



PORT MACQUARIE-HASTINGS  
COUNCIL



# Development Assessment Panel

## Business Paper

**date of meeting:** Wednesday 17 July 2024

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

**time:** 2:00 PM

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

# DEVELOPMENT ASSESSMENT PANEL SUB COMMITTEE CHARTER

Adopted: Ordinary Council 2022 09 15

## 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.

Non-Voting Members Not applicable.

### **3.2 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.

### **3.3 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.

### **3.4 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	6/03/24	5/06/24
David Crofts (Independent Chair)	✓	✓		✓	✓	A		
Chris Gee (Independent Member)		✓	✓	✓	✓	✓	✓	✓
Michael Mason (Independent Member)	✓	✓	✓	✓		✓	✓	✓
Dan Croft (Group Manager Development Services)	✓	✓	✓	✓	✓	✓	✓	✓
Tony McNamara (Independent Member)			✓		✓	✓	✓	✓
<b>Other attendees</b>								
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)	✓				✓	✓		
Kate Kennedy (Building Surveyor)								
Warren Wisemantel								
Bob Slater (Development Assessment Planner)								
Alton Dick (Stormwater Engineer)								
Fiona Tierney (Development Assessment Planner)		✓		✓			✓	
Nicholas Powers (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
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 17 July 2024

## Items of Business

Item	Subject	Page
01	Acknowledgement of Country .....	<u>9</u>
02	Apologies.....	<u>9</u>
03	Confirmation of Minutes .....	<u>9</u>
04	Disclosures of Interest.....	<u>14</u>
05	DA2013 - 464.5 Section 4.55 Modification to Log Processing Works at Lot 1 DP 779638, 2952 Oxley Highway, Huntingdon.....	<u>18</u>
06	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.....	<u>90</u>
07	General Business	

## AGENDA

### DEVELOPMENT ASSESSMENT PANEL

17/07/2024

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**Item: 01**

**Subject: ACKNOWLEDGEMENT OF COUNTRY**

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

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**Item: 02**

**Subject: APOLOGIES**

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#### RECOMMENDATION

That the apologies received be accepted.

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**Item: 03**

**Subject: CONFIRMATION OF PREVIOUS MINUTES**

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#### RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 5 June 2024 be confirmed.

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## **PRESENT**

### **Members:**

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

### **Other Attendees:**

Grant Burge (Development Engineering Coordinator)  
Pat Galbraith-Robertson (Development Planning Coordinator)  
Vanessa Penfold (Development Assessment Planner)

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The meeting opened at 2.00pm.

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## **01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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## **02 APOLOGIES**

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Nil.

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## **03 CONFIRMATION OF MINUTES**

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### **CONSENSUS:**

That the Minutes of the Development Assessment Panel Meeting held on 6 March 2024 be confirmed.

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## **04 DISCLOSURES OF INTEREST**

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Nil.

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**05 DA2023 - 536.1 MULTI DWELLING HOUSING AND STRATA TITLE  
SUBDIVISION AT LOT:2 DP 1295723, NO.22 CASTLE COURT PORT  
MACQUARIE**

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**Speakers:**

Rebecca Tighe (Opposing the application)  
Matt Ackland (Opposing the application)  
Jennifer Belcher (Opposing the application)  
Derek Collins (applicant)  
Joanne Hands (applicant)

**CONSENSUS:**

That DA2023 - 536.1 for Multi dwelling housing and strata subdivision and at Lot 2, DP 1295723, No. 22 Castle Court, Port Macquarie be determined by granting consent subject to the recommended conditions with the following amendments:

- Amend condition 1 in general conditions to read:**

Approved plans and supporting documentation				
Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
Plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
J5150 Sheets 1 to 22	Issue T	Attached Units - Strata	Collins w Collins	28 May 2024
Approved documents				
Document title	Version number	Prepared by	Date of document	
Statement of Environmental Effects	J5150 Rev B	Collins W Collins	April 2024	
BASIX Certificate	1318176M_03	Collins W Collins P/L	29 May 2024	
Bushfire Assessment	1	Firebird ecoSultants P/L	9 June 2023	
In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.				
Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.				

- **Add additional condition 9 before issue of a construction certificate to read:**

<b>Courtyard Gate</b>
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The front court yard fencing to Unit 3 shall include a pedestrian gate. Details to be provided to the Principal Certifier prior to release of the Construction Certificate.
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Condition Reason: To provide direct pedestrian access to the street.
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- **Add additional condition 10 before issue of a construction certificate to read:**

<b>Landscape Plan</b>
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A more detailed and extensive landscaping plan is to be provided. Details to be provided to the Principal Certifier prior to release of the Construction Certificate.
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Condition Reason: To provide appropriate landscaping of the site.
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- **Add additional condition 11 before issue of a construction certificate to read:**

<b>Footpath</b>
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Plans are to be amended to provide for a footpath across the full frontage of the development and are to be approved by Council under the Roads Act, prior to release of the Construction Certificate.
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Condition Reason: To contribute to the public domain and pedestrian connectivity to the site.
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- **Add additional condition 10 before issue of an occupation certificate to read:**

<b>Driveway Mirror</b>
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Prior to issue of an occupation certificate, appropriate mirror(s) are to be installed at the north western corner of the driveway to assist motorists entering and exiting the site so as to reduce the potential for vehicle conflicts.
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Condition Reason: To manage vehicle conflicts and entering and exiting the site.
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- **Add additional condition 4 before issue of a strata certificate to read:**

<b>Updated Strata Plan</b>
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Driveways, visitor parking, and bin storage areas to be shown as common property. Details to be submitted with the Strata Certificate.
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Condition Reason: To ensure development proceeds in accordance with the approved plans.
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## **06 GENERAL BUSINESS**

Nil

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The meeting closed at 2.40pm.

UNCONFIRMED

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

(Refer to next page and the Code of Conduct)

#### Pecuniary Interest

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

#### Non-Pecuniary

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

#### Managing non-pecuniary conflicts of interest

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

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

### 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.*

<b>By</b> <i>[insert full name of councillor]</i>	
<b>In the matter of</b> <i>[insert name of environmental planning instrument]</i>	
<b>Which is to be considered at a meeting of the</b> <i>[insert name of meeting]</i>	
<b>Held on</b> <i>[insert date of meeting]</i>	
<b>PECUNIARY INTEREST</b>	
Address of the affected principal place of residence of the councillor or an associated person, company or body <b>(the <i>identified land</i>)</b>	
Relationship of identified land to councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has interest in the land.
<b>MATTER GIVING RISE TO PECUNIARY INTEREST<sup>1</sup></b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP <b>(the <i>subject land</i>)<sup>2</sup></b> <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Tick or cross one box]</i>	<input type="checkbox"/> Appreciable financial gain. <input type="checkbox"/> Appreciable financial loss.

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

**Councillor's Signature:** ..... **Date:** .....

*This form is to be retained by the council's Chief Executive Officer and included in full in the minutes of the meeting*

Last Updated: 3 June 2019

### Important Information

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

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

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

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

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

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

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

**Item: 05****Subject: DA2013 - 464.5 SECTION 4.55 MODIFICATION TO LOG  
PROCESSING WORKS AT LOT 1 DP 779638, 2952 OXLEY HIGHWAY,  
HUNTINGDON****Report Author: Development Assessment Planner, Clint Tink**

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**Applicant: Hopkins Consultants Pty Ltd**  
**Owner: M A & R J Hoffman**  
**Estimated Cost: N/A**  
**Parcel no: 17775**

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That the Section 4.55 modification to DA2013 - 464.5 for extensions to the log processing works at Lot 1 DP 779638, No. 2952 Oxley Highway, Huntingdon, be determined by refusing consent for the following reasons:**

- 1. The application fails to demonstrate that the site can cater for the extensions, which have potential to result in adverse noise, dust, vehicle impacts, electricity impacts and need for improved amenity requirements. This will result in the site not being suitable for the proposed change and also create a negative impact on the surrounding environment (Section 4.55(1A)(a) and 4.55(3) - 4.15(1)(b) & (c)).**
- 2. The development has provided insufficient information to allow an informed decision on whether the development is substantially the same and of minimal environmental impact, which is not in the public interest (Section 4.55(1A)(a) & (b) and 4.55(3) - 4.15(1)(e)).**

**Executive Summary**

This report considers a s4.55(1A) modification of consent to amend the scale/processing capacity of the existing approved log processing works at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Being a s4.55 modification, the amended proposal has largely been assessed against the relevant legislation in place at the time of the original assessment.

Following exhibition of the application, seven (7) submissions were received. It should be noted that four (4) of the seven (7) submissions are linked to the one neighbouring property.

Overall, the site is not considered suitable for the proposed expansion based on the information provided. In particular, the modification has provided insufficient information to allow an informed assessment of the impacts. As a result, the

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

development is considered to be contrary to the public's interest and will result in adverse social and environmental impacts.

This report recommends that the s4.55 modification be refused for the reasons outlined in (Attachment 1).

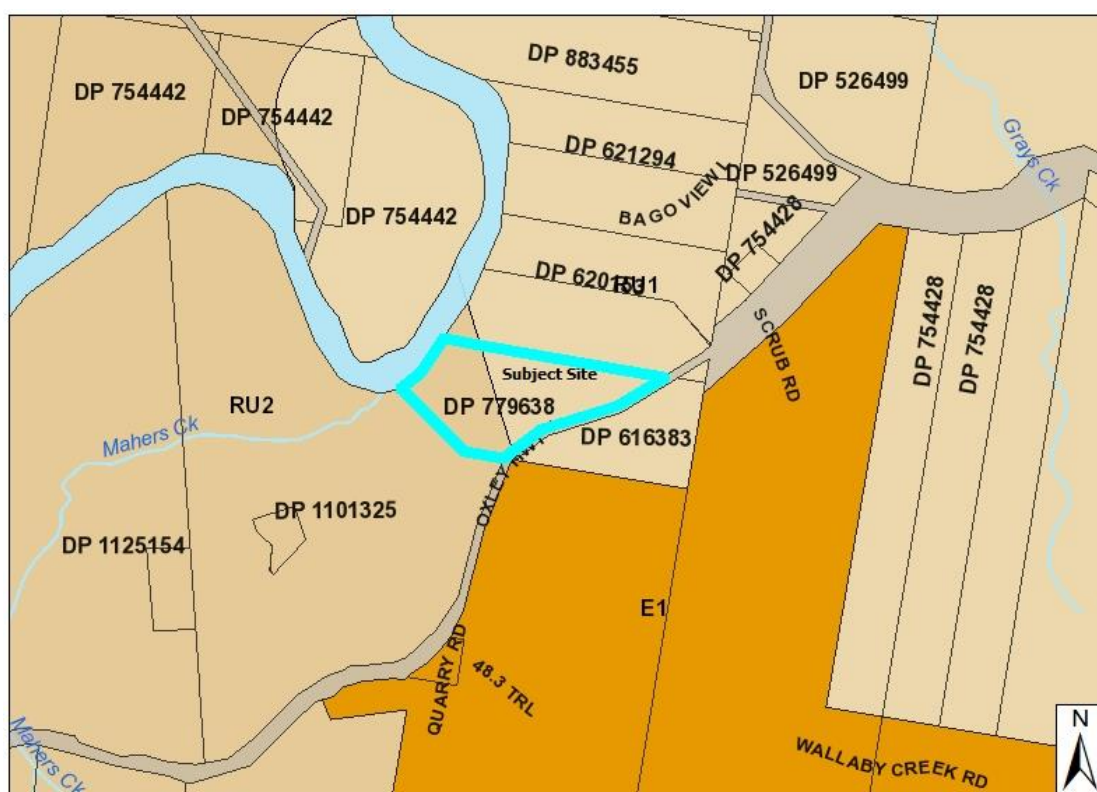
The reason for the application being referred to Council's Development Assessment Panel (DAP) is because three (3) or more objections to the proposal have been received. A copy of the DAP Charter outlining the delegations and functions of the DAP is available on Council's website.

### 1. BACKGROUND

#### Existing Sites Features and Surrounding Development

The site has an area of 11.42ha.

The site is zoned RU1 Primary Production and RU2 Rural Landscape in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The site has frontage to the Oxley Highway to the east/south east and the Hastings River to the west. The site is predominately cleared except for some timbered areas in the north east corner surrounding the proposed log processing site. The site slopes from the Oxley Highway down to the Hastings River.

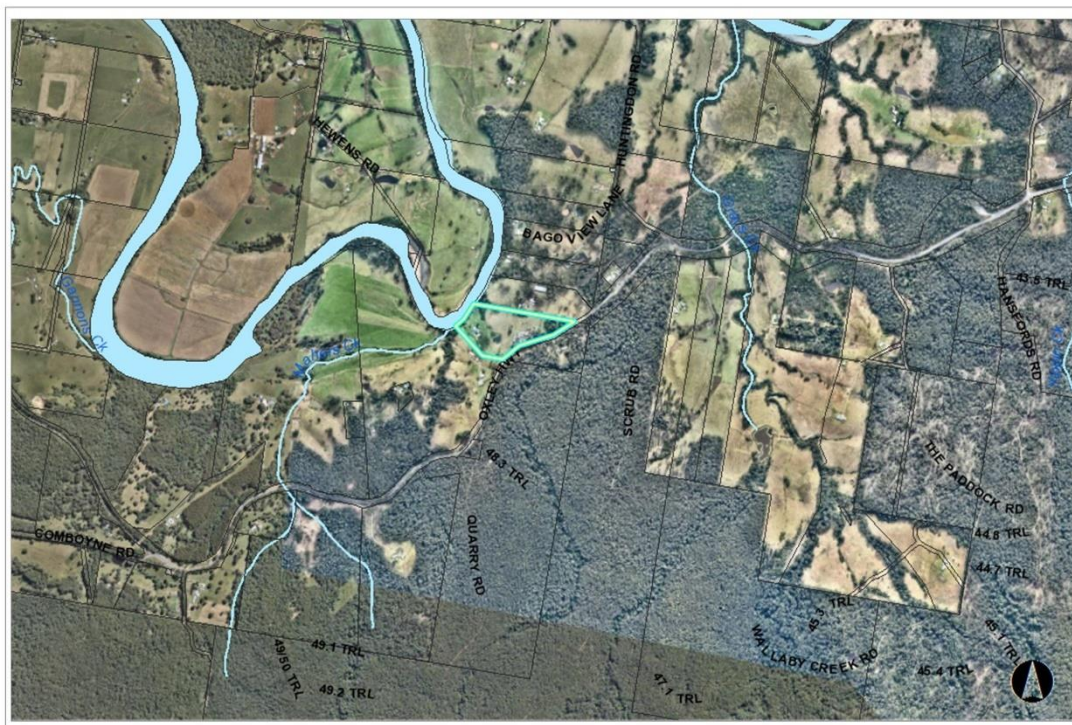
Surrounding the development is a mixture of larger lot rural residential properties and farmland. There is substantial State Forest land to the south across the Oxley Highway.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

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



## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the original/existing approval include:

- A log processing mill has been established for the purposes of processing timber into firewood.
- Hours of operation are 8am to 4pm Monday to Friday.
- Maximum of three (3) staff operate the mill.
- 1,500-2,500 tonnes (approx 2,200 cubic metres) of timber to be processed per year with less than 1,000 tonnes of product (firewood) to be stored onsite at any one time. In particular, a maximum of 2,500 tonnes of timber is delivered/processed into firewood per year as outlined in the original Statement of Environmental Effects. The amount of timber allowed to be processed, the amount of firewood/product allowed to be stored onsite and the original site plan, all subsequently restrict the scale of the operation and how much firewood/product goes out (ie output of firewood needs to be similar to input of timber logs to ensure annual processing amounts and storage are maintained).
- Approximately two (2) truckloads (28 tonnes per load) of timber are delivered per week during the aforementioned hours of operation. A similar number of trucks removing firewood would occur.
- Semi-trailers were originally acknowledged as using the site with access arrangements condition accordingly. This was later scaled back so that the access was designed to only cater for truck and dog vehicles up to 19m in length (unless the access was upgraded to allow for semi-trailers).
- Timber to be sold largely via wholesale market although some private sales direct to the public (1.5 tonnes per month) were permitted.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

- Access to the property is gained off the Oxley Highway. The Roads and Maritime Services (RMS) provided input on the original application.
- The original application was considered and approved by the Development Assessment Panel (DAP) on 13 November 2013. A copy of the original DAP report and minutes are attached to this report (Attachment 2).
- There were also two (2) minor modifications approved in relation to staging of works, access arrangements requirements for intended vehicles, allowance of minor private sales direct to the public and noise barrier clarification.

Keys aspects of the current proposed modification include:

- Increase capacity to 3,000 tonnes (approx 2,600 cubic metres) of timber to be processed per year and increase storage to 5,000 tonnes at any one time. The applicant originally proposed to increase production to 3,500 tonnes but this was later scaled back during the assessment. The extra storage capacity is to allow for firewood/cut timber to dry out. The application states that it can take 12-24 months for firewood timber to dry out to the optimal moisture content. The modification also requests an allowance of 625 tonnes of logs to be stored onsite as back up supply.

Note - Council has adopted the Forest NSW 0.87 conversion rate for calculating tonnes to cubic metres. For example, 1,000 tonnes of timber x 0.87 converts to 870 cubic metres of timber. This is consistent with the approach taken on the original development application. Whilst there can be variations, the 0.87 conversion rate is considered the most practical, especially considering the majority of timber would be sourced from Forest NSW.

- Allow up to 5 employees but on average there will only ever be 3 onsite at any one time.
- A revised site plan has been provided but it is not clear whether the footprint is capable of accommodating the changes, including proposed stored timber.
- The modification has not clearly shown that there will be no adverse noise impacts from the change.
- The modification has not provided sufficient information around amenities to accommodate the change.
- Seven (7) submissions were received. It should be noted that four (4) of the seven (7) submissions are linked to the one neighbouring property.

Refer to the site/footprint plan at the end of this report (Attachment 3).

Refer to the original and modified consents at the end of this report (Attachment 4).

As a side note, Council is also currently undergoing an evaluation of the operator/development and compliance with the existing conditions of consent.

### Application Chronology

- 13/11/2013 - Original DA2013 - 464.1 determined.
- 30/1/2014 - Modification approved to allow staging of compliance works/access arrangements, noise barrier design and minor private sales direct to the public.
- 21/8/2014 - Modification to clarify that semi-trailers would not be using the site, which reduced the access arrangement design requirements.
- 21/7/2023 - Current modification lodged.
- 1-14/8/2023 - Neighbour notification period.
- 27-31/7/2023 - Discussions with neighbour regarding notification material.

## AGENDA

### DEVELOPMENT ASSESSMENT PANEL

17/07/2024

- 2/8/2023 - Council staff requested additional information on various matters.
- 10-11/8/2023 - Discussion with neighbour regarding notification material and the need to re-notify the proposal.
- 15/8/2023 - Comments from Essential Energy received and passed onto the applicant to address.
- 16-29/8/2023 - Neighbour re-notification period.
- 17/8/2023 - Council staff requested additional information on amenities.
- 25-28/8/2023 - Emails between Council staff and Transport for NSW regarding status of the Modification.
- 1/9/2023 - Email from Transport for NSW regarding submission issues to consider.
- 25/9/2023 - Council staff requested update from the applicant on response timeframe for additional information. Applicant provided update.
- 5/10/2023 - Applicant provided response to Council's request for additional information.
- 10/10/2023 - Objector requested update on the status of the Modification. Updated provided by Council staff.
- 10/10/2023 - Having reviewed the additional information, Council staff requested further clarification on matters.
- 17/10/2023 - Objector requested update on the status of the Modification. Update provided by Council staff.
- 17/10/2023 - Applicant acknowledged additional information request and advised a response would be provided.
- 31/10/2023 - Council staff requested update from the applicant on response timeframe for additional information. Applicant provided update.
- 31/10/2023 - Objector requested update on the status of the Modification. Update provided by Council staff.
- 2/11/2023 - Applicant provided response to Council's request for additional information.
- 3/11/2023 - Council staff acknowledged receipt of the additional information. Council staff also asked for clarification on response to Essential Energy's previously forwarded comments. Applicant advised they would review and also respond to Essential Energy concerns.
- 8/11/2023 - Having reviewed the additional information, Council staff requested further clarification on matters.
- 16/11/2023 - Applicant requested onsite meeting to discuss the operation and outstanding issues. Applicant also provide update on past noise assessments.
- 23/11/2023 - Council accepted onsite meeting and advised further noise assessment was required.
- 23/11/2023 - Objector requested update on the status of the Modification. Update provided by Council staff.
- 22/1/2024 - Council staff requested update from the applicant on response timeframe for additional information. Applicant provided update.
- 13/2/2024 - Council staff requested update from the applicant on response timeframe for additional information. Applicant provided update on 14/2/2024.
- 13/2/2024 - Objector requested update on the status of the Modification. Update provided by Council staff on 15/2/2024.
- 15/2/2024 - Council staff requested clarification on the applicant's most recent update.
- 4/3/2024 - Council staff requested update from the applicant on response. Applicant provided update on 5/3/2024.
- 5/3/2024 - Council staff provided update to objector and answered a question on the timber stockpile.

## AGENDA

### DEVELOPMENT ASSESSMENT PANEL

17/07/2024

- 10/3/2024 - Objector provided feedback on when noise testing was done. In particular, observed reduction in traffic, production and noise etc during noise monitoring. Council staff noted feedback 11/3/2024.
- 26/3/2024 - Council staff requested update from the applicant on response timeframe for additional information. Applicant provided update on 27/3/2024.
- 2/4/2024 - Objector requested update on the status of the Modification. Update provided by Council staff on 3/4/2024.
- 15/4/2024 - Council staff requested update from the applicant on response timeframe for additional information. Applicant provided update and again on 21/4/2024.
- 1/5/2024 - Applicant's noise consultant reached out to objector via Council. Objector advised they had discussions with the applicant's noise consultant, which appeared to have occurred between the 3-8/5/2024. Objector provided their position on the modified development.
- 9/5/2024 - Council staff provided feedback to an Objector regarding a question about designated development.
- 20/5/2024 - Council staff requested update from the applicant on response timeframe for additional information. Applicant provided update on 20/5/2024.
- 20/5/2024 - Objector requested update on the status of the Modification. Update provided by Council staff on 21 & 22/5/2024.
- 22/5/2024 - Council staff provided final warning regarding request for additional information.
- 23/5/2024 - Applicant provided updated noise assessment (Note: the noise assessment was only one aspect of outstanding information requested by Council).
- 24/5/2024 - Council staff provided feedback on the noise report and asked whether any further information would be provided to justify the changes. No further information has been received to date.
- 21/6/2024 - Objector requested update on the status of the Modification. Update provided by Council staff.

It should be noted that there were also a number of submissions over the course of this modification where issues around noise, dust, truck movements etc were raised by objectors in relation to the existing log processing operation onsite. These are not included in the application chronology as they were considered more a separate compliance matter associated with the existing operation/approval.

### 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.

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:

### 4.55(1A)(a) the proposed modification is of minimal environmental impact

The impacts of the modification have not been completely addressed. In particular, the following issues remain unresolved:

1. Noise impacts - The noise report information provided does not provide any specific detail on the required measures to address potential noise impacts from the increase in production. Furthermore, the noise report does not give any assurance that the suggested measures will be effective. Without such detail, Council staff cannot accurately confirm there will be no adverse noise impact.
2. Vehicle types/movements - The application has not clearly identified the types of vehicles that will utilise the site, associated movements, movement areas and their revised impacts. In particular, the latest noise assessment flagged issues with vehicle movements, which has not been addressed to date. Council could condition no change to vehicle types, number of movements and that manoeuvring areas be confined to the original footprint. However, this could subsequently result in the remaining modification changes not being able to proceed.  
Note: the original development application was assessed on the basis of semi-trailers using the site but the applicant later scaled back the proposal via a modification to just truck and dog up to 19m. This was on the basis of a lesser access/manoeuvring area requirement for truck and dog.
3. Amenities - The original approval was based on the site having access to toilets/amenities down near the main house on the property. It is noted that a portaloos has also since been installed near the mill. Given the permanency of the mill and proposed increase in scale, Council's Environmental Health Officer has advised that a more permanent arrangement be put in place closer to the mill. In particular, portaloos are more conducive to construction sites/temporary arrangements. Council staff requested a s68 application and wastewater report to further investigate such an aspect. A response/information has not been provided to allow assessment of this aspect. Whilst it is likely that the site could support an onsite waste management system, the detail is required to consider implications on other aspects (ie does the location of the onsite waste management system change the location of log storage, truck turning areas etc)?
4. Scale - The original approval was based on a small scale log processing operation. The small scale helped justify the proposal in relation to proximity to neighbours and the highway. Increasing the scale of the mill without suitable justification and information, has potential to impact on surrounding properties, road network and is not in the interests of the public.
5. Footprint - The location and footprint of the original approved mill has expanded over time - see Figure 1 below of approved mill footprint and Figure 2 of a recent aerial image showing reduced setbacks to neighbour and larger footprint. It is also noted that a definitive plan of proposed operations and where the extra proposed timber will be stored onsite etc as part of the modification has not been provided. The applicant suggests the timber can be stacked higher to avoid an expansion of the footprint. This may be the case but should still be clarified on the plans. It is also not clear what footprint/site plan supporting reports have been based on. Without such detail, it is difficult to assess the impacts of the proposed modification.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL 17/07/2024

Figure 1 - Approved footprint/site plan

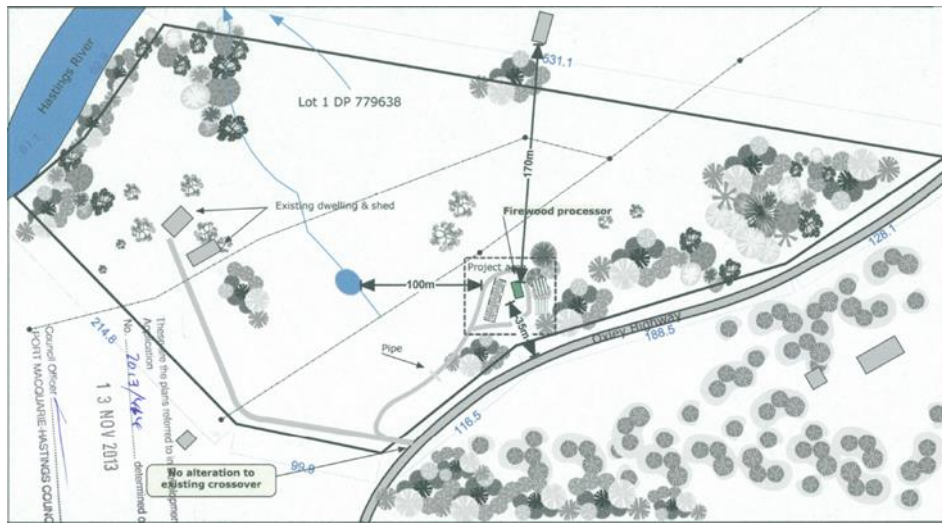


Figure 2 - Recent aerial image



Figure 3 - Recent aerial image showing footprint size (Note: original footprint was approx 70m x 50m).



