance with the requirements of the relevant electricity authority.</p>
	Condition Reason: To ensure that construction site is appropriately managed to prevent impacts to adjoining properties, the public domain and to ensure waste is disposed of in a practical and sustainable manner.
10	A010 - AUSPEC Specifications
	The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
	Condition Reason: To ensure public infrastructure works meet appropriate industry standards.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
1	B002 - Plumbing permit
	<p>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:</p> <ul style="list-style-type: none"> • Position and depth of the sewer (including junction) • Stormwater drainage termination point • Easements • Water main • Proposed water meter location
	Condition Reason: To ensure that appropriate infrastructure is provided to service the development and to protect public health and safety.
2	B005 - Works in road reserve permit
	<p>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:</p> <ul style="list-style-type: none"> • Civil works
	Condition Reason: To ensure that appropriate infrastructure is provided to service the development and to protect public health and safety.
3	B008 - Section 7.11 Contributions
	<p>Payment to Council, prior to the issue of a Construction Certificate, of the Section 7.11 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 either the provisions of the following plans (as amended) or a Planning Agreement:</p>

	<ul style="list-style-type: none"> • Port Macquarie-Hastings Administration Building Contributions Plan 2007 • Hastings S94 Administration Levy Contributions Plan • Port Macquarie-Hastings Open Space Contributions Plan 2018 • Hastings S94 Major Roads Contributions Plan • Port Macquarie-Hastings Community Cultural and Emergency Services Contributions Plan 2005 <p>The plans may be viewed on Council's website.</p> <p>The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.</p>
	Condition Reason: To ensure that appropriate infrastructure is provided to service the development and to ensure that the development positively contributes to public infrastructure networks.
4	B019 - Retaining walls
	Detailed drawings and specifications prepared by a professional engineer for all retaining walls supporting: <ul style="list-style-type: none"> i. earthworks that are more than 600mm above or below ground level (existing); and located within 1m of the property boundaries; or ii. earthworks that are more than 1m above or below ground level (existing) in any other location; are to be submitted to the Principal Certifier with the application for Construction Certificate. Condition Reason: To ensure retaining walls have structural integrity.
8	B051 - Utilities and services including Water and Sewer
	Before the issue of the relevant Construction Certificate, written evidence of the following service provider requirements must be provided: <ul style="list-style-type: none"> • A response from Council as a Water Authority as to whether plans accompanying the application for Construction Certificate would affect any Water Authority infrastructure and whether any further requirements need to be met. Condition Reason: To ensure relevant utility and service provider's requirements are provided to the certifier and Water Management Act requirements are met.
9	B030 - Stormwater drainage design
	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: <ul style="list-style-type: none"> a) The legal point of discharge for the proposed development is defined as the kerb and gutter of Treetop Crescent. b) The design shall incorporate on-site stormwater detention facilities to limit site stormwater discharge to the lesser of either of the following: <ul style="list-style-type: none"> a. 55 L/s maximum discharge rate out letting from single suitably sized kerb adapter.

	<p>b. 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. The pre-development site impervious area conditions shall be assumed that the site is 'greenfield' development as per AUSPE requirements.</p> <p>c) Where works are staged, a plan is to be provided which demonstrates which treatment measure/s is/are are to be constructed with which civil works stage. Separate plans are required for any temporary treatment (where applicable e.g. for building phase when a staged construction methodology is adopted) and ultimate design.</p> <p>d) 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.</p> <p>e) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.</p> <p>f) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.</p> <p>g) Stormwater plans shall demonstrate how impervious area stormwater runoff will be managed within the lot to the legal point of discharge i.e. driveway areas, whilst ensuring total site discharge rates meet the requirements in above condition B072b), and ensuring any runoff towards neighboring private properties mimics natural behaviour and flow rates.</p> <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development.</p>
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BEFORE BUILDING WORK COMMENCES

Condition	
1	D004 - Service provider arrangements
	Prior to works commencing an application being made to the electricity and telecommunications service providers. Services are required to be underground.
	Condition Reason: To ensure that appropriate infrastructure is provided to service the development.

DURING BUILDING WORK

Condition	
1	E003 - Copy of construction plans
	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 Certifier or an officer of the Council.
	Condition reason: To ensure that the development proceeds in accordance with the approved plans.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
1	F020 - Completion of Section 138 works for building works
	Prior to occupation or the issuing of the Occupation, Certificate provision to the Principal Certifier 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.
	Condition reason: To ensure that appropriate infrastructure is provided to service the development.
2	F031 - Completion of Section 68 works
	Prior to occupation or the issuing of any Occupation Certificate a Section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
	Condition reason: To ensure that appropriate infrastructure is provided to service the development.
3	F035 - Certification of BASIX commitments
	Written confirmation being provided to the Principal Certifier from any properly qualified person (e.g. the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
	Condition reason: To ensure that BASIX commitments have been provided and the development achieves acceptable operating efficiencies.
4	F033 - Section 307 certificate for building works
	A Certificate of Compliance under the provisions of Section 307 of the <i>Water Management Act</i> must be obtained prior to the issue of any Occupation Certificate.
	Condition Reason: To ensure that appropriate infrastructure is provided to service the development.
5	F009 - Driveway and parking area construction standard
	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).
	Condition Reason: To ensure that the development provides for practical and safe accessibility/functionality and to protect the environment.
6	F036 - Completion of landscaped areas
	Landscaped areas being completed prior to occupation or issue of the Occupation Certificate. Public landscaping may be bonded as agreed to by Council.
	Condition Reason: To ensure that the development positively contributes to the aesthetics and biodiversity values of the area.
7	F195 - Stormwater Onsite Detention
	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
	Condition Reason: To ensure that appropriate infrastructure is provided to service the development.
8	F024 - Drainage certification
	An appropriately qualified and practising consultant is required to certify the following: a. all drainage lines have been located within the respective easements, and

	<p>b. any other drainage structures are located in accordance with the Construction Certificate.</p> <p>c. all stormwater has been directed to a Council approved drainage system</p> <p>d. all conditions of consent/ construction certificate approval have been complied with.</p> <p>Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.</p>
	Condition reason: To ensure that appropriate infrastructure is provided to service the development.
9	F196 - Subdivision
	The Strata Certificate shall not be issued until such time that the dwellings associated with this development are substantially commenced (as determined by Council) or where a strata management statement, or restriction as to user, prohibits any dwelling on each lot other than the dwelling approved as part of this consent.
	Condition Reason: To ensure development proceeds in accordance with the approved plans.

OCCUPATION AND ONGOING USE

Condition	
1	Onsite stormwater detention management
	<p>On completion of the on-site stormwater detention system (OSD), the owner of the property is responsible for:</p> <p>a. Maintaining and keeping clear all pits, pipelines, screens, orifice and other structures associated with the on-site stormwater detention facilities ("OSD").</p> <p>b. Having the OSD inspected annually by a competent person.</p> <p>The Council shall have the right to enter the development lot, at all reasonable times to inspect, construct, install, clean, repair and maintain in good working order any structures or components in or upon the land which comprise the OSD or which convey stormwater from the said land; and recover the costs of any such works from the landowner.</p>
	Condition Reason: To ensure that appropriate infrastructure is provided and maintained to service the development.
2	G004 - Single dwelling use only
	The consent only permits the use of the buildings as a single dwelling on each strata lot and does not permit the adaption or use of the building so as to create a second occupancy.
	Condition reason: Condition reason: To protect public health and safety and to ensure the development proceeds in accordance with the approval.

LAND SUBDIVISION

BEFORE ISSUE OF A STRATA CERTIFICATE

Condition	
1	Section 307 certificate for strata subdivision
	A Certificate of Compliance under the provisions of Section 307 of the <i>Water Management Act</i> must be obtained prior to the issue of any Strata Certificate.
	Condition Reason: To ensure that appropriate infrastructure is provided to service the development.

DRAFT

Development Application Drawings - D

Sheet Index

- | | | | |
|----|---------------------------------------|----|--|
| 1 | Cover Sheet | 11 | Section A |
| 2 | Existing Site Plan 1:250 | 12 | Shadow Diagrams - Winter |
| 3 | Proposed Sub-Division Site Plan 1:250 | 13 | Shadow Diagrams - Summer |
| 4 | Proposed Site Plan 1:250 | 14 | Shadow Diagrams - Single Storey Dual Occupancy |
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| 10 | Elevations 2 of 2 | | |



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E: enquiries@pycon.com.au

PH: 02 6583 3799

LIC: 55958c



PROPOSED STRATA TITLE SUBDIVISION & RESIDENCES FOR:

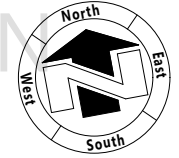
Steve & Treena Heslop
Lot 1 No. 5a Treetop Crescent
Port Macquarie NSW 2444



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LEGEND

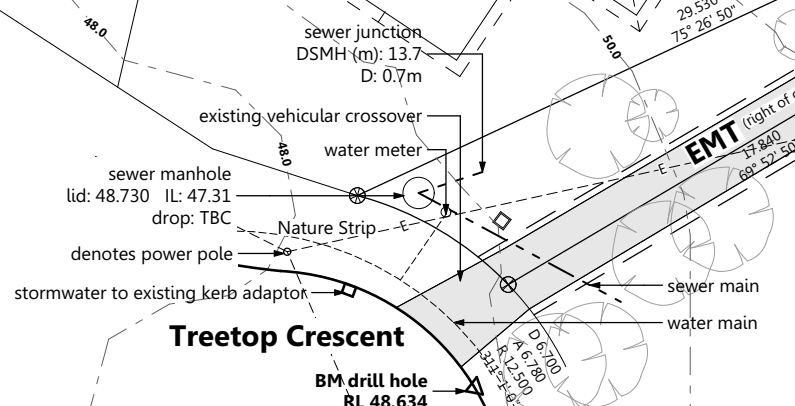
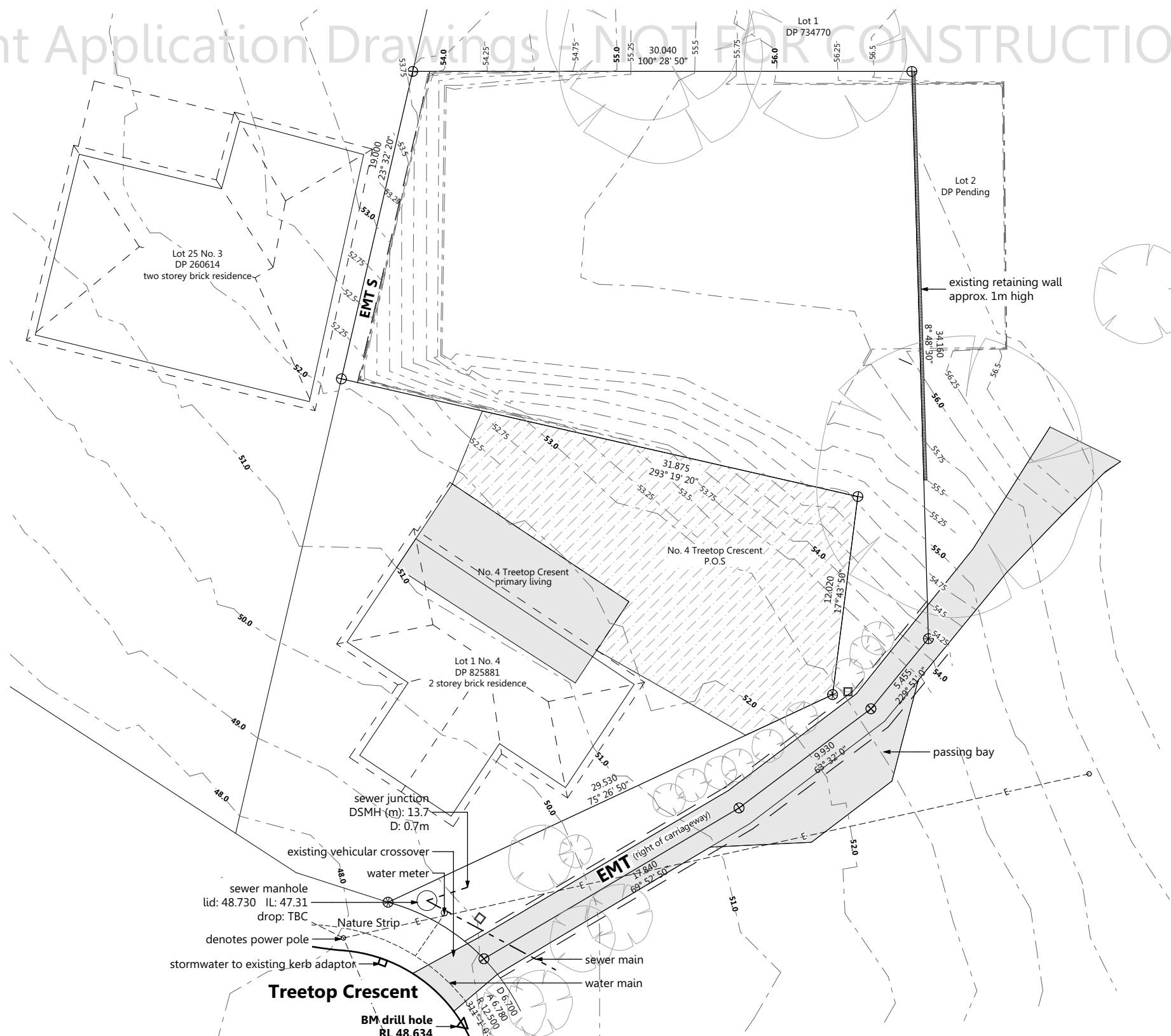
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- Timber retaining wall maximum height 1m
- 23.5 Contour
- Sediment control barrier to local authority policy
- Stormwater line
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- Batter / slope
- 23.500 Proposed FGL (finished ground level)
- 1.2m sq. on site toilet pad location tbc on site
- 6.65 m² Driveway / Pathway (approx. area)
- 6.65 m² Private Open Space (approx. area)
- 30.715 165°42'00" Boundary distance & coordinates

NOTE:

Not all symbols above may be depicted on this site plan
Site drawn using Subdivision Services Plan 7018-1001-01 as provided by Hopkin Consultants.
Levels & contours are based on assumed datum. Prior to construction the relevant authority should be contacted for possible minimum floor level requirements & flood information.
This site plan is based on information provided by the builder. The floor level is subject to change. Additional site survey may need to be taken to confirm the required bench level.

