



Development Assessment Panel

Business Paper

date of meeting: Wednesday 5 March 2025

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

time: 2:00 PM

1.0 OBJECTIVES

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

2.0 KEY FUNCTIONS

- To review development application reports and conditions. The focus of the Panel's review is to be on those issues raised in submissions received following exhibition of development applications;
- To determine development applications where there are 3 or more unique submissions or where an application is outside of staff delegations;
- To refer development applications to Council for determination where necessary;
- To provide a forum for objectors and applicants to make submissions on applications before the Development Assessment Panel(DAP);
- To maintain transparency in the determination of development applications.

Delegated Authority of Panel

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

- Determine (approve or refuse) development applications under Part 4 of the Environmental Planning and Assessment Act 1979 having regard to the relevant environmental planning instruments, development control plans and Council policies.
- Vary, modify or release restrictions as to use and/or covenants created by Section 88B instruments under the Conveyancing Act 1919 in relation to development applications being considered by the panel.
- Determine Koala Plans of Management under State Environmental Planning Policy (Biodiversity and Conservation) 2021 associated with development applications being considered by the Panel.

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

3.0 MEMBERSHIP

3.1 Voting Members

- 3 independent external members will be selected for each scheduled DAP meeting from an appointed pool of members. One of the independent external members to be the Chairperson.

- Independent members will be rostered onto meeting on a rotational basis where possible.
- Group Manager Development Services (alternate - Director Community, Planning and Environment or Development Assessment Planning Coordinator).

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

3.2 Non-Voting Members

Not applicable.

3.3 Obligations of members

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

3.4 Member Tenure

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

3.5 Appointment of members

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

4.0 TIMETABLE OF MEETINGS

- The Development Assessment Panel will generally meet on the 1st and 3rd Wednesday each month at 2.00pm at the Port Macquarie offices of Council. Meetings may be conducted on-line or a combination of in person and on-line.
- Special Meetings of the Panel may be convened by the Director Community, Planning and Environment Services with 3 days notice.

5.0 MEETING PRACTICES

5.1 Meeting Format

- At all Meetings of the Panel the Chairperson shall occupy the Chair and preside. The Chair will be responsible for keeping order at meetings.
- Meetings shall be open to the public.
- The Panel will hear from an applicant and objectors or their representatives. Speakers are required to register to speak by close of business on the day prior to the Panel meeting.
- The Panel shall have the discretion to ask the applicant and objectors questions relating to the proposal and their submission. There is no 'right of reply' for an objector or applicant.
- Where there are a large number of persons making submissions with common interests, the Panel shall have the discretion to hear a representative of those persons rather than multiple persons with the same interest.
- Council assessment staff will be available at Panel meetings to provide technical assessment advice and assistance to the Panel.
- Where considered necessary, the Panel will conduct site inspections prior to the meeting.

5.2 Decision Making

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

5.3 Quorum

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

5.4 Chairperson and Deputy Chairperson

Independent Chair (alternate - independent member).

5.5 Secretariat

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

5.6 Recording of decisions

Minutes will be limited to the recording of decisions of the DAP and how each member votes for each item before the Panel. Meetings may be recorded via an on-line platform where practical.

6.0 CONVENING OF “OUTCOME SPECIFIC” WORKING GROUPS

Not applicable.

7.0 CONFIDENTIALITY AND CONFLICT OF INTEREST

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

8.0 LOBBYING

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

9.0 CONDUCT AT MEETINGS

All parties in attendance at a DAP meeting shall conduct themselves respectfully i.e. not disrupt the conduct of the meeting, interject, act courteously and with compassion and empathy and sensitivity and will not insult, denigrate or make defamatory or personal reflections on or impute improper motives to the DAP, Council staff or other members of the public.

Development Assessment Panel

ATTENDANCE REGISTER

Member	5/06/24	17/07/24	16/10/24	20/11/24	11/12/24	05/02/25
David Crofts (Independent Chair)		✓	A	✓	✓	
Tony McNamara (Independent Member)	✓	✓	✓		✓	✓
Chris Gee (Independent Member)	✓		✓	✓		✓
Murray Blackburn-Smith (Independent Member)						✓
Dan Croft (Group Manager Development Services)	✓		✓	✓	✓	✓
Other attendees						
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 (Building Surveyor)						
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 2025

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

Development Assessment Panel Meeting

Wednesday 5 March 2025

Items of Business

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05	DA2024 - 670.1 Alterations to Dwelling, Conversion of Building to Dwelling and 2 Lot Torrens Title Subdivision including a Clause 4.6 Variation to Clause 4.1 (Lot Size) of the Port Macquarie-Hastings LEP 2011 at Lots 15 and 16 DP 7451, No 14 Main Street, Comboyne.....	<u>16</u>
06	General Business	

AGENDA

DEVELOPMENT ASSESSMENT PANEL
05/03/2025

Item: 01

Subject: ACKNOWLEDGEMENT OF COUNTRY

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

Item: 02

Subject: APOLOGIES

RECOMMENDATION

That the apologies received be accepted.

Item: 03

Subject: CONFIRMATION OF PREVIOUS MINUTES

RECOMMENDATION

That the Minutes of the Development Assessment Panel Meeting held on 5 February 2025 be confirmed.