6. Dust - Submissions have shown evidence of dust being generated from trucks entering the site. Given the proposed increase in the scale of the development, it is considered that a water cart may no longer be appropriate. The trafficable areas may need to be upgraded to a low dust generating material. Whilst this could be conditioned, it would be better to nominate and consider suggested ameliorative measures upfront.

Based on the above, there remains unresolved issues associated with the modification and associated information provided to allow an informed decision on whether the changes will result in minimal environmental impact.

**4.55(1A)(b) the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)**

In considering the modification, an assessment of the following has been undertaken:

- Comparison of the quantitative and qualitative differences between the original and modified development.
- Comparison of the material and essential features (critical elements) of the original and modified development.
- Comparison of the consequences of carrying out the modification with the original approval.

Having balanced the evidence submitted for such comparisons, it is considered that insufficient information has been provided to make an informed decision on whether the development remains substantially the same. Whilst the use remains the same, the list of environmental impacts and outstanding information, makes it difficult to determine the complete list of qualitative, quantitative, critical elements and consequences. For example, are the noise impacts still the same, is the footprint still the same, are the truck movements still the same etc.

## AGENDA

### DEVELOPMENT ASSESSMENT PANEL

17/07/2024

Without knowing the above, it also calls into question whether the modified changes alter the essence of the original approval, which was essentially for a small scale mill.

#### **4.55(1A)(c) the application has been notified in accordance with the regulations and Council's Community Participation Plan**

Adjoining properties and past objectors were notified of the modification in accordance with Council's Community Participation Plan.

It should be noted that if the applicant provided a response to the outstanding issues listed throughout this report, it is likely that the modification would have been re-notified.

#### **4.55(1A)(d) consideration of any submissions received**

Following exhibition of the application, seven (7) submissions were received. It should be noted that four (4) of the seven (7) submissions are linked to the one neighbouring property.

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
Concerns raised over permissibility of the modification and that the changes are not substantially the same.  The quantum of material cannot be considered as a modification and the material handled by the facility exceeds those outlined within Designated Development.	Concern noted.  The applicant has since reduced the processing capacity sought via the modification and reiterated that the figures are below what constitutes designated development. However, based on the information provided, Council staff agree that the application cannot be considered substantially the same.
Concerns raised over continued noise exceedance. In particular, the following is noted: <ul style="list-style-type: none"><li>- Machinery is being used onsite that has not been assessed in noise assessments.</li><li>- Neighbour has commissioned noise assessments that contradict findings in the application.</li><li>- Type of noise attenuation (earth mound) is insufficient.</li><li>- The mill is already exceeding originally reported noise levels and generating offensive noise.</li><li>- Noise impacts on lifestyle of neighbouring owners/properties.</li></ul>	Concerns noted.  At this point, based on the information provided, Council staff also have concerns over the potential noise impact created by the modification. In particular, insufficient information has been provided to assess the impacts.  Testing during reduced operation would only lower impacts and levels to comply with. This would not help the applicant as soon as they commenced full operation, they would breach noise levels and trigger compliance action.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

<ul style="list-style-type: none"> <li>- Noise causes neighbouring windows/doors to vibrate.</li> <li>- Noise assessments have been carried out when mill is not operating at capacity.</li> </ul>	<p>Concerns regarding the mill and compliance with the existing approval is to be investigated as a separate compliance matter.</p>
<p>Concerns raised over the volume and size of vehicles accessing the site. Traffic Impact Assessment should be provided.</p> <p>Truck and dog up to 19m using the site is inconsistent with existing consent.</p>	<p>Concern noted.</p> <p>At this point, based on the information provided, Council staff also have concerns over the number and type of vehicle movements. In particular, insufficient information has been provided to assess the impacts.</p> <p>Volume of materials, vehicle movements and vehicle restrictions due to noise impacts are all closely linked and need to be clearly defined.</p> <p>The original DA was assessed on the basis of semi-trailers using the site but the applicant later scaled back the proposal via a modification to truck and dog up to 19m. This was on the basis of a lesser access/manoeuvring area requirement for truck and dog.</p>
<p>Concern raised over the increase in volume of material being delivered to the site, processed and stored.</p> <p>The volume of material being processed by the mill at present already exceeds designated development provisions.</p>	<p>Concern noted.</p> <p>At this point, based on the information provided, Council staff also have concerns over the volumes of materials to be processed and stored onsite. In particular, insufficient information has been provided to assess the impacts.</p> <p>Concerns regarding the mill and compliance with the existing approval is to be investigated as a separate compliance matter.</p>
<p>Concern over the volume of sales to the public. Due to increase in production, anticipated sales to public would also increase.</p> <p>The volume of observed sales to the public already exceeds that allowed by the consent.</p>	<p>Concern noted.</p> <p>The existing condition limiting sales direct to the public could be retained and address such an issue. Any exceedance would result in compliance investigation/action.</p> <p>Concerns regarding the mill and compliance with the existing approval is to be investigated as a separate compliance matter.</p>
<p>Concern over the continued dust and air quality issues presented by the activities.</p>	<p>Concern noted.</p>

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

<p>How has the lack of environmental issues been determined by the applicant.</p> <p>Dust has been observed onsite and ends up on neighbouring properties.</p> <p>Water cart has not been used to address issue.</p>	<p>The existing consent requires a water cart be kept and used onsite to eliminate dust. The condition could be retained with any future dust to be investigated via compliance investigation/action.</p> <p>A further requirement would be for the applicant to prepare, submit and have approved a management plan. The management plan could outline the process of dealing with dust impacts and complaints.</p> <p>A more permanent option would be to require the mill and driveway areas investigate a dust resistant material. For example, bitumen seal/gravel driveway areas. However, further investigation would be required to see if this is an effective/viable option.</p>
<p>Bushfire hazard/impact. Given the increased volume of materials, it is considered that an increased risk of bushfire is presented and adequate consideration should be provided.</p> <p>Impact on insurance for adjoining properties due to increased bushfire risk.</p>	<p>Concern is noted.</p> <p>Given the increased volume and site plan likely requiring amendments, further information would be required on this aspect. However, it is considered that the surrounding area has roads and cleared space to allow management options in the event of a fire. Having a permanent dedicated water supply and earthmoving equipment also provides further options to manage the issue. Whilst the concern is noted, it is envisaged that a more detailed assessment could come up with solutions to further manage the situation/expansion. A requirement could be for the applicant to prepare, submit and have approved a management plan. The management plan could outline the process of dealing with fire/bushfire risks.</p>
<p>Development operating outside hours of operation.</p>	<p>Concern is noted and is considered to be a separate compliance matter.</p>
<p>Concern raised over how the changes fit within the mill footprint.</p>	<p>Concern noted.</p> <p>At this point, based on the information provided, Council staff also have concerns over the defined footprint of the mill. In particular, insufficient information has been provided to show the amended mill footprint and associated impacts.</p>

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

<p>The constructed earth mound and landscaping is ineffective in addressing noise impacts.</p> <p>Further landscaping screening required.</p>	<p>The earth mound was a measure put forward as part of the original application to address noise impacts. A further condition was applied that the development not create offensive noise. The two conditions operate to ensure the existing approved mill does not create offensive noise and protect neighbours. Where offensive noise is still being generated post construction of the mound, further compliance investigation/action would apply.</p> <p>The landscaping condition was required more to address visual impacts of the mill, not noise impacts. Depending on the proposed amended footprint of the mill, it is likely that further landscape screening would be required/conditioned.</p>
<p>De-valuation of property.</p>	<p>Property values are not a matter of consideration when assessing development applications/modifications.</p>
<p>Traffic hazard impacts with oversized trucks turning into the site.</p>	<p>The current access was assessed and considered acceptable by Council Engineering staff, based on the volumes of material and types of trucks conditioned to use the site.</p> <p>Any change to the above would trigger the need for this issue to be revisited. At this stage, insufficient information has been provided on the modification to allow Council Engineering staff to make an informed decision on this aspect.</p>
<p>Leaching into Hastings River.</p>	<p>The mill site is currently well separated from the Hastings River with suitable grassed buffers in between. The comment is based on the existing mill location and could change depending on the location of the modified mill site, which remains undetermined.</p>
<p>Loss of privacy due to vehicle movements and staff onsite.</p>	<p>Whilst the specific size and location of the modified mill footprint has not been confirmed, it is envisaged that setbacks of at least 100m could still be retained, along with landscape screening. Such measures would ensure acceptable privacy is maintained.</p>
<p>Issues and non-compliances have been raised with Council and limited compliance action has been taken. Providing information on non-compliances (ie noise assessments)</p>	<p>Whilst noted, the issues around compliance are a separate matter. Council staff/the Development Assessment Panel are charged with</p>

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

has cost neighbours in excess of \$20,000.  Shouldn't existing non compliances result in a cessation of operations and not a modification.	specifically looking at the modification and whether it is acceptable.
Area is rated residential but commercial use next door.	The area is zoned rural and allows for rural industries with consent. The development application/modification process assess the suitability of the use in regards to the site and surrounding area.  It should be noted that rates and zoning relate to two different category/systems. Rate categories deal with how rates are calculated whilst zoning is a planning tool. The two are not the same.
The environmental impacts of further forest and habitat being disturbed.	This application does not propose the removal of any vegetation or habitat. Those aspects would be considered via a separate process offsite and specific to the land where the timber is being sourced from.
Out of character with the farm setting.	It is noted that rural industries (log processing) are permissible with consent and do occur within rural/farm settings. The original application was approved on this basis and also because it would be of a relatively small scale.  At this point, based on the information provided, Council staff have concerns over the potential impact of the modification and increased scale of the operation. In particular, insufficient information has been provided to assess the scale of the development and associated impacts, including on the character of the area.

**4.55(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.**

Refer to updated section 4.15(1) assessment below and associated comments on compliance.

### 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**

Note: Instruments/legislation that were in place during the original assessment along with any relevant changes have been considered below.

#### **State Environmental Planning Policy 33 - Hazardous and Offensive Development - now known/covered by State Environmental Planning Policy (Resilience and Hazards) 2021**

The subject SEPP was introduced to clarify the definitions for hazardous and offensive industries and to apply guidelines for the assessment of industries that have the potential to create hazards or an offence. In this case, the development has the potential to be an offensive industry by virtue of the noise component. Given the revised noise impacts associated with the modification remain unresolved, it is difficult to make an informed decision on this aspect.

#### **State Environmental Planning Policy 44 - Koala Habitat Protection - now known/covered by State Environmental Planning Policy (Biodiversity and Conservation) 2021**

The modification is unlikely to change the outcome/compliance with the legislation, provided the updated site plan is not removing any trees (Note: current modification suggests no tree removal proposed or required).

#### **State Environmental Planning Policy 55 – Remediation of Land - now known/covered by State Environmental Planning Policy (Resilience and Hazards) 2021**

The modification does not change the outcome/compliance with the legislation.

#### **State Environmental Planning Policy 62 - Sustainable Aquaculture - now known/covered by State Environmental Planning Policy (Primary Production) 2021**

The modification does not change the outcome/compliance with the legislation.

#### **State Environmental Planning Policy (Infrastructure) 2007 - now known/covered by State Environmental Planning Policy (Transport and Infrastructure) 2021**

Clause 2.48 - Referral to Essential Energy is required for any of the following:

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
- (b) development carried out:
  - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
  - (ii) immediately adjacent to an electricity substation, or
  - (iii) within 5m of an exposed overhead electricity power line,
- (c) installation of a swimming pool any part of which is:

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

- (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
- (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool.

A referral to Essential Energy was carried out with comments received asking for further information around setbacks to existing electricity infrastructure. The information was forwarded to the applicant to consider/address. At this stage, the matter remains unresolved.

Clause 2.119 refers to development with frontage to a classified road. In this case, the development does not create any additional crossovers onto the classified road (Oxley Highway). However, traffic volumes and vehicle types proposed to use the access remain unresolved. In particular, the information provided with the application has not specifically confirmed the number and types of vehicles likely to use the facility, especially with noise impacts remaining unresolved.

In terms of road noise impacts, there is unlikely to be any conflict due to the industrial nature of the development (ie the log processing is not a sensitive use).

Dust generated by the development, if left unresolved, could create a traffic impact on the classified road users. However, the level of dust observed to date is not of a level that would create such an impact.

Clause 2.120 refers to noise and vibration impacts from a classified road on non-road development. The industrial nature of the development is not of a type that would be impacted/sensitive to road noise and vibration.

Clause 2.122 refers to traffic generating development. Referral to Transport for NSW (TfNSW) previously known as NSW Roads and Maritime Service (RMS) is required for certain development types. This has not occurred as Council was waiting on more information regarding the site footprint, truck types and movements.

As a side note, it is noted that the original application was referred to the NSW Roads and Maritime Service (RMS) who subsequently provided advice. The comments provided by the RMS were considered by Council's Engineering Section and the development considered acceptable.

Based on the above, the proposed development has provided insufficient information to allow an informed assessment on how the development addresses relevant clauses in the SEPP, which subsequently has potential to impact on electricity infrastructure and the classified road network.

### **State Environmental Planning Policy (Major Development) 2005 - now known/covered by State Environmental Planning Policy (Planning Systems) 2021**

The modification does not trigger any of the clauses or thresholds in the SEPP.

### **State Environmental Planning Policy (Rural Lands) 2008**

SEPP requirement	Comment	Complies
Objectives		

## AGENDA

### DEVELOPMENT ASSESSMENT PANEL

17/07/2024

2(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,	Whilst log processing is a permissible use in a rural zone, the impact of the modification on the overall rural use of the site and surrounding area remains unresolved.	No
2(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,	Refer to above comment. The rural planning principles are specifically addressed later in this assessment table.	No
2(c) to implement measures designed to reduce land use conflicts,	There are a number of outstanding issues, including noise impacts. The noise report submitted with the application suggests the modification will result in offensive noise and that measures are required to address the issue. The detail provided around the measures and the need to re-test the measures work - does not provide any certainty there will be no significant adverse noise impact. Matter remains unresolved.	No
2(d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,	The development will not affect the viability of any state significant agricultural land. In particular, the surrounding agricultural uses can continue and the mobile nature of the mill equipment/product, ensures any previous agricultural use can be reinstated.	Yes
2(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.	Local environmental planning provisions have removed concessional lots.	N/A
<b>Rural Planning Principles</b>		
7(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,	The development will not affect the productivity and sustainability of surrounding rural areas. Most of the immediate properties comprise state forests or smaller rural farms.	Yes
7(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues	Refer to above comment. In addition, the proposed use comprises rural based elements ie processing of a primary product (timber).	Yes

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

in agriculture in the area, region or State,		
7(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,	The processing of a primary product for firewood purposes plays a role in the local community through maintenance of jobs and expenditure, while also providing a product (firewood) to the area, state etc.	Yes
7(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,	Whilst the zoning of the site allows for the use, the impact of the modification on the local community remains unresolved.	No
7(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,	This application deals with the processing of a primary product. The product has already been removed elsewhere as a separate process. The processing of the timber on a cleared section of land well separated from the Hastings River ensures no further adverse impact on flora and fauna.	Yes
7(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,	The development does not involve subdivision or impact on rural settlement opportunities.	N/A
7(g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,	No new housing proposed.	N/A
7(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	The development is not inconsistent with any strategy.	Yes
<b>Rural Subdivision Principles</b>	No subdivision proposed.	N/A
<b>Matters to be considered in determining development applications for rural subdivisions or rural dwellings</b>	No subdivision or dwellings proposed.	N/A

Based on the above, the proposed development has provided insufficient information to allow an informed assessment on how the development addresses relevant clauses in the SEPP.

### Port Macquarie-Hastings Local Environmental Plan 2011

In accordance with clause 2.2, the subject site is zoned RU1 Primary Production and RU2 Rural Landscape. It should be noted that the development is located within the RU1 zone and for the purposes of this assessment, provisions relating to the RU2 will not be considered/are deemed not applicable.

In accordance with clause 2.3(1) and the RU1 zone landuse table, the proposed development for log processing work (rural industry - sawmill or log processing works) is a permissible landuse with consent.

The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

In accordance with clause 2.3(2), whilst the proposal is consistent with some of the zone objectives, insufficient information has been provided to allow an informed decision to be made on whether the development will conflict with surrounding land uses. Issues around noise, dust, vehicle types/movement, scale and footprint of the development remain unresolved.

In accordance with Clause 7.13, satisfactory arrangements for the modification are not in place for provision of essential services including on-site water and sewage management. Given the proposed scale and permanency of the application, a more permanent water source and method of onsite waste disposal is required. In particular, the use of a portaloo is not appropriate for a permanent use and development of the scale proposed.

### Designated Development

#### 33 Wood or timber milling or processing works

*Wood or timber milling or processing works (being works, other than joineries, builders supply yards or home improvement centres) that saw, machine, mill, chip, pulp or compress timber or wood:*

- (a) *that have an intended processing capacity of more than 6,000 cubic metres of timber per year and:*
  - (i) *are located within 500 metres of a dwelling not associated with the milling works, or*
  - (ii) *are located within 40 metres of a natural waterbody or wetland, or*
  - (iii) *burn waste (other than as a source of fuel), or*
- (b) *that have an intended processing capacity of more than 50,000 cubic metres of timber per year.*

The proposed modification is not likely to be designated as it does not have an annual processing capacity of 6,000 cubic metres. Using a similar approach/conversion rate of 1 tonne of timber x 0.87 = 1 cubic metre of timber, as adopted on the original development application, then 3,000 tonnes of material equates to approx. 2,600 cubic metres proposed to be processed per annum.

## AGENDA

### DEVELOPMENT ASSESSMENT PANEL

17/07/2024

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

None relevant.

**(iii) any Development Control Plan in:**

**Port Macquarie Hastings Development Control Plan 2011 (now 2013)**

The application remains consistent/compliant with the original DCP assessment.

**(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**

None relevant.

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

None relevant.

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

Unless listed below, the modification is considered to remain consistent/compliant with comments provided on the original assessment.

### **Context and Setting**

The site has frontage to the Oxley Highway to the east/south east and the Hastings River to the west. The site is predominately cleared except for some timbered areas in the north east corner surrounding the proposed log processing site. The site slopes from the Oxley Highway down to the Hastings River.

Surrounding the development is a mixture of larger lot rural residential properties and farmland. There is substantial state forest land to the south over the other side of the Oxley Highway.

### **Access, Transport and Traffic**

Council's Engineering Section have reviewed the modification. Based on the information provided, initial feedback is that the changes described (ie increase to 3,000 tonnes per year, no change in vehicle types and movements remaining at 2-3 trucks per week), it is unlikely that there would be any significant adverse impact on access, transport, traffic etc. However, the above figures have not been finalised as they hinge on what the noise assessment allows, which remains unresolved.

### **Air and Micro-climate**

Potential exists for dust and sawdust to be generated onsite. It is likely that this issue can be resolved but given the increased footprint and output, measures should be put forward in the modification and/or via a proposed onsite management document.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

### Flora and Fauna

It is unlikely that the proposed development will require any removal/clearing of any significant vegetation onsite. However, the above outcome hinges on what the noise assessment allows/requires, which remains an unresolved issue.

### Noise and Vibration

The applicant has carried out a number of noise assessments/reviews over the past couple of years in response to compliance investigations and this modification. The noise assessments have made a number of suggestions to help reduce noise impacts, which have subsequently been implemented. The noise assessments indicate that the measures have often led to a reduction in noise. The most recent noise assessment (Attachment 5) outlines that when testing was done, noise impacts were significant and that further noise mitigation would be considered reasonable. Measures of 3-4m high wall, housing part of the operation within a shed and management procedures to deal with truck movements were put forward. The wall option also required further modelling. The specific detail around these measures and associated impacts of installing has not been provided.

Further to the above, the noise assessment was based on the current operation and doesn't appear to mention the implications of the proposed modified processing capacity etc (Note: it is not clear if the development was exceeding approved capacity during the testing). Therefore, it is unclear whether further measures may be required to manage the increase in capacity, revised footprint etc.

### Natural Hazards

The site is mapped as bushfire prone land.

Given the increased volume and the site plan/footprint having not been locked down, further information is required on this aspect. However, it is considered that the surrounding area has roads and cleared space to allow management options in the event of a fire. Having a permanent dedicated water supply and earthmoving equipment also provides further options to manage the issue.

Overall, it is envisaged that a more detailed assessment could come up with solutions to further manage the situation/expansion. A requirement could be for the applicant to prepare, submit and have approved a management plan. The management plan could outline the process of dealing with fire/bushfire risks.

### Economic Impact in the Locality

No significant adverse impacts.

Likely positive impacts can be attributed to the operation of the development through the maintenance of employment in the timber/logging industry and associated flow on effects such as expenditure in the area. However, the modification only proposes a minor increase in staff (allow 5 on the books but still only 3 onsite at any one time). The increase in production is also likely to result in more profit, which can lead to more expenditure.

### Site Design and Internal Design

The proposed modified mill footprint design does not address dust and noise impacts on neighbouring properties or the potential impact on electricity infrastructure. Further work and/or assessment is required on this aspect.

**Cumulative Impacts**

The modification has provided insufficient information to allow an informed decision on the impacts created by the development, including noise, dust, vehicle movements, provision of amenities etc. Left unresolved, these matters have the potential to create cumulative flow on impacts to the surrounding locality.

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

Whilst the site is considered to be suitable for a small scale mill operation, the modification fails to demonstrate that the proposed changes result in a development that is substantially the same and of minimal environmental impact. Overall, insufficient information has been provided to allow an informed decision regarding site suitability for the modification.

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

Submissions to the modification are addressed earlier in this report.

**(e) The Public Interest**

Based on the information provided, it is not in the public interest to approve the proposed modification. In particular, insufficient information has been provided to allow an informed decision on whether the modification is substantially the same and of minimal environmental impact.

**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 modification, it is considered an appropriate balance can be met.

**Climate change**

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

**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.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

### 4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Not applicable to this application, which does not have any residential or construction component. There is also no reticulated water or sewer available to the site.






### 5. CONCLUSION AND STATEMENT OF REASON

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

Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application.

Overall, the changes do not adequately address relevant planning controls, including demonstrating that the development is substantially the same and creating minimal environmental impact. The modification is considered to be contrary to the public's interest as an informed assessment on impacts cannot be made, based on the information provided. As a result, it is recommended that the application be refused.

### Attachments

- 1.  Attachment 1 - Draft Refusal
- 2.  Attachment 2 - DAP 2013 11 13 - Agenda and Minutes
- 3.  Attachment 3 - Proposed Site Plan
- 4.  Attachment 4 - Modification of Consent - 2014 08 21
- 5.  Attachment 5 - Acoustic Assessment M23012.04

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

ABN 11 236 901 601



Parcel Number: 17775

Hopkins Consultants Pty Ltd  
PO Box 1556  
PORT MACQUARIE NSW 2444

Dear Sir/Madam

**Notice to applicant of determination of a modification of consent under  
Section 4.55(1A) of the Environmental Planning and Assessment Act**

<b>Subject Development</b>	Modification to log Processing Works
<b>Property Description</b>	LOT: 1 DP: 779638, 2952 Oxley Highway, Huntingdon
<b>Applicant</b>	Hopkins Consultants Pty Ltd
<b>Owner</b>	M A & R J Hoffman

Notice is hereby given of the determination by the consent authority of your Section 4.55(1A) modification application by the **refusing** of consent for the reason/s detailed on the schedule attached to this notice.

**Notes**

1. The date of determination is 17 July 2024.
2. The date from which this refusal operates is 17 July 2024.

Yours sincerely

**pmhc.nsw.gov.au**

**PORT MACQUARIE OFFICE**  
17 Burrawan Street, Port Macquarie NSW 2444  
t 02 6581 8111 f 02 6581 8123

**WAUCHOPE OFFICE**  
49 High Street, Wauchope NSW 2446  
t 02 6589 6500

**LAURIETON OFFICE**  
9 Laurie Street, Laurieton NSW 2443  
t 02 6559 9958



**Schedule to the notice of determination of the Section 4.55(1A)  
modification application**

No.0	Original Approval	13 November 2013 (approved)
No.1	Modification No.1	30 January 2014 (approved)
No.2	Modification No.2	21 August 2014 (approved)
No. 3	Modification No.3	17 July 2024 (refused)

The reasons for **refusal** referred to in the Notice of Determination for DA No. 2013 - 464.5 are as follows:

1. The application fails to demonstrate that the site can cater for the extensions, which have potential to result in adverse noise, dust, vehicle impacts, electricity impacts and need for improved amenity requirements. This will result in the site not being suitable for the proposed change and also create a negative impact on the surrounding environment (Section 4.55(1A)(a) and 4.55(3) - 4.15(1)(b) & (c)).
2. The development has provided insufficient information to allow an informed decision on whether the development is substantially the same and of minimal environmental impact, which is not in the public interest (Section 4.55(1A)(a) & (b) and 4.55(3) - 4.15(1)(e)).

**Rights of Appeal**

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

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

Yours sincerely

## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

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Item: 09

Subject: DA 2013 - 0464 - LOG PROCESSING WORKS, LOT 1 DP 779638, 2952 OXLEY HIGHWAY, HUNTINGDON

Report Author: Clint Tink

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Property: Lot 1 DP 779638, 2952 Oxley Highway, Huntingdon  
Applicant: Steve Dobbyns  
Owner: MA & RJ Hoffman  
Application Date: 20 August 2013  
Estimated Cost: N/A  
Location: Huntingdon  
File no: DA 2013 - 0464  
Parcel no: 17775

---

**Alignment with Delivery Program**

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

**RECOMMENDATION**

That DA 2013/464 for a log processing works at Lot 1 DP 779638, No. 2952 Oxley Highway, Huntingdon, be determined by granting consent subject to the recommended conditions.

**Executive Summary**

This report considers a Development Application for log processing works at the subject site.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

Subsequent to exhibition of the application, two (2) submissions have been received. The submissions are from the same property with one being the owners of the property and the other having been prepared by consultants on behalf of the property owners.

**1. BACKGROUND**

In providing some background to the development it needs to be acknowledged that the cutting and processing of firewood was being undertaken unlawfully from the site. The current application is seeking approval for the log processing works to continue onsite.