Real Property Description

Lot Number: 1 No. 5a
Registered Plan Number: DP 825881
Parish: tba
County: tba
Local Authority: Port Macquarie - Hastings Council
Site Area: 910.2M² or 738.26M² (excl. battle axe)



DESIGN AUSTRALIA GROUP
Windmill Place
9 Windmill Street, Southport
Queensland Australia 4215
(07) 5591 7658
project@designaustraliagroup.com.au
www.designaustraliagroup.com.au
ABN: 89135124775 QGCC: 1181286

PLEASE READ CAREFULLY
This plan certified correct is the one referred to in the contract & specifications and I understand change hereafter may not be possible. These plans supercede all other previous plans or sketches.
Owner / s Date.....
Owner / s Date.....

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Builder:

PHONE 102 6583 3799 LICENCE 155958c

Client:
Steve & Treena Heslop
Lot 1 No. 5a
Treetop Crescent
Port Macquarie NSW 2444

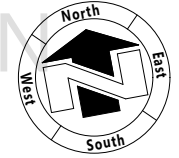
Title:
Existing Site Plan 1:250
Design Name:
Custom Duplex

Area Calculations	
Dwelling 1:	230.99 sqm
Dwelling 2:	221.16 sqm
GFA:	452.15 sqm

Issue/Rev.	Plot Date	Description	PK
2CC.2	18/10/2022	Changes as per email 18/10/2022	PK
DA	21/09/2023	Development Application Drawings	DT
DA.B	25/09/2023	Adjustments as requested	DT
DA.B.2	25/09/2023	Adjustments as requested	DT
DA.C	05/12/2023	Redesign and adjustments as requested	DT
DA.D	22/01/2024	Landscaping adjustments	DT

Drawing No:	Scale: 1:250 @ A3
2 of 16	Designed By: JM
	Drawn By: DT
	Checked By: PK
Job No:	TBA

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Z:\1. B2B\Pylon Constructions (Port Macquarie) 30 Days\Specific Lots\1 No. 5a Treetops Crescent - Port Macquarie (Custom dual occ) - Plans\Current Archival Drawings\1 No. 5a Treetop Crescent - DA.D.rvt



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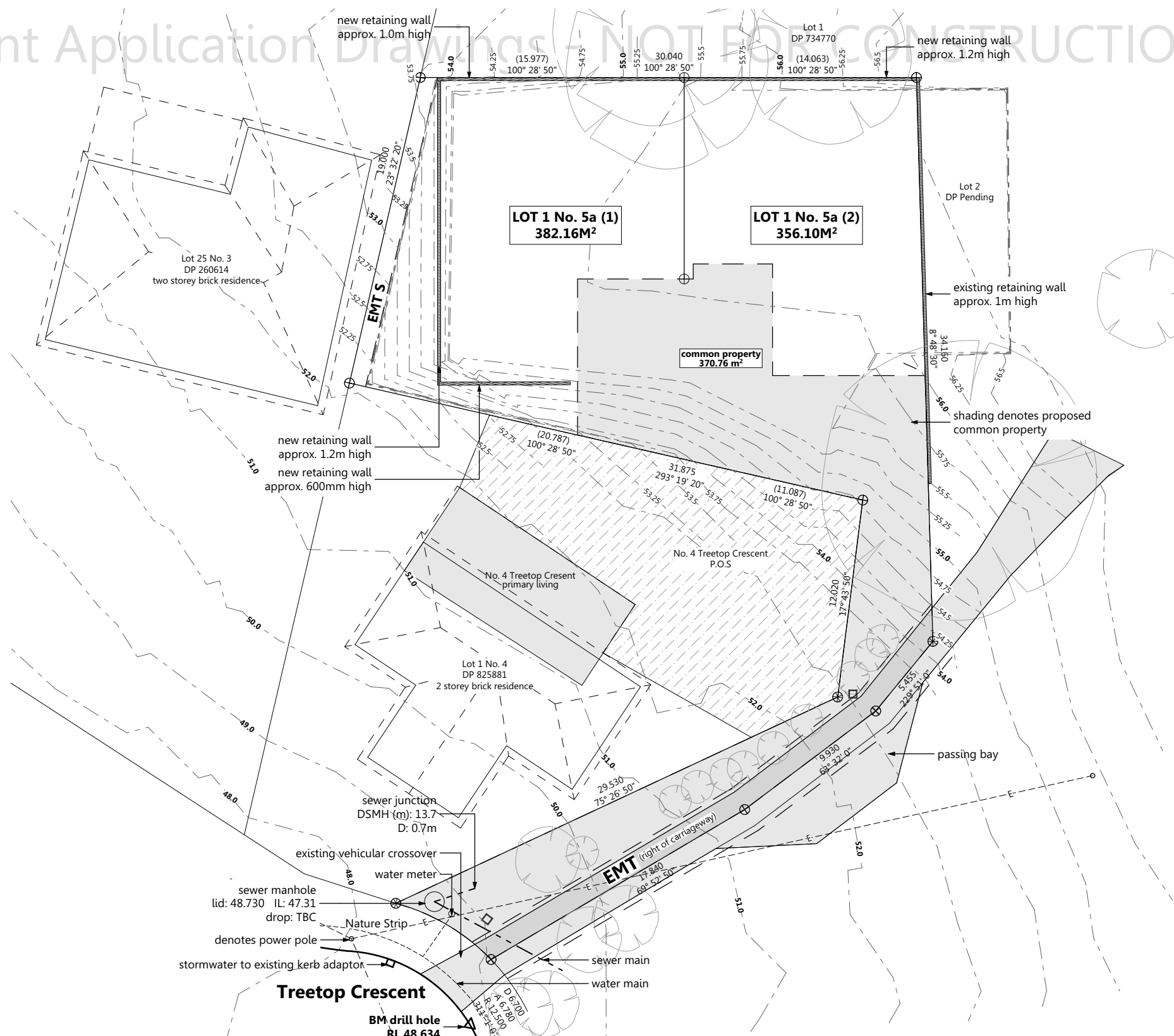
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Parish: tba
County: tba
Local Authority: Port Macquarie - Hastings Council

Site Area: 910.2M² or 738.26M² (excl. battle axe)
Proposed Site D1: 382.16M²
Proposed Site D2: 356.10M² (excl. battle axe)



DESIGN AUSTRALIA GROUP
Windmill Place
9 Windmill Street, Southport
Queensland Australia 4215
(07) 5591 7658
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ABN: 89135124775 QGCC: 1181286

PLEASE READ CAREFULLY
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Owner / s Date.....
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Builder:
PYCON
PHONE 102 6583 3799 LICENCE 153958c

Client:
Steve & Trenea Heslop
**Lot 1 No. 5a
Treetop Crescent
Port Macquarie NSW 2444**

Title:
**Proposed Sub-Division Site
Plan 1:250**
Design Name:
Custom Duplex

Area Calculations	
Dwelling 1:	230.99 sqm
Dwelling 2:	221.16 sqm
GFA:	452.15 sqm

Issue/Rev.	Plot Date	Description	PK
2CC.2	18/10/2022	Changes as per email 18/10/2022	PK
DA	21/09/2023	Development Application Drawings	DT
DA.B	25/09/2023	Adjustments as requested	DT
DA.B.2	25/09/2023	Adjustments as requested	DT
DA.C	05/12/2023	Redesign and adjustments as requested	DT
DA.D	22/01/2024	Landscaping adjustments	DT

Drawing No:	Scale: 1:250 @ A3
3 of 16	Designed By: JM
	Drawn By: DT
	Checked By: PK
Job No:	TBA

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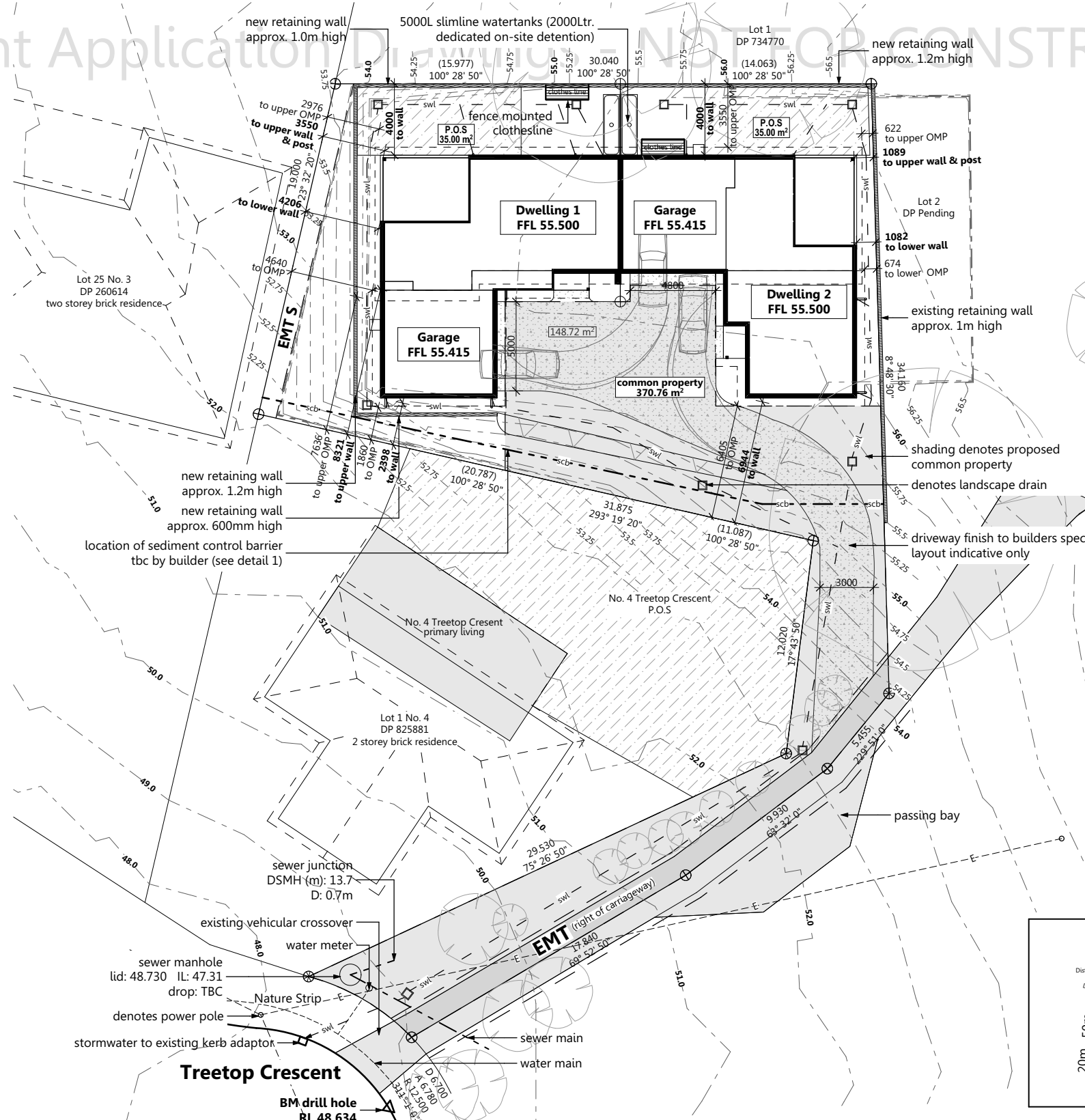
LEGEND

- Rock retaining wall to eng. detail & design
- 200 series masonry block retaining wall to eng. detail & design
- Timber retaining wall maximum height 1m
- 23.5 Contour
- Sediment control barrier to local authority policy
- swl Stormwater line
- 1800mmH boundary fence
- Pedestrian access gate
- Batter / slope
- 23.500 Proposed FGL (finished ground level)
- 1.2m sq. on site toilet pad location tbc on site
- 6.65 m² Driveway / Pathway (approx. area)
- 6.65 m² Private Open Space (approx. area)
- 30.715 165°42'00" Boundary distance & coordinates

NOTE:
Not all symbols above may be depicted on this site plan
Site drawn using Subdivision Services Plan 7018-1001-01 as provided by Hopkin Consultants.
Levels & contours are based on assumed datum. Prior to construction the relevant authority should be contacted for possible minimum floor level requirements & flood information.
This site plan is based on information provided by the builder. The floor level is subject to change. Additional site survey may need to be taken to confirm the required bench level.