PRESENT

Members:

Tony McNamara (Independent Chair)
Chris Gee (Independent Member)
Murray Blackburn-Smith (Independent Member)
Dan Croft (Group Manager Development Services)

Other Attendees:

Grant Burge (Development Engineering Coordinator)
Clinton Tink (Development Assessment Planner)
Councillor Hamish Tubman

The meeting opened at 2.00pm.

01 ACKNOWLEDGEMENT OF COUNTRY

The Acknowledgement of Country was delivered.

02 APOLOGIES

Nil.

03 CONFIRMATION OF MINUTES

CONSENSUS:

That the Minutes of the Development Assessment Panel Meeting held on 11 December 2024 be confirmed.

04 DISCLOSURES OF INTEREST

There were no disclosures of interest presented.

05 DA2024 - 819.1 CONSTRUCTION OF A PRIMARY DWELLING AND SECONDARY DWELLING AND CHANGE THE USE OF THE EXISTING PLACE OF PUBLIC WORSHIP BUILDING TO FORM PART OF THE PROPOSED PRIMARY DWELLING FLOOR AREA AT LOT 30 DP 710309, NO. 30 BAIN STREET, WAUCHOPE

Speakers:

Lee-Anne Nolan (opposing the application)
Jane Swift (opposing the application)
Rachael Walsh (opposing the application)

Ostilio Pisanu (applicant)
Corinne Pisanu (applicant)
Alla Freeman (applicant)

CONSENSUS:

That DA2024 - 819.1 for the construction of a primary dwelling and secondary dwelling and change the use of the existing place of public worship building to form part of the proposed primary dwelling floor area at Lot 30 DP 710309, No. 30 Bain Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.

06 GENERAL BUSINESS

Nil

The meeting closed at 2.50pm

Item: 04
Subject: DISCLOSURES OF INTEREST

RECOMMENDATION

That Disclosures of Interest be presented

DISCLOSURE OF INTEREST DECLARATION

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

(Refer to next page and the Code of Conduct)

Pecuniary Interest

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

Non-Pecuniary

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

AGENDA

DEVELOPMENT ASSESSMENT PANEL

05/03/2025

SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

*This form must be completed using block letters or typed.
If there is insufficient space for all the information you are required to disclose,
you must attach an appendix which is to be properly identified and signed by you.*

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

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

Councillor's Signature: **Date:**

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

Last Updated: 3 June 2019



Important Information

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

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

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

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

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

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

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

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

Item: 05**Subject: DA2024 - 670.1 ALTERATIONS TO DWELLING, CONVERSION OF BUILDING TO DWELLING AND 2 LOT TORRENS TITLE SUBDIVISION INCLUDING A CLAUSE 4.6 VARIATION TO CLAUSE 4.1 (LOT SIZE) OF THE PORT MACQUARIE-HASTINGS LEP 2011 AT LOTS 15 AND 16 DP 7451, NO 14 MAIN STREET, COMBOYNE****Report Author: Development Assessment Planner, Chris Gardiner**

Applicant:	A.P Blue & J.R Blue
Owner:	C W & K L Turner
Estimated Cost:	\$121,550
Parcel no:	9111 & 35694

Alignment with Delivery Program

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

RECOMMENDATION

That it be recommended to Council that DA2024 - 670.1 for alterations to dwelling, conversion of building to dwelling and 2 lot Torrens title subdivision including Clause 4.6 variation to Clause 4.1 (Lot Size) of the Port Macquarie-Hastings Local Environmental Plan 2011 at Lot 15 and 16, DP 7451, No. 14 Main Street, Comboyne, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a development application for alterations to the existing dwelling, conversion of a building to a dwelling and 2 lot Torrens title subdivision at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

The application proposes an 89.5% variation to the Lot Size development standard in Clause 4.1 of the Port Macquarie-Hastings Local Environmental Plan 2011. The variation is considered acceptable on merit.

Following exhibition of the application, no submissions were received.

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

This report recommends that the development application be approved subject to the attached conditions / refused for the following reasons. (Attachment 1).