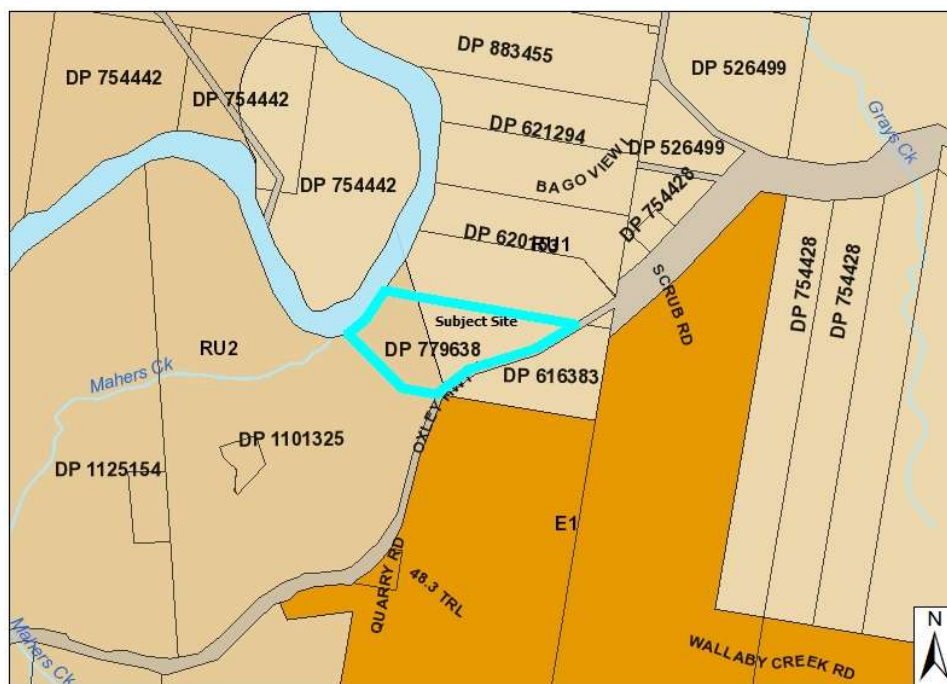
## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

## Existing sites features and surrounding development

The site has an area of 11.42ha.

The site is zoned RU1 Primary Production and RU2 Rural Landscape in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



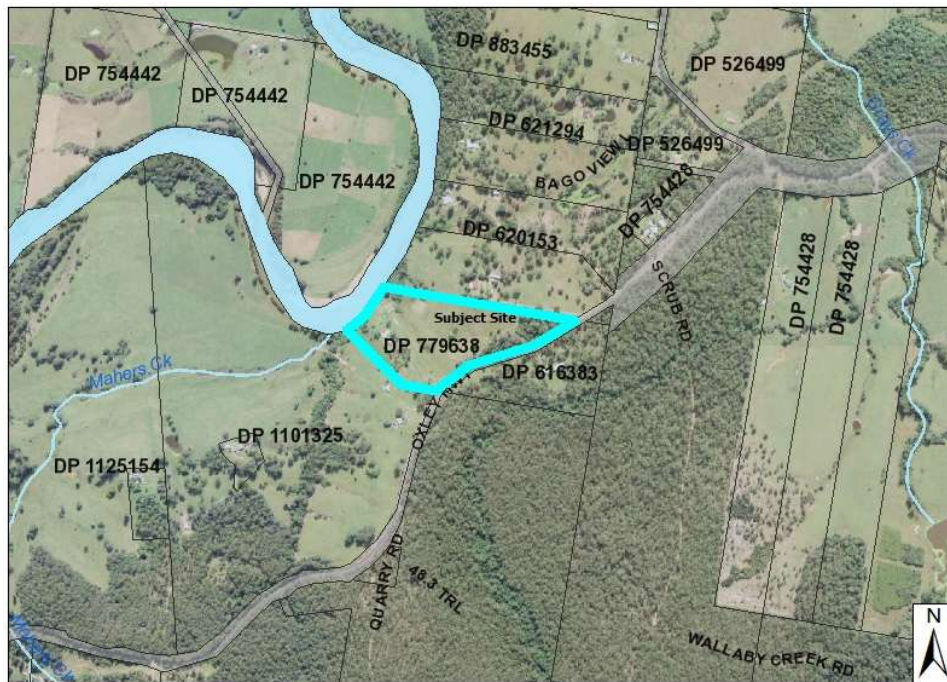
The site has frontage to the Oxley Highway to the east/south east and the Hastings River to the west. The site is predominately cleared except for some timbered areas in the north east corner surrounding the proposed log processing site. The site slopes from the Oxley Highway down to the Hastings River.

Surrounding the development is a mixture of larger lot rural residential properties and farm land. There is substantial state forest land to the south over across the Oxley Highway.

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



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the application proposal include the following:

- A log processing mill is to be established for the purposes of processing timber into firewood.
- Hours of operation are proposed at 8am to 4pm Monday to Friday.
- Maximum of three (3) staff operating the mill.
- 1500-2500 tonnes (approx 2200m<sup>3</sup>) to be processed per year with less than 1000 tonnes to be stored onsite at any one time.
- Approximately two (2) truckloads (28 tonnes per load) of timber will be delivered per week during the aforementioned hours of operation.
- Timber to be sold via wholesale market.
- A noise impact assessment has been undertaken.
- Access to the property is gained off the Oxley Highway. The Roads and Maritime Services (RMS) have provided input on the proposal.

Refer to attachments at the end of this report.

## Application Chronology

- 20/8/2013 - Application lodged with Council.
- 27/8/2013 - Application referred to RMS.
- 30/8/2013 to 13/9/2013 - Notification period.
- 30/8/2013 - Amount of timber processed onsite clarified with applicant.
- 14/10/2013 - RMS responded to referral.



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

## 3. STATUTORY ASSESSMENT

## Section 79C(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 33 - Hazardous and Offensive Development**

The subject SEPP was introduced to clarify the definitions for hazardous and offensive industries and to apply guidelines for the assessment of industries that have the potential to create hazards or an offence. In this case, the development has the potential to be an offensive industry by virtue of the noise component. Having considered the SEPP along with the associated application and imposition of conditions; the proposed development is not considered to be an offensive industry and will create no adverse impact.

**State Environmental Planning Policy 44 - Koala Habitat Protection**

The subject land has an area of more than 1 hectare in size and therefore the provisions of SEPP 44 must be considered. However, NSW Planning's Circular No. B35, Section 1.5 states that "In relation to affected DAs it is the intention of the policy that investigations for 'potential' and 'core' koala habitats be limited to those areas in which it is proposed to disturb habitat.

The application has demonstrated that no habitat will be removed or modified and therefore, no further investigations are required.

**State Environmental Planning Policy 55 – Remediation of Land**

In accordance with clause 7, 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.

The requirements of this SEPP are therefore satisfied.

**State Environmental Planning Policy 62 - Sustainable Aquaculture**

In accordance with clause 15C, given the nature of the proposed development, proposed stormwater controls and its' location, the proposal will be unlikely to have any identifiable adverse impact on any existing aquaculture industries within the nearby Hastings River. There is over 200m of grassland to traverse before any water or leachate from the log processing reaches the river.

The requirements of this SEPP are therefore satisfied.

**State Environmental Planning Policy 64 - Advertising and Signage**

No signage proposed, which will be reinforced through conditions.

**State Environmental Planning Policy (Infrastructure) 2007**

In accordance with Clause 101 of the SEPP, there are no alternate roads in the area to gain access to the site. However, the proposed development will utilise an existing



**AGENDA****DEVELOPMENT ASSESSMENT PANEL  
13/11/2013**

access point to gain entry. This results in no new entry points from a classified road, which is a key requirement of the SEPP.

Vehicle movements are considered limited in number and through conditions, the development will also not create any dust or emission that would create a hazard to road users. In accordance with Clause 102, the use is also not sensitive to road noise or vibration.

The application was also referred to the NSW Roads and Maritime Service (RMS) who subsequently responded on 14 October 2013. The comments provided by the RMS have been considered by Council's Engineering Section and addressed in the Access, Transport & Traffic Section of this report. In summary and having considered the RMS's comments, Council's Engineers accepted the application on traffic and access issues.

The requirements of this SEPP are satisfied.

**State Environmental Planning Policy (Major Development) 2005**

The development does not trigger any of the clauses or thresholds in the SEPP.

**State Environmental Planning Policy (Rural Lands) 2008**

SEPP requirement	Comment	Complies
<b>Objectives</b>		
2(a) to facilitate the orderly and economic use and development of rural lands for rural and related purposes,	Log processing is a permissible use in a rural zone. The use will not impact on the overall rural use of the site or surrounding areas. In addition, the portable nature of the business ensures no long term impact on the land.	Yes
2(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,	Refer to above comment. The rural planning principles are specifically addressed later in this assessment table.	Yes
2(c) to implement measures designed to reduce land use conflicts,	Conditions are to be imposed to manage conflicts arising from such issues as noise and visual impact of the development on adjoining properties. In particular, screening of the site, additional mufflers, enclosure around engines etc will be utilised.	Yes
2(d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and	The development will not affect the viability of any state significant agricultural land.	Yes

## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

environmental considerations,		
2(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.	Local environmental planning provisions have removed concessional lots.	N/A
<b>Rural Planning Principles</b>		
7(a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,	The development will not affect the productivity and sustainability of surrounding rural areas. Most of the immediate properties comprise state forests or smaller rural farms.	Yes
7(b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,	Refer to above comment. In addition, the proposed use comprises rural based elements i.e. processing of a primary product (timber).	Yes
7(c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,	The processing of a primary product for firewood purposes plays a role in the local community through maintenance of jobs and expenditure, while also providing a product (firewood) to the area, state etc.	Yes
7(d) in planning for rural lands, to balance the social, economic and environmental interests of the community,	The zoning of the site allows for the use with other issues such as noise, access, servicing etc having been considered in this assessment report. Impacts are considered manageable through conditions.	Yes
7(e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,	This application deals with the processing of a primary product. The product has already been approved to be removed in supplying this business as a separate process under the Native Vegetation Act. The processing of the timber on a cleared section of land well separated from the Hastings River ensures no further adverse impact on flora and fauna.	Yes
7(f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,	The development does not involve subdivision or impact on rural settlement opportunities.	N/A
7(g) the consideration of	No new housing proposed.	N/A



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

impacts on services and infrastructure and appropriate location when providing for rural housing,		
7(h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.	The development is not inconsistent with any strategy.	Yes
<b>Rural Subdivision Principles</b>	No subdivision proposed.	N/A
<b>Matters to be considered in determining development applications for rural subdivisions or rural dwellings</b>	No subdivision or dwellings proposed.	N/A

The requirements of this SEPP are therefore satisfied.

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

In accordance with clause 2.2, the subject site is zoned RU1 Primary Production and RU2 Rural Landscape. It should be noted that the development is located within the RU1 zone and for the purposes of this assessment, provisions relating to the RU2 will not be considered and are deemed not applicable.

In accordance with clause 2.3(1) and the RU1 zone landuse table, the proposed development for log processing work (rural industry - sawmill or log processing works) is a permissible landuse with consent.

The objectives of the RU1 zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
  - To encourage diversity in primary industry enterprises and systems appropriate for the area.
  - To minimise the fragmentation and alienation of resource lands.
  - To minimise conflict between land uses within this zone and land uses within adjoining zones.
- (a)

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 proposal does not specifically impact on the resource base;
- the proposal encourages diversity by providing an alternate primary industry;
- conditions will be utilised to reduce conflict with neighbouring properties; and
- the proposal does not fragment land or alienate a resource base;

In accordance with clause 5.9, no listed trees in Development Control Plan 2011 are proposed to be removed.

## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

In accordance with Clause 5.10, the site does not contain or adjoin any known heritage items or sites of significance. The site has also been disturbed from past activities such as grazing, motorbike track and now log processing.

In accordance with clause 7.3, the site is not identified as being affected by the 1:100 year flood event. The site does have frontage to the Hastings River and is likely to be affected by localised flooding. However, the development is located well above the Hastings River and unlikely to be affected by flooding. In particular, the site is located approx 30m above the river and located on the opposite side to the flood plain.

In accordance with clause 7.13, satisfactory arrangements are in place for provision of essential services including water supply, on-site sewage management, stormwater drainage and suitable road access to service the development. In particular, the development will need to utilise a range of onsite facilities for water storage and effluent disposal, which will be reinforced through conditions.

**Designated Development****33 Wood or timber milling or processing works**

*Wood or timber milling or processing works (being works, other than joineries, builders supply yards or home improvement centres) that saw, machine, mill, chip, pulp or compress timber or wood:*

- (a) *that have an intended processing capacity of more than 6,000 cubic metres of timber per year and:*
  - (i) *are located within 500 metres of a dwelling not associated with the milling works, or*
  - (ii) *are located within 40 metres of a natural waterbody or wetland, or*
  - (iii) *burn waste (other than as a source of fuel), or*
- (b) *that have an intended processing capacity of more than 50,000 cubic metres of timber per year.*

The proposed development is not designated as it does not have an annual processing capacity of 6000 cubic metres. 2200 cubic metres are proposed to be processed per annum.

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

None relevant.

**(iii) any Development Control Plan in:****Port Macquarie Hastings Development Control Plan 2011**

DCP 2011 Requirement	Proposed	Complies
<b>Signage</b>		
DP1.1 Signage complies with SEPP 64	No signage proposed.	N/A
<b>Notification/Advertising</b>		
Development has been notified in accordance with DCP 2011	Adjoining property owners were notified of the application in accordance with the DCP.	Yes
DP 6.1 Social Impact	The proposed	Yes



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

Assessment required	development does not trigger the need for a social impact assessment.	
<b>Crime Prevention</b>		
DP 1.1 CPTED principles considered.	The Oxley Highway and residence onsite provides casual surveillance.	Yes
<b>Environmental Management</b>		
DP 10.1 Development complies with LEP flood clauses and Floodplain Management Plan.	Refer to comments on flooding in LEP 2011 section of this report.	Yes
DP 12.1 Stormwater complies with Auspec	Being a rural property, sufficient area exists onsite to manage stormwater.	Yes
<b>Transport, Traffic Management, Access and Car Parking</b>		
DP 2.1-2.3 New direct access to arterial or distributor road not permitted and existing accesses rationalised where possible.	No new direct access proposed to the Oxley Highway. The development will utilise an existing access point.	Yes
DP 3.1-3.3 Off street parking is provided in accordance with Table 2. Where a use does not fall within a listed definition a parking demand study will be required. Credit can be provided as per DP 4.1 and 5.1.	Being a rural property, the site contains sufficient area for informal parking associated with the development.	
DP 12.1-12.5 Landscaping of parking areas should: <ul style="list-style-type: none"> <li>• Include tiered landscaping design.</li> <li>• Provided throughout the car park and perimeter.</li> <li>• Provide shade.</li> <li>• Provide screening.</li> <li>• Not affect sight lines, especially near entry/exit points.</li> </ul>	The development will be conditioned to provide landscape screening in order to provide visual protection to the house to the north.	Yes
DP 13.1-13.2 Landscaping requirements on Council land.		
DP 14.1-14.2 Car parking seal requirements.	Being a rural property and based on the low employment numbers, informal parking onsite will	Yes



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

	suffice.	
DP 19.2-20.3 Loading bays: <ul style="list-style-type: none"> <li>• Min 3.5m wide x 6m long &amp; 5m high.</li> <li>• Separate from visitor parking.</li> <li>• Limited number of employee parking may be utilised.</li> <li>• Must allow vehicles to stand onsite and not impact on surrounding area.</li> <li>• Must ultimately be designed to suit the vehicles intended to use them.</li> <li>• External bays require 1 bay for 500m<sup>2</sup> floor space or 1 bay for 1000m<sup>2</sup> site area.</li> <li>• Commercial &lt;500m<sup>2</sup> do not require bay.</li> <li>• Commercial 1 bay for first 1000m<sup>2</sup> floor space and 1 bay for every 2000m<sup>2</sup> after.</li> <li>• Integrate into the design and be setback/screened.</li> </ul>	Being a rural property, sufficient area exists onsite to allow trucks and other vehicles to enter and exit the site in a forward motion and be loaded/unloaded onsite.	Yes
DP 21.1-21.3 Detailed plans of turning areas are to be provided to show that the site can accommodate the vehicles that use it	Refer to above comment.	Yes
<b>Industrial (provisions used as a guide)</b>		
DP 2.1 Front setbacks <ul style="list-style-type: none"> <li>• 10m classified road</li> <li>• 7.6m other roads</li> <li>• 3m secondary road</li> </ul>	The development is setback over 10m from the Oxley Highway.	Yes
DP 5.1 Details to be provided of outside storage areas and work areas. Where approved, these should be in the rear and screened (2m min height screen).	The proposed development comprises an outside work area. There is a strip of natural vegetation approx 15m wide separating the development from the road. Given the	Yes

## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

	rural/forested landscape in the area, the materials being processed (i.e. timber) and the equipment not looking dissimilar from other rural machinery; the proposal does not look out of character from the highway.	
DP 6.1-6.2 Detailed landscape plan to be submitted outlining trees to be removed/planted. Landscape must be: <ul style="list-style-type: none"> <li>3m wide and cover 2/3 of each frontage.</li> <li>Vegetation tiered with trees &gt;10m, shrubs 5m at 1 per 3m<sup>2</sup> density.</li> </ul>	Landscape plan to be conditioned.	Yes
DP 7.1 Onsite recreation area provided for staff.	Informal areas exist onsite.	Yes
DP 9.1 Industrial development must comply with Industrial Noise Policy	Refer to comments on Noise later in this report.	Yes
DP 9.2 Windows, doors etc arranged to minimise noise impacts on residences within 400m.	While no buildings are proposed, the development will utilise firewood produced onsite to form a noise barrier to the adjoining house to the north. Conditions will be included to ensure the barrier is maintained for the life of the development.	Yes
DP 9.3 External plant should be enclosed and located away from residential receivers.	Firewood noise barrier proposed to screen the development. In addition, extra mufflers and enclosures for motors as per noise report will be conditioned.	Yes
DP 9.4 External lighting should be shielded or directed away from residences.	No lighting proposed. Work hours are limited to daytime only.	N/A
DP 9.5 Driveways designed to avoid headlight glare to residences.	Work hours are limited to daytime only.	N/A
DP 12.1 Garbage storage not visible from a public	To be conditioned.	Yes



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

place.		
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- (iiiia) any planning agreement that has been entered into under Section 93f or any draft planning agreement that a developer has offered to enter into under Section 93f:

None relevant.

- iv) any matters prescribed by the Regulations:

None relevant.

- v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates:

None relevant.

- (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 & Setting

The site has frontage to the Oxley Highway to the east/south east and the Hastings River to the west. The site is predominately cleared except for some timbered areas in the north east corner surrounding the proposed log processing site. The site slopes from the Oxley Highway down to the Hastings River.

Surrounding the development is a mixture of larger lot rural residential properties and farm land. There is substantial state forest land to the south over the other side of the Oxley Highway.

Subject to the imposition of noise control measures and screening, the proposal will be unlikely to have any significant impact on adjoining properties. The site is considered to be compatible in the rural/forested setting and adequately addresses planning controls for the area.

#### Access, Transport & Traffic

##### Roads

The property fronts the Oxley Highway. This is a Main Road and concurrence has been given by the RMS subject to considerations; these are discussed under 'Access' below. It is noted that the road is under the control and management of the Council. The Oxley Highway in this location is a sealed rural road with 80 km/h speed limit.

##### Traffic

The Statement of Environmental Effects (SoEE) provided by the applicant states that there will be 2 truckloads of timber delivered each week from Monday to Friday between the hours of 8am and 4pm, with additional truck volumes associated with removal of the split wood and sawdust not estimated in the SoEE. The market is noted to be wholesale. The total traffic increase at the entrance to the property due to the development is therefore likely to be far less than one (1) movement per hour.



**AGENDA****DEVELOPMENT ASSESSMENT PANEL  
13/11/2013**Access

Access from the adjacent Oxley Highway is proposed via an existing driveway. Access to the site is to be provided in accordance with AUSTROADS standards for rural road (Section 7.2.3 and Figure 7.4 in Part 4 Intersections and Crossings - General), including relocation of the gate so as to enable semi-trailer deliveries to stand outside the road reserve. The access shall be sealed, and is to include a drainage crossing (reinforced concrete pipe of diameter 375mm).

Submissions were raised regarding concerns with sight distances on the Oxley Hwy. Calculation by method of AUSTROADS Part 3 yields an adequate stopping sight distance of ~145m for a truck - worst case. The minimum gap sight distance required by Figure 7.4 is 111m (ref. AUSTROADS Part 4a Table 3.5 for 5 second gap), which is less than the available sight distance and is therefore acceptable.

The application was referred to the Roads and Maritime Services (RMS). The RMS had no objection and provided comments. The RMS advised inclusion of appropriate advisory signage conforming to the requirements of AS 1742 in the intersection design for both approaches to the property access driveway. The RMS may require a Works Authorisation Deed (WAD) depending on the extent of works required on the Oxley Highway. Construction drawings will be referred to the RMS for review upon receipt of the Roads Act application.

The RMS also suggested Council consider limiting heavy vehicle movements to and from the site during school zone operating hours, as Huntingdon Public School is located 500-1000m northeast along the Oxley Hwy. Due to the fact that Oxley Hwy is an arterial trucking route with no heavy vehicle restrictions and the proposed site will have less than 1 heavy vehicle movements per day, such a restriction is not considered to be practical.

Manoeuvring

Adequate room is available on the site to cater for manoeuvrability of vehicles.

**Utilities**

Utilities are not specifically required for the development but can be made available at the applicant's expense.

**Stormwater**

Capable of being managed onsite.

**Water**

Potential exists for surface waters to be impacted by leachate from the stockpile and operational areas. Surface runoff from these areas will drain over grass to a dam, the overflow of which is a further 275m from the Hastings River. It is considered unlikely that there will be any adverse impacts.

**Soils**

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

**Air & Micro-climate**

Potential exists for sawdust to be generated onsite however given the separation distance to the neighbouring properties, it is unlikely that there will be any impact on adjoining residents.



**AGENDA****DEVELOPMENT ASSESSMENT PANEL  
13/11/2013**

Potential exists for wood smoke to adversely impact on adjoining residents and local air quality if wastes are burnt on the premises. It is recommended that the consent prohibit the burning of any waste products and/or off cuts etc and require all wastes to be disposed of properly.

**Flora & Fauna**

The proposed development will not require any removal/clearing of any significant vegetation onsite and therefore will be unlikely to have any significant adverse impacts on biodiversity or threatened species of flora and fauna. Section 5A of the Act is considered to be satisfied.

**Waste**

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

**Energy**

No adverse impacts anticipated.

**Noise & Vibration**

The Noise Impact Assessment (NIA) report "Noise Impact Assessment of Log Processing Works for Jamax Forest Solutions Report No. M13212.01A Site: Lot 1 DP 779638, 2952 Oxley Highway Huntingdon NSW 2446" dated 20 August 2013 by Philip Thornton Acoustic Consultant has concluded that the noise from the proposed log processing mill will not adversely impact on the adjoining residents and will not result in offensive noise being generated onsite, provided at least one of the three recommendations made in the report are implemented, being:

1. Positioning of fire wood stack between the saw mill operation and the closest dwelling. This will have the effect of reducing noise impact by at least 5dB(A).
2. Install additional mufflers on machinery. This will have the effect of reducing noise impact by approximately 5dB(A).
3. Place a sheet metal enclosure around the engines. This will have the effect of reducing noise impact by approximately 5dB(A).

Greater noise reduction will be achieved by the implementation of all three recommendations.

It is recommended that all three (3) recommendations made in the report be implemented through conditions of consent to reduce noise impact.

**Natural Hazards**

The site is mapped as bushfire prone land. The applicant has provided a bushfire risk assessment report using the dwelling template. However, no buildings are proposed and it is considered that the bushfire legislation does not apply.

Similar sawmill type developments have been referred to the local NSW Rural Fire Service for comment in the past. However, based on the nature of the operation and lack of residential structures, the NSW Rural Fire Service provided a response raising no concerns or issues in relation to bushfire.

In terms of the wood piles creating a hazard, the site contains a dam that can be used as a water source to help put out any fires that may occur. In addition, the site is afforded separation to major tracts of vegetation by internal driveways and also the Oxley Highway.



**AGENDA****DEVELOPMENT ASSESSMENT PANEL  
13/11/2013**

Adjoining dwellings are also well separated from the woodpile by over 100m. This would also allow adjoining property owners to provide protection to their own houses etc in the event of a fire.

Based on the above, bushfire or adverse fire hazards are unlikely to occur as a result of the development.

**Contamination Hazards**

Refer to comments on Water above in this report. No impacts foreseen.

**Safety, Security & Crime Prevention**

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The existing house onsite and the Oxley Highway will provide casual surveillance over the site.

**Social Impact in the Locality**

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

**Economic Impact in the Locality**

No adverse impacts. Likely positive impacts can be attributed to the operation of the development through the maintenance of employment in the timber/logging industry and associated flow on effects such as expenditure in the area.

**Site Design and Internal Design**

The proposed development design satisfactorily responds to the site attributes and the imposition of various conditions will ensure the development fits into the locality.

**Cumulative Impacts**

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

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

The proposal will fit into the locality and site attributes are conducive to the proposed development. The site is located within a rural setting and is zoned for primary production activities and it can be reasonably expected that primary production activities will be conducted in the area.

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

Two (2) written submissions have been received following completion of the required public exhibition of the application.

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



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

Submission Issue/Summary	Planning Comment/Response
The site is zoned RU1 which requires a minimum lot size of 40 to 100ha. The subject lot is well below these standards and is more conducive to an R5 zone whereby log processing works are prohibited.	Log processing works are permissible with consent in the zone. Permissibility is only one component of an application. A proposal must also satisfy other relevant legislation and provisions relating to the suitability of the site for the proposal. Based on the application and this assessment, the site is considered acceptable. In addition, lot size are not always linked or an indication of permissibility. As an example, Clause 4.2 of LEP 2011 allows lots to be created under sized for primary production purposes.
The proposed land use commenced without approval.	Noted. The application has been lodged to allow the continued use of the development.
Retail sale of processed timber directly to the public is not permissible.	Agree. Condition to be imposed restricting retail sale of timber.
The bushfire report contains incorrect information. Impacts from the timber pile and flammables onsite have not been considered.	Noted. Refer to comments on Natural Hazards above in this assessment report.
The acoustic assessment only considers the residential receiver to the north and not others onsite or surrounding the development. This is important in terms of identifying the location of wood pile noise barriers.	The noise impact assessment has been reviewed by Council's Environmental Health Officer and deemed to be acceptable. Conditions imposed allow for barrier to be adjusted to ensure compliance.
The wood pile barriers will only work while stock is available and will therefore fluctuate. More permanent barriers should be required.	The wood pile barrier will be conditioned to be in place at all times. Once in place, the applicant will not be allowed to take wood from such areas, unless the site/use is ceasing operation.
The use of the wood pile barriers does not factor is noise from loading and unloading of vehicles.	The noise impact assessment has been reviewed by Council's Environmental Health Officer and deemed to be acceptable. Furthermore, loading and unloading of trucks is identified as a noise source in the report.
Mufflers will not reduce noise from splitting timber and loading/unloading timber.	Mufflers are only part of the recommendations listed. Council staff have conditioned all recommendations of the report be incorporated. In addition, the mufflers will help control noise of vehicles, which can occur without the other noise sources/uses. The mufflers will help during such times. Mufflers will also help during construction and removal of the wood pile noise barriers.
The noise report does not consider open space areas or main living areas.	The noise impact assessment has been reviewed by Council's Environmental

## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

	Health Officer and deemed to be acceptable. Intrusive noise criteria are based on what noise levels are acceptable for residential uses.
The application has not demonstrated that suitable access is available.	Refer to access transport and traffic comments. Impacts acceptable.
The application does not include vehicle movements taking processed timber offsite.	Refer to access transport and traffic comments. Impacts acceptable.
Visual impact of the site and timber stockpiles have not been considered. Property to the north will be impacted by view of timber pile, machinery etc. The development is out of character with the area.	There is a strip of natural vegetation approx 15m wide separating the development from the Oxley Highway. Given the rural/forested landscape in the area, the materials being processed (i.e. timber) and the equipment not looking dissimilar from other rural machinery; the proposal does not look out of character from the highway or surrounding area. It is common to see different forms of primary production such as large scale dairies, quarries, timber mills etc sporadically placed in rural areas. In addition, the zoning allows the development with consent and there should be a degree of expectation from anyone purchasing in the area that development listed as permissible with consent, may potentially occur on an adjoining property, now or in the future. In terms of impact on other adjoining residences, a condition has been recommended to provide a landscape screen to the north.
Dust and sawdust has not been considered.	Council's Environmental Health Officer has considered impacts from sawdust and dust. Where relevant, conditions have been imposed to control dust such as watering down the area during dry times.
Suggested hours of operation be limited to 8:30am to 4:30pm.	The noise impact assessment has been reviewed by Council's Environmental Health Officer and deemed to be acceptable. The hours of operation are also considered acceptable with many rural based activities occurring well outside of these times. There is also noise from the Highway, which is not restricted.
The Statement of Environmental Effects has inaccuracies in terms of impacts.	Noted. Part of the assessment process is to identify what is accurate in an application and deal with any inconsistencies or issues through additional information, site inspections,



## AGENDA

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

	conditions etc. It is considered that the application contains enough information to allow an assessment of the proposal. Where relevant, inaccuracies have been addressed with conditions of consent. This is standard practice with any development application.
The development creates social impacts of stress and devaluing properties.	Through the imposition of conditions controlling noise, visual impact etc any existing impacts occurring from the unauthorised use will be rectified. The use is permissible with consent in the zone.
The wood piles will harbour vermin.	This issue is considered capable of being managed and does not represent grounds to refuse the application.