Real Property Description
Lot Number: 1 No. 5a
Registered Plan Number: DP 825881
Parish: tba
County: tba
Local Authority: Port Macquarie - Hastings Council

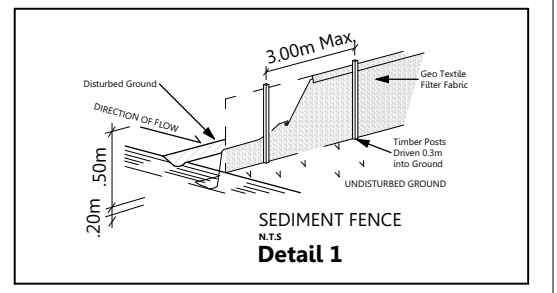
Site Area: 910.2M² or 738.26M² (excl. battle axe)
Site Coverage: 30.34%
D1 Site Area: 382.16m²
D1 Site Coverage: 36.55%
D2 Site Area: 356.10m²
D2 Site Coverage: 38.50%



D1 Area Calculations (m ²)	
Upper Living	91.28
Lower Living	79.13
Garage	40.40
Alfresco	18.31
Porch	1.87
Total	230.99 m²

D2 Area Calculations (m ²)	
Upper Living	84.06
Lower Living	77.14
Garage	40.29
Alfresco	17.44
Porch	2.23
Total	221.16 m²

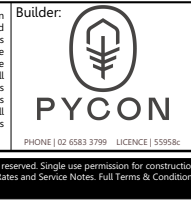
SITE & DEVELOPMENT CONTROLS PMHC DCP		
Setbacks		
Zone R1	Street	4.5m to wall
	Garage	5.5m to wall
	Artic. Zone	3m to wall
	Side	0.90m to wall
	Rear	4m to wall
Max. GFA		
	Required	0.65:1
	Provided	D1: 0.44:1 D2: 0.46:1
Private Open Space		
	Required	35m ² - min. 4m dim.
	Provided	D1 35.00m ² / D2 35.00m ²
Car Parking		
	Required	1 x off-street per dwelling
	Provided	Double garage
Additional Controls		
		8.5m max. building height



DESIGN AUSTRALIA GROUP
Windmill Place
9 Windmill Street, Southport
Queensland Australia 4215
(07) 5591 7658
project@designaustraliagroup.com.au
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Client: Steve & Trenea Heslop
Lot 1 No. 5a
Treetop Crescent
Port Macquarie NSW 2444

Title: **Proposed Site Plan 1:250**
Design Name: **Custom Duplex**

Area Calculations	Issue/Rev.	Plot Date	Description
Dwelling 1: 230.99 sqm	2CC.2	18/10/2022	Changes as per email 18/10/2022
Dwelling 2: 221.16 sqm	DA	21/09/2023	Development Application Drawings
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	DA.D	22/01/2024	Landscaping adjustments

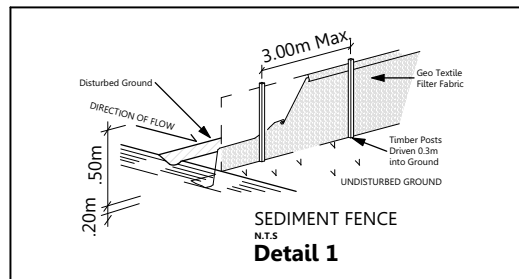
Drawing No:	Scale:
4 of 16	1:250 @ A3

Designed By: JM
Drawn By: DT
Checked By: PK
Job No: TBA

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Max. GFA		
	Required	0.65:1
	Provided	D1: 0.44:1 D2: 0.46:1
Private Open Space		
	Required	35m ² - min. 4m dim.
	Provided	D1 35.00m ² / D2 35.00m ²
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	Required	1 x off-street per dwelling
	Provided	Double garage
Additional Controls		
		8.5m max. building height

D1 Area Calculations (m ²)		D2 Area Calculations (m ²)	
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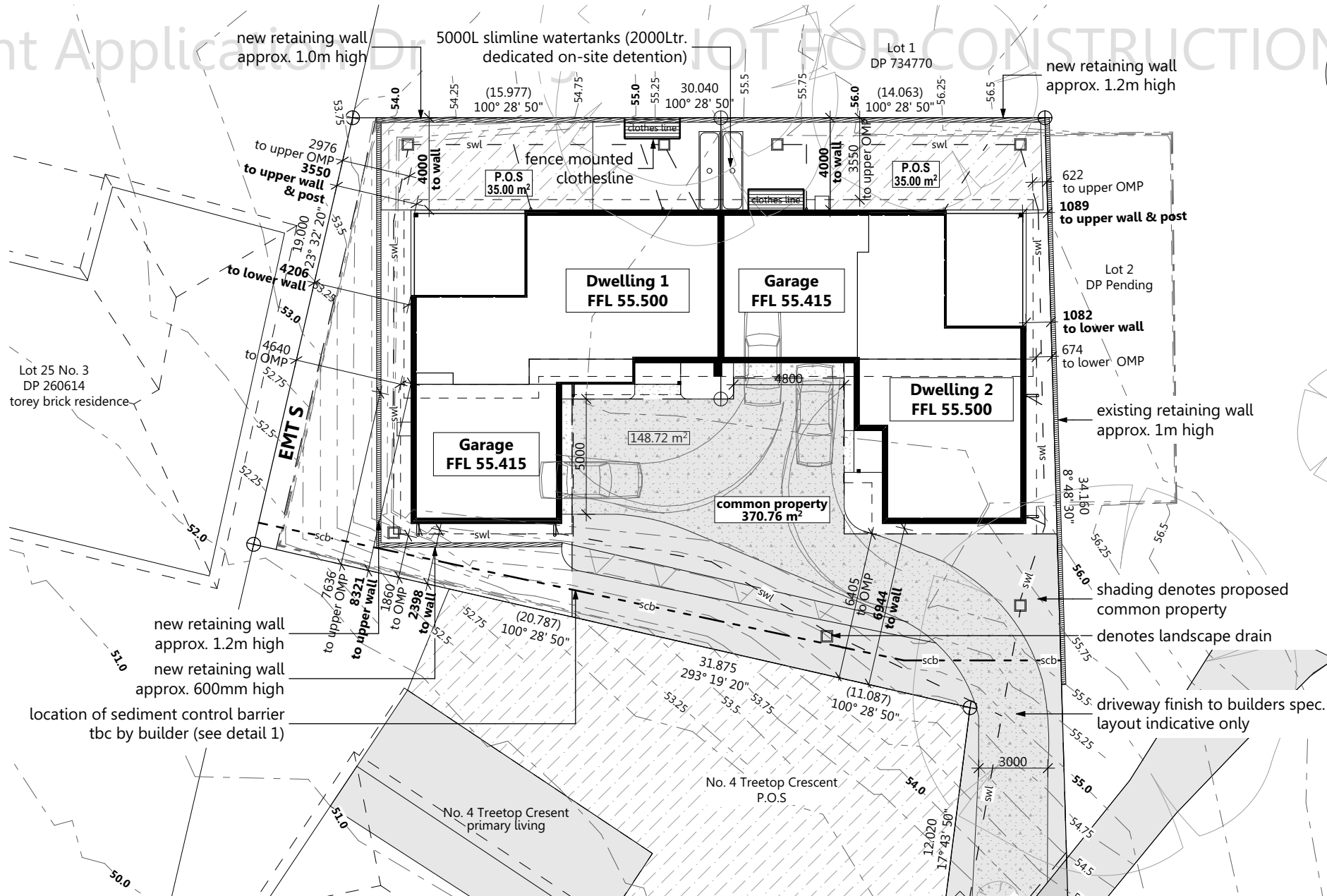
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	23.5 - - - Contour
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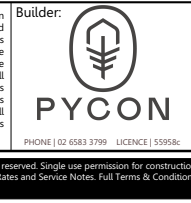
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Builder:
Steve & Treena Heslop
Lot 1 No. 5a
Treetop Crescent
Port Macquarie NSW 2444

Title:
Site Plan 1:200
Design Name:
Custom Duplex

Area Calculations	Issue/Rev.	Plot Date	Description	PK
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Item: 06**Subject: DA2022 - 931.1 SCHOOL (STAGE 1 & 2) AND CONCEPT APPLICATION FOR STAGE 3 EXPANSION OF SCHOOL AT LOT 10 DP 1223845, NO. 456 JOHN OXLEY DRIVE, THRUMSTER****Report Author: Development Assessment Planner, Chris Gardiner**

Applicant:	Port Macquarie Steiner Limited
Owner:	Port Macquarie Steiner Limited
Estimated Cost:	\$3,390,000
Parcel no:	65716

Alignment with Delivery Program

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

RECOMMENDATION

That DA2022 - 931.1 for a School (Stage 1 & 2) and Concept Application for Stage 3 Expansion of School at Lot 10, DP 1223845, No. 456 John Oxley Drive, Thrumster, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for a school (Stage 1 & 2) and concept application for Stage 3 expansion of the school 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, 9 submissions were received.

The proposal has been amended through the assessment process, including access and parking arrangements, fencing, and tree protection measures.

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

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

The reason for the application being referred to Council's Development Assessment Panel (DAP) is because 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.

AGENDA

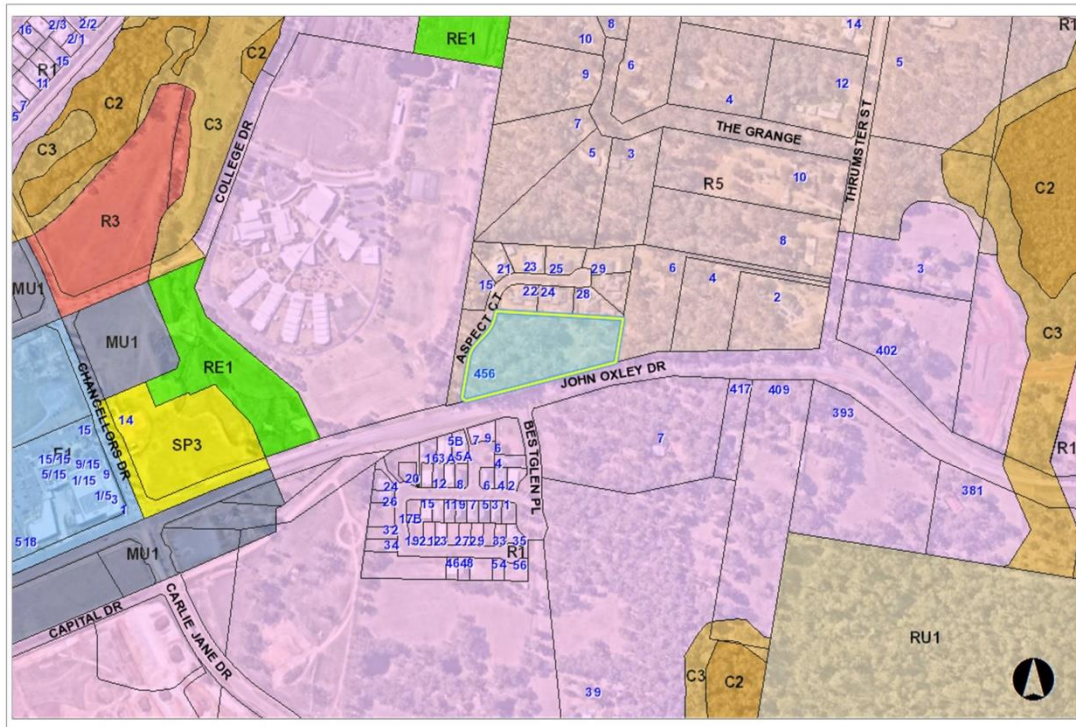
DEVELOPMENT ASSESSMENT PANEL 06/03/2024

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 16,640m² (1.664 hectares).

The site is zoned R5 Large Lot 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:

- Staged construction of a school including:
 - Stage 1 - to provide for up to 30 students and 4 staff and comprising one single storey classroom and amenities building, vehicular entry and exit from Aspect Court, parking, an acoustic barrier, associated landscaping, and the extension of services.
 - Stage 2A - to provide for up to 65 students and 7 staff and comprising one additional single storey classroom building, conversion of the Stage 1 classrooms to administration offices, completion of the kiss-and-drop area and loop road, additional parking, and associated landscaping, including formation of courtyard and amphitheatre.
 - Stage 2B - to provide for up to 72 students and 8 staff and comprising one single storey classroom building; and the extension of stormwater services.
 - Stage 2C - to provide for up to 80 students and 9 staff and comprising an additional two storey classroom and amenities building.
 - Stage 2D - to provide for up to 95 students and 11 staff and comprising 2 single storey specialty classrooms;
- Concept application for a Stage 3 expansion of the school to include up to 170 students and 14 staff, construction of an additional two storey building containing ground floor library and hall, and first floor classrooms. Stage 3 will be subject to a separate development application.

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

Application Chronology

- 27 October 2022 - Application lodged.
- 10 November 2022 to 9 December 2022 - Application advertised and notified to neighbours.
- 24 November 2024 - Referral comments received from Essential Energy.
- 3 February 2023 - Bush Fire Safety Authority issued by NSW Rural Fire Service.
- 15 February 2023 - Referral comments received from Transport for NSW.
- 24 February 2023 - Additional information requested from Applicant.
- 6 November 2023 - Additional information and amended plans submitted by Applicant.
- 14 November 2023 to 27 November 2023 - Application re-notified.
- 16 November 2023 - Referral comments received from Transport for NSW.

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

Clause 4.8 - The land is subject to the Area 13 (Thrumster) Koala Plan of Management, and is identified as high use core koala habitat in that plan (see below).



The following comments are provided in relation to the working provisions in Part 3 and Part 6 of the KPoM:

Provision	Comment
3(C) Clearing of native vegetation	A condition is recommended requiring a suitably qualified koala specialist to inspect all trees on the day that the clearing is proposed and provided written clearance before clearing commences.
3(D) Protection of Koalas from undue disturbance	A condition is recommended requiring clearing and/or earthworks to be suspended within 25m of any tree occupied by a koala until the koala has moved on of its own volition.
3(E) Swimming pools	The proposal does not include a swimming pool.
3(F) Habitat Linkages and Buffers	No habitat linkages or buffers traverse the site.
3(G) Habitat restoration	No habitat linkages or buffers traverse the site. Habitat restoration is not applicable.
3(H) Koala Release Area	Not applicable. The koala release area is not associated with the subject site.
3(I) Roding	No roads are proposed for the development.
3(J) Community Education	Noted, but not applicable to the proposal.
5 Design Principles	Design principles relate only to residential subdivisions and are not applicable to the proposed school.
6(A) Road design standards	No roads are proposed for the development.