AGENDA

DEVELOPMENT ASSESSMENT PANEL 05/03/2025

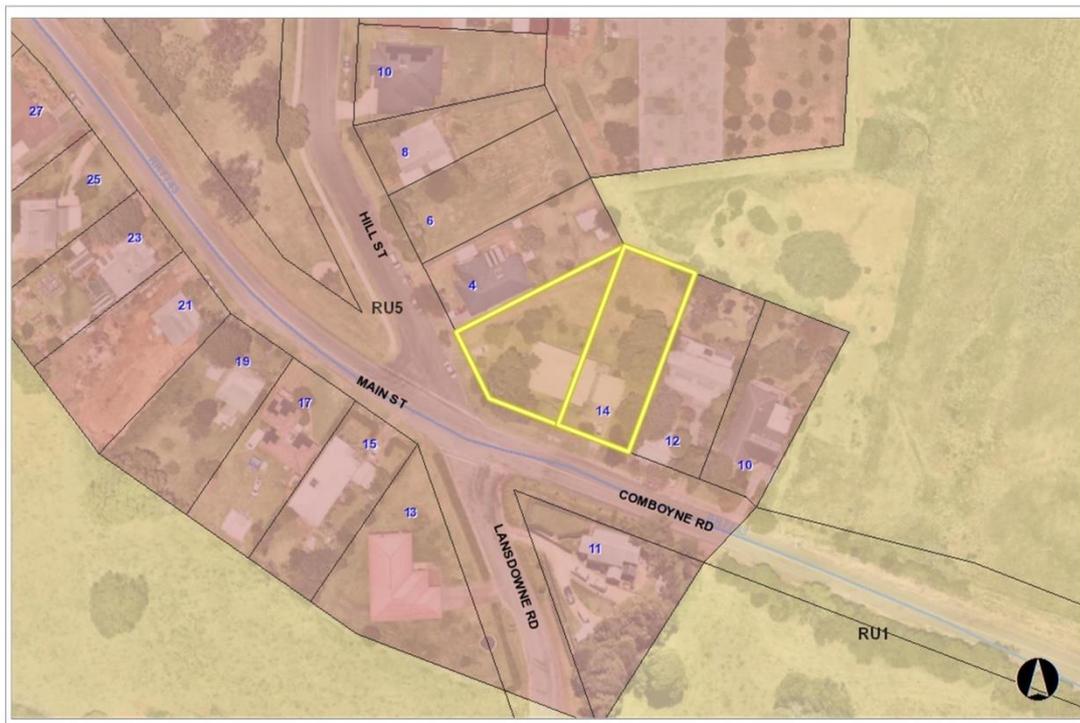
The reason for the application being referred to Council's Development Assessment Panel (DAP) is because the application includes a Clause 4.6 exception to a development standard under the Port Macquarie-Hastings Local Environmental Plan 2011 of more than 10%. A copy of the DAP Charter outlining the delegations and functions of the DAP is available on Council's website.

1. BACKGROUND

Existing Sites Features and Surrounding Development

Lot 15 DP 7451 has an area of 985.5m² and Lot 16 DP 7451 has an area of 1012m². The existing dwelling has been constructed across both lots and a detached garage is located on Lot 16.

The site is zoned RU5 Village in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



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



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Alterations to the existing dwelling including demolition of a ramp and part of the deck connecting the dwelling and garage.
- Conversion of the existing garage to a dwelling house including additions to the current building.
- 2 lot Torrens title subdivision (boundary adjustment) to rectify the current encroachment of the dwelling across the lot boundaries.

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

Application Chronology

- 9 October 2024 - Application accepted for lodgement.
- 7 November 2024 to 20 November 2024 - Neighbour notification.
- 11 November 2024 - Essential Energy comments received.
- 3 December 2024 - Additional information requested.
- 16 December 2024 - Bush Fire Safety Authority issued by NSW Rural Fire Service.
- 14 February 2025 - Final amended plans and additional information received from Applicant.

3. STATUTORY ASSESSMENT

Section 4.15(1) Matters for Consideration

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

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

**State Environmental Planning Policy (Biodiversity and Conservation) 2021
Chapter 4 Koala Habitat Protection 2021**

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

Clause 4.10 - Council is not prevented from granting consent in this case for the following reasons:

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

**State Environmental Planning Policy (Resilience and Hazards) 2021
Chapter 4 Remediation of Land**

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

State Environmental Planning Policy (Sustainable Buildings) 2022

Provision	Comment
Chapter 2 - Standards for residential development - BASIX	
<p>2.1 Standards for BASIX development and BASIX optional development</p> <p>(1) Schedule 1 sets out the standards that apply to BASIX development referred to in paragraphs (a) and (b) of the definition of BASIX development in the Environmental Planning and Assessment Regulation 2021.</p> <p>(2) Schedule 2 sets out the standards that apply to—</p> <p>(a) BASIX development referred to in paragraph (c) or (d) of the definition of BASIX development in the Environmental Planning and Assessment Regulation 2021, and</p> <p>(b) BASIX optional development if the development application or the application for a complying development certificate was</p>	<p>A BASIX certificate has been submitted demonstrating that the proposed dwelling on Lot 16 will comply with the requirements of the SEPP. It is recommended that a condition be imposed to ensure that the commitments are incorporated into the development and certified at Occupation Certificate stage.</p>

<p>accompanied by a BASIX certificate.</p> <p>(3) The standard specified in Schedule 2, section 4 extends to a swimming pool or spa that has a capacity of less than 40,000L if the swimming pool or spa is part of development referred to in paragraph (c) of the definition of BASIX development in the Environmental Planning and Assessment Regulation 2021.</p> <p>(4) A standard specified in Schedule 1 or 2 does not apply to development involving a heritage item or in a heritage conservation area to the extent that the Planning Secretary is satisfied that the development is not capable of achieving a standard because of other development controls that apply.</p>	
<p>(5) Development consent must not be granted to development to which the standards specified in Schedule 1 or 2 apply unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.</p>	<p>The BASIX certificate quantifies the embodied emissions.</p>

State Environmental Planning Policy (Transport and Infrastructure) 2021

Clause 2.48 - The application has been referred to Essential Energy in accordance with this clause. Essential Energy have no specific concerns regarding the development, but have provided some general advice. The advice received from Essential Energy has been forwarded the Applicant for consideration.