**(e) The Public Interest:**

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

Not applicable to this application, which does not have any residential or construction component. There is also no reticulated water or sewer available to the site.

**5. CONCLUSION**

The application has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

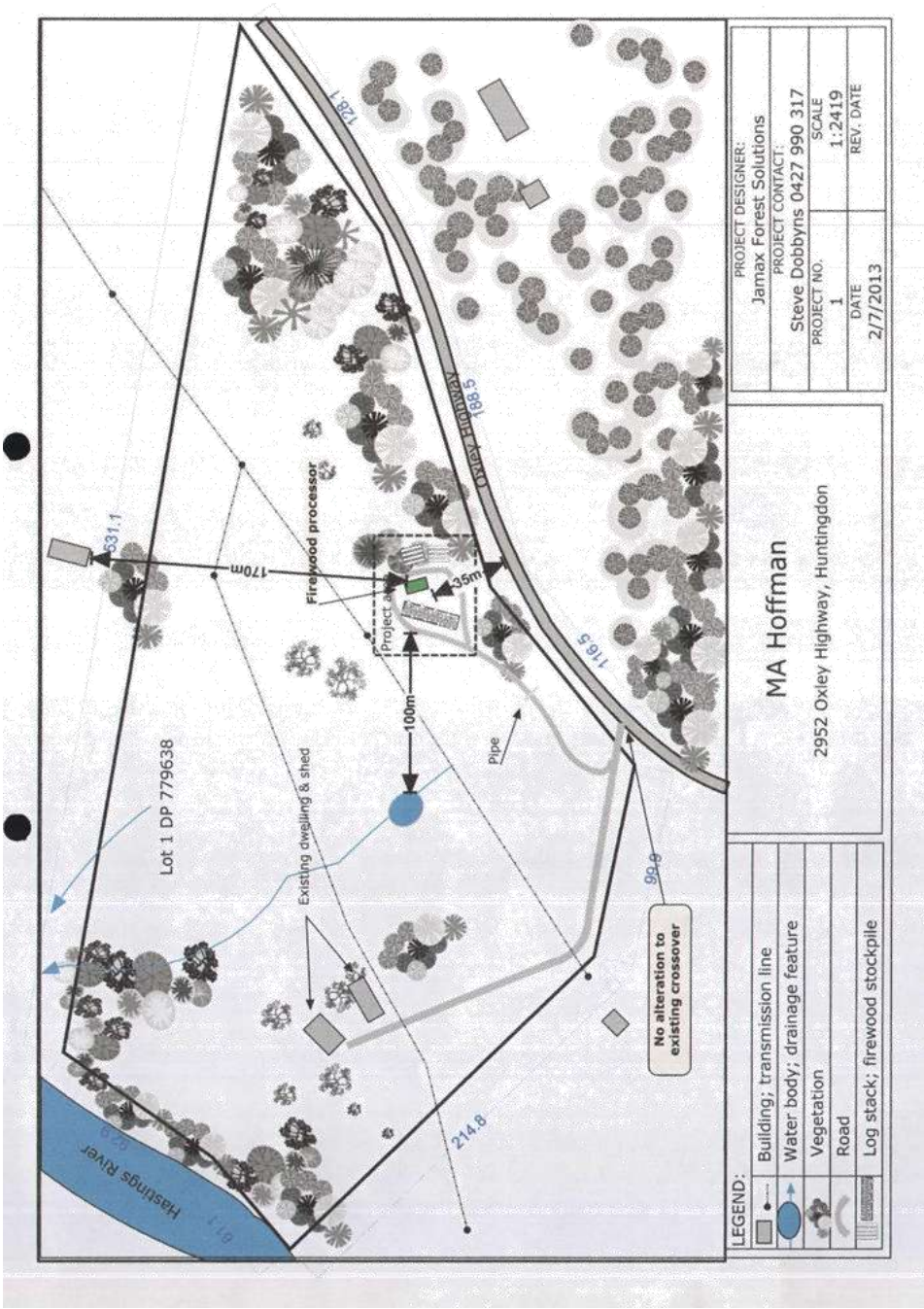
Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. Consequently, it is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.

**Attachments**

1. DA2013 - 464 Plan
2. DA2013 - 464 Recommended Conditions





ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2013/464****DATE: 5/11/2013****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

<b>Plan / Supporting Document</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
Statement of Environmental Effects and associated attachments		Steve Dobbyns	3/7/2013
Noise Impact Assessment	Report No. M13213.01A	Philip Thornton	20/8/2013
Site Map		Jamax Forest Solutions	2/7/2013

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

- (2) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
  2. Appropriate dust control measures;
  3. Building waste is to be managed via an appropriate receptacle;
- (3) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (4) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this consent) must be submitted to and approved by council prior to the erection or display of any such signs.

Attachment



Item 09  
Attachment 2  
Page 162

Item 05  
Attachment 2  
Page 62

## ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

- (5) (A031) Approval 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 obtained from Port Macquarie-Hastings Council.

Such works include, but not be limited to:

- Functional vehicular access

- (6) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:

- a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
- b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
- c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

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

- (7) (A195) Functional vehicular access at the property boundary to the Oxley Hwy shall be designed and located by an appropriately qualified consultant and certified to be in accordance with AUSTROADS Part 3 "Geometric Design", giving particular attention to sight distance.

Access to the rural allotment shall be in accordance with AUSTROADS Part 4 and particularly Figure 7.4 to cater for delivery vehicles at the site (semi-trailer). The access shall be sealed and is to include a drainage crossing (reinforced concrete pipe of minimum diameter 375mm).

Appropriate advisory signage conforming to the requirements of AS 1742 is to be detailed in the design for both approaches to the property access driveway.

Details shall be submitted as part of the Roads Act s138 application. All of the works are to be constructed at no cost to Council.



## ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

- (8) (A196) Works Authorisation Deed (WAD) shall be executed with the Roads and Maritime Services (RMS) prior to any Roads Act Approval, or agreement made with the RMS that no Works Authorisation Deed is required.

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

Nil

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

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.

**D – DURING WORK**

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:

- a. at completion of installation of erosion control measures
- b. at completion of installation of traffic management works
- c. prior to sealing and laying of pavement surface course.

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

- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

**E – PRIOR TO OCCUPATION OR CONTINUED USE OF THE PROPERTY FOR LOG PROCESSING**

- (1) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (2) (E034) Prior to continued use of the property for log processing, provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (3) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to continued

## ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

use of the property for log processing or release of the security bond, whichever is to occur first.

- (4) (E061) Prior to continued use of the property for log processing, a landscaped screening plan is to be submitted, approved by Council and completed onsite. The landscape screening should provide a mixture of species to enable visual protection from the development to adjoining properties.

The applicant shall implement a landscape maintenance program for a minimum period of twelve (12) months to ensure that all landscape screening work becomes well established by regular maintenance. Details of the program must be submitted with the landscape screen plan.

- (5) (E195) A toilet is to be provided onsite for use by the employees and visitors of the site prior to continued use of the property as log processing. Approval must be obtained from Council under Section 68 of the Local Government Act 1993, for work to install or alter any onsite sewage management facility related to the development.
- (6) (E196) Certification is required to be submitted to Council prior to continued use of the property for log processing, showing that the three recommendations made in section 15 of the "Noise Impact Assessment of Log Processing Works for Jamax Forest Solutions Report No. M13212.01A Site: Lot 1 DP 779638, 2952 Oxley Highway Huntingdon NSW 2446" dated 20 August 2013 by Philip Thornton, Acoustic Consultant, have been installed onsite. The certification must be provided by a suitably qualified person.

## F – OCCUPATION OF THE SITE

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons.
- (2) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (3) (F013) All garbage areas are to be screened from the street, create no adverse odour impact on adjoining properties and be kept free of pests at all times.
- (4) (F016) Offensive odours shall not be generated by the development.
- (5) (F017) Materials stockpiles and handling areas shall be maintained in a condition that prevents wind blown or traffic generated dust.
- (6) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (7) (F025) Hours of operation of the development are restricted to the following hours:  
- 8.00 am to 4.00 pm – Mondays to Fridays  
- No work is to be carried out on Saturdays, Sundays and Public Holidays
- (8) (F195) Once in place, timber will not be allowed to be removed from the wood pile noise barrier until the log processing use of the site ceases and is being cleaned up (ie completely removed of stock).

## ATTACHMENT

DEVELOPMENT ASSESSMENT PANEL  
13/11/2013

- (9) (F196 ) Retail sales direct to the public are prohibited.
- (10) (F197) A truck shakedown area is to be provided onsite to ensure mud is not transported onto the Oxley Highway.
- (11) (F198) Fuels are to be contained within an enclosed and bunded area.
- (12) (F199) A water cart is to be maintained onsite at all times to eliminate any dust and act as a water source for managing any bushfire threats that may occur onsite.
- (13) (F195) Wastes from the timber mill operation including any timber offcuts, logs, firewood or sawdust shall be disposed of properly and shall not be disposed of by burning.
- (14) (A196) The wood pile screen must provide suitable noise protection to surrounding residents and may need to be adjusted from time to time to ensure noise levels stay within acceptable levels.



*MINUTES**Development Assessment  
Panel Meeting  
13/11/2013*

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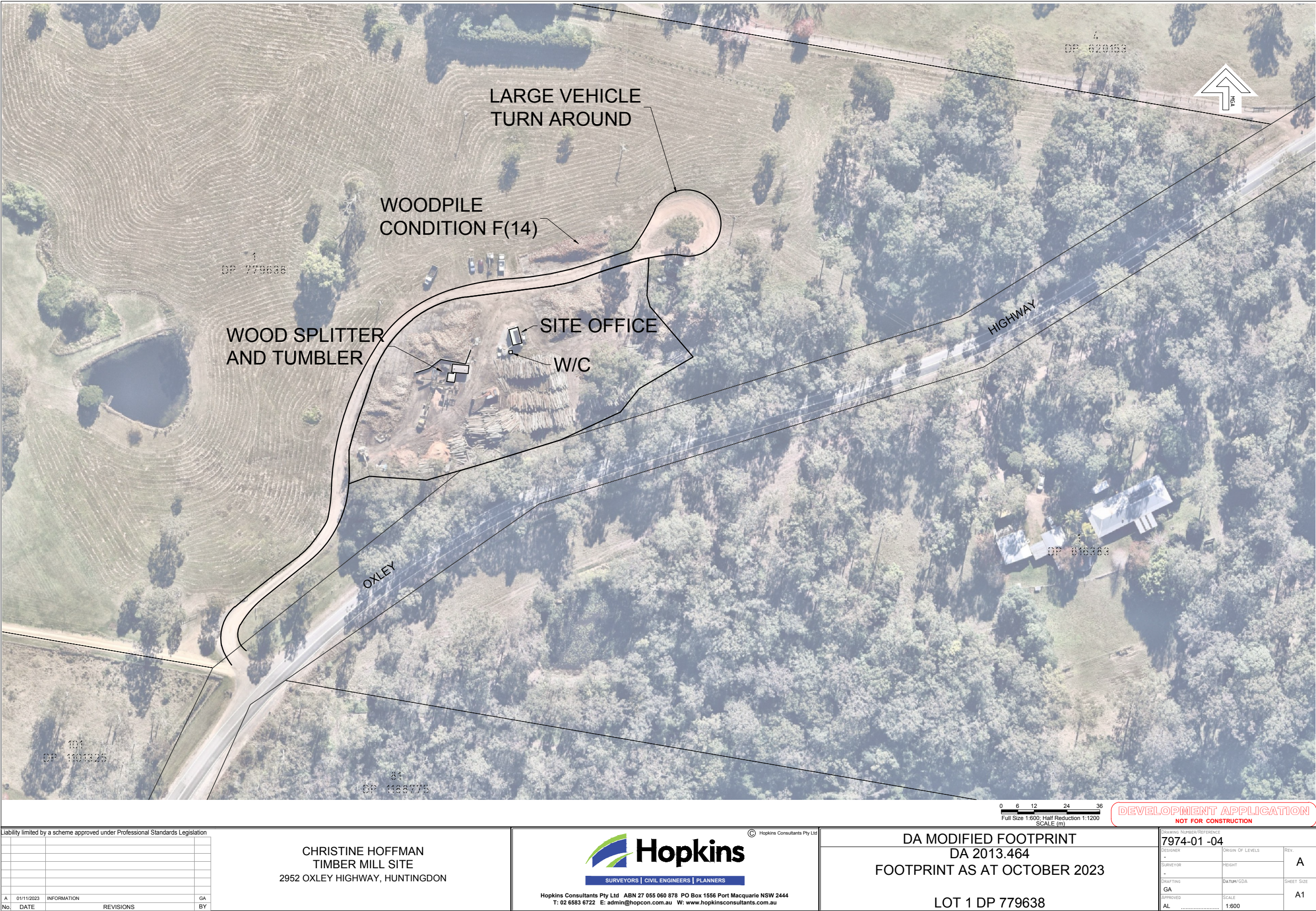
09 DA 2013 - 0464 - LOG PROCESSING WORKS, LOT 1 DP 779638, 2952 OXLEY  
HIGHWAY, HUNTINGDON

---

Speakers:  
Lisa Hawkins (o)  
Steve Dobbyns (applicant)

CONSENSUS:

That DA 2013/464 for a log processing works at Lot 1 DP 779638, No. 2952 Oxley Highway, Huntingdon, be determined by granting consent subject to the recommended conditions.



PORT MACQUARIE-  
HASTINGS COUNCIL

PO Box 84  
Port Macquarie  
NSW Australia 2444  
DX 7415

council@pmhc.nsw.gov.au  
www.pmhc.nsw.gov.au

ABN: 11 236 901 601



21 August 2014

Parcel Number: 17775

Hopkins Consultants Pty Ltd  
PO Box 1556  
PORT MACQUARIE NSW 2444

Dear Sir/Madam

**DA 2013/464.3 - Modification of Consent Pursuant to Section 96 (1) of the Environmental Planning & Assessment Act 1979**

I refer to your modification application dated 12 August 2014 requesting to clarify the access requirements under DA 2013/464 at LOT: 1 DP: 779638 2952 Oxley Highway HUNTINGDON.

Please be advised that pursuant to Section 96 (1) of the Act, your application to modify the consent has been granted, subject to:

- A. Amend the following conditions as outlined in modified consent:

A7

- B. Reimposition of all other previously approved conditions of consent as originally determined 13 November 2013 and as modified 30 January 2014 and with this approval dated 21 August 2014.

The applicant is advised that Section 97AA of the Act confers on an applicant who is dissatisfied with the determination, right of appeal to the Land and Environment Court.

A revised schedule of development consent conditions is attached.

Yours sincerely

Clinton Tink  
Development Assessment Planner

PORT MACQUARIE OFFICE  
Corner Lord & Burrawan Streets  
Telephone (02) 6581 8111  
Facsimile (02) 6581 8123

WAUCHOPE OFFICE  
High Street  
Telephone (02) 6585 1922

LAURIETON OFFICE  
9 Laurie Street  
Telephone (02) 6559 9958

**SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT**

The conditions of consent referred to in the Notice of Determination for DA No 2013/464 are as follows:

No.1	Modification No.1	30 January 2014
No 2	Modification No.2	21 August 2014

**PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

Plan / Supporting Document	Reference	Prepared by	Date
Statement of Environmental Effects and associated attachments		Steve Dobbyns	3/7/2013
Noise Impact Assessment	Report No. M13213.01A	Philip Thornton	20/8/2013
Site Map		Jamax Forest Solutions	2/7/2013

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

- (2) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
  2. Appropriate dust control measures;
  3. Building waste is to be managed via an appropriate receptacle;
- (3) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (4) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this

consent) must be submitted to and approved by council prior to the erection or display of any such signs.

- (5) (A031) Approval 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 obtained from Port Macquarie-Hastings Council.

Such works include, but not be limited to:

- Functional vehicular access

The application is to be submitted within four (4) months of the date of determination, unless varied in writing by Council staff. <sup>1</sup>

- (6) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
- a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
  - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,
  - c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

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

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

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

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

- (7) (A195) Functional vehicular access at the property boundary to the Oxley Hwy shall be designed and located by an appropriately qualified consultant and certified to be in accordance with AUSTROADS Part 3 "Geometric Design", giving particular attention to sight distance.

Access to the rural allotment shall be in accordance with AUSTROADS Part 4 (2009) and particularly Figure 7.2 as a minimum. The maximum size of vehicle permitted to use the site shall be a single unit truck up to 12.5m length or truck and dog combination up to 19m length, unless the intersection is constructed in accordance with Figure 7.4 (to cater for articulated vehicles).

The access shall be sealed and is to include a drainage crossing (reinforced concrete pipe of minimum diameter 375mm).

Appropriate advisory signage conforming to the requirements of AS 1742 is to be detailed in the design for both approaches to the property access driveway.

Details shall be submitted as part of the Roads Act s138 application. All of the works are to be constructed at no cost to Council.<sup>2</sup>

- (8) (A196) Works Authorisation Deed (WAD) shall be executed with the Roads and Maritime Services (RMS) prior to any Roads Act Approval, or agreement made with the RMS that no Works Authorisation Deed is required.

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

Nil

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

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.

#### **D – DURING WORK**

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
- at completion of installation of erosion control measures
  - at completion of installation of traffic management works
  - prior to sealing and laying of pavement surface course.
- All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.
- (2) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.

#### **E – PRIOR TO OCCUPATION OR CONTINUED USE OF THE PROPERTY FOR LOG PROCESSING**

- (1) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.

- (2) (E034) Prior to continued use of the property for log processing or within (6) months of the date of determination (unless varied in writing by Council staff) provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed. <sup>1</sup>
- (3) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to continued use of the property for log processing or within (6) months of the date of determination (unless varied in writing by Council staff).

Note: the security bond will not be released until compliance is shown. <sup>1</sup>

- (4) (E061) Prior to continued use of the property for log processing, a landscaped screening plan is to be submitted, approved by Council and completed onsite. The landscape screening should provide a mixture of species to enable visual protection from the development to adjoining properties.

The applicant shall implement a landscape maintenance program for a minimum period of twelve (12) months to ensure that all landscape screening work becomes well established by regular maintenance. Details of the program must be submitted with the landscape screen plan.

- (5) (E195) A toilet is to be provided onsite for use by the employees and visitors of the site prior to continued use of the property as log processing. Approval must be obtained from Council under Section 68 of the Local Government Act 1993, for work to install or alter any onsite sewage management facility related to the development.
- (6) (E196) Certification is required to be submitted to Council prior to continued use of the property for log processing, showing that the three recommendations made in section 15 of the "Noise Impact Assessment of Log Processing Works for Jamax Forest Solutions Report No. M13212.01A Site: Lot 1 DP 779638, 2952 Oxley Highway Huntingdon NSW 2446" dated 20 August 2013 by Philip Thornton, Acoustic Consultant, have been installed onsite. The certification must be provided by a suitably qualified person.

#### **F – OCCUPATION OF THE SITE**

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons.
- (2) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (3) (F013) All garbage areas are to be screened from the street, create no adverse odour impact on adjoining properties and be kept free of pests at all times.
- (4) (F016) Offensive odours shall not be generated by the development.
- (5) (F017) Materials stockpiles and handling areas shall be maintained in a condition that prevents wind blown or traffic generated dust.

- (6) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (7) (F025) Hours of operation of the development are restricted to the following hours:
  - 8.00 am to 4.00 pm – Mondays to Fridays
  - No work is to be carried out on Saturdays, Sundays and Public Holidays
- (8) (F195) Once in place, timber will not be allowed to be removed from the wood pile noise barrier until the log processing use of the site ceases and is being cleaned up (ie completely removed of stock) or if an alternate permanent earth mound is in place as per Matrix Industries letter dated 5 December 2013 (M13213.02a) <sup>1</sup>
- (9) (F196) Retail sales direct to the public are restricted to 1.5 tonnes per month. <sup>1</sup>
- (10) (F197) A truck shakedown area is to be provided onsite to ensure mud is not transported onto the Oxley Highway.
- (11) (F198) Fuels are to be contained within an enclosed and bunded area.
- (12) (F199) A water cart is to be maintained onsite at all times to eliminate any dust and act as a water source for managing any bushfire threats that may occur onsite.
- (13) (F195) Wastes from the timber mill operation including any timber offcuts, logs, firewood or sawdust shall be disposed of properly and shall not be disposed of by burning.
- (14) (A196) The wood pile screen (if used in lieu of the earth mound - condition F8) must provide suitable noise protection to surrounding residents and may need to be adjusted from time to time to ensure noise levels stay within acceptable levels. <sup>1</sup>

The conditions referred to in this schedule are imposed in conformity with the relevant provisions of the Environmental Planning and Assessment Act and Regulations, the Local Government Act and Regulations, The Building Code of Australia and with Council's Codes and Policies, LEP's, DCP's or any other ancillary Act or Regulation in force at the time of the date of determination and are aimed at protecting the natural environment, preserving our heritage and providing a safe and health built environment.

### **Rights of Appeal**

If you are dissatisfied with this decision a request for a review of the determination may be made to Council, under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979.

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court.

Yours sincerely



Clinton Tink  
Development Assessment Planner



144 Oxley Island Road  
Oxley Island NSW 2430  
P: 61 (2) 6553 2577  
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Structural ► Civil ► Mechanical ► Acoustic

## ACOUSTIC ASSESSMENT

### FIREWOOD MILL

Report No. M23012.04

Site: 2952 Oxley Highway  
Huntingdon, NSW, 2446

Prepared by: Philip Thornton BE(UNSW) MIEAust CPEng NER  
Acoustic Consultant  
Matrix Thornton Consulting Engineers

Date: 25 April 2024

#### SUMMARY

Activities associated with the existing operation of the firewood mill at 2952 Oxley Highway, Huntingdon NSW 2446 have been assessed for their noise impact. The noise levels for the operation of the mill were found to be above the Port Macquarie Hasting Council's criterion of 44 dB(A). A recommended approach to reduce the noise level is presented.



CONTENTS

1	INTRODUCTION .....	3
2	SITE LOCATION AND NOISE SENSITIVE RECEIVER .....	3
3	NOISE GOALS .....	4
4	MEASUREMENTS .....	4
4.1	EQUIPMENT .....	4
4.2	RESULTS.....	4
5	RECOMMENDATIONS .....	5
6	CONCLUSION .....	5
APPENDIX A: GLOSSARY OF ACOUSTIC TERMS .....		6
APPENDIX B: ARL READINGS.....		7

FIGURES

FIGURE 3-1	SITE LOCATION AND MEASUREMENT POSITIONS.....	3
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TABLES

TABLE 4-1	NOISE MEASUREMENT RESULTS, dBA .....	4
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## 1 INTRODUCTION

In February 2023 Matrix Thornton did noise measurements at the Hoffman Group firewood mill at 2952 Oxley Highway, Huntingdon. These measurements were done following new saw equipment that had been purchased. The proponent advised that the new saw was said to be quieter technology to the previous saw. Noise was found to exceed the requirements previously established in our Report M13213.01A dated 20/08/2013.

Matrix Thornton provided a report M23012.02 dated 22/03/2023 with recommendations for noise attenuation of the mill equipment. The noise attenuation works have been carried out since then. The proponent has also applied for a DA for the increase of production of the mill since its original DA in 2013. Noise measurements including long term logging have been carried done at neighbouring locations. This report presents results of those measurements.

## 2 SITE LOCATION AND NOISE SENSITIVE RECEIVER

The mill location is shown at the centre of Figure 2-1. The most impacted receiver is directly north. Noise loggers were located on the boundary with that receiver.



Figure 2-1 Site Location and Measurement Positions



3 NOISE GOALS

For this location, noise criteria for residential receivers were established in Report M13213.01A, based on the recommendations of the NSW EPA Noise Policy for Industry (NPfI).

The noise goal for daytime at residences is  $L_{Aeq,15min}$  44dBA.

4 MEASUREMENTS

4.1 EQUIPMENT

The operational noise levels of the hardwood mill were recorded between 21 to 29 February 2024 using an ARL Ngara noise monitor, a sound level meter complying with Australian Standard 1259 Type 1 meters and suitable for laboratory use. This equipment records noise levels continuously, and records audio files for post analysis. The noise levels were reviewed to find the noisiest periods of the week, and the audio recordings of those times reviewed to verify that the noise levels were caused by mechanical noise. The advantage of this method is that we can study a week of noise emissions.

4.2 RESULTS

The results of the measurements are shown in Table 4-1.

In general, we found a reduction in noise level by typically 5-10 dBA since February 2023, and a reduction in the tonal qualities of the noise. This noise reduction follows the attenuation works that were carried out by the mill as recommended in Matrix Thornton Report M23012.02. However, over long-term logging the noise exceeds the noise guideline of 44dBA. The Npfi call this “residual noise impact”.

Logger Position	Date	$L_{Aeq,15min}$ dBA	
Position 1	February 2023	55+5	Prior to noise mitigation
Position 1	22-29 March 2024	50-55	After some noise attenuation
Position 2	22-29 March 2024	45-50	After some noise attenuation

Table 4-1 Noise Measurement Results, dBA

For most of the measurement period the residual noise impact was up to 6dBA, though periods up to 11dBA were recorded. Generally residual impacts greater than 5dBA are “significant” and further noise mitigation would be considered reasonable.

See Appendix B for Noise Charts.