AGENDA

DEVELOPMENT ASSESSMENT PANEL

06/03/2024

6(B) Keeping of domestic dogs	Having regard to the proposed use as a school, it is not considered likely that dogs would be kept on the premises. As a precaution, a condition is recommended confirming this restriction.
6(C) Protection of preferred koala food trees	The proposal does not include any residential allotments and this provision does not apply.
6(D) Fencing	<p>While the subject site is not technically a residential allotment, it is recommended that site fencing be designed to not inhibit the movement of koalas.</p> <p>The proposed new fencing to the northern and eastern boundaries of the site will be lapped and capped timber fences. The acoustic barrier located 0.5m inside the northern boundary will also include koala bridges every 40m.</p> <p>Fencing to the John Oxley Drive frontage will be 1.2m high floppy top koala exclusion fencing.</p> <p>The proposed fencing is consistent with the KPoM.</p>
6(E) Development in “High Use” areas	This provision of the KPoM is not applicable to the proposal as it is not for the purpose of high density residential subdivision.
6(G) Landscaping	This provision of the KPoM is not applicable to the proposal as it is not for the purpose of residential subdivision.
6(H) Variations	<p>The proposal does not seek any variation to 6(E) or 6(F) and this provision is not applicable to the proposal.</p> <p>However, confirmation has been provided that the school has arranged for planting and ongoing maintenance of at least 12 koala food trees on a property located off Tall Timber Road, Lake Innes (Lot 2 DP 875785).</p>

State Environmental Planning Policy (Industry and Employment) 2021 Chapter 3 Advertising and Signage

The proposed development does not include any signage and the policy is not applicable.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 Remediation of Land

Clause 4.6 - A Stage 1 Site Contamination Assessment prepared by Regional Geotechnical Solutions Pty Ltd has been submitted with the application. The report reviewed the site conditions and history and identified three areas of environmental concern requiring further investigation. These included soils near the previous dwelling and buildings, soils in stockpiles, and surface areas subject to pesticide use.

Relevant soil sampling identified the following results:

- Concentrations of heavy metals did not exceed the calculated EILs;
- Elevated concentrations of Total Chromium were present in several samples. Speciation analysis of (TP6, 0 – 0.1m) was undertaken and revealed Chromium III only and Chromium VI concentrations were below the laboratory limit of reporting (LOR). There is no HIL for Chromium III;
- Concentrations of remaining heavy metals were above the laboratory LOR, but were below adopted health investigation criteria for a residential site; Concentrations of Total Recoverable Hydrocarbon (TRH) were below LOR in all samples analysed;
- Concentrations of PAH hydrocarbons were below LOR in all samples analysed;
- Concentrations of BTEX and PCB contaminants were below LOR in all samples analysed;
- Concentrations of pesticide contaminants were above the laboratory limit of reporting (LOR) in one sample (TP11, 0-0.2m) from the eastern part of the site, but were below adopted health investigation criteria for a residential site. Concentrations of pesticide contaminants were below LOR in all other samples analysed; and
- Asbestos was below LOR in all samples analysed. This includes a trace fragment of fibre cement sheeting (30mm x 20mm x 5mm) containing chrysotile that was present in TP22, in the vicinity of the previous dwelling in the western part of the site, but was less than 0.001% by weight.

The report concludes that the site is suitable for use as a primary school subject to the advice and recommendations in the report being adopted. Appropriate conditions are recommended in this regard.

**State Environmental Planning Policy (Transport and Infrastructure) 2021
Chapter 2 Infrastructure**

Clause 2.48 - The proposal has been referred to Essential Energy in accordance with this clause. Essential Energy made the following comments as to potential safety risks arising from the proposed concept only development:

1. *Essential Energy has existing high voltage underground cables located across the Aspect Court street frontage of the property:*
 - a. *Prior to carrying out any works in this location and/or within 1.0 metre either side of the cables, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW) to locate the cables.*
 - b. *Works around the cables must be managed. If the ground levels over the cables are to be altered, clearances must be maintained and cables integrity protected. Any works over these cables must meet all Essential Energy design and construction requirements.*

- c. *Any excavation works in this area for the proposed new driveway/s must comply with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
 - d. *The cables should be in conduit under any proposed new driveway/s and the driveway/s should not be placed over the top of any joints and spare conduit should be available - refer Essential Energy's policy CEOM7098 Distribution Underground Design and Construction Manual. Note that approval is not possible where the driveway/s are proposed to be located with an impact on existing cables, cable joints, pits, pillars and the like - refer ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
 - e. *Any proposed driveway/s access and/or exit (concrete crossovers) must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.*
 - f. *The cables are to maintain a minimum clearance of 1.0 metre to any activity.*
 - g. *Any landscaping, tree planting, gardens in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
2. *Satisfactory arrangements must be made with Essential Energy for the provision of power with respect to the proposed development. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees, contributions and if required, new designated electrical infrastructure. If it is deemed that designated electrical infrastructure is required, then all fees for such infrastructure (which may be substantial) will be borne by the Applicant. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.*
 3. *The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to development in accordance with industry standards. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.*

The Applicant has been advised of the general requirements for works in proximity to electricity cables and will be responsible for locating and protecting this infrastructure during construction.

The existing streetlight impacted by the proposed northern driveway will be relocated to a safe location clear of the driveway, as noted on the plans.

A condition is recommended requiring the proponent to provide evidence of satisfactory arrangements for electricity servicing.

Chapter 3 Educational Establishments and Child Care Facilities

Clause 3.35 - The proposal does not include any campus student accommodation.

Clause 3.36(1) - Development for the purpose of a school is permitted with consent as the subject site is in a prescribed zone (R5 Large Lot Residential).

Clause 3.36(6)(a) - The relevant design quality principles in Schedule 8 are considered in the below table.

Design quality principle	Comment
<p>Principle 1—context, built form and landscape</p> <p>Schools should be designed to respond to and enhance the positive qualities of their setting, landscape and heritage, including Aboriginal cultural heritage. The design and spatial organisation of buildings and the spaces between them should be informed by site conditions such as topography, orientation and climate.</p> <p>Landscape should be integrated into the design of school developments to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites.</p> <p>School buildings and their grounds on land that is identified in or under a local environmental plan as a scenic protection area should be designed to recognise and protect the special visual qualities and natural environment of the area, and located and designed to minimise the development’s visual impact on those qualities and that natural environment.</p>	<p>The site is located in a vegetated setting. The design of the school buildings, access and parking areas has sought to retain as much of the established vegetation as possible, with the school buildings being located in existing cleared areas of the site. New landscaping will complement and protect the retained mature trees on the site.</p> <p>The design comprises a combination of separate one and two storey buildings, accompanied by circulation decks, configured around a central courtyard and amphitheatre. Separation of the buildings enhance opportunities to benefit from prevailing breezes and solar access.</p>
<p>Principle 2—sustainable, efficient and durable</p> <p>Good design combines positive environmental, social and economic outcomes. Schools and school buildings should be designed to minimise the consumption of energy, water and natural resources and reduce waste and encourage recycling.</p> <p>Schools should be designed to be durable, resilient and adaptable, enabling them to evolve over time to meet future requirements.</p>	<p>The proposed school buildings have been designed and configured to maximise opportunities to benefit from passive heating and cooling. The buildings are capable of being connected to rainwater tanks for use within the site. The school also currently has its own waste minimisation and recycling policies at its current campus. These policies will be continued at the new school site.</p> <p>The school is proposed to be constructed with durable and resilient materials. The spaces are flexible and capable of adapting over time.</p>
<p>Principle 3—accessible and inclusive</p> <p>School buildings and their grounds should provide good wayfinding and be welcoming, accessible and inclusive to people with differing needs and capabilities.</p> <p>Note—</p> <p>Wayfinding refers to information systems that guide people through a</p>	<p>The school buildings are accessible and well-connected with pathways and decks. Appropriate wayfinding is capable of being provided.</p> <p>The application indicates that the school intends to actively seek opportunities to share facilities with the community.</p>

<p>physical environment and enhance their understanding and experience of the space. Schools should actively seek opportunities for their facilities to be shared with the community and cater for activities outside of school hours.</p>	
<p>Principle 4—health and safety Good school development optimises health, safety and security within its boundaries and the surrounding public domain, and balances this with the need to create a welcoming and accessible environment.</p>	<p>The school has been designed with regard to CPTED principles. The curved layout of the buildings will provide good passive surveillance and access control is capable of being implemented with appropriate fencing.</p> <p>The school will present as a welcoming environment to Aspect Court, with no fencing at the street frontage.</p>
<p>Principle 5—amenity Schools should provide pleasant and engaging spaces that are accessible for a wide range of educational, informal and community activities, while also considering the amenity of adjacent development and the local neighbourhood. Schools located near busy roads or near rail corridors should incorporate appropriate noise mitigation measures to ensure a high level of amenity for occupants. Schools should include appropriate, efficient, stage and age appropriate indoor and outdoor learning and play spaces, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage and service areas.</p>	<p>The buildings will provide pleasant and engaging learning spaces and the vegetated setting will provide for further informal learning opportunities in the outdoor spaces.</p> <p>The proposed school adjoins John Oxley Drive on its southern boundary. Road Traffic Noise has been considered in the Noise Impact Assessment for the development. The assessment concludes that internal noise levels will be achievable with light frame construction and standard single glazing for the Stage 3 hall, library, and classrooms, which are closest to John Oxley Drive. The Stage 1 and 2 buildings are a greater distance from John Oxley Drive and will also meet the internal noise levels with standard construction.</p>
<p>Principle 6—whole of life, flexible and adaptive School design should consider future needs and take a whole-of-life-cycle approach underpinned by site wide strategic and spatial planning. Good design for schools should deliver high environmental performance, ease of adaptation and maximise multi-use facilities.</p>	<p>The proposal includes a concept application for a Stage 3 future expansion of the school. The spatial planning has considered the overall masterplan for the site.</p> <p>The buildings and spaces are flexible and capable of adapting to future needs.</p>
<p>Principle 7—aesthetics School buildings and their landscape setting should be aesthetically pleasing by achieving a built form that has good</p>	<p>The buildings have been designed to complement the landscape setting in terms of their form, scale, materials and location. The majority of the existing</p>

<p>proportions and a balanced composition of elements. Schools should respond to positive elements from the site and surrounding neighbourhood and have a positive impact on the quality and character of a neighbourhood. The built form should respond to the existing or desired future context, particularly, positive elements from the site and surrounding neighbourhood, and have a positive impact on the quality and sense of identity of the neighbourhood.</p>	<p>mature trees on the site will be retained. The scale of the proposed buildings will be compatible with the adjoining large lot residential properties to the north.</p>
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Clause 3.36(6)(b) - The development does not include any recreational facilities, but the future Stage 3 hall would be capable of having shared use with the community. The school has indicated that they will explore opportunities for shared use of facilities.

Clause 3.58(1) - The proposal is traffic generating development.

Clause 3.58(2) - The application has been referred to Transport for NSW (TfNSW) on two occasions. The initial response from TfNSW highlighted some concerns with the original Traffic Impact Assessment submitted with the application. The Applicant has reviewed these comments and provided an updated Traffic Impact Assessment for the development. TfNSW were consulted a second time with the updated Traffic Impact Assessment and plans, and provided the following comments for Council's consideration on 16 November 2023.

- *Traffic Impact Assessment (TIA) - The development application still does not include a TIA identifying baseline conditions and addressing the traffic and transport impacts of the proposed development upon the State Road network. In the absence of a quantitative and qualitative assessment, TfNSW has insufficient information to comment on the traffic and transport impacts of the proposed development.*
- *Accessibility - The potential to minimise the need for travel by car has only been justified through carpooling. Other active transport measure should also be considered as well as the preparation of a Green Travel Plan.*
- *All other considerations raised in a previous correspondence dated 15 February 2023 are for the attention of Council. This includes the turning warrants assessment undertaken on the Local Road network only.*

Clause 3.58(3)(a) - The overall traffic impacts of the development are discussed in more detail later in this report. In relation to the TfNSW response, the following comments are provided.

- The traffic generated by the proposed development is minimal having regard to the existing and projected future traffic volumes at the intersection of John Oxley Drive and the Oxley Highway. A full SIDRA analysis of this intersection is not considered to be warranted.
- The proposal includes a private bus service from Stage 2A of the development. Appropriate pedestrian and cycle links to the site will also be created with future upgrades to John Oxley Drive and Thrumster Street.
- The Traffic Impact Assessment includes appropriate modelling for the intersection of Aspect Court and John Oxley Drive.

Clause 3.58(3)(b) - The site has frontage to John Oxley Drive, which is a public transport route and carries freight movements in the locality. The site is accessible from existing and planned residential areas in Thrumster. Appropriate pedestrian and cycle links to the site will also be created with future upgrades to John Oxley Drive and Thrumster Street.

Clause 3.58(3)(c) - Potential traffic safety, road congestion and parking implications of the development are discussed in more detail later in this report.

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 R5 Large Lot Residential.
- Clause 2.3(1) and the R5 zone landuse table - The proposed development for a school is a permissible landuse with consent.

The objectives of the R5 zone are as follows:

- *To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.*
- *To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.*
- *To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

Clause 2.3(2) - The proposal is consistent with the zone objectives having regard to the following:

- The proposal will provide an educational service to the community. The development will provide appropriate road access and utility services and would not create unreasonable demand for public provision of such services.
- Land use conflicts can be appropriately managed.
- Clause 5.10 - The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.5 - The land that is shown as “Koala Habitat area” on the Koala Habitat Map. As discussed earlier under SEPP (Biodiversity and Conservation) 2021, the proposal is considered to be consistent with the provisions of the KPoM.
- Clause 7.9 - The subject site is mapped as being subject to acoustic controls. The Applicant has submitted a Noise Impact Assessment prepared by EMM, which includes consideration of the impacts of road traffic noise from John Oxley Drive. The report makes the following comments in relation to road noise impacts.

“Road traffic noise levels impacting the most affected areas impacted by road traffic noise from John Oxley Drive (Stage 3 - Hall, Library and Classrooms) are in the order of 57 dB LAeq,15 hour which indicates that:

- *The AS2107:2016 internal noise requirement for classrooms and teaching spaces of 45 dB LAeq will be achievable with windows closed using standard building construction (ie minimum 4mm float glass, no acoustic seals); and*

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- *The AS2107:2016 internal noise requirement for assembly hall (less than 250 people) of 40 dB LAeq will be achievable with windows closed using standard building construction (ie minimum 4mm float glass, no acoustic seals).*

Given that all other classrooms and teaching areas are further away from John Oxley Drive, they are also expected to comply with the AS2107:2016 internal noise requirements.

It is noted that the above requires that operable building elements such as windows are closed. This often means that mechanical ventilation is required.”

The report concludes that no additional acoustic treatment is necessary to achieve satisfactory internal noise levels for the classrooms and assembly hall.