Clause 2.119 - The site has frontage to a classified road (Comboyne Road / Main Street). The proposal relates to the reconfiguration of the boundaries between 2 existing lots and the conversion of a garage on one of the lots to a dwelling. The existing dwelling has access from the classified road. Access to this dwelling is proposed to be relocated to Hill Street, with the new dwelling using the Comboyne Road access. The net result would be no additional traffic accessing the site via the classified road and no adverse impact on road safety or efficiency are anticipated. The crossover to proposed Lot 16 will be required to be upgraded to Council's AUSPEC standards, which will improve the existing situation.

Port Macquarie-Hastings Local Environmental Plan 2011

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

- Clause 2.2 - The subject site is zoned RU5 Village.
- Clause 2.3(1) and the RU5 zone landuse table - The proposed development for two dwelling houses is a permissible land use with consent. The conversion of the garage on Lot 16 to a dwelling house would need to be completed prior to

the registration of the subdivision to ensure that there is a permissible use on this lot. A condition is recommended in this regard.

The objectives of the RU5 zone are as follows:

- *To provide for a range of land uses, services and facilities that are associated with a rural village.*
- *To permit development that is appropriate in scale and type with the characteristics of a rural village.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*

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

- The proposal to reconfigure the lot boundaries to accommodate two dwelling houses is of a scale and type that is compatible with the characteristics of a rural village.
- The development would not result in any increased conflict with the adjoining rural zoned land, which is currently used for the Comboyne Sewerage Treatment Plant.
- Clause 2.7 - The demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying Development Codes) 2008.
- Clause 4.1 - The proposed subdivision includes lot sizes of 1159.5m² and 838.5m². Neither lot complies with the 8000m² minimum lot size applicable to the site. The maximum extent of the variation is 89.5% for proposed Lot 16.

It is noted that the proposal is for a boundary adjustment between two existing village lots and both lots are already substantially below the 8000m² minimum lot size. The Applicant's Clause 4.6 written request includes the below table, which analyses the existing and proposed variations to the lot size standard.

Table 1 Comparison of Existing and Proposed Lot Sizes

Lot	Existing area	Existing variation	Proposed area	Proposed variation
Lot 15	985.5m ²	87.7%	1,159.1m ²	85.5%
Lot 16	1,012m ²	87.4%	838.5m ²	89.5%

As can be seen from the above table, the existing lots already vary from the minimum subdivision lot size by 87.4% and 87.7%. While the 89.5% variation in the current application appears significant numerically, it only represents a 2.1% change to the existing variation for the current lots.

- Clause 4.6 - This clause establishes a degree of flexibility for certain development standards in circumstances where it can be demonstrated that a better planning outcome will occur from that flexibility. In this regard, the proposal seeks a variation to the lot size development standard to the extent noted under Clause 4.1 above. Refer to the Applicant's written request for an exception to the development standard at the end of this report (Attachment 3).

Assistance on the approach to variation to this standard is also taken from NSW Land and Environment Court and NSW Court of Appeal decisions in:

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

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

(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:

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

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

1. The objectives of the development standard are achieved notwithstanding the non-compliance with the numerical standard and therefore compliance is unreasonable and unnecessary.
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in that case would also be unreasonable or unnecessary.

The Applicant's written request seeks to justify that it is unreasonable or unnecessary to comply with the development standard on the basis of the first and second methods above.

Test 1 from Wehbe

The relevant objectives of Clause 4.1 are considered below.

Clause 4.1(1)(a) to ensure that lot sizes are compatible with local environmental values and constraints

The subject site does not contain any significant native vegetation that would be impacted by the proposal. Existing amenity trees within the site that contribute to the village character are proposed to be retained.

Bushfire constraints have been appropriately considered in the lot layout and building design/construction.

The overall character of the village is largely set by the existing subdivision pattern. The Applicant's analysis of the existing lot sizes in Comboyne shows the following:

Table 3 Range of Lot Sizes

Lot Sizes	Count
365 to 700sqm	6
700 to 900sqm	7
900 to 1,000sqm	7
1,000 to 1,100sqm	56
> 1,100sqm	28
Total	104



Figure 1 Distribution of Lot Sizes

The proposed lot sizes are considered to be compatible with the local environmental values and constraints.

Clause 4.1(1)(b) to facilitate efficient use of land resources for residential and other human purposes

The proposal would facilitate the use of the land for two dwelling houses, consistent with the intent of the original lot layout.

Clause 4.1(1)(c) to minimise the fragmentation of rural land suitable for sustainable primary production

The proposal does not involve any rural land suitable for primary production and this objective is not relevant.

Clause 4.1(1)(d) to protect high ecological, scientific, cultural or aesthetic values of land in conservation zones

The subject site is not located in a conservation zone.

The proposal is therefore considered to be consistent with the objectives of the lot size development standard and strict compliance with the development standard is unnecessary.

Test 2 from Wehbe

The 8000m² minimum lot size for the village of Comboyne is understood to have been adopted in the LEP in 2011 because the village was unsewered at the time. The intention of the larger lot size was to ensure that any new lots created in the village were of sufficient area to accommodate an on-site sewage management system that would function effectively and not adversely impact neighbouring properties or the environment.