## 5 RECOMMENDATIONS

To Reduce the impact of residual noise the following recommendations could be considered. As the residual noise impact is considered to be “significant” the recommendations involve major installations to be put in place.

The wood logging mill could consider placing a row of acoustic walls along the northern boundary. These walls would be required to have a height of approximately 3-4 meters tall. This option would require further acoustic computer modelling to ensure sufficient residual noise is minimised.

Another option that could be considered is building a specially designed shed to house the logging equipment. However, this option would not reduce noise from the loading and unloading of trucks.

To mitigate truck noise management procedures could be put into place for the number of truck movements on site per day.

## 6 CONCLUSION

Activities associated with the firewood mill at 2952 Oxley Highway, Huntingdon NSW 2446 have been assessed for their noise impact. Noise levels for the operation of the mill were found to be above the acceptable PMHC criterion for the intrusive noise. Recommendations to reduce the noise level has been presented in this report. The recommendations in this report will require acoustic computer modelling to ensure the residual noise levels are dropped significantly.

Prepared by:



Alyaa Al-Khazraji BE(UNSW)  
Acoustic Consultant

Reviewed by:



Philip Thornton BE(UNSW) MIEAust CPEng NER RPEQ, MAAS  
Principal Engineer & Director  
National Professional Engineers Register No. 295662



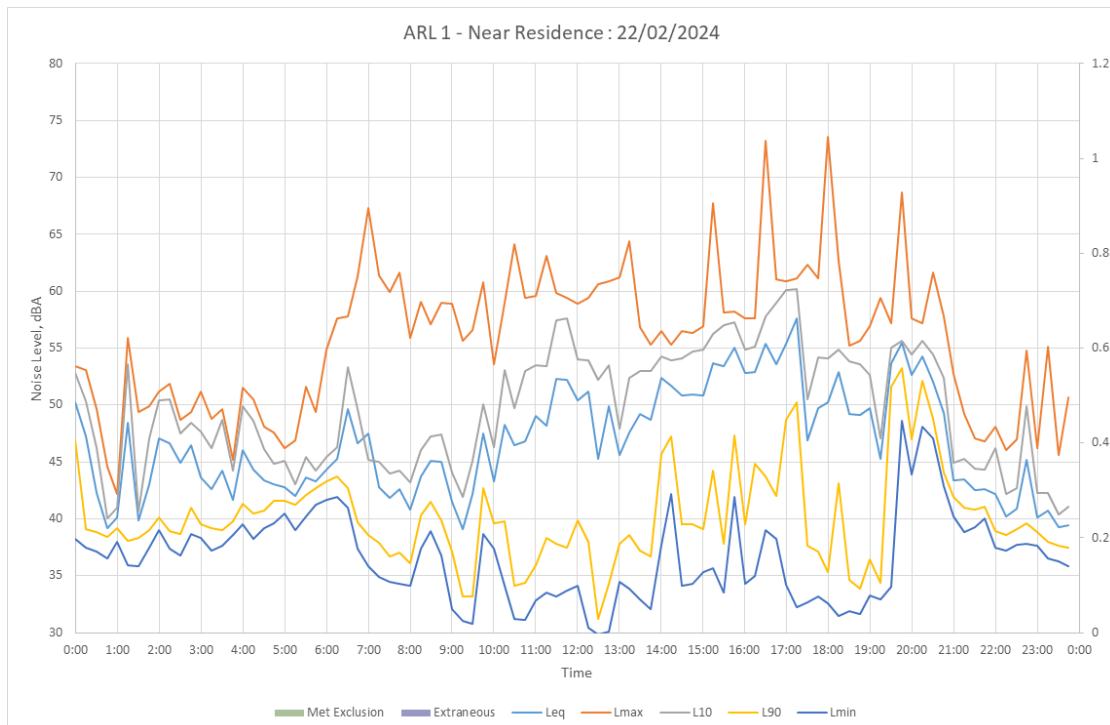
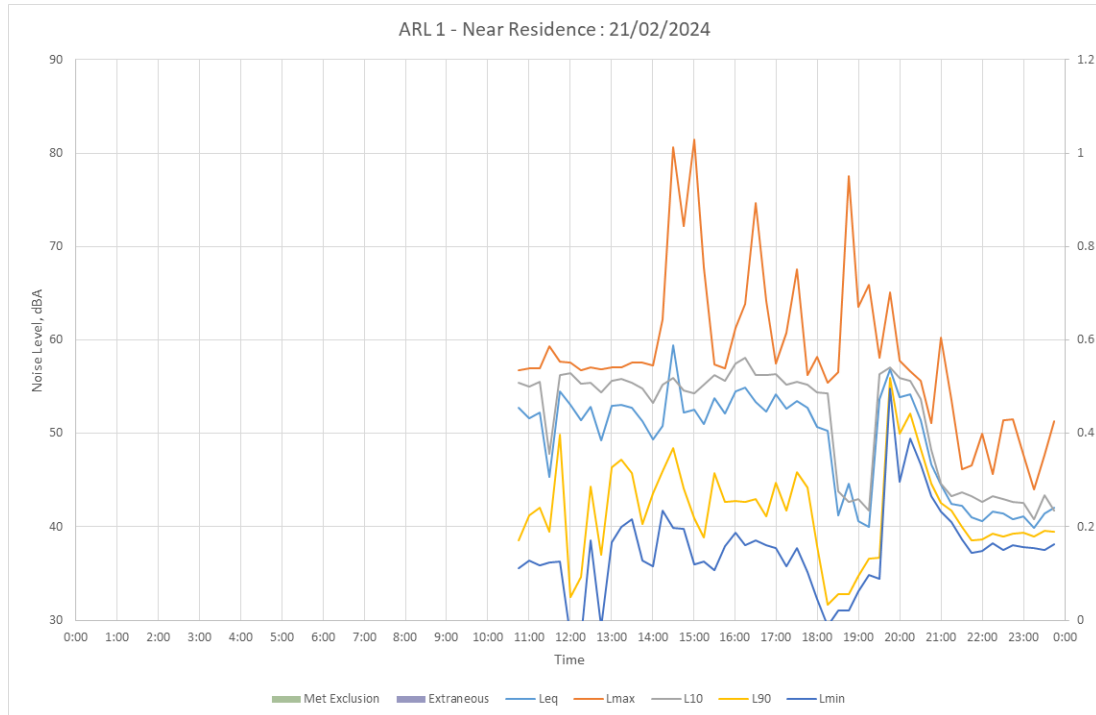
ENGINEERS  
AUSTRALIA  
Chartered Professional Engineer  
MEMBER

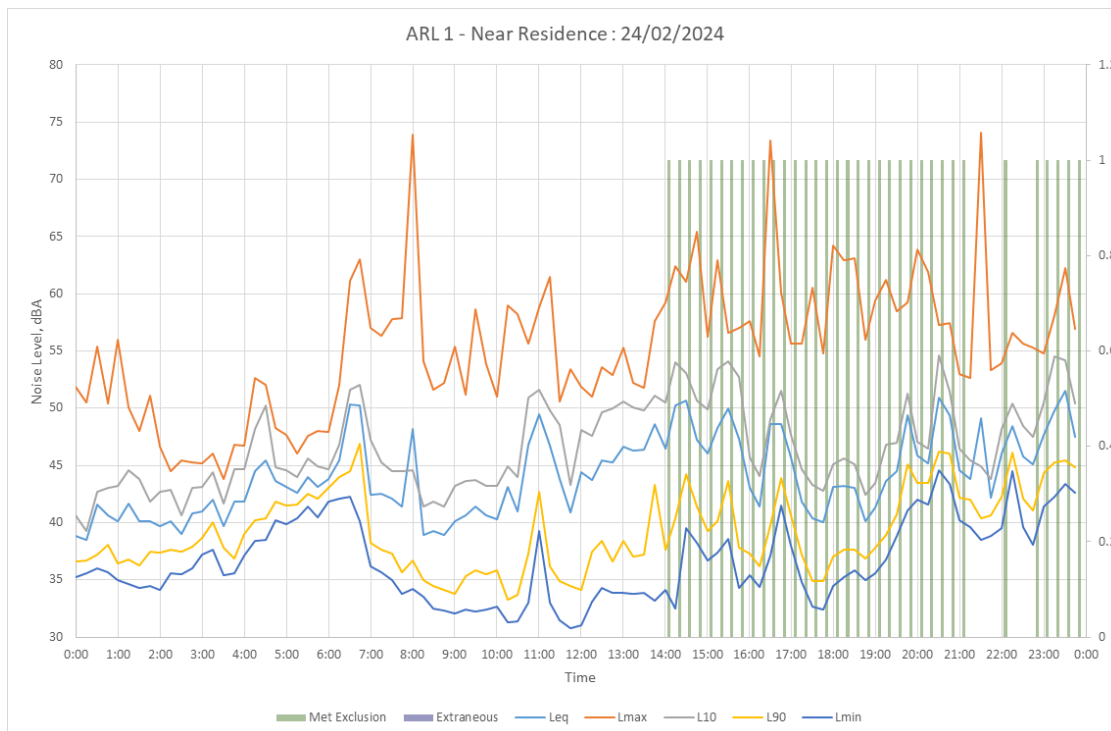
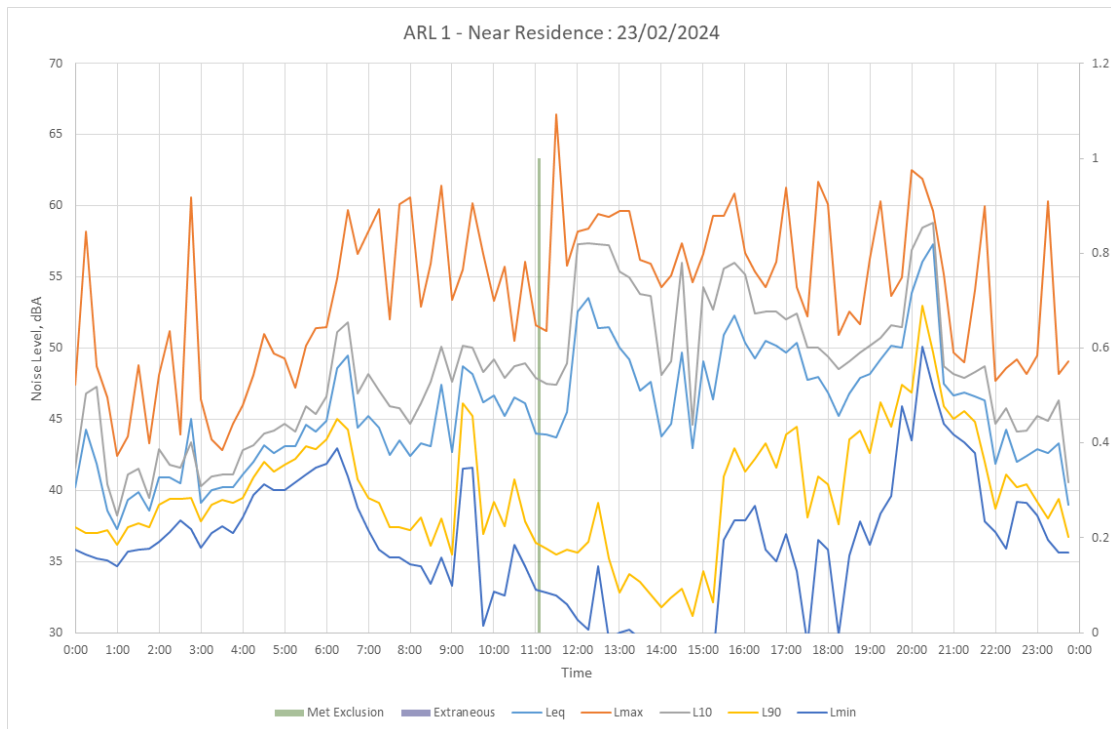
## APPENDIX A: GLOSSARY OF ACOUSTIC TERMS

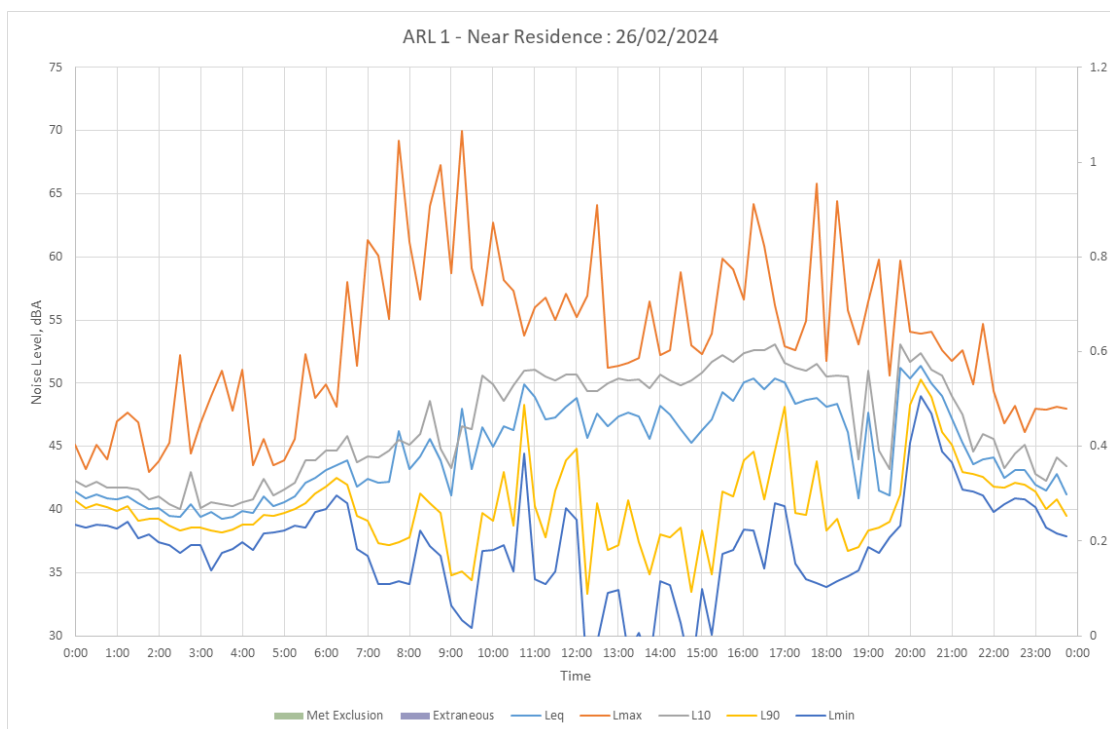
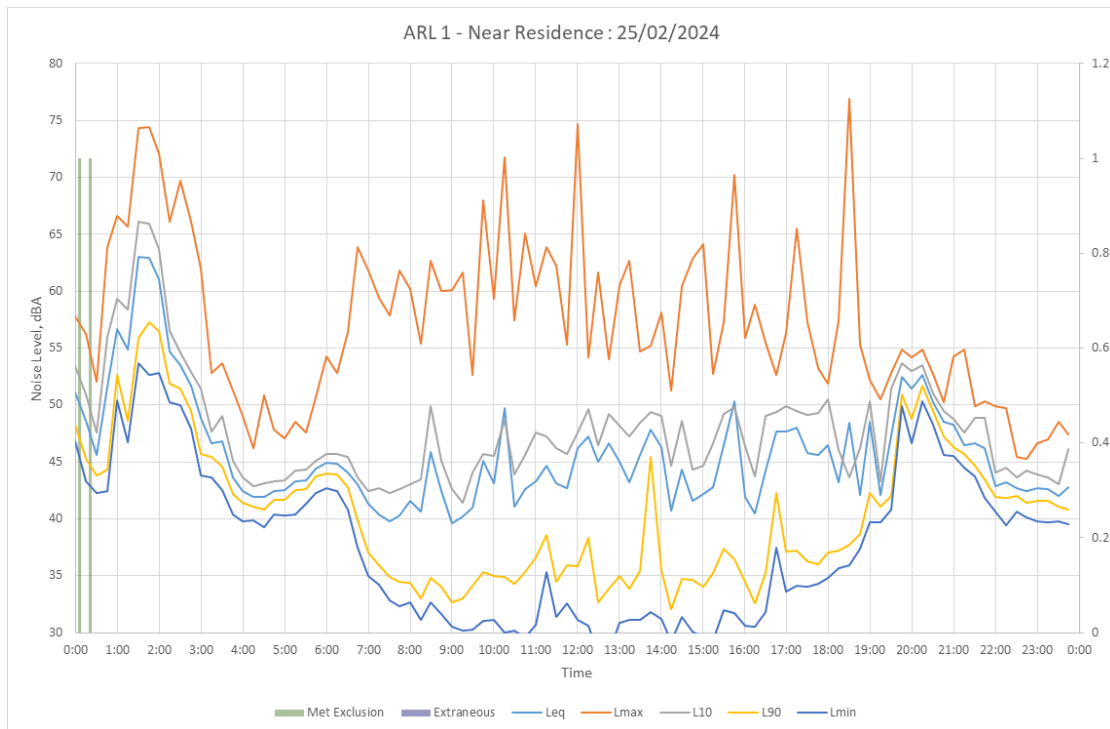
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Assessment Period	The period in a day over which assessments are made.
dB(A)	Unit of sound level in A-weighted decibels. The A-weighting approximates the sensitivity of the human ear by filtering these frequencies. The dB(A) measurement is considered representative of average human hearing.
$L_{Aeq}$	The A-weighted equivalent continuous sound pressure level, used to quantify the average noise level over a time period.
$L_{A10}$	The A-weighted sound pressure level exceeded for 10% of the measurement period. It is usually used as the descriptor for intrusive noise level.
$L_{A90}$	The A-weighted sound pressure level exceeded for 90% of the measurement period. It is usually used as the descriptor for background noise level.
$L_{Aeq15min}$	Refers to the A-weighted energy averaged equivalent noise level over a 15 minute time period.
$L_{Cpeak}$	The highest instantaneous C-weighted sound pressure level over the measurement period. It is usually used for high impulsive noise.
$L_{Amax}$	The maximum A-weighted sound pressure level for the measurement period.
Loudness	A 3dB(A) change in sound pressure level is just noticeable or perceptible to the average human ear; a 5dB(A) increase is quite noticeable and a 10dB(A) increase is typically perceived as a doubling in loudness.
RBL	The overall single figure background level representing the assessment period over the whole monitoring period. For the short-term method of assessment, the RBL is the measured $L_{A90, 15min}$ value, or where a number of measurements have been made, the lowest $L_{A90, 15min}$ value.

## APPENDIX B: ARL READINGS



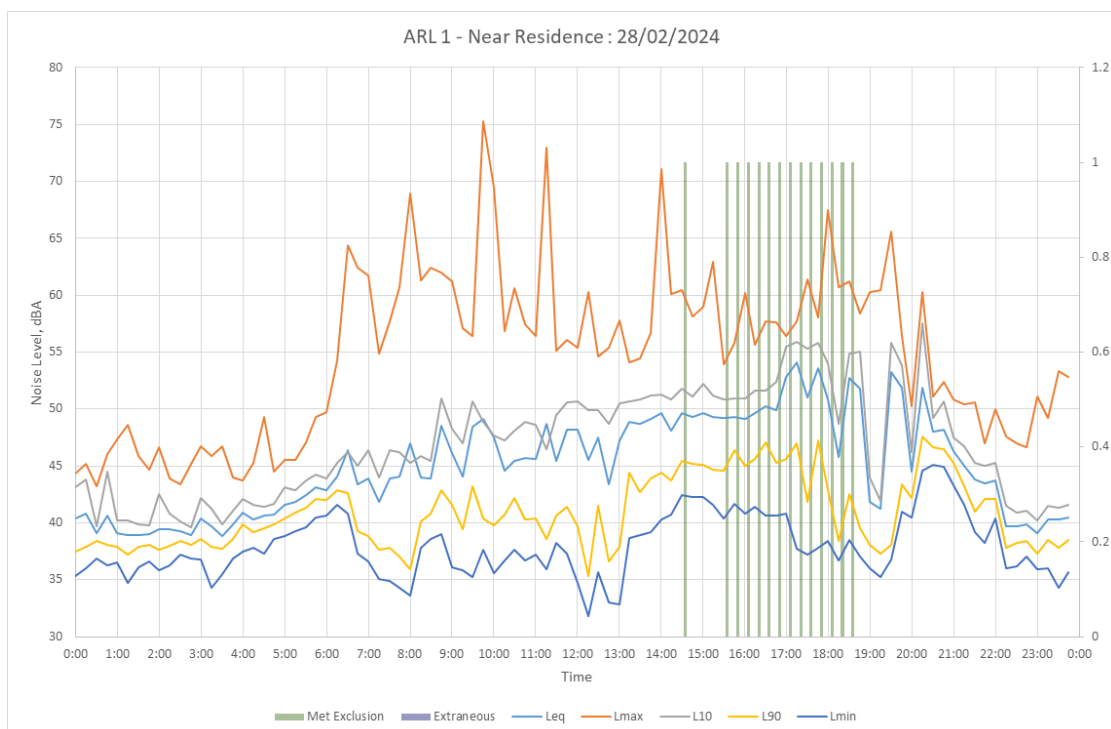
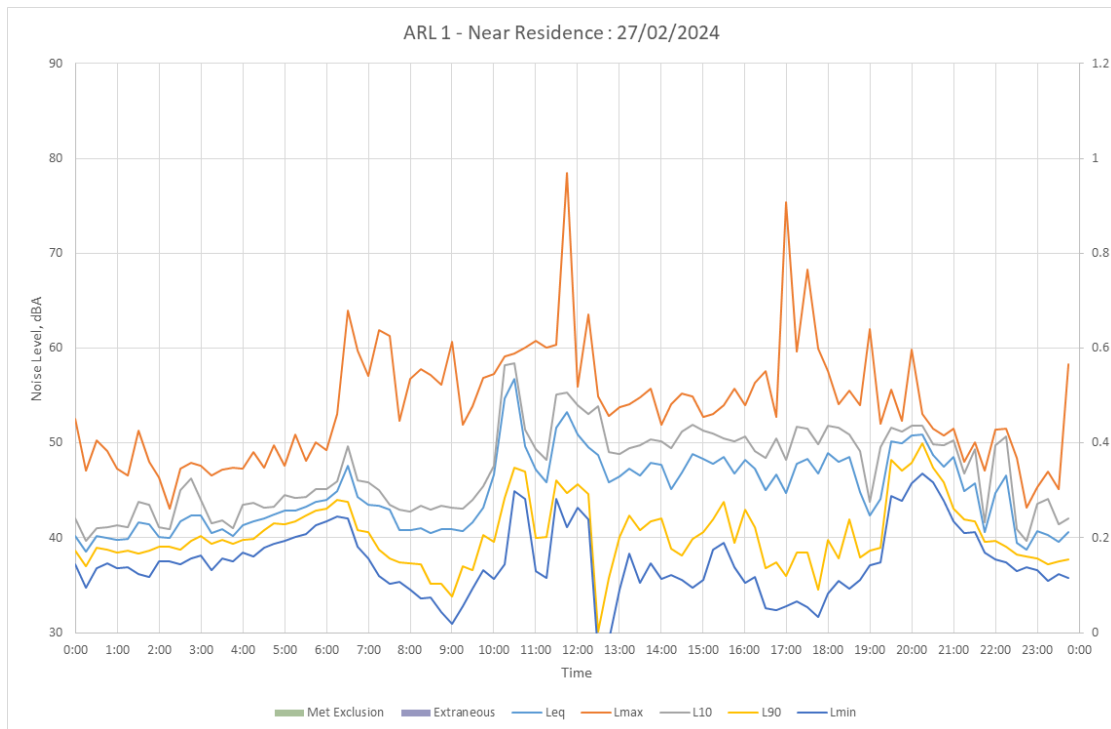