- 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 certification prior to the issue of an Occupation Certificate as recommended by a condition of consent.

(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.	<p>The Statement of Environmental Effects indicates that the access and buildings have been designed to minimise waste generation and the site has substantial areas available for waste storage with appropriate source separation.</p> <p>Based on waste generation from the current Steiner School in Table Street, Port Macquarie and a similar school in Coffs Harbour, The Applicant has suggested that waste volumes can be managed with a</p>	Yes

		<p>standard red, yellow and green bin service with kerbside collection. The architectural plans show bin storage for 3 bins at Stage 1, which will increase to 6 bins at Stage 2.</p> <p>There is sufficient road frontage for the collection of the anticipated number of bins without creating amenity impacts for nearby residents.</p>	
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).	The plans indicate less than 1m of cut and fill proposed.	Yes
5	a) A certified practicing structural engineer must certify any retaining wall greater than 1.0m.	No retaining walls greater than 1m proposed.	N/A
	<p>b) Where a combination of a fence and a wall is proposed to be greater than 1.2m high:</p> <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 	No retaining wall and front fence combination proposed.	N/A

	– provide a 900mm x 900mm splay for vehicle driveway entrances.		
Tree Management – Private Land			
11	c) Where a tree listed in Table 1 is approved for removal it must be compensated with 2 x koala habitat trees. Significant large-scale development will require an advanced size koala food tree or habitat tree (primary Koala browse species) that meets AS2303:2015 Tree Stock for Landscape Use. The compensation tree is to be planted in a suitable location as determined by the Director of Development and Environment or their delegate.	A total of 15 trees are proposed to be removed for the development, including 3 locally preferred koala food trees. The DCP notes that the offsetting provision does not apply where the land has an adopted Koala Plan of Management.	N/A
Tree Management - Hollow Bearing Trees			
13	a) All hollow bearing trees within the development area are to be accurately located by survey and assessed by an appropriately qualified ecologist in accordance with Council’s Hollow-bearing tree assessment (HBT) protocol	The BDAR accurately locates and assesses each of the hollow bearing trees on the site	Yes
	b) Any tree that scores less than 8 using the HBT assessment protocol may be considered for removal subject to compensatory measures specified below.	No hollow bearing trees scoring less than 8 are proposed to be removed.	N/A
	c) Any tree that scores 8-12 using the HBT assessment protocol may be considered for removal if management measures are ‘impractical to allow retention’	No hollow bearing trees scoring 8-12 are proposed to be removed.	N/A
	d) Any tree that scores more than 12 using the HBT assessment protocol the assessment must be retained and afforded a development exclusion buffer or located within environmental lands.	The Biodiversity Development Assessment Report identified 16 hollow bearing trees on the site. All trees scored greater than 12 in accordance with the HBT assessment protocol and	Yes

		<p>are required to be retained.</p> <p>A further root mapping assessment has been carried out by The Tree MD Pty Ltd for 3 of the hollow bearing trees located in proximity to the proposed internal loop road, to ensure that practical measures are available to protect the trees during construction and ensure their long-term survival.</p> <p>The root mapping for Tree 725, 734 and 742 found that no significant structural roots were present to the required depth of excavation and the proposed incursions into the tree protection zone would not adversely impact the health of the trees. The report recommends root protection during works to AS 4970 and ongoing improvement to soil conditions for root development by establishing mulched garden areas and reducing compaction from foot traffic.</p> <p>Appropriate conditions are recommended in this regard.</p>	
	<p>e) Where a development exclusion buffer is proposed it shall have a radius of 1.25 times the height of the tree measured from its base.</p>	<p>A full development exclusion buffer has not been provided for all retained hollow bearing trees on the site. The Arboriculture Impact Assessment Report has demonstrated that it is possible to safely retain all the existing hollow bearing trees during the construction phase with</p>	<p>No, but acceptable</p>

		<p>appropriate tree and root protection measures.</p> <p>The other objective of this provision is to ensure that retained trees are not later removed because they pose a risk of falling on buildings, access roads and parking areas. To minimise such safety risks, it is recommended that the hollow bearing trees be inspected annually by a minimum AQF Level 5 Arborist and appropriate management measures implemented. The report particularly notes that Tree 742 requires a bracing system due to the tree structure and history of branch failure.</p> <p>Appropriate conditions are recommended requiring annual inspection and management of the hollow bearing trees and proposed bracing system.</p>	
14	a) A strategy for tree removal (timing and methodology) that minimises impacts on native wildlife shall accompany any development that proposes the removal of HBTs.	The submitted BDAR includes recommendations for tree removal methodology.	Yes
	b) The removal of HBTs is to be offset by the retention of recruitment trees. Compensatory recruitment trees shall be provided at the rate of two for one for trees that scored 8-12, Development Control Plan 2013 page 25 and at the rate of one for one for trees that scored less than 8. A tree can be considered to be a compensatory recruitment	No HBT's proposed to be removed.	N/A

	<p>tree under the following criteria:</p> <ul style="list-style-type: none"> - Does not have any major structural defects or is suffering from disease that would - lead to premature death; and - Is from the same vegetation community and same genus; and - Are to be located within environmental lands and managed in accordance with a VMP; and - Have a DBH of 50cm or greater and do not possess hollows. For Blackbutt Eucalyptus pilularis a DBH of 100cm or greater applies. 		
	c) The removal of HBTs are to be offset by the installation of nesting boxes of similar number and size as those to be removed.	N/A	N/A
	d) Nesting boxes are to be installed like for like (both type and number, and host tree to genus level) and must be located within proposed open space or environmental lands.	N/A	N/A
	e) Nesting Boxes are to be installed and maintained within environmental lands in accordance with a VMP.	N/A	N/A
	f) Nesting Boxes to be inspected and maintained by a qualified ecologist.	N/A	N/A
	g) Any HBT that will not afford protection via an exclusion buffer or within environmental lands will attract the same offsetting requirements as if it was to be removed.	An appropriate alternative management regime has been proposed for the HBT with compromised exclusion buffer. Additional nest box offsets are not considered necessary.	No, but acceptable

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.	No APZ proposed on environmental zoned land.	Yes
	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

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 access to John Oxley Drive proposed.	Yes
	b) Existing direct accesses from a development to arterial and distributor roads are rationalised or removed where practical.	No existing accesses.	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. 	The proposal includes two driveways to Aspect Court of sufficient width to accommodate the design vehicles. The driveways would not result in a significant reduction in street parking.	Yes
Parking Provision			

<p>24</p>	<p>a) Off-street Parking is provided in accordance with Table 3.</p> <p><u>Educational establishments (schools):</u> 1 per staff member + 1 per 8 students [Year 12 students] + 1/30 students for visitors. Adequate bus pickup/set down area provided + delivery/service vehicle area. Where sporting fields are provided, which are used by the community, see Recreation Area for minimum requirements.</p>	<p>The proposal is for a school, with the below numbers of staff and students at the relevant stages.</p> <ul style="list-style-type: none"> • Stage 1 - 30 students, 4 staff; • Stage 2A - 65 students, 7 staff; • Stage 2B - 72 students, 8 staff; • Stage 2C - 80 students, 9 staff; • Stage 2D - 95 students, 11 staff. <p>At the parking rates in Table 3, the following minimum parking would be required at each stage of the development:</p> <ul style="list-style-type: none"> • Stage 1 - 5 spaces; • Stage 2A - 10 spaces; • Stage 2B - 11 spaces; • Stage 2C - 12 spaces; • Stage 2D - 15 spaces. <p>The application proposes 11 spaces at Stage 1, increasing to 31 spaces at Stage 2A. The parking proposed satisfies the minimum DCP requirements.</p> <p>The Stage 3 concept proposal would increase the school to 170 students and 14 staff, which would require a minimum of 20 spaces. The Stage 2 parking area would include adequate parking to meet this requirement. The stage 3 development will be subject to a separate application and the parking requirements</p>	<p>Yes</p>
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		could be appropriately considered at that time. The concept application indicates that adequate parking is achievable for a future expansion of the school.	
	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.	N/A	N/A
Parking Layout			
28	a) Visitor and customer parking shall be located so that it is easily accessible from the street.	Parking is conveniently located off the northern entry driveway.	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 architectural plans show conceptual line marking for the parking and kiss and drop areas.	Yes
	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. 	Parking spaces are located behind the building line to John Oxley Drive, but will be forward of the building line to Aspect Court. The parking area has a 17m setback to Aspect Court with landscaping including the retention of existing canopy trees.	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	Capable of complying. Condition recommended requiring certification at Construction Certificate	Yes

	disability and AS/NZS 2890.2 - Parking facilities - Off-street commercial vehicle facilities.	and Occupation Certificate stages.	
	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; - 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. 	N/A	N/A
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.	Capable of complying. Condition recommended requiring certification at Construction Certificate and Occupation Certificate stages.	Yes
30	a) Bicycle and motorcycle parking shall be considered for all developments.	School layout capable of providing bicycle parking.	Yes
	b) Bicycle parking areas shall be designed generally in accordance with the principles of AS2890.3 - Parking facilities - Bicycle parking facilities.	Capable of complying.	Yes
	c) Motorcycle parking areas shall be 1.2m (wide) x 2.5m (long).	None proposed.	N/A
Landscaping of Parking Areas			
33	a) Landscaping areas shall be provided in the form of large tree planting, understorey plantings, mulch areas, mounding, lawns and the like	Landscaping of parking area includes retention of existing canopy trees and new shrubs and groundcovers.	Yes

	b) Landscaping areas shall be used throughout the car park and on the perimeters of the property where it addresses the public domain.	Landscaping proposed within the parking areas and between the parking area and the street frontage.	Yes
	c) Garden beds shall be a minimum of 3m in width between car parking areas and street boundaries.	Approximately 17m wide landscaped area.	Yes
34	a) All plantings on public lands are to be selected from Council's Indigenous Street and Open Space Planting List from the relevant vegetation community adjacent to the Development.	N/A	N/A
	b) Trees are to be grown and installed in accordance with AS 2303:2015 <i>Tree Stock for Landscape Use</i> and Council's AUS-SPEC design specifications.	N/A	N/A
Surface Finishes			
35	a) All parking and manoeuvring areas shall be constructed with a coarse base of sufficient depth to suit the amount of traffic generated by the development, as determined by Council. It shall be sealed with either bitumen, asphaltic concrete, concrete or interlocking pavers. Preliminary details of construction materials for access and car parking areas shall be submitted with the development application. Detailed plans shall be prepared for the construction certificate by a practising qualified Civil Engineer.	Sealed surface proposed.	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.	See comments under Stormwater later in this report.	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.		
37	a) Car parking areas should be drained to swales, bio retention, rain gardens and infiltration areas.		

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

DCP Objective	Development Provisions	Proposed	Complies
Social Impact Assessment			
42	a) A social impact assessment shall be submitted in accordance with the Council's Social Impact Assessment Policy.	The proposal does not require social impact assessment in accordance with Council's Policy. The Applicant has considered the social impacts of the proposal in any case, and this is discussed in more detail later in this report.	N/A
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 	The proposal has appropriately considered the CPTED principles, as discussed later in this report.	Yes

	Environmental Design (CPTED) principles.		
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(iiiia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

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

(iv) Any matters prescribed by the Regulations

No matters prescribed by the regulations are applicable to the proposal.

(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 has a general southerly street frontage orientation to John Oxley Drive and a westerly frontage to Aspect Court.

Adjoining the site to the north is a large lot residential estate with access from Aspect Court.

Adjoining the site to the east are large lot residential dwellings with access from Thrumster Street.

Adjoining the site to the south a residential estate on the western side of Bestglen Place, and undeveloped residential land on the eastern side of Bestglen Place.

Adjoining the site to the west is a Catholic high school with access from College Drive.

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

Traffic and Transport

The proposal includes a Traffic Engineering Report from TPS Traffic & Parking Systems Pty Ltd, document no: TPS377Rep2, dated 1 November 2023. The report projects that the development up to the completion of Stage 2D (95 students and 11 staff) would have a peak hour traffic generation of 105 vehicle trips. The peak hour trips are expected to increase to 168 trips with future Stage 3 of the development.

The report suitably assesses the existing intersection of Aspect Court and John Oxley Drive for the development as proposed up to and including Stage 2D, and concludes that the existing intersection is adequate for the proposed development. Upgrades of this intersection would be subject to further review and assessment as part of any future Stage 3 application, noting that traffic conditions in the area may change with future upgrades to John Oxley Drive and/or closure of the intersection with Bestglen Place.

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

Site Frontage and Access

The site has frontages to both John Oxley Drive and Aspect Court, both being sealed public roads under the care and control of Council. John Oxley Drive, across the southern frontage of the site is a Sub Arterial road with an AUSPEC Classification of an Urban Distributor. The formation of John Oxley Drive is that of a rural standard with unsealed shoulders and speed limit varying between 60km/h (along the western half of the southern frontage) and 80km/h (along the eastern half of the southern frontage). Aspect Court across the western frontage of the site is a local road with an AUSPEC Classification of an Urban Access Place. Aspect Court has layback SE kerb across its extents with an approximate average carriageway width of 6.5m and a speed limit of 50km/h.

For Stage 1 of the development, vehicle access to the site is proposed though a combined access and egress driveway towards the northern end of the frontage to Aspect Court. For Stage 2 of the development, vehicle access changes to become a one-way loop road with entry via the north along Aspect Court and exit further south along Aspect Court closer to John Oxley Drive. 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:

- Concrete footpath paving (minimum 1.2m wide) along the full site frontage of the development to Aspect Court.
- Widening and upgrade of Aspect Court to a minimum standard of a Local Street in accordance with AUSPEC from John Oxley Drive to the loop road egress driveway location.

Parking and Manoeuvring

A total of 21 parking spaces (including 2 disabled spaces) are proposed in the northern parking area, with an additional 10 kiss-and-drop spaces along the internal loop road. 11 spaces will be provided at Stage 1 of the development, with the remaining 20 spaces proposed to be delivered as part of Stage 2A. Parking and driveway widths on site can comply with relevant Australian Standards (AS 2890) and conditions have been recommended to reflect these requirements.