Comboyne was provided with sewer in 2019-2020 as part of Council's Small Village Sewerage Schemes. The minimum Lot size development standard for the village has not been reviewed since the completion of the sewerage scheme.

The Applicant's written request identifies the following environmental planning grounds supporting the variation (as summarised):

- The proposal would not result in any additional lots or opportunities for unplanned dwellings within the village.
- The proposed lot sizes are compatible with the range of lot sizes that currently exist in Comboyne.
- The lot configuration would allow for the substantial retention of the existing dwelling, which is more environmentally sustainable. Retention of the existing dwelling would reduce demolition waste and the embodied emissions associated with new construction.
- The development will not result in any increased land use conflict with neighbouring rural land.
- Bushfire risk to existing buildings would be improved with construction upgrades.

From an assessment perspective, the above environmental planning grounds provide adequate justification for contravention of the development standard, noting that the proposal is for a boundary adjustment rather than a subdivision creating new lots.

Having regard to the above requirements it is recommended that the lot size variations using Clause 4.6 be supported.

In accordance with the *Guide to Varying Development Standards* (DPIE), the application must be determined by the elected Council to ensure appropriate transparency, noting that the extent of the variation is greater than 10%.

- Clause 5.10 - The site does not contain or adjoin any known heritage items or sites of significance.
- Clause 7.13 - Satisfactory arrangements are in place for provision of essential services including water supply, electricity supply, sewer infrastructure, stormwater drainage and suitable road access to service the development.

AGENDA

DEVELOPMENT ASSESSMENT PANEL

05/03/2025

Provision of electricity will be subject to obtaining satisfactory arrangements certification prior to the issue of a Subdivision Certificate as recommended by a condition of consent.

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

No draft instruments apply to the site.

(iii) Any Development Control Plan in force

Port Macquarie-Hastings Development Control Plan 2013

DCP 2013: Part B - General Provisions - B2: Environmental Management			
DCP Objective	Development Provisions	Proposed	Complies
3	a) Development must comply with Council's Developments, Public Place & Events - Waste Minimisation and Management Policy.	Capable of complying. Standard condition recommended requiring management of construction and demolition waste. Both lots would retain adequate frontage for a kerbside collection.	Yes
Cut and Fill Regrading			
4	a) Development shall not exceed a maximum cut of 1.0m and fill of 1.0m measured vertically above the ground level (existing) at a distance of 1.0m outside the perimeter of the external walls of the building (This does not apply to buildings where such cut and fill is fully retained within or by the external walls of the building).	Less than 1m of cut or fill proposed.	Yes
5	a) A certified practicing structural engineer must certify any retaining wall greater than 1.0m.	N/A	N/A
	b) Where a combination of a fence and a wall is proposed to be greater than 1.2m high: <ul style="list-style-type: none"> - be a maximum combined height of 1.8m above existing property boundary level; - be constructed up to the front boundary for a maximum length of 	N/A	N/A

	<p>6.0m or 30% of the street frontage, whichever is less;</p> <ul style="list-style-type: none"> - the fence component has openings which make it not less than 25% transparent; and - provide a 3m x 3m splay for corner sites, and - provide a 900mm x 900mm splay for vehicle driveway entrances. 		
Tree Management – Private Land			
11	<p>c) Where a tree listed in Table 1 is approved for removal it must be compensated with 2 x koala habitat trees. Significant large-scale development will require an advanced size koala food tree or habitat tree (primary Koala browse species) that meets AS2303:2015 Tree Stock for Landscape Use. The compensation tree is to be planted in a suitable location as determined by the Director of Development and Environment or their delegate.</p>	No trees are proposed to be removed.	N/A

DCP 2013: Part B - General Provision - B3: Hazards Management

DCP Objective	Development Provisions	Proposed	Complies
Bushfire Hazard Management			
18	<p>a) APZs are to be located outside of environmental protection zones and wholly provided within private land. Note perimeter roads provided as part of a residential subdivision are classified as being part of the subdivision and not a separate permissible land use within environment protection zones.</p>	No APZ proposed on environmental land.	Yes
	<p>b) Perimeter roads are to be provided to all urban areas adjoining environmental</p>	N/A	N/A

	management areas and their buffers. Refer to Figure 2.		
Flooding			
19	a) Development must comply with Council's Floodplain Management Plan and Flood Policies.	N/A	N/A

DCP 2013: Part B- General Provisions- B4: Transport, Traffic Management, Access and Car Parking			
DCP Objective	Development Provisions	Proposed	Complies
Road Hierarchy			
23	a) New direct accesses from a development to arterial and distributor roads is not permitted. Routes should differ in alignment and design standard according to the volume and type of traffic they are intended to carry, the desirable traffic speed, and other factors.	The site has an existing access to Comboyne Road. This access would be retained for Lot 16 and Lot 15 is proposed to have a new crossover to Hill Street.	Yes
	b) Existing direct accesses from a development to arterial and distributor roads are rationalised or removed where practical.	It is not practical to provide access to both lots from Hill Street and is not considered reasonable to require this given that the proposal is for a boundary adjustment where Lot 16 already has access to Comboyne Road. The existing access will be improved with the construction of a new crossover to Aus Spec specifications.	Yes
	c) Vehicle driveway crossings are minimal in number and width (while being adequate for the nature of the development), and positioned: <ul style="list-style-type: none"> - to avoid driveways near intersections and road bends, and - to minimise streetscapes dominated by driveways and garage doors, and 	Number and width of crossovers acceptable for the proposal.	Yes