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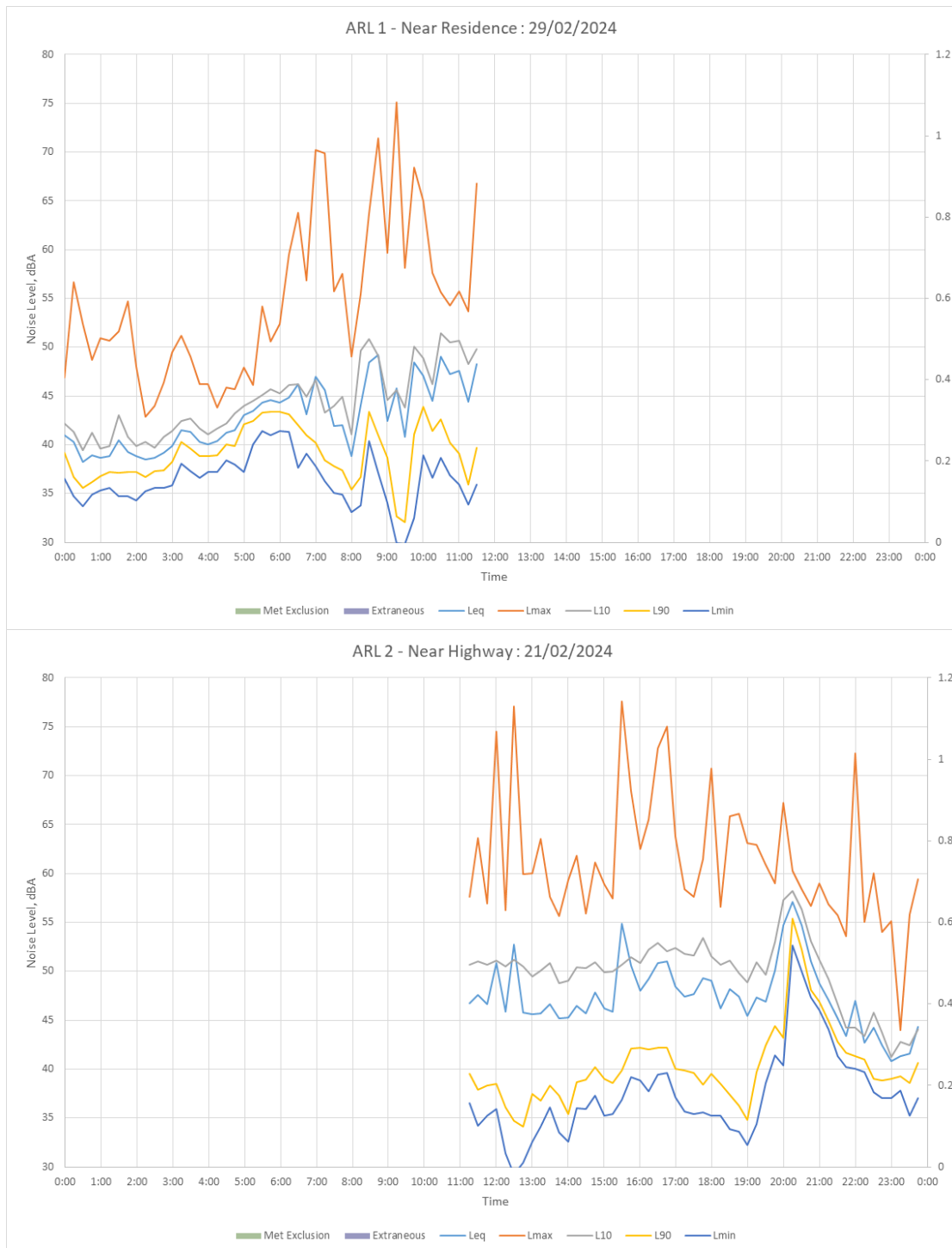
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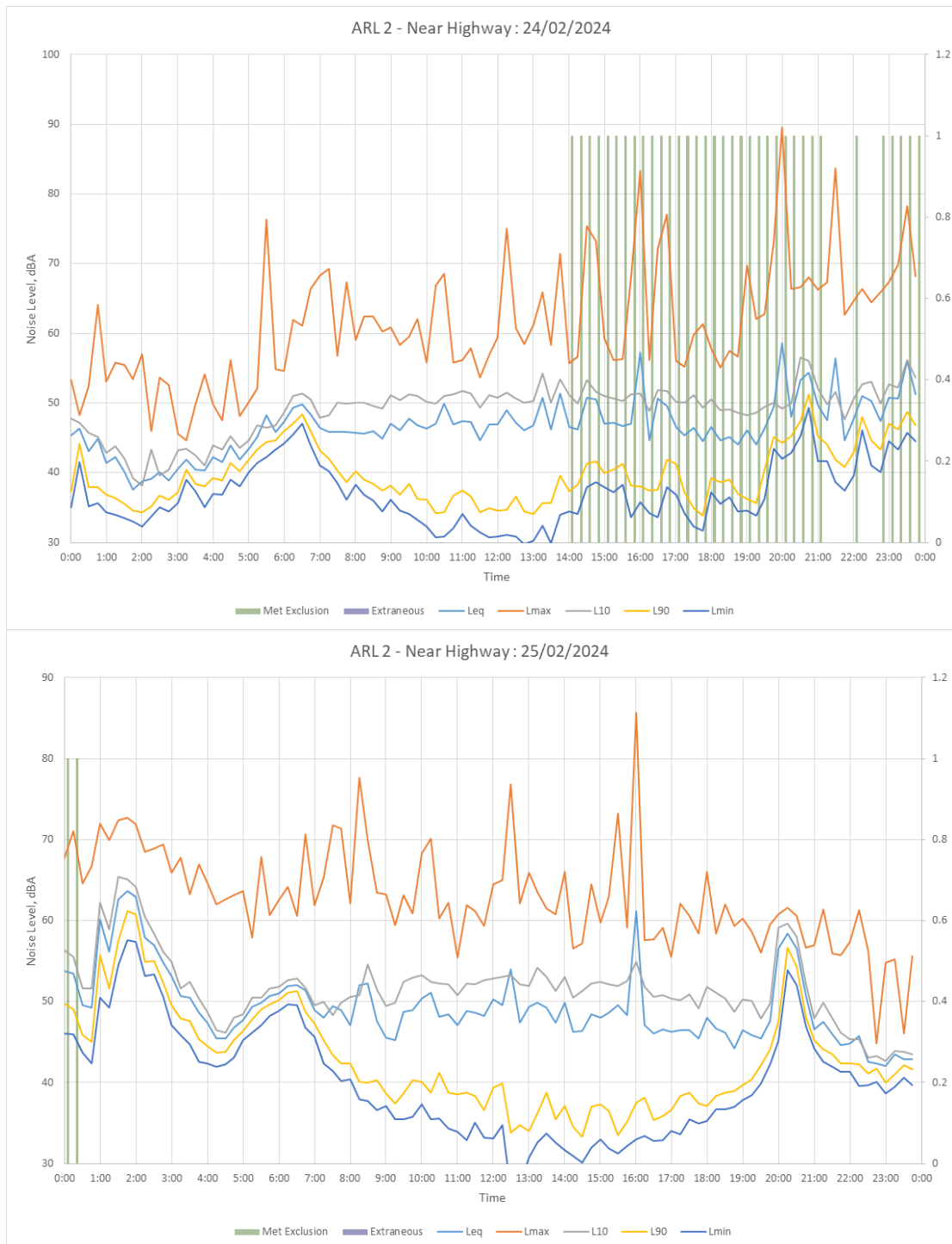
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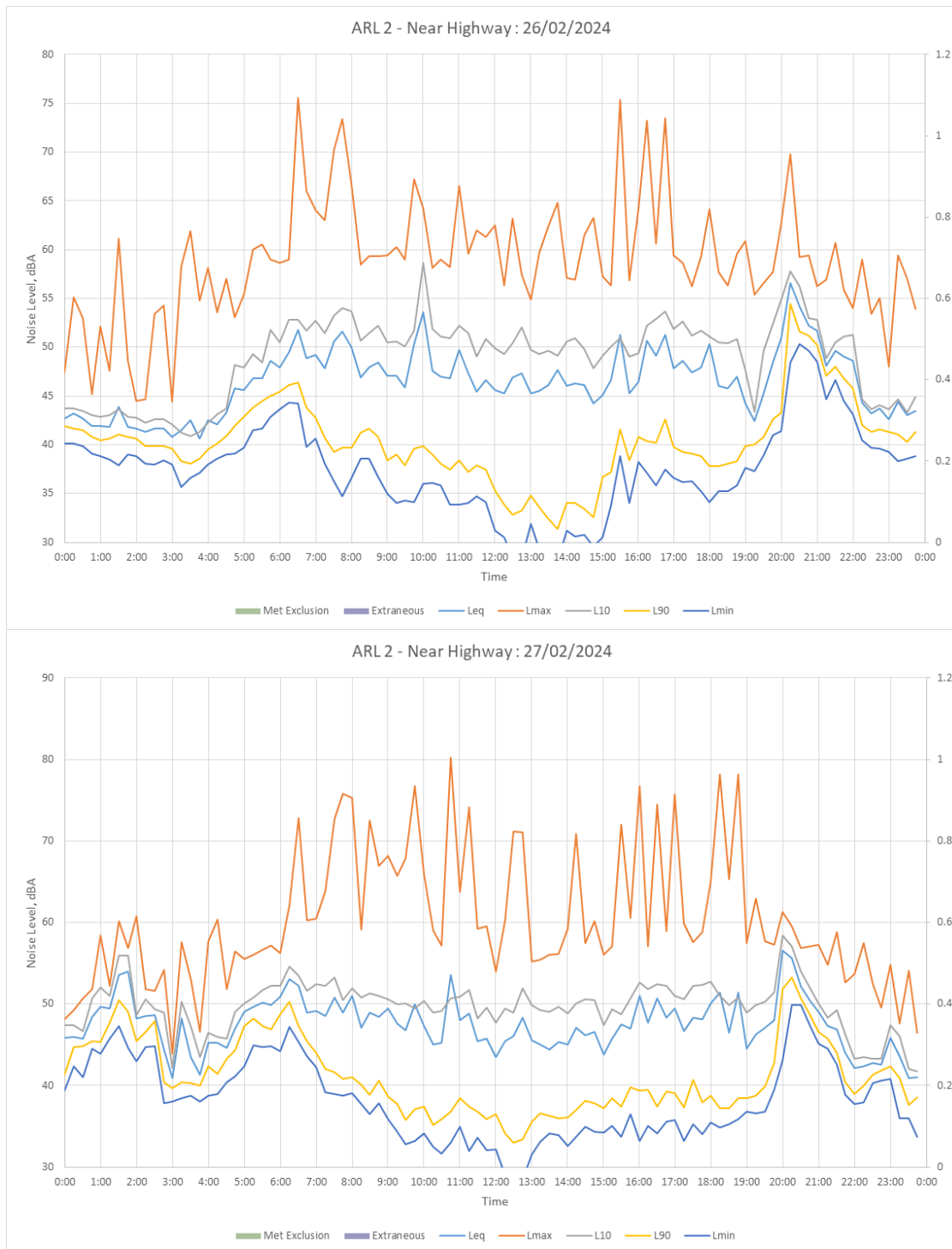
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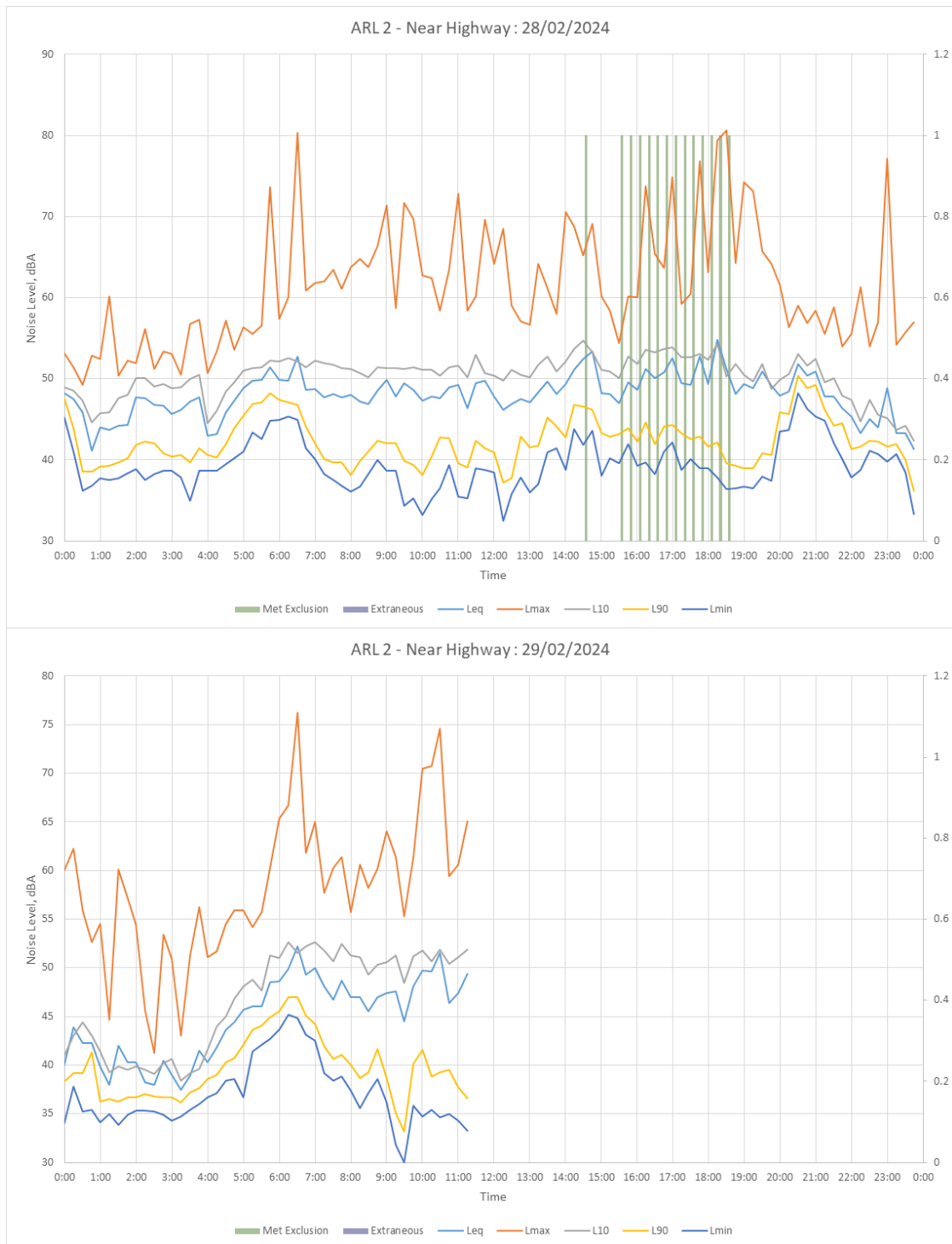




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**Item: 06****Subject: DA2019 - 917.2 SECTION 4.55 MODIFICATION TO ALTERATIONS AND ADDITIONS, CONSTRUCTION OF SECONDARY DWELLING, SWIMMING POOL AND TENNIS COURT TO INCLUDE TENNIS COURT LIGHTING AT LOT 12 DP707776, NO. 12/12A LINKS CRESCENT, PORT MACQUARIE****Report Author: Development Assessment Planner, Fiona Tierney**

---

<b>Applicant:</b>	<b>S J Ritchie &amp; C A Sylow</b>
<b>Owner:</b>	<b>S J Ritchie &amp; C A Sylow</b>
<b>Estimated Cost:</b>	<b>\$2000</b>
<b>Parcel no:</b>	<b>12488</b>

---

**Alignment with Delivery Program**

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

**RECOMMENDATION**

That DA2019 - 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) mature hedge type screening plantings (Lilli Pilli or similar with a minimum mature height of 4m) are to be planted 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 and the ecological report prepared by Wolfpeak.

**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.

The application for modification has previously been reported the Development Assessment Panel for consideration and was deferred to allow the proponent to undertake an ecological assessment of the proposed tennis court lighting.

Following exhibition of the application, 6 submissions were received.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

The site is still considered to be 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 has been updated from the previous Development Assessment Panel meeting and recommends that the application be approved subject to the above recommended condition changes (Attachment 1). The current approved Consent is attached (Attachment 2).

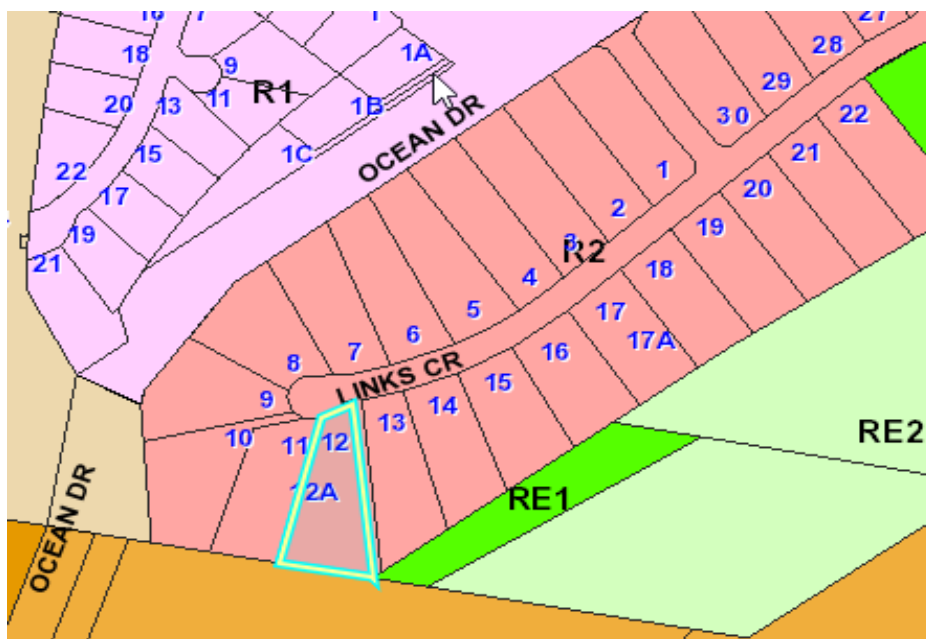
The reason for the application being referred to Council's Development Assessment Panel (DAP) is because 3 or more objections to the proposal have been received. A copy of the DAP Charter outlining the delegations and functions of the DAP is available on Council's website.

### 1. BACKGROUND

#### Existing Sites Features and Surrounding Development

The site has an area of 4404m<sup>2</sup>.

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 3).

### **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.
- 6 March 2024 - Modification application reported to the Development Assessment Panel and application deferred for additional ecological assessment to assess impacts of lighting.
- 8 April 2024 - Ecological assessment received from Wolfpeak.
- 19 April 2024 to 3 May 2024 - Neighbour notification of additional information.
- 8 May 2024 - Request for further clarification of ecological assessment.
- 31 May 2024 - Additional information ecological report-Test of Significance.

### 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 4).

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.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

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

Six (6) written submissions were received following public exhibition of the application on two(2) occasions. 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
Potential noise created by practice wall and use of the tennis court.	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.
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>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>
Dense landscaping should be provided to screen the court from surrounding occupied premises.	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.

Glare from lighting affecting residents, risk lights left on all night, impact on native wildlife.	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. An ecological report has been prepared by Wolfpeak and reviewed by Council's ecologist. It is considered on balance that the lighting is acceptable and that the installation of hoods, intermittent use likely and the limitations on the hours of illumination will have limited impacts on the surrounding fauna located in the surrounding area.
Not aware that secondary dwelling creates two addresses. Misunderstanding that granny flat and secondary dwelling are different types of building.	There are 2 addresses allocated automatically under Council's GIS system. It does not alter the nature of the development or the permissible use.
Risk to Aboriginal Heritage	A search has been conducted of the AHIMS site and no items identified at 50m buffer. A further search identifies 2 are located within the 200m buffer. It is not anticipated that the provision of ancillary lighting will impact on any identified items or places. This matter is further addressed in the report.

**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.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

- 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 any known heritage items or sites of significance. The site is also disturbed from past activities/works on-site. An AHIMS has been conducted. No recorded items are located on the site or within the 50m buffer. 2 items have been identified within the 200m buffer. It is not anticipated the controlled/conditioned lighting will impact unduly on any heritage items within the locality.

### (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 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.

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

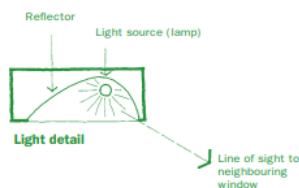
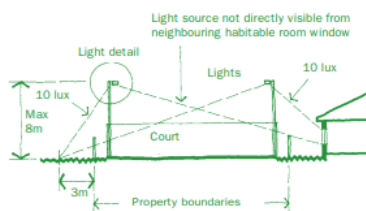
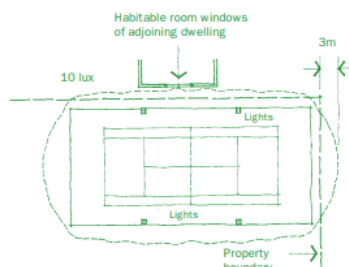
To prevent excessive light spillage and other effects from detrimentally affecting the amenity of dwellings on adjoining properties.

#### 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.

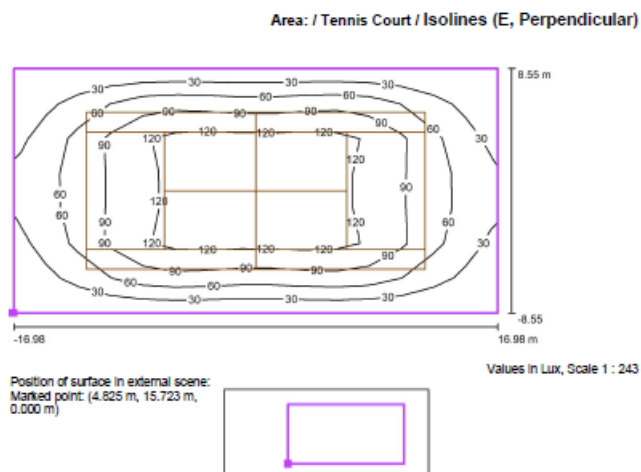
The applicant has also clarified the type of lighting proposed and have submitted a report to address potential light overspill to neighbouring properties.

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.

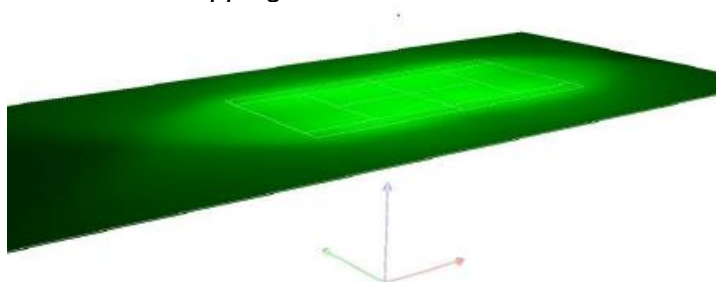
## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024



*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

## AGENDA

### DEVELOPMENT ASSESSMENT PANEL

17/07/2024

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.

There has been some concern raised that the proposed lighting installation may impact on potential threatened species that may use the vegetation and habitat within the adjoining lands. The applicant was requested to provide an ecological report at the previous Development Assessment Panel meeting. The applicant has provided an ecological impact assessment report (Attachment 5), prepared by Wolfpeak, dated 30 May 2024.

The report includes a threatened species test of significance to assess if the proposal will result in a significant impact to threatened species that may utilize the adjacent vegetation. The ecological assessment provided indicates that several threatened fauna species may use the adjacent vegetation on Lot: 661 DP720856 that is zoned C2.

The proposed lighting is within approximately 33m from a mapped coastal wetlands to the east and 68m to the south of the site.

The vegetation within this location directly adjacent to also mapped as Plant Community Type 4004 as shown in Figure 6. This vegetation is within 10m of the proposed lighting to the east.

It is however recognized that the tennis courts are existing development as such existing use rights would apply and at the time of that development the PCT mapping

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

was not available and Councils vegetation mapping did not map that location as a TEC.

The report acknowledges that artificial light can adversely affect many species by impacting foraging, reproduction, hunting and communication behaviours. Lighting is becoming considered increasingly more of an issue as urban sprawl begins to impinge upon habitat for many threatened species.

The site has been, for a number of decades, utilised for farmland use and as a residentially zoned subdivision. Existing residential lighting (for dwellings, landscaping, way finding and recreation) together with passing traffic, contributes to existing edge lighting impacts. Studies recommend that light shielding and direction of lights downwards (together with limiting operation of lights) can make a significant difference to reduce the impact on many species in a residential setting.

Council's ecologist has reviewed the submitted ecological report and it is considered on balance that, subject to compliance with the recommendations and implementation of the restricted hours of use and light hoods, that the impacts will not result in a significant impact on threatened species or ecological communities.

### 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 and use and hours of operation.

### Heritage

An issue has been brought to Council's attention that there was an oversight in the original report in relation to an AHIMS search. For completeness a search has been conducted that identifies that no items are listed in the 50m search radius. Further to feedback from the Local Land Council in response to notification, a broader search to 200m has been conducted and 2 items are identified. It is considered no further assessment would have been considered necessary given the works were located wholly upon the previously disturbed subject site which falls internally in from the property boundary and were of an ancillary nature.

It is also noted at the time of lodgement of the original proposal the application was notified to the adjoining land owners. No submissions or concerns were received by Council from any adjoining owners, including the Local Aboriginal Land Council.

The subject lighting is considered ancillary to the approved tennis court and would be unlikely to have any additional impacts on any known heritage site.

### 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

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL

17/07/2024

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.

## AGENDA

## DEVELOPMENT ASSESSMENT PANEL 17/07/2024

### Attachments

1.   Attachment 1 - Draft Conditions
2.   Attachment 2 - Current Consent for DA2019 - 917.1
3.   Attachment 3 - Plans
4.   Attachment 4 - Section 4.55 Supporting Information
5.   Attachment 5 - Updated Ecological Assessment for Tennis Court Lighting v3

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2019/917****DATE: 19/06/2024****PRESCRIBED CONDITIONS**

The development is to be undertaken in accordance with the prescribed conditions of Part 4 - Division 2 of the *Environmental Planning & Assessment Regulations* 2021.

**A – GENERAL MATTERS**

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

Plan / Supporting Document	Reference	Prepared by	Date
SOEE		Craig Maltman	22/11/2019
Architectural Plans and Specifications	Proj. 1115SYL	Draftworx Designs	8/1/2020
BASIX	A364601 1061500S	Craig Maltman	22 November 2019
Bushfire Report/BAL Certificate		Krisann Johnson	5 November 2019
Ecological Report		Wolfpeak	May 2024

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:

- a) the appointment of a Principal Certifying Authority and
- b) the date on which work will commence.

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

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

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

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

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B195) The existing sewer manhole lid shall be raised to be made compliant with Council's Auspec Specifications - Standard Drawing ASD504.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

  - i. Footway and gutter crossing
  - ii. Functional vehicular access
- (4) (B046) The building shall be designed and constructed so as to comply with the Bushfire Attack Level requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of the current Planning for Bush Fire Protection Guidelines to prevail in the extent of any inconsistency with the Building Code of Australia.
- (5) (B003) Submission to the Principal Certifying Authority prior to the issue of a Subdivision Works Certificate or Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:

1. Sewerage reticulation.
- (6) Design specifications of the tennis court, including drainage, are to be provided with the application for the construction certificate. The court shall be designed as to not concentrate stormwater flows or discharge to adjoining properties.

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

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

**D – DURING CONSTRUCTION**

- (1) (D015) The swimming pool shall not to be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.
- (2) (D016) Where depth of water in the pool exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.
- (3) (D017) In accordance with the Swimming Pool Regulation a sign is to be erected and maintained that:
  - (a) Bears a notice containing the words “This swimming pool is not to be occupied or used”, and
  - (b) Is located in a prominent position in the immediate vicinity of that swimming pool, and
  - (c) Continues to be erected and maintained until an Occupation Certificate has been issued for the pool.
- (4) (D000) Any excess fill is to be disposed of at an approved location or taken to an approved waste management facility.
- (5) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.

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

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.

- (4) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (5) (E020) The provision of a suitable sign containing the details required by the current Swimming Pools Act and Regulations.
- (6) (E021) The pool is to be fenced in accordance with the Swimming Pools Act, 1992.
- (7) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation certificate.
- (8) Two semi mature *Eucalyptus pilularis* (Blackbutt) are identified for removal. Approval is granted subject to replacement offset planting on site of 4 Koala Food Trees (minimum 75 litre stock) prior to issue of the occupation certificate.
- (9) Three (3) hedge type screening plantings (Lilli Pilli or similar with a minimum mature height of 4m) are to be planted and maintained adjoining the western boundary as marked on the approved site plan.<sup>1</sup>

#### F – OCCUPATION OF THE SITE

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F027) The swimming pool filtration motor shall be operated between the following hours only:  
Monday to Friday (other than a public holiday)  
7.00 am – 8.00 pm  
Saturday to Sunday and Public Holidays  
8.00 am – 8.00 pm  
Should noise levels exceed 5dBA above the ambient noise level measured at the boundary, the pool filtration motor shall be enclosed with an effective soundproof unit.
- (3) (F035) The consent only permits the use of the main building as a single dwelling and does not permit the adaption or use of the building so as to create a second occupancy.
- (4) The secondary dwelling is confined to the upper level above the existing garage associated with the primary dwelling.
- (5) The tennis court is not to be used for commercial purposes.
- (6) Offensive noise shall not be generated as a result of the operation of the development.
- (7) Any court lighting shall not cause overspill of light (or be directed into) adjoining properties. Suitable light hoods are to be provided 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.<sup>1</sup>
- (8) Hours of operation of the tennis court is restricted to the following hours:  
8.00 am to 10.00 pm – Mondays to Sundays

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



ABN 11 236 901 601



Our ref: 2019/917  
PN: 12488

Draftworx Designs  
4 Tallong Drive  
LAKE CATHIE NSW 2445

Dear Sir/Madam

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

<b>Subject Development</b>	Alterations and Additions to Dwelling, Construction of Secondary Dwelling, Tennis Court and Swimming Pool
<b>Property Description</b>	LOT: 12 DP: 707776, 12 Links Crescent PORT MACQUARIE
<b>Applicant</b>	Draftworx Designs

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

**Approvals under the Local Government Act, 1993**

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

**Notes to this consent**

1. The date of determination is 6 February 2020.
2. The date from which this consent operates is 6 February 2020 and will lapse unless building, engineering or construction work or a use related to this consent is physically commenced within five (5) years of this date.
3. The period for which this consent can operate may be limited by conditions of this consent.