The proposal includes for car parking spaces for staff, visitors and 'kiss & drop' arrangements within the site which is considered appropriate for the development.

Due to the type of development, car park circulation is required to enable vehicles to enter and exit the site in a forward manner. Site plans show adequate area is available and conditions have been recommended to reflect these requirements.

Water Supply Connection

Council records indicate that the development site can be serviced with potable and reclaimed water services from the 100mm PVC potable and 100mm PVC reclaimed water mains on the same side of Aspect Court. There is an existing 25mm water meter located roughly centrally on the southern boundary on John Oxley Drive. Connection details of new upsized water services are to be shown on the engineering plans, together with any proposed private fire service details.

Appropriate conditions are recommended in this regard.

Sewer Connection

Council records indicate that the development site is connected to sewer via a junction from an existing manhole off a 150mm PVC sewer main at the north western corner of the property. Design drawings, however, indicate that a new sewer junction will be constructed on the existing sewer on the far side of Aspect Court and crossing to the western boundary of the property approximately 40m from the intersection with John Oxley Drive.

Appropriate conditions are recommended in this regard.

Stormwater

The applicant has provided a stormwater management report outlining site conditions, proposed treatments, modelling (water quality and quantity) summaries, and points of discharge for all stages of the development.

The site naturally grades towards the Aspect Court and John Oxley Drive frontages and is currently serviced by a direct connection to the public piped drainage system located on Aspect Court, with two kerb inlet pits located along the Aspect Court frontage.

The legal point of discharge for the proposed development is defined as a direct connection to Council's stormwater pit/pipeline within Aspect Court.

Stormwater from the proposed development is planned to be disposed via a combination of Council's pit and pipe network in Aspect Court, which is consistent with the above requirements. In addition, the roof areas for Stage 1 and stage 2A classroom roof areas are proposed to be managed on-site, which is an acceptable method of stormwater disposal noting the buffer zone between downstream properties and assets. Design by qualified industry professional will be required for the on-site system.

A detailed site stormwater management plan will be required to be submitted for assessment with the Section 68 application and prior to the issue of a Construction Certificate.

In accordance with Council's AUSPEC requirements, the following must be incorporated into the stormwater drainage plan:

- The stormwater management report submitted demonstrates that on-site detention does not provide benefit to downstream catchments and infrastructure. On-site detention not required.
- Water quality controls as per submitted stormwater management report.
- Details of on-site stormwater disposal system for Stage 1 and 2A roof areas.

Other Utilities

Telecommunication and electricity services are available to the site.

Heritage

No known items of Aboriginal or European heritage significance exist on the property.

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.

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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 will require the removal or modification of approximately 0.34 hectares of native vegetation with the remaining 0.28 hectares situated in areas previously cleared. The Biodiversity Offset Scheme applies due to the entire site being mapped on the Biodiversity Values Map.

The Applicant has submitted a Biodiversity Development Assessment Report prepared by an authorised person. The report has been reviewed and it is considered that adequate measures have been taken to avoid or minimise impacts, and the development would not result in serious and irreversible impacts on biodiversity. Particularly, the development layout has been designed to minimise the loss of koala food tree species, and to avoid any loss of hollow-bearing trees.

The development will require the retirement of the following ecosystem credits and/or species credits to offset the impacts of the development:

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
690-Blackbutt - Tallowood dry grassy open forest of the central parts NSW North Coast Bioregion	7	Macleay Hastings, Carrai Plateau, Coffs Coast and Escarpment, Comboyne Plateau, Karuah Manning, Macleay Gorges, Mummel Escarpment and Upper Manning. or Any IBRA subregion that is within 100	Northern Hinterland Wet Sclerophyll Forests This includes PCT's: 3231, 3236, 3257, 3259, 3262

		kilometres of the outer edge of the impacted site.	
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Impacted species	Number of species credits	IBRA sub-region
Lathamus discolor / Swift Parrot	11	Anywhere in NSW

Conditions have been recommended requiring evidence of retirement of the relevant credits prior to the commencement of any clearing on the land.

The Biodiversity Development Assessment Report also includes a table of recommended management and mitigation measures for the construction and operational phases of the development. A condition is recommended requiring implementation of the measures at the relevant stages of the development.

Waste

The Statement of Environmental Effects indicates that the access and buildings have been designed to minimise waste generation and the site has substantial areas available for waste storage with appropriate source separation.

Based on waste generation from the current Steiner School in Table Street, Port Macquarie and a similar school in Coffs Harbour, The Applicant has suggested that waste volumes can be managed with a standard red, yellow and green bin service with kerbside collection. The architectural plans show bin storage for 3 bins at Stage 1, which will increase to 6 bins at Stage 2.

There is sufficient road frontage for the collection of the anticipated number of bins without creating amenity impacts for nearby residents.

A standard precautionary site management condition is recommended for the construction phase.

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 Application includes a Noise Impact Assessment prepared by EMM Consulting. The report considers the likely noise impacts of the proposed school on nearby properties, and also the impacts of road traffic noise from John Oxley Drive on the amenity of the school buildings. The report makes the following comments in relation to road noise impacts.

“Road traffic noise levels impacting the most affected areas impacted by road traffic noise from John Oxley Drive (Stage 3 - Hall, Library and Classrooms) are in the order of 57 dB LAeq, 15 hour which indicates that:

- *The AS2107:2016 internal noise requirement for classrooms and teaching spaces of 45 dB LAeq will be achievable with windows closed using standard building construction (ie minimum 4mm float glass, no acoustic seals); and*

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- *The AS2107:2016 internal noise requirement for assembly hall (less than 250 people) of 40 dB LAeq will be achievable with windows closed using standard building construction (ie minimum 4mm float glass, no acoustic seals).*

Given that all other classrooms and teaching areas are further away from John Oxley Drive, they are also expected to comply with the AS2107:2016 internal noise requirements.

It is noted that the above requires that operable building elements such as windows are closed. This often means that mechanical ventilation is required."

The report concludes that no additional acoustic treatment is necessary to achieve satisfactory internal noise levels for the classrooms and assembly hall.

The noise modelling predicts significant exceedances of noise criteria during all stages of construction and operation if the northern boundary of the site remains unmitigated. The noise can be appropriately mitigated with a 1.8 m high noise barrier along the entire northern boundary of the site. The noise barrier should be constructed as early as possible during the construction phase of Stage 1 and will provide adequate mitigation to the residences located in Aspect Court during the construction and operation of the site throughout Stages 1 and 2. The noise barrier will need to be continuous and contain no gaps, and be constructed from an appropriate material, such as lapped and capped timber, sheet metal, masonry, or the like. Appropriate conditions have been recommended in this regard.

The increased intensity of the use at Stage 3 (concept application) will require the height of the barrier to be increased to 2.4m to achieve acceptable noise levels. It may be necessary to construct the initial barrier to this height, unless it is designed in a manner that can be easily upgraded in the future.

Bushfire

The site is identified as being bushfire prone. In accordance with Section 100B of the *Rural Fires Act 1997*, the application proposes development for a special fire protection purpose (school).

The application includes a Bushfire Protection Assessment prepared by Australian Bushfire Protection Planners Pty Ltd addressing the relevant provisions of Planning for Bush Fire Protection 2019. The proposal has been referred to the NSW Rural Fire Service (RFS) as integrated development. The RFS have issued a Bush Fire Safety Authority subject to conditions relating to asset protection zones, construction standards for new buildings, internal access roads, water and utility service, landscaping, and emergency planning and management. A condition has been recommended incorporating the requirements of the Bush Fire Safety Authority.

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. Appropriate access control can be established with fencing and the layout of the buildings around a central courtyard/amphitheatre will provide good passive surveillance within the school grounds.

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.

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The establishment of a primary school in the urban release area will provide an additional educational option for families in the locality and for Port Macquarie generally. The school facilities have been designed to be accessible and inclusive.

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. Additional ongoing employment opportunities will also be created as the school expands over time.

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, road traffic noise, and contamination have been adequately addressed and appropriate conditions of consent recommended.

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

9 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
Aspect Court was not designed for the amount of traffic that would be generated by a school, or for large school buses.	Aspect Court in the site frontage has an AUSPEC classification of an Urban Access Place. The Traffic Impact Assessment confirms that the traffic generated by the development up to Stage 2 would only exceed the design capacity of the road between the southern driveway and John Oxley Drive. A condition has been recommended requiring the southern extent of Aspect Court to be upgraded to an AUSPEC Local Street

Submission Issue/Summary	Planning Comment/Response
	<p>specification.</p> <p>The future Stage 3 expansion of the school shown on the concept plans (subject to a separate development application) will exceed the design capacity of Aspect Court up to the northern driveway and further upgrade to the AUSPEC Local Street specification would be required at that time.</p> <p>The school is proposed to be serviced with a private mini bus, and the road dimensions are appropriate for the size of the service vehicle.</p>
<p>Access to the development should be from John Oxley Drive.</p>	<p>John Oxley Drive is an Urban Distributor Road and carries significant volumes of traffic between Thrumster and Port Macquarie. The Development Control Plan for the urban release area restricts access to John Oxley Drive to a limited number of planned intersections to ensure the ongoing safety and efficiency of this road.</p>
<p>The parking facilities will not be adequate for school and weekend activities (assemblies, presentations, etc). Aspect Court is too narrow for overflow parking in the street and this will affect access and amenity for the existing residents in the street.</p>	<p>The proposal satisfies the minimum parking requirements in the DCP.</p>
<p>The application has only assessed the trees required to be removed for the access, parking areas and buildings. It is likely that once a school is operating many more trees will be deemed a safety risk and removed over time.</p>	<p>The consent authority can only consider the impacts of the proposed development in the assessment of the application. Any future proposals for tree removal once the school was operating would be subject to the relevant legislation applicable at that time.</p> <p>The recommended conditions of consent require annual inspections by an Arborist for trees likely to pose safety risks in the future, to ensure that management action is taken as necessary to avoid the need to remove trees. Where the safety risk can no longer be managed, the conditions also recommend offsetting requirements to maintain biodiversity on the site into the future.</p>

Submission Issue/Summary	Planning Comment/Response
<p>The development should be connected to Council's stormwater system at Stage 1 and not deferred until Stage 2.</p>	<p>Council's Senior Stormwater Engineer has reviewed the proposal and is satisfied that the site has suitable area and topography for an on-site absorption system to manage stormwater from the impervious areas for Stage 1 of the development, without any adverse impacts on neighbouring properties. The system will need to be designed by a professional engineer and will be reviewed by Council as part of the Section 68 application.</p>
<p>If the development is approved the full loop driveway and parking area should be provided at Stage 1.</p>	<p>The Stage 1 development includes a maximum of 30 students and 4 staff. The Stage 1 plans provide for 11 off-street parking spaces, which are indicated to include 4 staff parking spaces and 7 kiss-and-drop / visitor spaces. The number of spaces exceeds the minimum requirements in the DCP.</p> <p>Given the high turnover nature of the spaces during the peak drop off and pick up periods, the parking area is considered to be adequate without the additional 10 kiss-and-drop spaces that would be provided with the completion of the loop road.</p>
<p>When neighbouring property was purchased in 2017, it was understood that the land was zoned for large lot residential use. It should not be re-zoned for a commercial use.</p>	<p>The land is still zoned R5 Large Lot Residential (as it was in 2017). Schools were a permissible land use in the R5 zone in 2017.</p> <p>The proposal does not include a re-zoning.</p>
<p>Both the entry and exit points are located on bends with limited sight distance.</p>	<p>The proposed access and egress locations have been reviewed by Council's Development Engineer and are considered to have safe sight distance having regard to the anticipated traffic volumes and speeds.</p>
<p>The traffic assessment is based on the completed Stage 2 development (95 students). It should consider the Stage 3 concept application for 170 students. It is expected that modelling for the Stage 3 development would show significant queuing at the intersection of John Oxley Drive and Aspect Court.</p>	<p>The updated traffic impact assessment includes SIDRA modelling for the intersection of John Oxley Drive and Aspect Court up to the future Stage 3 development. The assessment indicates that the Stage 3 development would require an auxiliary left turn lane (AUL(s)) on the John Oxley approach to Aspect Court from the west, and a longer channelised right turn lane</p>

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Submission Issue/Summary	Planning Comment/Response
	<p>(CHR).</p> <p>Upgrades of this intersection would be subject to further review and assessment as part of any future Stage 3 application, noting that traffic conditions in the area may change with future upgrades to John Oxley Drive and/or closure of the intersection with Bestglen Place.</p>
<p>While the proposal satisfies the DCP parking rates, it will be short of the parking demands indicated by RMS surveys.</p>	<p>The Traffic Impact Assessment includes parking calculations based on both the rates in Council's DCP, and the RMS traffic surveys. For the development up to Stage 2D (95 students and 11 staff) the DCP requires a minimum of 15 spaces, and the RMS rate requires a minimum of 19 spaces. The proposal provides 31 parking spaces, which significantly exceeds both parking rates.</p> <p>For the future Stage 3 development, the Traffic Impact Assessment calculates that a minimum of 20 spaces would be required under the DCP rates, and a minimum of 34 spaces at the RMS rates. The concept proposal is capable of providing adequate parking for the future Stage 3 expansion.</p>
<p>The traffic assessment identifies non-compliant disabled parking spaces and turning facilities.</p>	<p>The plans have been amended to include compliant disabled parking and turning facilities.</p>
<p>A number of health care and emergency services staff who act as first responders reside in the street and cannot afford to have traffic movements blocked.</p> <p>The development will affect emergency vehicle access to the area.</p>	<p>The proposal includes adequate off-street parking in accordance with Council and State Government guidelines and will maximise the extent of the parking demand that can be accommodated within the school site. Any overflow parking in Aspect Court would be subject to NSW Road Rules and could not legally block access for local residents.</p>
<p>Adverse noise impacts on neighbours.</p>	<p>A Noise Impact Assessment prepared by EMM Consulting has been submitted as part of the application and addresses the potential noise impacts from traffic and school activities on nearby residential uses. The report concludes that appropriate amenity noise levels can be maintained for adjoining residents in</p>