	- to maximise on-street parking.		
Parking Provision			
24	a) Off-street Parking is provided in accordance with Table 3. 1 parking space per each dwelling for dwelling-houses/dual occupancies/semi-detached dwellings.	New hardstand parking space for dwelling on Lot 15, and single garage for dwelling on Lot 16.	Yes
	b) Where a proposed development does not fall within any of the listed definitions, the provision of on-site parking shall be supported by a parking demand study.	N/A	N/A
	c) Where a proposed development falls within more than one category Council will require the total parking provision for each category.	N/A	N/A

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

DCP Objective	Development Provisions	Proposed	Complies
Crime Prevention			
43	a) The development addresses the generic principles of crime prevention: <ul style="list-style-type: none"> - Casual surveillance and sightlines; - Land use mix and activity generators; - Definition of use and ownership; - Basic exterior building design; - Lighting; - Way-finding; and - Predictable routes and entrapment locations; - as described in the Crime Prevention Through Environmental Design (CPTED) principles. 	The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. Adequate casual surveillance is available.	

DCP 2013: Part C - Development Specific Provisions - C1: Low Density Residential Development			
DCP Objective	Development Provisions	Proposed	Complies
Front Setbacks			
44	<p>a) Dwellings may incorporate an articulation zone to a street frontage at no less than 3m from property boundary. The following building elements are permitted within the articulation zone:</p> <ul style="list-style-type: none"> - an entry feature or portico; - a balcony, deck, patio, pergola, terrace or verandah; - a window box treatment; - a bay window or similar feature; - an awning or other feature over a window; - a sun shading feature. <p>b) These building elements should not extend above the eave gutter line, other than a pitched roof to an entry feature or portico that has the same pitch as the roof on the dwelling house.</p>	No articulation elements proposed.	N/A
	<p>c) The primary road front setback shall be: Classified road = any frontage 6.0m Primary frontage = 4.5m Secondary frontage = 3.0m Ancillary Lane = 2.0m Large lot residential and rural zones = 10.0m</p>	<p>Lot 15 - Existing dwelling setback 4.9m to Comboyne Road and 6.4m to Hill Street.</p> <p>Lot 16 - 6.5m setback to Comboyne Road.</p>	Yes
45	<p>a) A garage, carport or car parking space should:</p> <ul style="list-style-type: none"> - be at least 1m behind the building line, where the dwelling(s) has a setback from a front boundary of 4.5m or more, or - be at least 5.5m from a front boundary, where the dwelling(s) has a 	The Lot 15 car space and the Lot 16 garage are both proposed to be at least 5.5m from the front boundary and at least 1m behind the building line.	Yes

	setback of less than 4.5m.		
	b) The total width of the garage/carport openings should not be more than 6m and not more than 50 per cent of the width of the building.	Lot 15 - Open car space with no openings. Lot 16 - 2.4m wide opening and 23% of the width of the dwelling.	Yes
	c) Driveway crossovers are no greater than 5.0m in width.	Lot 15 crossover 3m wide, and Lot 16 crossover 4.1m wide.	Yes
	d) Where a dual occupancy or attached dwelling is proposed on a corner lot a garage and driveway is provided on each road frontage.	N/A	N/A
Side and Rear Setbacks			
46	a) A minimum rear boundary setback of 4m is to be provided to dwellings (including verandahs, patios and decks).	Minimum 29m rear setback.	Yes
	b) A minimum rear boundary setback of 900mm applies to sheds and swimming pools subject to achieving minimum required private open space area.	N/A	N/A
	c) Council may consider varying rear setback requirements where it is demonstrated that the private open space could achieve better solar access between the building and the side setback. In that instance, one side setback should be a minimum 4m in width (for an equivalent length of rear boundary, behind building line) and the rear setback may be reduced to 900mm.	N/A	N/A
47	a) Ground floors (being <1m above existing ground level) should be setback a minimum of 900mm from side boundaries.	Ground floor components setback minimum of 0.93m to side boundary between Lot 15 and Lot 16. 3.4m setback to eastern side boundary for Lot 16 extension.	

		7.5m setback to western side boundary for Lot 15 garage.	
	b) First floors and above (including single storey with floor level >1m) should be setback a minimum of 3m from the side boundary, or reduced down to 900mm where it can be demonstrated that the adjoining property's primary living rooms and principal private open space areas are not adversely overshadowed for more than 3hrs between 9am - 3pm on 21 June.	Parts of the rear of the Lot 16 dwelling would have floor level greater than 1m above ground level. These parts of the building are setback a minimum of 0.93m to side boundary between Lot 15 and Lot 16. The reduced setback to this boundary would not result in more than 3 hours of overshadowing to the neighbouring living area windows or principal private open space between 9am - 3pm on 21 June.	Yes
	c) First floors and above should have building walls that step in and out at least every 12m by a minimum of 500mm articulation. Where first floors and above are setback >3m, wall articulation is not required.	Wall lengths are less than 12m and wall articulation is not required.	N/A
Private Open Space			
48.	a) All dwellings should have a minimum area of private open space of 35m ² , which includes a principal private open space area with: <ul style="list-style-type: none"> - a minimum dimension of 4m x 4m, and - a maximum grade of 5% for minimum 4m x 4m of the total open space requirement, and - direct accessibility from a ground floor living area and orientated to maximise use. 	Both lots provide substantially more than 35m ² of private open space. The existing dwelling on Lot 15 would retain its existing principal areas on the verandahs. The proposed new dwelling on Lot 16 includes a 7m x 3m (21m ²) elevated deck off the living area and kitchen. Due to the sloping nature of the site, direct access to the ground level open space is not practical and the deck has been proposed to provide a level usable space consistent with the	Acceptable on merit.
	b) Private open space may include clothes drying areas and garbage storage.		