Yours sincerely

F Tierney  
Development Assessment Planner

**pmhc.nsw.gov.au**

PORT MACQUARIE OFFICE

WAUCHOPE OFFICE

LAURIETON OFFICE

Port Macquarie-Hastings Council  
Development Consent - Development Application 010.2019.00000917.001  
Alterations and Additions to Dwelling, Construction of Secondary Dwelling, Tennis Court and Swimming Pool

Page 2 of 6

## SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2019/917 are as follows:

### PRESCRIBED CONDITIONS

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

### A – GENERAL MATTERS

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

Plan / Supporting Document	Reference	Prepared by	Date
SOEE		Craig Maltman	22/11/2019
Architectural Plans and Specifications	Proj. 1115SYL	Draftworx Designs	8/1/2020
BASIX	A364601 1061500S	Craig Maltman	22 November 2019
Bushfire Report/BAL Certificate		Krisann Johnson	5 Novemebr 2019

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:

- the appointment of a Principal Certifying Authority and
- the date on which work will commence.

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

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

Page 2 of 6

Port Macquarie-Hastings Council  
Development Consent - Development Application 010.2019.00000917.001  
Alterations and Additions to Dwelling, Construction of Secondary Dwelling, Tennis Court and Swimming Pool

Page 3 of 6

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

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

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
  - Proposed water meter location
- (2) (B195) The existing sewer manhole lid shall be raised to be made compliant with Council's Auspec Specifications - Standard Drawing ASD504.
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.  
Such works include, but not be limited to:
  - i. Footway and gutter crossing
  - ii. Functional vehicular access
- (4) (B046) The building shall be designed and constructed so as to comply with the Bushfire Attack Level requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.  
Please note: Compliance with the requirements of the current Planning for Bush Fire Protection Guidelines to prevail in the extent of any inconsistency with the Building Code of Australia.
- (5) (B003) Submission to the Principal Certifying Authority prior to the issue of a Subdivision Works Certificate or Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:

Page 3 of 6

Port Macquarie-Hastings Council  
Development Consent - Development Application 010.2019.00000917.001  
Alterations and Additions to Dwelling, Construction of Secondary Dwelling, Tennis Court and Swimming Pool

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Page 4 of 6

1. Sewerage reticulation.
- (6) Design specifications of the tennis court, including drainage, are to be provided with the application for the construction certificate. The court shall be designed as to not concentrate stormwater flows or discharge to adjoining properties.

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

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

**D – DURING CONSTRUCTION**

- (1) (D015) The swimming pool shall not to be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.
- (2) (D016) Where depth of water in the pool exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.
- (3) (D017) In accordance with the Swimming Pool Regulation a sign is to be erected and maintained that:
  - (a) Bears a notice containing the words “This swimming pool is not to be occupied or used”, and
  - (b) Is located in a prominent position in the immediate vicinity of that swimming pool, and
  - (c) Continues to be erected and maintained until an Occupation Certificate has been issued for the pool.
- (4) (D000) Any excess fill is to be disposed of at an approved location or taken to an approved waste management facility.
- (5) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.

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

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.

Page 4 of 6

Port Macquarie-Hastings Council  
Development Consent - Development Application 010.2019.00000917.001  
Alterations and Additions to Dwelling, Construction of Secondary Dwelling, Tennis Court and Swimming Pool

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Page 5 of 6

- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (4) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (5) (E020) The provision of a suitable sign containing the details required by the current Swimming Pools Act and Regulations.
- (6) (E021) The pool is to be fenced in accordance with the Swimming Pools Act, 1992.
- (7) (E056) A Certificate of Compliance under the provisions of Section 307 of the *Water Management Act* must be obtained prior to the issue of any occupation certificate.
- (8) Two semi mature *Eucalyptus pilularis* (Blackbutt) are identified for removal. Approval is granted subject to replacement offset planting on site of 4 Koala Food Trees (minimum 75 litre stock) prior to issue of the occupation certificate.

#### F – OCCUPATION OF THE SITE

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F027) The swimming pool filtration motor shall be operated between the following hours only:  
Monday to Friday (other than a public holiday)  
7.00 am – 8.00 pm  
Saturday to Sunday and Public Holidays  
8.00 am – 8.00 pm  
Should noise levels exceed 5dBA above the ambient noise level measured at the boundary, the pool filtration motor shall be enclosed with an effective soundproof unit.
- (3) (F035) The consent only permits the use of the main building as a single dwelling and does not permit the adaption or use of the building so as to create a second occupancy.
- (4) The secondary dwelling is confined to the upper level above the existing garage associated with the primary dwelling.
- (5) The tennis court is not to be used for commercial purposes.
- (6) Offensive noise shall not be generated as a result of the operation of the development.
- (7) Any court lighting shall not cause overspill of light (or be directed into) adjoining properties. Suitable light hoods are to be provided where necessary to ensure no nuisance is created and are to be in operation only whilst the court is in use.
- (8) Hours of operation of the tennis court is restricted to the following hours:  
8.00 am to 10.00 pm – Mondays to Sundays

Page 5 of 6

Port Macquarie-Hastings Council  
Development Consent - Development Application 010.2019.00000917.001  
Alterations and Additions to Dwelling, Construction of Secondary Dwelling, Tennis Court and  
Swimming Pool

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Page 6 of 6

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

#### **Rights of Appeal**

If you are dissatisfied with this decision:

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

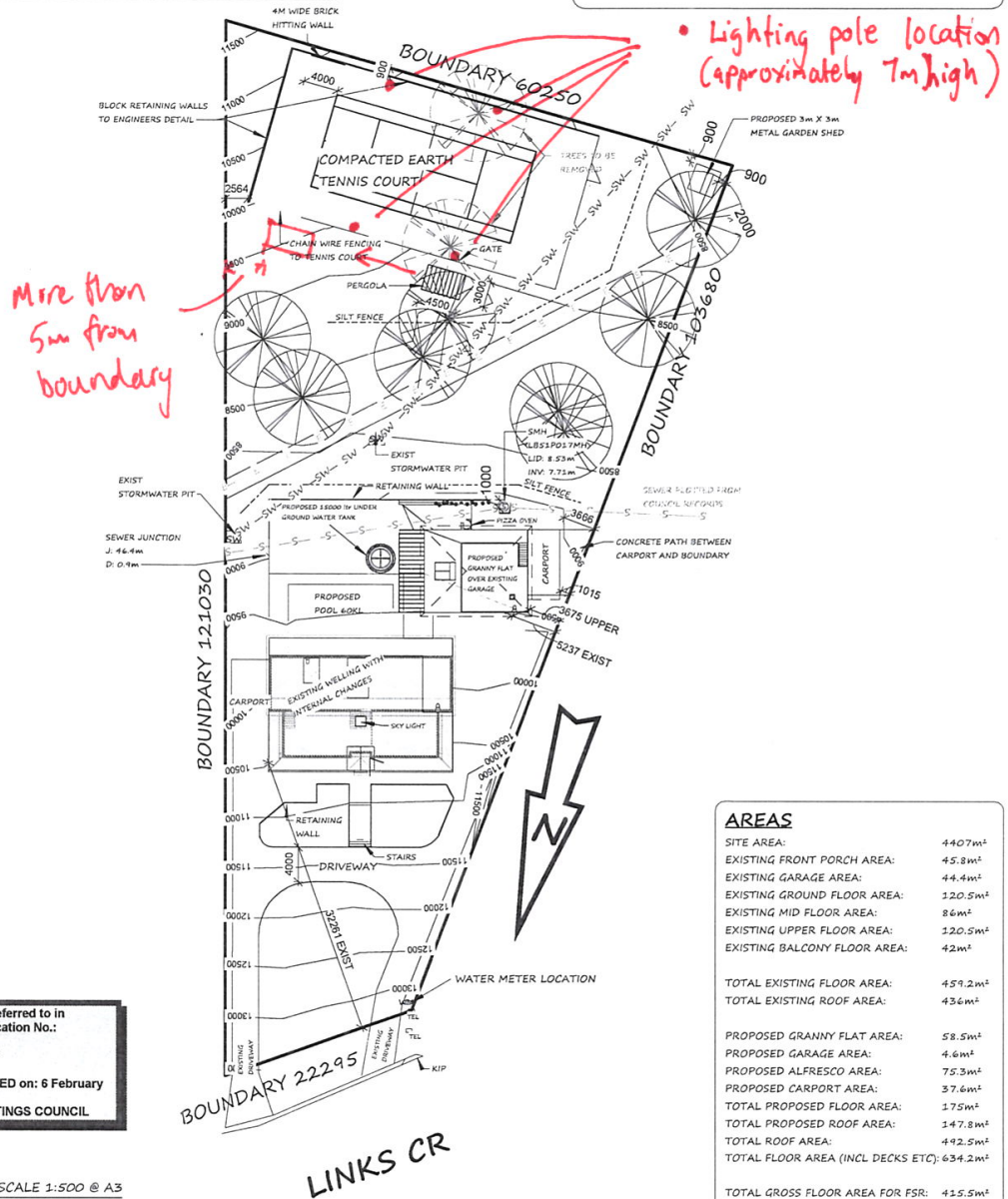
Yours sincerely



F Tierney  
Development Assessment Planner

BAL (BUSHFIRE ATTACK LEVEL)-12.5 MAIN DWELLING AND 19 FOR GRANNY FLAT REFER TO THE BUSHFIRE REPORT FOR DETAILS

CONTOURS COMPLETED BY COASTAL SURVEY SOLUTIONS. CONTOURS TO BE CHECKED PRIOR TO THE START OF CONSTRUCTION



These are the plans referred to in Development Application No.:  
2019 - 917  
and determined as APPROVED on: 6 February 2020  
PORT MACQUARIE-HASTINGS COUNCIL

SITE PLAN SCALE 1:500 @ A3

#### AREAS

SITE AREA:	4407m <sup>2</sup>
EXISTING FRONT PORCH AREA:	45.8m <sup>2</sup>
EXISTING GARAGE AREA:	44.4m <sup>2</sup>
EXISTING GROUND FLOOR AREA:	120.5m <sup>2</sup>
EXISTING MID FLOOR AREA:	86m <sup>2</sup>
EXISTING UPPER FLOOR AREA:	120.5m <sup>2</sup>
EXISTING BALCONY FLOOR AREA:	42m <sup>2</sup>
TOTAL EXISTING FLOOR AREA:	459.2m <sup>2</sup>
TOTAL EXISTING ROOF AREA:	436m <sup>2</sup>
PROPOSED GRANNY FLAT AREA:	58.5m <sup>2</sup>
PROPOSED GARAGE AREA:	46m <sup>2</sup>
PROPOSED ALFRESCO AREA:	75.3m <sup>2</sup>
PROPOSED CARPORT AREA:	37.6m <sup>2</sup>
TOTAL PROPOSED FLOOR AREA:	175m <sup>2</sup>
TOTAL PROPOSED ROOF AREA:	147.8m <sup>2</sup>
TOTAL ROOF AREA:	492.5m <sup>2</sup>
TOTAL FLOOR AREA (INCL DECKS ETC):	634.2m <sup>2</sup>
TOTAL GROSS FLOOR AREA FOR FSR:	415.5m <sup>2</sup>
FLOOR SPACE RATIO (FSR):	10%

#### ATTENTION:

CHECK PLANS AND MEASUREMENTS ON SITE BEFORE STARTING  
A SURVEYOR HAS NOT BEEN USED FOR THESE RLs AND CONTOURS.  
CHECK BASIC CERTIFICATE FOR ACCURATE PROJECT REQUIREMENTS.  
BUSHFIRE AFFECTED SITES TO COMPLY WITH AS: 3459  
CHECK BUSHFIRE NOTES FOR GAS BOTTLE LOCATION REQUIREMENTS.  
REFER TO ENGINEERS DETAIL FOR ALLEXCAVATIONS, REINFORCED CONCRETE STRUCTURAL SUPPORTS AND BRACING.

ALL WORKS TO COMPLY WITH BCA (Building code of Australia), RELEVANT AUSTRALIAN STANDARDS AND ALL DA (DEVELOPMENT APPLICATION) AND CC (CONSTRUCTION CERTIFICATE) GUIDELINES.

ALL SANITARY PLUMBING AND DRAINAGE TO AS: 3500.  
TIMBER FRAMING TO AS: 3684.  
WATERPROOFING TO AS: 3740.  
MECHANICAL VENTILATION IN WET AREAS TO AS: 1668  
SMOKE DETECTORS AS: 3786.  
TERMITE PROTECTION AS: 3660.1.  
GLASS IN BUILDINGS AS: 1288 AND AS: 2047  
SHEET ROOFING & WALL CLADDING AS: 1562.1  
TILE ROOFING AS: 2049 AND AS: 2050.  
SWIMMING POOL FENCING AS: 1926.1 - 2012

#### SITE INFORMATION

ELE	ELECTRICITY	KIP	KERB INLET PIT
NBN	NBN	WM	RECYCLED WATER
T	EXTERNAL TAP	WM	WATER MAIN
DP	DOWN PIPE	S	SILT FENCING
WM	WATER METRE	S	SEWER LINE
S	SEWER MANHOLE	SW-SW-SW	STORMWATER LINE
SW	STORMWATER DRAIN	SW	RAINWATER FLOW
SA	SMOKE ALARM	L	LINE OF CUT
H	HYDRANT	D	DRAINAGE EASMENT

CLIENT: S RITCHIE & C SYLOW

LOT: 12

DP: 707776

# 12

LINKS CR, PORT MACQUARIE, NSW

SCALE: As indicated

SITE PLAN

PROJECT No:  
11155YL

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2 OF 15

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PORT MACQUARIE-HASTINGS  
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# Modification of Development Consent (Section 4.55)

## Supporting Information

**NOTE:** It is a requirement that this form is submitted with all modification applications under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Please complete this supporting information document, and include this with your application documents when submitting your modification application via the Planning Portal.

Council cannot accept modification applications that relate to building works that have been finalised through the issue of an Occupation certificate.

### Privacy

The personal information that Council is collecting from you on this application is personal information for the purposes of the Privacy and Personal Information Protection Act, 1998 (PPIPA). Council will use the information and materials provided for notification and advertising purposes, and materials provided with this development proposal will be made available to the public for inspection and copying at Council's Customer Service Centre's and on the website at: [www.pmhc.nsw.gov.au/applicationtracker](http://www.pmhc.nsw.gov.au/applicationtracker).

### Copyright

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If you do copy, reproduce, republish, upload to a third party, transmit or distribute in any way plans, building specifications or other documents subject to copyright, contrary to the provisions of the Copyright Act 1968 (Cth) you will be taken to have indemnified Port Macquarie-Hastings Council against any claim or action in respect to breach of copyright.

1. PLANNING PORTAL APPLICATION INFORMATION

Please provide the planning portal application reference number and Council Development Application Reference number:

PAN-395394, PAN-395395, DA 2019/917

2. PLEASE CONFIRM THE PROPERTY DETAILS FOR THE PROPOSED DEVELOPMENT

Lot:	12	DP/SP:	DP 707776	Section:	
Property Address		12 Links Crescent, Port Macquarie, NSW, 2444			

DP = Deposited Plan  
SP = Strata Plan

3. PLEASE PROVIDE JUSTIFICATION FOR THE TYPE OF MODIFICATION APPLICATION THAT HAS BEEN REQUESTED VIA THE PLANNING PORTAL (APPLICATION NUMBER REFERENCED ABOVE)

To add lights to the tennis court and move pergola slightly from location drawn on plans

**NOTE:** It is a requirement that all proposed modifications are clearly indicated on the plans (E.g. highlighted or overlayed).

Do the modifications relate to works that have been commenced or completed?

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
An application for a Building Information Certificate may also be required.  We recommend that you contact Council's Duty Planner prior to submitting your modification application.	

#### 4. SUBSTANTIALLY THE SAME TEST

Section 4.55 of the Environmental Planning and Assessment Act 1979 states that the consent authority must be satisfied that the development to which the consent as modified relates, is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).

Will the modifications result in substantially the same development as approved?

***If you answered no, Council cannot accept your application as a modification and a new development application is required. If you are unsure, you should discuss your proposal with the Duty Planner before lodging your modification application.***

If yes, please describe, using dot points what the proposed changes are:

- To add lights to the tennis court
- To move pergola slightly Eastward (approximately 10m) from location drawn on plans to accommodate location of existing landscape. Size unchanged.

#### 5. BASIX

A new BASIX certificate must be submitted if the current BASIX certificate is no longer consistent with the proposed development.

Please include an amended BASIX certificate with the application submitted in the planning portal?

Comments

N/A

#### 6. BUSHFIRE

An amended Bushfire Risk Assessment must be submitted if the current Bushfire Risk Assessment is no longer consistent with the proposed development.

Please include an amended bushfire risk assessment with the application submitted in the planning portal.

Comments

N/A

#### 7. OTHER INFORMATION REQUIREMENTS

- If a Construction Certificate has already been issued, you will be required to modify your construction certificate also.
- An amended Statement of Environmental Effects or other specialist reports, such as Flora Fauna, Noise or Wastewater, may also be required.
- If you proposed any variations to development controls, other than those previously approved, you will be required to submit a written justification demonstrating that the proposal will meet the objectives of the DCP.
- Prior to submitting your modification application, please ensure you consider the requirements of Clause 115 of the *Environmental Planning and Assessment Regulation 2000*



# ECOLOGICAL ASSESSMENT FOR PROPOSED TENNIS COURT LIGHTING

12 LINKS CRESCENT, PORT MACQUARIE

MAY 2024

[wolfpeak.com.au](http://wolfpeak.com.au)



## Document Details

Property	Details
Report Name	Ecological Assessment for Tennis Court Lighting - 12 Links Crescent v3
Project No.	1065
Prepared for	Cicely Sylow
Prepared by	WolfPeak Pty Ltd T: 1800 979 716 W: <a href="http://www.wolfpeak.com.au">www.wolfpeak.com.au</a>

## Revision History

Revision	Date	Details
1	02/04/2024	Draft Report
2	08/04/2024	Final Report
3	30/05/2024	Report amended - address Council comments

## Authorisation

Author name	Iris Bleach	Author name	Leonie Stevenson
Author position	Ecologist	Review position	Senior Ecologist
Author signature		Reviewer/approver signature	
Date	08/04/2024	Date	30/05/2024

Reviewer / approver name	Will Steggall
Author position	Practice Lead - Biodiversity
Author signature	
Date	30/05/2024

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CONTENTS

1. Background ..... 3

1.1 Site Description ..... 3

1.2 Proposed Lighting..... 3

2. Methods..... 6

2.1 Desktop Study and Literature Review ..... 6

2.2 Habitat Suitability Assessments ..... 6

3. Ecological Attributes of the Site..... 7

4. Impact of Proposed Lighting ..... 10

4.1 Impact of Tennis Court Lighting ..... 10

5. Statutory Assessments..... 13

5.1 Biodiversity Conservation Act 2016 ..... 13

5.1.1 Assessment Pathways..... 13

5.1.2 Assessment Pathway Determination..... 13

5.1.3 Test of Significance ..... 14

5.2 SEPP (Resilience and Hazards) ..... 20

5.3 PMHC DCP Assessment ..... 22

5.3.1 Environmental Management Areas and Buffers ..... 22

5.3.2 Tree Management - Private Land and Hollow-bearing Trees ..... 22

6. Recommendations ..... 23

6.1.1 Light hoods..... 23

6.1.2 Restriction of light usage..... 23

7. Conclusion..... 24

Limitations..... 25

References ..... 26



## 1. BACKGROUND

The proposal is for the installation of tennis court lighting to an existing private tennis court at 12 Links Crescent, Port Macquarie.

A modification for the original Development Application (DA) has been submitted to incorporate the installation of tennis court lighting (DA2019-917.2). Determination has been deferred until an ecological assessment has been undertaken to determine the ecological impacts of the proposed lighting. A lighting plan has been prepared that details the light intensity and spill from the proposed lighting (Ritchie 2024).

### 1.1 Site Description

The subject site comprises 12 Links Crescent, Port Macquarie, formally described as Lot 12 DP707776. The subject site and adjoining land to the east, west and north are zoned R2 Low Density Residential, and land to the south of the property is zoned C2 Environmental Conservation (Figure 1). Lot 661 DP720856 directly adjoining the southern boundary of the subject site forms part of Christmas Bell Plains, which is owned and managed by the Birpai Local Aboriginal Land Council.

The tennis court is located at the southern end of the subject site, approximately 15m from the western boundary, 2.6m from the southern boundary and 7m from the eastern boundary. Aerial imagery shows vegetation directly surrounding most of the tennis court, with some overhanging tree canopy on the southern side.

### 1.2 Proposed Lighting

Four lights are proposed to be installed on the northern and southern edges of the court fencing (Figure 2). The light pieces will comprise Uneek 200W LED Tennis Lights, which will be installed approximately 7m high and will face inwards (DIALux 2024). Hoods are currently not planned to be fitted.

The terms of usage have been detailed in the conditions of the DA consent approval, which restrict usage of the courts to between 8.00am and 10.00pm. Thus, court lights will not be turned on after 10.00pm. In addition to this time restriction, the tennis court is also not for commercial use, so usage of the court is highly unlikely to occur daily. Court usage will be concurrent with private usages which is much more likely to be infrequent, sporadic use.



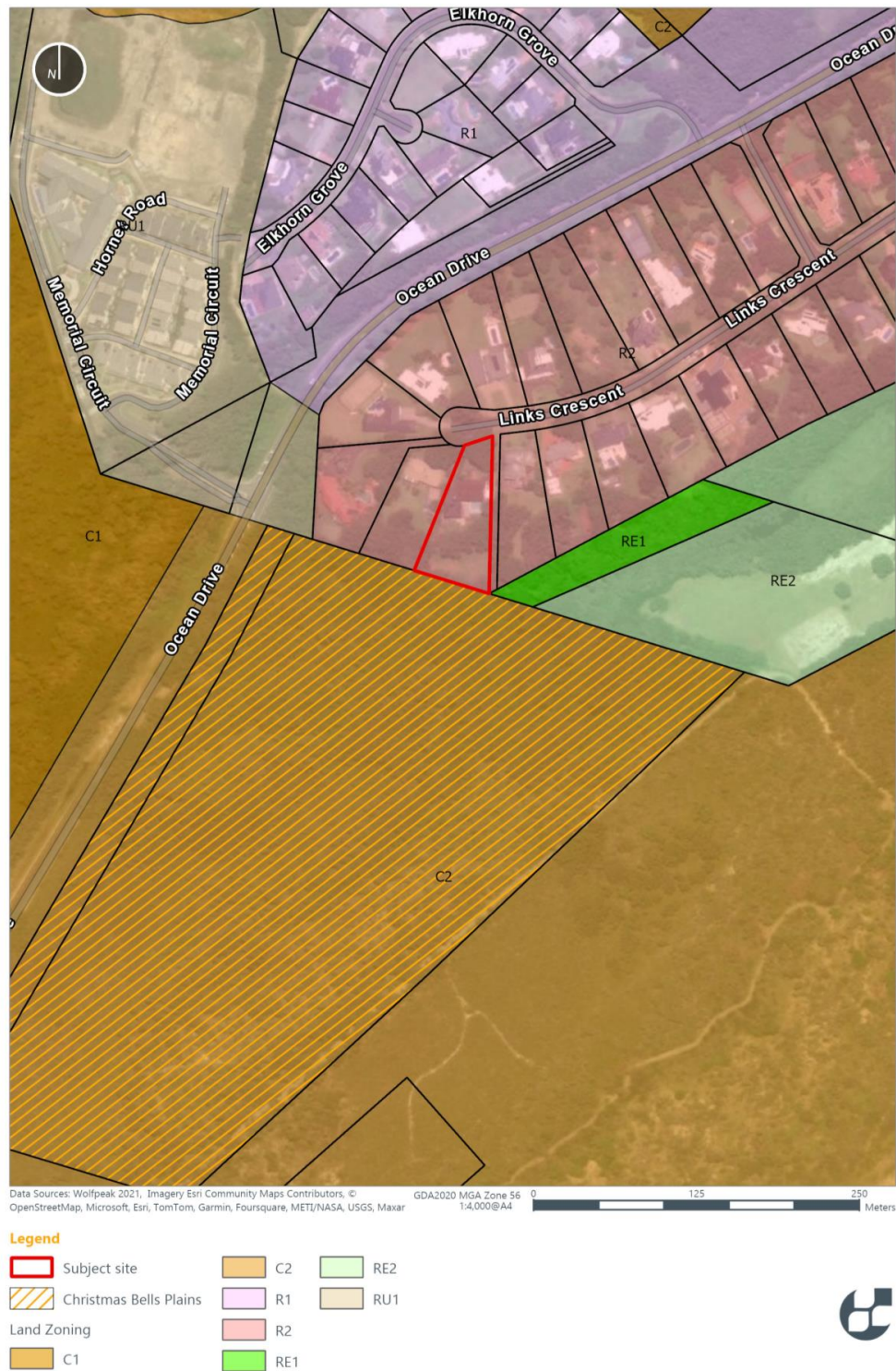


Figure 1: Site locality and zoning





Figure 2: Tennis court lighting layout





## 2. METHODS

### 2.1 Desktop Study and Literature Review

A desktop study was carried out prior to the field survey to gather relevant information and data. The following databases and Geographic Information System (GIS) layers were searched/obtained:

- Department of Planning and Environment - BioNet Atlas (DPE 2024a).
- Department of Planning and Environment - BioNet Vegetation Classification (DPE 2024b).
- Department of Planning and Environment – NSW State Vegetation Type Map (2024c).
- Office of Environment and Heritage – Threatened Biodiversity Profile Search (2024).
- Nearmap imagery (Nearmap 2024).

### 2.2 Habitat Suitability Assessments

A site visit was conducted by a WolfPeak Senior Ecologist on the 28<sup>th</sup> of May 2024. This field survey aimed to identify any key fauna habitat within proximity to the tennis court (i.e. hollow-bearing trees with an aspect facing towards the proposed lighting); as well as identify any secondary evidence of fauna habitat (i.e. nests, dreys, glider sap incisions) within close proximity to the tennis court.





### 3. ECOLOGICAL ATTRIBUTES OF THE SITE

The subject site and adjoining vegetation offer potential habitat for a variety of fauna species.

The subject site is partially vegetated. New South Wales (NSW) State Vegetation Type Mapping (SVTM) maps two Plant Community Types (PCTs) on site, comprising Coastal Sands Apple-Blackbutt Forest (PCT 3544) and Northern *Melaleuca quinquenervia* Swamp Forest (PCT 4004) (Figure 3).

The field inspection identified that vegetation within the subject site was largely modified to contain the occasional canopy tree and managed lawn (Photo 1). Neighbouring properties to the east and west contained a similar vegetative structure, however, the property adjoining to the south is densely vegetated with remnant vegetation (Photo 2). Numerous large remnant trees occur within this neighbouring property, multiple of which contain tree hollows that face the tennis court. Hollows facing the tennis court ranged in size from small hollows that are only likely to be suitable for microbat species to medium sized hollows that could provide habitat for medium arboreal fauna such as the Common Brushtail Possum (*Trichosurus vulpecula*). All tree hollows facing the tennis court that were noted during the field survey, occur greater than ten metres from the proposed new light source.