Submission Issue/Summary	Planning Comment/Response
	<p>Aspect Court, subject to the provision of a minimum 1.8m high acoustic barrier along the northern boundary of the site. The barrier should be erected as early as possible in the construction phase to also reduce the impacts of construction noise on neighbours. Appropriate conditions have been recommended to ensure that the barrier has the required acoustic properties and for the timing of construction.</p> <p>The report notes that the barrier would need to be increased in height to 2.4m for the future Stage 3 expansion, and it may be practical to construct the barrier to 2.4m high at the initial stage.</p>
<p>The development will create another section of 40km/h speed limit on John Oxley Drive and further slow the flow of traffic.</p>	<p>The extent of any necessary 40km/h school zone for the site would be determined by Transport for NSW.</p> <p>It is noted that some other schools in the area with frontage to major roads don't have school zones on that road (eg Ocean Drive frontage of St Peters Primary School, MacKillop College, and Lake Cathie Public School).</p> <p>It is possible that a school zone would not be required on John Oxley Drive, as the development does not provide any access on this frontage.</p>
<p>Part of the site drains into the rear of neighbouring property and the proposal will increase stormwater impacts.</p>	<p>All new impervious areas for the development would be drained to an engineered absorption area for the Stage 1 development and connected to the piped drainage in Aspect Court at Stage 2. The natural overland flow in the north east corner of the site would not be altered by the development and no additional stormwater would be discharged to this part of the site.</p>
<p>Loss of property value for neighbouring residents. Will owners be compensated?</p>	<p>This is not a relevant planning consideration in the determination of the application. There is no mechanism in the planning legislation for compensation.</p>
<p>The parking area for the school is located directly behind the dwelling at 22 Aspect Court and will result in noise, dust, and privacy impacts.</p>	<p>Noise from the access and parking areas has been considered in the Noise Impact Assessment and an appropriate noise barrier along the</p>

Submission Issue/Summary	Planning Comment/Response
	<p>northern boundary (1.8m to 2.4m high) is proposed to mitigate the impact. The noise barrier is required to be constructed of materials that do not contain gaps and would also provide an effective privacy screen for neighbouring properties.</p> <p>The parking area is required to be constructed with a sealed surface and will not generate dust.</p>
<p>The kiss and drop zones will not be effective as parents typically arrive a lot earlier than school finishes in the afternoon and the parking spaces would not start turning over until the first children were collected. Where would vehicles queue while waiting for the kiss-and-drop spaces to vacate?</p>	<p>It is agreed that the kiss-and-drop spaces would not provide the expected turnover if parents arrive prior to school finishing in the afternoon. It is not anticipated that all vehicles would arrive early for pick up, particularly noting that the school is intending to stagger pick up times for different grades.</p> <p>The design of the loop road will allow vehicles to circulate back to Aspect Court if all spaces are occupied and re-enter at the northern end.</p>
<p>There is potential for increased theft in the area due to the increased traffic from the school.</p>	<p>Increase activity is generally considered to be a positive thing from a crime prevention perspective. Increased activity generally results in more passive surveillance and less opportunity for crime to be carried out unobserved.</p>
<p>What contribution will the school be making towards infrastructure to reduce its traffic impacts? Will there be a monetary contribution to improvements to the Oxley Highway, or appropriate infrastructure planning like the John Oxley Drive entry to 'The Sanctuary'.</p>	<p>The proposed development is not for residential purposes and Council cannot levy Section 7.11 contributions for major roads.</p> <p>The developer will be required to provide the relevant upgrades to the local road network necessary to accommodate the additional traffic generated by the development. This will include widening of aspect Court between John Oxley Drive and the southern driveway at Stage 2 of the development.</p> <p>The Traffic Impact Assessment indicates that additional widening of Aspect Court (up to the northern driveway) and improvements to the intersection with John Oxley Drive would be required with the future</p>

Submission Issue/Summary	Planning Comment/Response
	<p>Stage 3 development.</p> <p>The traffic volumes generated by the proposed school and existing development in Aspect Court do not warrant construction of a two-lane roundabout of the nature currently being constructed at the entry to 'The Sanctuary'.</p>
<p>Is the school going to have a permanent cap for 170 students or will they just increase the numbers without the proper infrastructure further affecting the local residents? These figures also don't reflect after school programs and/or before and after school care which is growing in popularity within the school communities.</p>	<p>The recommended conditions include a restriction on student numbers for each stage of the development up to Stage 2D (maximum 95 students).</p> <p>The Stage 3 proposal for expansion to 170 students (and any expansion beyond that in the future) would be subject to separate development application/s.</p>
<p>The development will generate dust and impact neighbouring properties and pools.</p>	<p>Standard conditions have been recommended for dust management during construction. Once construction is complete, the access roads and parking areas would have sealed surfaces and are not expected to generate dust.</p>
<p>Will the property be kept weed and litter free? Playground rubbish has been a problem near the adjoining St Joseph's Regional College.</p>	<p>The Statement of Environmental Effects indicates that appropriate waste management has been planned for in the school design.</p> <p>It is expected that the extent of weed management and general maintenance of the site would increase with the proposed school use.</p>
<p>The "Trip Generation Survey, School Analysis Report" was prepared for RMS in 2014 and is 9 years old.</p>	<p>This is the most recent traffic generation data published by Transport for NSW (formerly RMS) for schools. It is reasonable for the consultant to use this trip generation and parking data for the traffic impact assessment.</p>
<p>Section 9 of the Traffic Impact Assessment indicates that the largest regular service vehicle will be a small bus. Does this mean that it would be under 7m in length? This doesn't seem correct.</p>	<p>The Traffic Impact Assessment has considered the small bus to be similar to a medium rigid vehicle (MRV) under AS2890.2, with a length of 8.5m. The RMS surveys suggest that for regional schools an average of 7% of students arrive by bus. For the current proposal (maximum of 95 students) it can be assumed that on average 7 students would arrive by bus. On this basis, a small bus is considered to be</p>

Submission Issue/Summary	Planning Comment/Response
	adequate.
Access to the school should be from Thrumster Street, not Aspect Court.	The site does not have frontage to Thrumster Street and cannot legally access this road.
Should Aspect Court residents have a 'Private Road Sign'?	Aspect Court is a dedicated public road under the care and control of Council. Private road signs are only used where the road is in private ownership (for example, in a community title development).

(e) The Public Interest

The proposed development satisfies relevant planning controls and will not adversely impact 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

Section 7.11 Contributions

The development does not contain any residential component. As a result, s7.11 contributions do not apply.

Section 7.12 Contributions

In assessing s7.12 contributions, Council staff have reviewed the development in accordance with the Port Macquarie-Hastings Council Development Contributions Assessment Policy (DCAP) and the Port Macquarie-Hastings Council Section 94A Levy Contributions Plan 2007.

The proposed development will comprise a new school with cost of works exceeding \$100,000 and is deemed to increase the demand for public amenities/services. As a result, s7.12 contributions apply and a condition of consent has been recommended to ensure payment.

Section 64 Water and Sewer Contributions

Water and sewer contributions will be levied as part of the Notice of Requirements under Section 306 of the Water Management Act 2000. Having regard to the Port Macquarie-Hastings Council Development Contributions Assessment Policy (DCAP) and applicable Development Servicing Plans, following calculation is provided.

The site has contribution credit based on an existing serviced lot with area greater than 2000m².

The proposed development will comprise a school with a maximum of 95 students (at completion of Stage 2D) and contributions should be charged accordingly.

A copy of the contributions estimate is included (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 proposed development does not raise any significant general public interest issues beyond matters already addressed in this report. Overall, the proposed development is consistent with the provisions and objectives of the relevant planning controls and will have an acceptable impact on the surrounding natural and built environment. Approval of the application is considered to be in the public interest as it achieves the LEP objectives for development in the zone. No significant adverse environmental, social or economic impacts on the locality have been identified. Accordingly, the proposal is considered to be in the public interest.

Attachments

1.  Attachment 1 - Recommended Conditions
2.  Attachment 2 - Plans
3.  Attachment 3 - Contributions Estimate

Item: 07

Subject: DA2019 - 917.2 SECTION 4.55 MODIFICATION TO ALTERATIONS AND ADDITIONS, CONSTRUCTION OF SECONDARY DWELLING, SWIMMING POOL AND TENNIS COURT TO INCLUDE TENNIS COURT LIGHTING AT LOT 12 DP707776, NO. 12/12A LINKS CRESCENT, PORT MACQUARIE

Report Author: Development Assessment Planner, Fiona Tierney

Applicant: S J Ritchie & C A Sylow
Owner: S J Ritchie & C A Sylow
Estimated Cost: \$2000
Parcel no: 12488

Alignment with Delivery Program

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

RECOMMENDATION

That DA 2019 - 917.2 for a section 4.55 modification to alterations and additions, construction of secondary dwelling, swimming pool and tennis court to include tennis court lighting at Lot 12, DP 707776, No. 12/12A Links Crescent, Port Macquarie, be determined by granting consent subject to changes to the following conditions:

1. Amend current condition F(7): Any court lighting shall not cause overspill of light (or be directed into) adjoining properties. Suitable light hoods are to be provided are to be installed which screen the LEDs so they are not visible from any adjoining habitable window and to ensure no nuisance is created. Lights are to be in operation only whilst the court is in use.
2. Add new condition E(9): Three (3) hedge type screening plantings (Lilli Pilli or similar with a minimum mature height of 4m) are to be planted are to be installed within 3 months of this modification consent and maintained adjoining the western boundary as marked on the approved site plan.
3. Amend condition A(1) to include reference to the modified plan to be approved.

Executive Summary

This report considers an application for a modification to alterations and additions, construction of secondary dwelling, swimming pool and tennis court to include tennis court lighting at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

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Following exhibition of the application, 5 submissions were received.

The site is considered to remain suitable for the modified 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 application be approved subject to the above recommended condition changes. The current approved Consent is attached (Attachment 1).

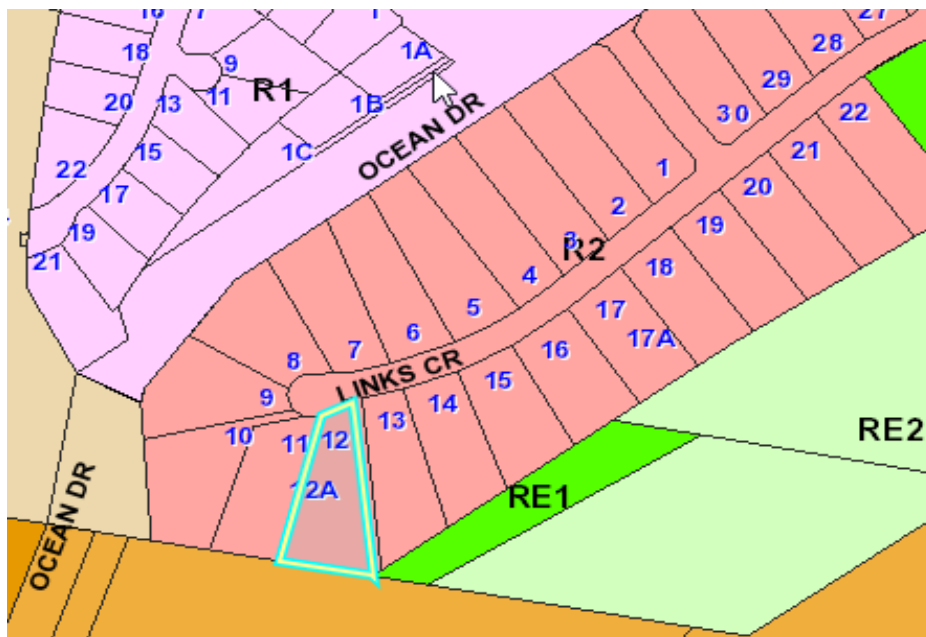
The reason for the application being referred to Council's Development Assessment Panel (DAP) is because 3 or more objections to the proposal have been received. A copy of the DAP Charter outlining the delegations and functions of the DAP is available on Council's website.

1. BACKGROUND

Existing Sites Features and Surrounding Development

The site has an area of 4404m².

The site is zoned R2 Low Density 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:

- Existing approved tennis court, swimming pool, alterations and additions and secondary dwelling.
- Continued use of light poles and provision of lighting units. The lighting units have not yet been installed and are proposed to be installed at a future date.
- Re-siting of approved pergola beside tennis court (this is exempt size and not considered necessary to be part of this application)

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

Application Chronology

- 19 December 2023 - Modification application lodged with Council.
- 27 December 2023 to 14 January 2024 - Neighbour notification of original modification proposal.
- 2 January 2024 - Additional information requested- modification form and SOEE.
- 10 January 2024 - Additional week granted for submissions to 22 January 2024.
- 9 February 2024 - additional information submitted - lighting units and light spill details.
- 14 February 2024 - Additional information submitted to address proposed additional landscaping.

3. STATUTORY ASSESSMENT

The application has been lodged pursuant to Section 4.55(1A) on the basis that it is substantially the same development to that which was originally lodged and consented and will have minimal environmental impact (Attachment 3).

Section 4.55 of the Environmental Planning and Assessment Act 1979 enables the modification of consents and categorises modifications into Section 4.55(1) for modifications involving minor error, mis-description or miscalculation, Section

4.55(1A) for modifications involving minimal environmental impact and Section 4.55(2) for other modifications. Each type of modification must be considered as being substantially the same to that which was originally consented.

In determining the modification 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 modification application relates:

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

The proposal is sufficiently consistent with the original development consent. The modification does not radically transform the approved development as modified and is of minimal environmental impact.

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

The applicant has submitted details during assessment of the application that the modified proposal is substantially the same development to that originally approved for the following primary reasons:

- The overall development remains for residential additions, secondary dwelling, swimming pool and tennis court purposes;
- The development is still for the same use with no material element of change with no additional land use or varying component added;
- The modification does not radically transform the approved development and the key issues relating to the lot layout, acoustic and aesthetic impacts, ecological impacts, and bushfire remain satisfactory and manageable.