		objectives of this provision. The stairs at the eastern end of the deck will provide a connection between this space and the larger ground level open space area.	
Public Domain and Fencing			
49	a) Front fences built forward of the building line for the primary road frontage should be detailed on the development application plans.	None proposed.	N/A
	b) Solid Front fences up to 1.2m high should be: – Setback 1.0m from the front boundary, and – Suitably landscaped to reduce visual impact, and – Provide a 3m x 3m splay for corner sites.	N/A	N/A
	b) Front fences proposed to be more than 1.2m high should be a maximum of 1.8m in height, above existing front property boundary level, and either: – Include landscaped recesses having minimum dimensions of 1.8m long x 900mm deep which occupy no less than 50% of the total length of the fence, or – be erected up to the front boundary for a maximum length of 6.0m or 50% of the street frontage,	N/A	N/A
	c) have openings which make it not less than 25% transparent (no individual opening more than 30mm wide);	N/A	N/A
	d) provide a 3m x 3m splay for corner sites, and	N/A	N/A

	e) provide a 900mm x 900mm splay for vehicle driveway entrances.	N/A	N/A
50	a) For tennis courts or other similar areas, chain wire fences should be black or dark green plastic coated mesh.	N/A	N/A
	b) Solid fences enclosing these facilities should not be permitted over 1.8m.	N/A	N/A
Bulk and Scale			
51	a) Direct views between indoor living rooms and principal private open space of adjacent dwellings, including proposed dwellings approved on adjoining lots, including possible dwellings on future lots, should be obscured or screened where: <ul style="list-style-type: none"> – Ground and first floor (and above) indoor living room windows are within a 9m radius. – Direct views between principal private open space areas where within a 12m radius. – Direct views between indoor living rooms of dwellings into the principal area of private open space of other dwellings within a 12m radius. 	Living area windows are oriented to the front and rear of the site and no privacy screening is required for these windows.	Yes
	b) A balcony, deck, patio, pergola, terrace or verandah should have a privacy screen where there are direct views of: <ul style="list-style-type: none"> – Indoor living room windows of adjacent dwellings, including proposed dwellings approved on adjoining lots within 9m radius; or – Principal areas of private open space of adjacent dwellings, including proposed dwellings 	Privacy screens proposed on the eastern end of the deck of the existing dwelling on Lot 15 and the western end of the proposed new deck for the dwelling on Lot 16.	

	approved on adjoining lots within a 12m radius.		
	<p>c) Privacy protection is not required for:</p> <ul style="list-style-type: none"> - Any Indoor living room windows with a sill height of greater than 1.5m above the finished floor level of that room or where fixed non-openable translucent glass is installed to the same height. 	N/A	N/A
	<p>d) Direct views described above may be reduced or obscured by one of the following measures (details to be submitted with the development application):</p> <ul style="list-style-type: none"> - 1.8m high fence or wall between ground-floor level windows or between a dwelling and principal private open space - Screening of minimum 1.7m height, that has 25% openings (max), with no individual opening more than 30mm wide, is permanently fixed and is made of durable materials. - A window, the whole of which has translucent glass and is not able to be opened. 	Privacy screening on the deck is consistent with this provision.	Yes
Ancillary Development			
56	<p>a) For ancillary development in R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, R5 Large Lot Residential and RU5 Village zones:</p> <ul style="list-style-type: none"> - The height of an outbuilding or the alterations and additions to an existing outbuilding on a lot should not be 	Rainwater tank for Lot 16 dwelling located behind the building.	Yes

	<p>more than 4.8m above ground level (existing).</p> <ul style="list-style-type: none"> - The building should be single storey construction with a maximum roof pitch of 24 degrees. - The maximum area of the building should be 60m² for lots less than 900m² and maximum of 100m² for larger lots. - Ancillary development that is a garage, or an outbuilding, or a rainwater tank should not be located in front of the main building line with the exception of swimming pools. 		
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DCP 2013: PART C - Development Specific Provisions - C5: Subdivision

DCP Objective	Development Provisions	Proposed	Complies
Site Analysis			
139	<p>a) A site analysis is required for all development and should illustrate:</p> <ul style="list-style-type: none"> - microclimate including the movement of the sun and prevailing winds; - lot dimensions; - north point; - existing contours and levels to AHD; - flood affected areas; - overland flow patterns, drainage and services; - any contaminated soils or filled areas, or areas of unstable land; - easements and/or connections for drainage and utility services; - identification of any existing trees and other significant vegetation; - any existing buildings and other structures, including their setback distances; - heritage and archaeological features; 	Adequate site analysis provided.	Yes