An ecological survey conducted on Christmas Bells Plains (JB Enviro 2023) to the south of the subject site detected numerous threatened species, including Eastern Chestnut Mouse, Squirrel Glider, Koala, Powerful Owl, Wallum Froglet and Grey-headed Flying-fox. Several Squirrel Gliders were recorded close to the southern boundary of the subject site. The survey determined that habitats on Christmas Bell Plains may also support other threatened species such as microbats, Little Lorikeet, Swift Parrot, Spotted-tailed Quoll and Common Planigale. Habitat features within this area include large Bloodwoods and Blackbutts, paperbark wetland, sedgeland and rainforest.

A search of BioNet Atlas (DPE 2024a) shows numerous Koala records along Links Crescent and Ocean Drive. Koala records also occur within many of the properties along Links Crescent.

The vegetated portion of the subject site may potentially attract a variety of fauna species. Species most likely to utilise the site would include common bird species, common reptile species, microbats, possums and gliders, small mammals such as Bush Rat and Antechinus, and the Koala. Nocturnal species utilising the site may include forest owls, possums/gliders, microbats and small mammals/rodents, and would likely use the site for a foraging as a small part of their range.

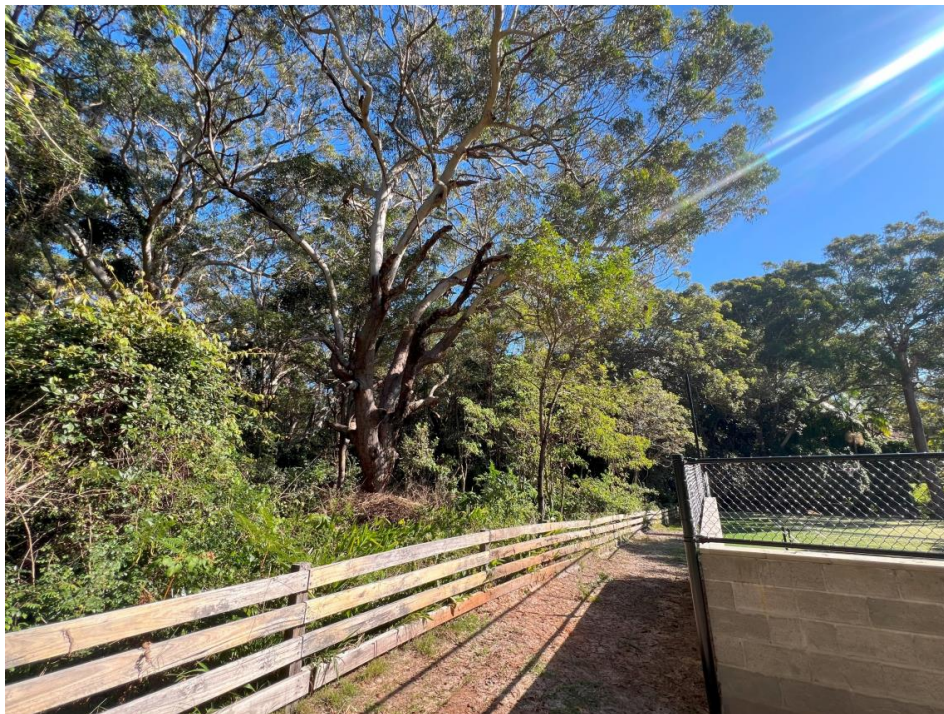




*Photo 1: Existing tennis court within the subject site*



*Photo 2: Remnant vegetation on the neighbouring property to the south of the tennis court*



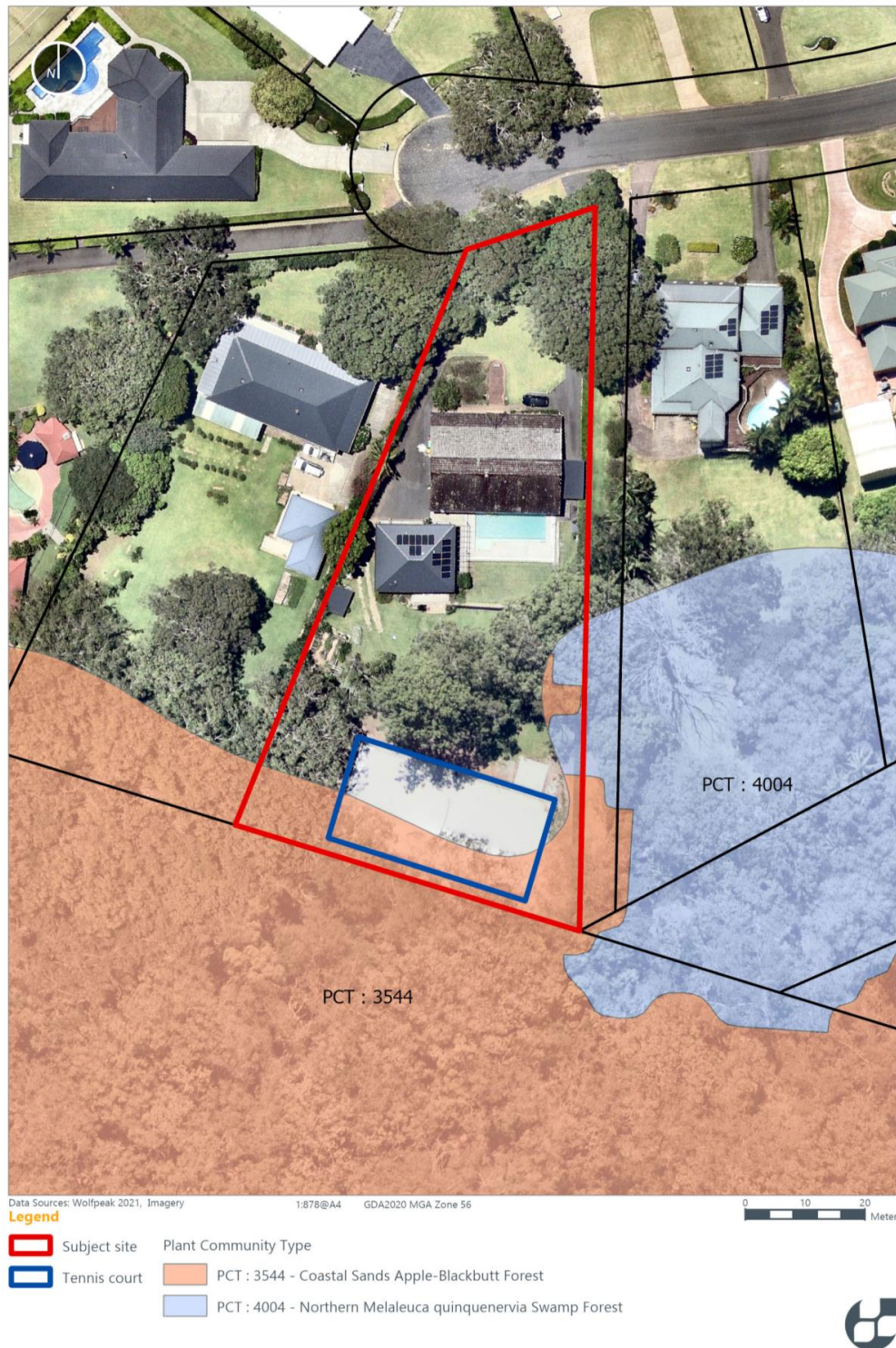


Figure 3: State Vegetation Type Mapping





## 4. IMPACT OF PROPOSED LIGHTING

Artificial light is known to adversely affect many species. Many Australian native species display nocturnal or crepuscular activity patterns (DCCEEW 2024), thus are particularly vulnerable to impacts from artificial lighting. Artificial lighting can affect foraging, reproductive and communication behaviours in nocturnal mammal and bird species (Longcore and Rich 2004; Robert et al. 2015). For example, artificial lighting can discourage foraging in well-lit areas, can increase avoidance behaviour of prey species, and affect the hunting success of predator species (Andrews 1990; Chepesiuk 2009). Light pollution can also lead to habitat fragmentation by disrupting the use of refuge sites, foraging areas and commuting routes by fauna species (DCCEEW 2024). Artificial lighting can also affect the physiology of nocturnal fauna, by disrupting circadian cycles and affecting dark-adapted eyesight (Newport et al. 2014). Conversely, there is a small potential for positive impacts of artificial lighting. For example, lighting at night can result in more abundant or aggregated insect prey which could be exploited by microbat species (Stone et al. 2015). Overall, however, light pollution is becoming an increasing problem for wildlife, and artificial lighting requires management to limit detrimental impacts.

The specific impacts of the proposed tennis court lighting are outlined in the following section.

### 4.1 Impact of Tennis Court Lighting

The proposed tennis court lighting will see an increase in the amount of artificial light present on site, which is in addition to existing dwelling lighting. The lighting design, limited intensity, and low usage, however, means this increase will be minimal. The lights will face inwards, thus largely restricting light spill to the court itself. As illustrated in the lighting plan (DIALux 2024), minimal light will extend beyond the court fencing, grading from 43 lumens at the fence (maximum) to 0.13 lumens at the western boundary (3 metres beyond), to 2.53 lumens at the eastern boundary (3 metres beyond) and to 14 lumens at the southern boundary (Figure 4). The light pieces proposed are 200W which will achieve a maximum of 145 lumens in the centre of the court, a relatively low intensity.

The tennis court will be used for private, residential use only. Thus, usage is likely to be infrequent and sporadic. This is likely to result in the use of lighting only occasionally and not systematically each night. With the variances of natural daylight hours, lighting use is also considered likely to be more frequent during the winter months.

The marginal increase in lighting proposed may pose a deterrence of use of the site habitats by nocturnal fauna, when lighting is in use. Given lighting already exists from the dwelling and neighbouring properties, this will not introduce a new anthropogenic impact to the site. Species most likely affected would include microbats, owls, gliders and small terrestrial mammals. The site would likely only provide marginal foraging habitat, given it comprises a disturbed forest edge within a residential lot. Fauna would mostly likely rely on the adjoining C2 land to meet foraging requirements.

Residual light spill into Christmas Bells Plains to the south of the site may temporarily limit foraging in that area, when the lighting is in use. If any tree hollows occur along the edge of this habitat and faces the courts, this could discourage refuge emergence of hollow-obligate fauna. Given the infrequency of use and that usage will be restricted to the early evenings only, this potential impact would only form a minor, temporary disturbance. Furthermore, this potential impact can be reduced





with the extent of light spill able to be significantly reduced with the use of light hoods. The use of light hoods has been recommended.





Figure 4: Extent of lumens from proposed lighting within tennis court fencing





## 5. STATUTORY ASSESSMENTS

### 5.1 Biodiversity Conservation Act 2016

#### 5.1.1 Assessment Pathways

Under the *NSW Biodiversity Conservation Act 2016* and *Biodiversity Conservation Regulation 2017*, Part 4 developments under the *Environmental Planning & Assessment Act 1979* (other than State Significant Development) are assessed to determine if they trigger the Biodiversity Offset Scheme (BOS). For developments which trigger the BOS, a Biodiversity Development Assessment Report (BDAR) will be required. This assesses the impact using the Biodiversity Assessment Method and determines the offset obligations required.

There are four triggers to the BOS:

- **Area of Outstanding Biodiversity Value (AOBV)** - Developments which are located in or are likely to impact an AOBV will trigger entry into the BOS.
- **Clearing Threshold** - Section 7.1 of the *Biodiversity Regulation 2017* sets out a clearing threshold based on minimum Lot size.
- **Biodiversity Values Map** - The Biodiversity Values Map provides mapping of areas of high biodiversity value such as riparian zones, critical habitat for threatened species and Core Koala Habitat. Any impact on a mapped area will trigger the BOS.
- **Significant Impact as determined by Test of Significance** - Developments which fall below the clearing threshold and do not impact on sensitive biodiversity values must be assessed under the five-part test of significance. If the test determines that a significant impact is likely, entry into the BOS will be required.

#### 5.1.2 Assessment Pathway Determination

The following table provides an assessment to determine if entry into the BOS is required.

Table 1: Assessment of entry into the BOS

Trigger	Response	Result
Does the development affect an AOBV?	The development site is not located in declared AOBV area, nor are any AOBV located in the locality.	AOBV criteria not triggered
Does the extent of proposed clearing exceed the clearing threshold?	The proposed development modification does not propose any vegetation clearing.	Clearing threshold criteria not triggered.
Does the development affect an area mapped in the NSW Biodiversity Values Map?	The subject site is not mapped on the Biodiversity Values Map.	Biodiversity Values Map criteria not triggered.





Will the proposed development significantly affect a threatened species or community; or their habitats?	Five-part Tests of Significance are further discussed in the following sections. Tests of significance determined that the proposed development is not likely to significantly impact any threatened entity.	Significant impact criteria not triggered.
<b>Result</b>	Entry into the BOS is not required.	

### 5.1.3 Test of Significance

The Test of Significance is prescribed in Part 7, Division 1, Section 7.3 of the *Biodiversity Conservation Act 2016*. The purpose of the Test of Significance is to determine whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.

If it is determined that a development or activity will have a significant effect on an entity, a Biodiversity Development Assessment Report (BDAR) will be required. The Test of Significance has been prepared in consideration of the *Threatened Species Test of Significance Guidelines* (OEH 2018).

#### 5.1.3.1 Entities Assessed

No threatened entities are known to occur within the subject site. Field surveys and desktop assessments have however identified numerous threatened fauna species which have the potential to occur within the general area.

Based on data identified in the lighting plan (DIALux 2024), at a distance of 18 metres from the court boundary, the extent of penetrating light is anticipated to be only 0.13 lumens. As such, it is anticipated that at a distance of 20 metres from the court, there will be nil penetrating light.

The following threatened species are considered to have the potential to occur within this 20-metre area from the court boundary, and are subject to a Test of Significance.

*Table 2: Threatened entities considered to have the potential to occur within 20 metres of the tennis court*

Threatened entity	Listing Status	Justification for inclusion	Likelihood of occurrence
<i>Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions</i>	E	Associated with PCT 4004	Known
Eastern Pygmy-possum <i>Cercartetus nanus</i>	V	Considered likely to occur in Christmas Bells property.	Moderate





Varied Sittella <i>Daphoenositta chrysoptera</i>	V	Considered likely to occur in Christmas Bells property. Bionet also has two records of this in the Christmas Bells property about 57m south of the subject site (2017 and 2019).	High
Spotted-tailed Quoll <i>Dasyurus maculatus</i>	V	Considered likely to occur in Christmas Bells property.	Moderate
Little Lorikeet <i>Glossopsitta pusilla</i>	V	Considered likely to occur in Christmas Bells property.	Moderate
Swift Parrot <i>Lathamus discolor</i>	E	Considered likely to occur in Christmas Bells property.	Fair
Powerful Owl <i>Ninox strenua</i>	V	Recorded in Christmas Bells property during previous survey.	High
Squirrel Glider <i>Petaurus norfolcensis</i>	V	Recorded in previous survey of Christmas Bells property.	High
Koala <i>Phascolarctos cinereus</i>	E	Recorded in previous survey of Christmas Bells property. Wasn't recorded in our study area but was recorded in the same PCT nearby. Has also been recorded along Links Crescent and Ocean Drive (Bionet).	High
Common Planigale <i>Planigale maculata</i>	V	Considered likely to occur in Christmas Bells property.	Fair
Grey-headed Flying-fox <i>Pteropus poliocephalus</i>	V	Recorded in Christmas Bells property during previous survey.	High
Common Blossom-bat <i>Syconycteris australis</i>	V	Considered likely to occur in Christmas Bells property.	Moderate
Various microbat species (i.e. Little and Eastern Bent-wings, East Coastal Freetail Bat, Yellow-bellied Sheath-tail Bat)	-	Considered likely to occur in Christmas Bells property.	Moderate to high
Key: Vulnerable (V), Endangered (E)			

### 5.1.3.2 Responses

- a) In the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,





The proposal is for four lights to be installed on the northern and southern edges of the tennis court fencing. Usage of the lights is likely to be infrequent and sporadic. With the variances of natural daylight hours, lighting use is also considered likely to be more frequent during the winter months.

A range of threatened fauna species are known or are likely to occur in the adjacent forest habitats. There is only very limited habitat within the study area for these species, and all subject species would be reliant on these adjacent habitats beyond the study area for foraging and breeding. The extent of habitat affected by the lighting consists of a few large trees (some of which contained small to medium sized hollows) and undergrowth vegetation. This habitat would only provide a fraction of the foraging habitat requirements for the subject species. The hollow-bearing trees may provide potential denning habitat for the Squirrel Glider, Quoll and roosting/nesting habitat for the Little Lorikeet and microbats.

The proposed lighting could potentially discourage refuge emergence of hollow-obligate fauna when in use. Given the infrequency of use and that usage will be restricted to the early evenings only, this potential impact would only form a minor, temporary disturbance for the hollow-obligate species, if they occur in the study area. Furthermore, this potential impact can be reduced with the use of light hoods. This minor disturbance would be unlikely to affect the life cycle of the hollow-obligate subject species to the extent of placing a population at risk of extinction.

In a general sense, the marginal increase in lighting proposed may pose a deterrence of use of the directly adjoining habitat by nocturnal fauna, when lighting is in use. Given lighting already exists from the dwelling and neighbouring properties, this will not introduce a new anthropogenic impact to the site. Species most likely affected would include microbats, owls, gliders and small terrestrial mammals. The habitats affected would likely only represent disturbed edges of a much larger extent of foraging habitat. Fauna would be reliant on adjoining C2 land to meet foraging and other life cycle requirements.

Lighting has the potential to affect hunting success of predators, however given there would only be minor light spill into the adjoining forest, this is unlikely to have any substantial negative effects on the subject species.

**b) In the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity:**

- (i) Is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or**
- (ii) Is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction.**

The PCT 4004 recorded in the study area is associated with Swamp Sclerophyll Forest TEC. The proposal will not have any direct impacts on this TEC and there are unlikely to be any indirect impacts or edge effects associated with the lighting given their low luminosity and intermittent use.

It is therefore considered that the proposal would not be capable of placing this community at risk of extinction.

**c) In relation to the habitat of a threatened species or ecological community:**

- (i) The extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and**





No habitat will be removed as a result of the proposal. The proposal will only result in the minor indirect impact of increased lighting immediately surrounding the tennis court.

**(ii) Whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and**

The proposal will not fragment or isolate any habitat.

**(iii) The importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality.**

The habitat affected by the artificial lighting only represents the modified edges of a much larger area of forest vegetation. This edge habitat alone is unlikely to be of any key importance to the subject species and would only represent the fringes of their larger home ranges. While it does contain some tree hollows that could be used as breeding habitat, the use of these hollows by the subject species is unlikely to change as a result of the proposal due to the minor amount of light spill and intermittent use.

**d) Whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly),**

The proposed lighting will not directly or indirectly affect an area of outstanding biodiversity value.

**e) Whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.**

A Key Threatening Process (KTP) is defined as a process that threatens, or may have the capability to threaten, the survival or evolutionary development of species, populations or ecological communities. An assessment of KTPs in relation to the development is provided in the table below.

*Table 3: Key Threatening Processes*

Key Threatening Processes	Will Proposal Affect KTP?
Aggressive exclusion of birds from woodland and forest habitat by abundant Noisy Miners <i>Manorina melanocephala</i>	No
Alteration of habitat following subsidence due to longwall mining	No
Alteration to the natural flow regimes of rivers and streams and their floodplains and wetlands	No
Anthropogenic Climate Change	No
Bushrock removal	No
Clearing of native vegetation	No
Competition and grazing by the feral European Rabbit, <i>Oryctolagus cuniculus</i>	No
Competition and habitat degradation by Feral Goats, <i>Capra hircus</i>	No
Competition from feral honeybees, <i>Apis mellifera</i>	No
Death or injury to marine species following capture in shark control programs on ocean beaches	No
Entanglement in or ingestion of anthropogenic debris in marine and estuarine environments	No





Forest eucalypt dieback associated with over-abundant psyllids and Bell Miners	No
Herbivory and environmental degradation caused by feral deer	No
High frequency fire resulting in the disruption of life cycle processes in plants and animals and loss of vegetation structure and composition	No
Importation of Red Imported Fire Ants <i>Solenopsis invicta</i>	No
Infection by <i>Psittacine Circoviral</i> (beak and feather) Disease affecting endangered psittacine species and populations	No
Infection of frogs by amphibian <i>chytrid</i> causing the disease chytridiomycosis	No
Infection of native plants by <i>Phytophthora cinnamomi</i>	No
Introduction and establishment of Exotic Rust Fungi of the order Pucciniales pathogenic on plants of the family Myrtaceae	No
Introduction of the Large Earth Bumblebee <i>Bombus terrestris</i>	No
Invasion and establishment of exotic vines and scramblers	No
Invasion and establishment of Scotch Broom ( <i>Cytisus scoparius</i> )	No
Invasion and establishment of the Cane Toad ( <i>Bufo marinus</i> )	No
Invasion of native plant communities by African Olive <i>Olea europaea</i> subsp. <i>cuspidata</i> .	No
Invasion of native plant communities by <i>Chrysanthemoides monilifera</i>	No
Invasion of native plant communities by exotic perennial grasses	No
Invasion of the Yellow Crazy Ant, <i>Anoplolepis gracilipes</i> into NSW	No
Invasion, establishment and spread of Lantana ( <i>Lantana camara</i> )	No
Loss and degradation of native plant and animal habitat by invasion of escaped garden plants, including aquatic plants	No
Loss of Hollow-bearing Trees	No
Loss or degradation (or both) of sites used for hill-topping by butterflies	No
Predation and hybridisation by Feral Dogs, <i>Canis lupus familiaris</i>	No
Predation by <i>Gambusia holbrooki</i> (Plague Minnow or Mosquito Fish)	No
Predation by the European Red Fox <i>Vulpes vulpes</i>	No
Predation by the Feral Cat <i>Felis catus</i>	No
Predation by the Ship Rat <i>Rattus rattus</i> on Lord Howe Island	No
Predation, habitat degradation, competition and disease transmission by Feral Pigs, <i>Sus scrofa</i>	No

### 5.1.3.3 Conclusions





The Test of Significance has determined that the proposed tennis court lighting would not result in a significant impact on threatened species or ecological communities.





## 5.2 SEPP (Resilience and Hazards)

Chapter 2 of the SEPP (Resilience and Hazards) 2021, which pertains to Coastal Management, and applies to the proposed development. This chapter addresses provisions of the *Coastal Management Act 2016* (CM Act) in relation to the following coastal management areas:

- Coastal wetlands and littoral rainforest areas;
- Coastal vulnerability areas;
- Coastal environment areas; and
- Coastal use areas.

The subject site does not contain any mapped Littoral Rainforest areas, and no mapped Littoral Rainforest areas occur within proximity to the subject site.

Coastal Wetland mapping indicates that the subject site is located in the proximity area to Coastal Wetlands which occur approximately 30 metres east and 70m south of the tennis court.

Figure 5 maps the extent of this Coastal Wetland mapping within the context of the subject site. This mapped proximity area is subject to Section 2.8 development controls under Division 1 of the SEPP which detail (in part) that:

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

It has previously been determined that, due to the strategic direction of the lighting inwards towards the court along with the low luminosity, the proposed tennis court lighting is not anticipated to penetrate further than 20 metres from the tennis court boundary. As such, it is not anticipated that the proposed lighting will pose any direct impact to these mapped wetlands, which occur greater than 30 metres from the tennis court. Furthermore, this report has determined that the intermittent use of the lighting is not considered likely to significantly impact any fauna species that utilise the area, hence, no indirect impacts to the biological integrity of the wetlands are considered likely to result from the proposed lighting.

The subject site is not mapped as a Coastal Environment Area or Coastal Use Area. To date, mapping of Coastal Vulnerability Areas is not publicly available.





Figure 5: Coastal Wetland mapping within the context of the subject site





### 5.3 PMHC DCP Assessment

Under the Port Macquarie-Hastings Council Local Environmental Plan (PMHC LEP) 2011, Council has prepared and implemented the PMHC Development Control Plan (DCP) 2013. The DCP outlines Environmental Management provisions in relation to proposed developments within the LGA. This section addresses the provisions outlined in the following subsections:

- Environmental Management Areas and Buffers
- Tree Management - Private Land
- Tree Management - Hollow-bearing Trees

#### 5.3.1 Environmental Management Areas and Buffers

Environmental Management Areas and Buffers provisions apply to properties larger than one hectare in area. As the subject site is less than one-hectare in area, these provisions do not apply to the proposed development modification.

#### 5.3.2 Tree Management - Private Land and Hollow-bearing Trees

These subsections pertain to the management of vegetation and trees within the subject site. The proposed development modification is for the installation of tennis court lighting only, no vegetation or tree removal is proposed. As such, the proposed modification is considered to comply with the provisions outlined in these subsections of the DCP.





## 6. RECOMMENDATIONS

### 6.1.1 Light hoods

In order to further reduce potential impacts from light spill into adjoining vegetation, it is strongly recommended that light hoods be fitted to the lights. Hoods are effective in shielding excess light spill and ensuring that only the intended area is lit (Figure 6). The incorporation of light hoods into the lighting design would significantly reduce light spill to adjoining C2 land and neighbouring properties.

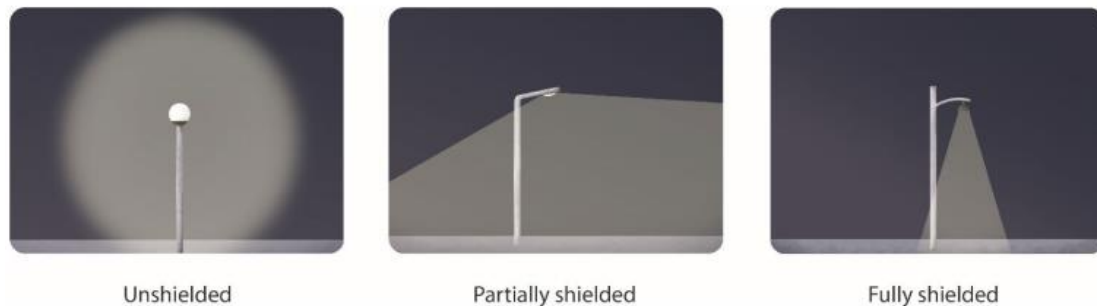


Figure 6: Examples of light shielding (Figure 11 from DCCEEW 2023)

### 6.1.2 Restriction of light usage

Restriction of the tennis court light usage has already been addressed in the DA conditions of consent. These are to be followed to minimise any potential impacts on local fauna and their habitats.





## 7. CONCLUSION

Given that the proposed lighting design largely restricts the luminosity to the court itself and that the lighting will realistically only be used infrequently and be restricted to early evening hours (prior to 10pm), the installation of tennis court lighting at 12 Links Crescent is not considered likely to have a significant ecological impact on local fauna.





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