Having regard to guidance principles set out in NSW Land and Environment Court caselaw *Moto Projects (No 2) Pty Ltd v North Sydney Council 1999*, the above general justification details submitted are considered acceptable to be satisfied that the proposal is substantially the same development. A comparison of the qualitative and quantitative elements of the original approved proposal to the modified proposal (as amended) reveals the proposal will present materially and essentially as a residential and ancillary development in the same general building footprint and associated works.

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

Neighbour notification has been undertaken in accordance with the regulations and Council's Development Control Plan 2013. Extensions of time have been granted to provide neighbours greater opportunity to review the information provided.

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

Five (5) 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>Potential noise created by practice wall and use of the tennis court.</p>	<p>Significant distances exist between residentially occupied properties. The tennis court is an approved development, and the application is for provision of lighting for the court area. Use of the court is restricted to residential use only and within defined time limitations. The applicant did demonstrate use of the practice wall and levels were quite low at the property boundary.</p>
<p>Occupation of the secondary dwelling by the tennis court and risk that coaching and commercial use of the court will occur. Concerned with noise, traffic, privacy, security. Residents report use of the court for what appears to be tennis coaching and express concern that the lighting will increase the ability of the non-compliance to increase and continue through the night.</p>	<p>The conditions of approval do not permit commercial use of the tennis court. The applicant acknowledges the occupant of the secondary dwelling does happen to be a family member who is a qualified tennis coach. They advise there is no intent for the family member to offer coaching at the premises and is not something they wish to have operating at the premises.</p> <p>Conditions of consent are to be complied with and compliance action may be taken should commercial use occur.</p> <p>Whilst concerns are acknowledged, the application is to be taken on merits and non-commercial compliance reinforced to the applicant through conditions of consent.</p>
<p>Dense landscaping should be provided to screen the court from surrounding occupied premises.</p>	<p>The applicant has agreed to additional plantings of a Lilli Pilli variety that will help reinforce the density of the screening along the western boundary where sections of the court are visible from the adjoining dwelling. An additional consent condition is recommended to require screen planting to be provided.</p>
<p>Glare from lighting affecting residents, risk lights left on all night, impact on native wildlife.</p>	<p>The tennis court lighting will only be lit whilst in use and a condition will be applied. The applicant has satisfactorily demonstrated light spill beyond the court will be minimised and hoods/ light units will be designed to direct light in a downwards direction. The lots are zoned for residential use and the tennis court is considered a reasonable and appropriate domestic use/activity.</p>

<p>Not aware that secondary dwelling creates two addresses. Misunderstanding that granny flat and secondary dwelling are different types of building.</p>	<p>There are 2 addresses allocated automatically under Council's GIS system. It does not alter the nature of the development or the permissible use.</p>
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Section 4.55(3) Any matters referred to in section 4.15(1) relevant to the modification, and the reasons given by the consent authority for the grant of the consent sought to be modified.

(a) The provisions (where applicable) of:

(i) Any Environmental Planning Instrument

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

- Clause 2.2 - The subject site is zoned R2 Low Density Residential.
- The objectives of the R2 Zone is as follows:
 - *To provide for the housing needs of the community within a low-density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To provide for low density housing that does not compromise the environmental, scenic or landscape qualities of the land.*
- In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives having regard to the following:
 - The proposal is a permissible landuse;
 - The provision of the tennis court and lighting will provide for efficient use of the site and provide facilities that support the needs of the residents.
- Clause 4.3 - Light poles are below the 8.5m height limit applying to the area at 7m. Poles are sufficiently unobtrusive and given distances, dimensions and colour are not likely to impact adversely on surrounding occupied premises.
- Clause 5.10 - The site does not contain or adjoin any known heritage items or sites of significance. The site is also disturbed from past activities/works on-site.

(iii) Any Development Control Plan in force

Port Macquarie-Hastings Development Control Plan 2013

No additional specific items of the DCP apply to the provision of tennis court lighting.

(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 or the public domain.

The site contains an existing approved tennis court. During construction, 4 light poles were provided. The certifier for the project issued a works order for non-compliance with the approved plans and the applicant has submitted a modification to seek

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approval for continued use of the light poles and allow for future installation of lighting units if and when this is desired.

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

The proposal does not have significant adverse lighting impacts subject to compliance with the approved conditions.

The precinct is characterised by larger lots that encourage greater use of the site for larger scale dwellings and associated recreational structures. It also enables significant landscape opportunities and ability for wider separation distance between neighbouring occupied dwellings. It is typical for allotments to have a dwelling and swimming pool. A significant number also have a secondary dwelling and a tennis court.

Tennis Court Guidelines

Tennis courts in large lot residential subdivisions are quite common and a review of the existing precinct indicates a significant percentage of the lots in the subject subdivision do have a tennis court.

See diagram below (applicant supplied) that generally indicates location of approved tennis courts in the precinct. (Noting one has been removed since this photo)

Image 1: Google Maps with location of tennis courts identified



Council's Local Environmental Plan and DCP do not currently specifically stipulate requirements for tennis courts in relation to construction or lighting of courts.

A desktop review of a selection of existing tennis courts in the PMHC area indicates that the majority of assessments and consents apply a restriction on lighting that includes protective hoods to limit light overspill and shield glare when viewed from neighbouring occupied dwellings. Lighting is generally restricted to start 7.30/8am and cease 10/10.30 pm.

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The existing consent limits operation 8am to 10pm, prohibits commercial use and offensive noise. Hoods have been recommended to be installed in any future lighting in the current conditions. It is recommended the condition be reworded to encompass the current proposal.

A number of published standards exist to provide relevant guidance for assessment purposes on merit. Extracts are provided below;

1. *“CODE OF PRACTICE FOR ILLUMINATION OF RESIDENTIAL TENNIS COURTS Published by SAPIA)*

Light Spillage and Glare The level of light emanating outside the property shall not exceed an illumination level of 12 lux nor an average of 10 lux when measured 3 metres outside the property boundary. The light fittings must be baffled to ensure that a light source is not directly visible from the habitable room window of an adjoining property. All light readings are to be taken in a horizontal plane at a height of 1000mm above ground level. Operating Hours Courts must not be illuminated after 10.30 p.m. nor before 7.30 a.m.

2. *PRIVATE TENNIS COURT CODE OF PRACTICE (Published by Department of Infrastructure VIC 1999)*

ELEMENT 5
ILLUMINATION

E5.1 Considerations

The provision of tennis court lighting increases the potential to affect the amenity of adjoining areas by glare, appearance and noise.

Lighting systems should achieve acceptable levels of spillage control and their use must not cause an unreasonable invasion of privacy.

Matters to be considered include:

- the height and placement of lighting fixtures;
- the proximity of adjoining dwellings and secluded private open spaces;
- the intensity of light and its reflection; and
- design and appearance of lighting fixtures.

E5.2 Objectives

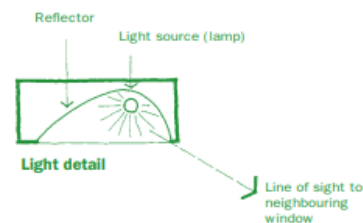
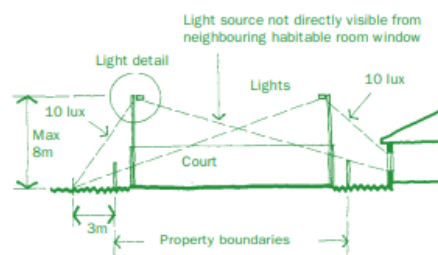
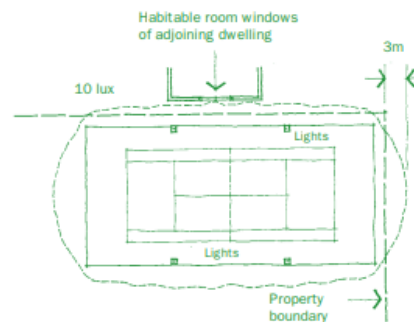
To prevent excessive light spillage and other effects from detrimentally affecting the amenity of dwellings on adjoining properties.

E5.3 Performance requirements

E5.3.1 Any lighting system must not exceed an illumination level of 12 lux and an average illumination of 10 lux when measured at the nearest habitable room window of an adjoining dwelling or at a point 3 metres outside the property boundary, whichever is the nearest to the light source.

E5.3.2 Any lighting system must:

- comply with the 'Residential Tennis Court Lighting Code' produced by the Tennis Court Builders Association of Australia;
- be baffled to ensure that a light source is not directly visible from a habitable room window of an adjoining dwelling;
- use light poles which are not more than 8 metres above the court surface; and
- be certified after installation by a qualified lighting engineer.

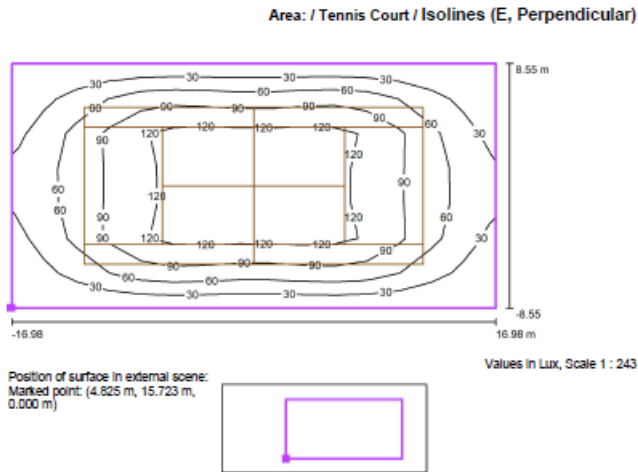


E6.3 Performance requirements *The court must not be used for commercial purposes such as professional tennis coaching or court hire. The court must not be used between 10.30pm and 7.30am. No mechanical equipment such as ball throwing machines may be operated between 7pm and 8am”*

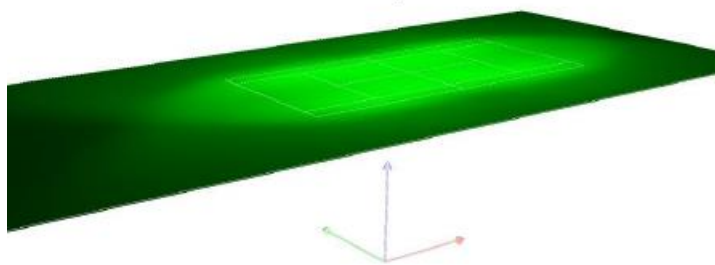
The original consent conditions comply with these recommended code of practice documents.

The applicant has also clarified the type of lighting proposed and have submitted a report to address potential light overspill to neighbouring properties.

The report has been prepared by DIALux (The lighting manufacturer). Given the substantial distances (approx. 65 metres) between the nearest habitable window, the lux levels will be well within the recommended limits. These levels are without hoods or baffles and the hoods will ensure the light source is not visible from any habitable area of the adjoining dwellings. See diagrams below.



Lux contour mapping



Conceptual lighting image

Further discussions with the applicant and the neighbours have also identified that additional screen planting will also assist with visual screening. The applicant has agreed to reinforce the vegetation along the western boundary with Lilli Pilli species. It is also recommended that a condition be applied to require this to be installed and maintained.



Looking North West from tennis court

In consideration of the development the ancillary use is deemed as reasonable use of a standard residential allotment. In normal circumstances it is reasonable to consider construction of such elements as a swimming pool (or the like) and also associated activity (together with anticipated noise created by use and maintenance

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of this element). In extrapolation of this concept it would also be reasonable to construct, on a larger allotment, a swimming pool and a tennis court for domestic residential use. It would also be considered acceptable to allow lighting of the court if it can be demonstrated that doing so would not impose a substantial or unreasonable impact to adjoining occupied premises.

Tennis courts have the potential to impact with lighting and noise (both playing and maintenance activities). Legislated noise restrictions are designed to limit loud (such as power tools) noises to cease around 8pm and general activity noises (such as music, air conditioners etc) to cease at 10pm. In this regard tennis courts are considered to fall into the general activity category. Discussions with Council's Environmental Health Officers indicate very few issues have occurred in the Council area relating to use of tennis courts, as neighbours are generally considerate, recreational times are limited, and conditions of consent relating to lighting and noise have effectively moderated the use.

The neighbours have raised significant concerns that the use will not be managed appropriately and have cited cases of suspected commercial use and consistent high levels of noise emanating from the property. Much of the noise described appears to be of an allowable domestic nature and possibly best dealt with through mediation channels and compliance subject to complying with the applicable conditions of consent. The applicant has reaffirmed the use of the court and lighting is for reasonable domestic purposes and suitable conditions have been applied to prevent commercial use.

Flora and fauna

Construction of the proposed development will not require any removal/clearing of any native vegetation, does not trigger the thresholds and is also not located within a mapped Biodiversity Values area. Based on the above, the development is considered to be compliant with the Biodiversity Conservation Act 2016.

Noise and vibration

The application has been referred to Council's Environmental Health Officer who has concluded that the current conditions of consent impose reasonable limitations in term of illumination, use and hours of operation.

Bushfire

The site is identified as being bushfire prone however the proposed lighting will not result in any changes to asset protection zones or construction requirements.

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.

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

Site constraints have been adequately addressed and appropriate conditions maintained and modified as recommended.

(e) The Public Interest

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

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

Noted.

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

N/A

5. CONCLUSION AND STATEMENT OF REASON

The application has been assessed in accordance with Section 4.55 and 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, amended, and new conditions have been recommended to manage the impacts attributed to these issues.







The modified development does not raise any significant general public interest issues beyond matters already addressed in this report. Overall, the proposed development is consistent with the provisions and objectives of the relevant planning controls and will have an acceptable impact on the surrounding natural and built environment. Approval of the application is considered to be in the public interest as it achieves the LEP objectives for development in the zone. No significant adverse environmental, social or economic impacts on the locality have been identified. Accordingly, the modified proposal is considered to be in the public interest.

Attachments

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1.   Attachment 1 - Current Consent for DA2019 - 917.1
2.   Attachment 2 - Plans
3.   Attachment 3 - Section 4.55 Supporting Information