	<ul style="list-style-type: none"> - fences, boundaries and easements; - existing and proposed road network, including connectivity and access for all adjoining land parcels; - pedestrian and vehicle access; - views to and from the site; - overshadowing by neighbouring structures; and - any other notable features or characteristics of the site. 		
Urban Structure and Lot Layout			
140	<p>a) Any residential allotments created by Torrens title subdivision should satisfy the following standards:</p> <ul style="list-style-type: none"> - A minimum width of 15 metres when measured at a distance of 5.5 metres from the front property boundary; - A minimum width of 7 metres measured when side boundaries are extended to the kerb line; A minimum depth of 25 metres; - For lots where the average slope of the development site is equal to, or exceeds 16%, indicative road and driveway grades are required demonstrating satisfactory access. 	<p>The site is zoned RU5 and the proposal does not relate to residential allotments. However, the resultant development is characteristic of residential development, and the lot dimensions have been considered.</p> <p>Lot 15 - 38m wide at 5.5m setback and 50.26m deep.</p> <p>Lot 16 - 14.7m wide at 5.5m setback and 50.27m deep.</p> <p>Lot 16 has a width 300mm narrower than the minimum typically required for a vacant residential lot. The lot width is constrained by the location of the existing dwelling on Lot 15 that is sought to be retained. The lot width is considered acceptable noting</p>	Acceptable on merit.

		that a compliant dwelling has been designed for the lot as part of the application.	
141	a) Battleaxe allotments are discouraged in greenfield development.	N/A	N/A
	b) Council may consider permitting Torrens Title battleaxe allotments for “infill” development where it is demonstrated that: <ul style="list-style-type: none"> – A Torrens Title lot, that is not a battleaxe lot, cannot be achieved; and – the number of crossovers do not reduce the amenity of the street or on street parking; and – the impact of noise, dust and headlights on the land owners adjoining the driveway is addressed by the construction of an acoustic fence for the full length of the driveway; and – addresses privacy between the rear lot and the rear open space of the front lot by the provision of adequate screening, larger lot size and setbacks; and – extends utilities to the end of the axe handle; and – There is sufficient space for garbage collection on the frontage. 	N/A	N/A
142	a) The subdivision of land with slopes exceeding 25% is generally discouraged.	Slope of the land does not exceed 25%.	Yes
143	a) Wherever possible orientate streets to maximise the number of east, west and south facing lots and to minimise the number of narrow north facing lots.	No new streets proposed.	N/A
	b) Residential street blocks should preferably be orientated north-south with dimensions generally limited to 60 - 80 metres by 120 - 150 metres as illustrated in Figure 14.	N/A	N/A
	c) Lot size and shape are to reflect orientation to ensure future dwelling construction has	Lot layout would provide good solar orientation for the	Yes

	optimal opportunity for passive solar design.	existing and proposed dwellings.	
144	a) The site analysis, including the lot orientation, layout, and natural topography should inform and aid the design of the street pattern.	No new streets proposed.	N/A
	b) The street plan should provide: <ul style="list-style-type: none"> - Street network, including those existing (adjacent or opposite); - Cycleways and pathway network - Indicative gradients and cross-sections of roads, cycle ways and pathways, particularly those with steep slopes that may present access and mobility constraints. Provide notional road batters for steep areas - General intersection traffic dampening, related landscape features and constriction points; - Notional drainage pattern and works where affected by road works - Car parking - Consideration of existing and proposed street trees - Existing and proposed fire trails - Street and Service Plans should need to show how the proposal should integrate with the existing system. 	N/A	N/A
145	a) Subdivision applications close to urban centres should achieve a high-medium population yield (>35 dwellings per hectare).	N/A	N/A
	b) Subdivisions along arterial roads and serviced by public transport should achieve a high-medium population yield (>35 dwellings per hectare).	N/A	N/A
Infrastructure - Road Design and Construction			
146	a) All new roads are to be dedicated to Council designed in accordance the Council's	No new roads proposed. Proposal	N/A

	adopted AUS-SPEC design specification documents. All applications to subdivide land should include a road layout plan that meets the Council's design requirements including providing connectivity and access for all land parcels consistent with Council's road hierarchy.	will use existing road network.	
	b) The design of roads identified for bus routes should comply with the AUSTRROADS standards, including the design of bus bays and stops.	N/A	N/A
	c) Development should provide the bus stops, including bus bays and shelters not more than 600m apart.	N/A	N/A
	d) The design of roads shall be in accordance with Council's AUS-SPEC specifications.	N/A	N/A
	e) At a minimum all new roads should include: <ul style="list-style-type: none"> - street trees at a rate of 1 per 20m along the street frontage and in accordance with Council's <i>Indigenous Street and Open Space Planting List</i>; - underground utilities; - formed kerb and guttering in accordance with AUS-SPEC requirements; - pedestrian path 	N/A	N/A
	f) Perimeter roads adjoining bushland should be designed in accordance with current Planning for Bushfire Standards and may be considered part of the APZ requirements for the adjoining land.	N/A	N/A
Infrastructure - Pedestrians and Cycleways			
147	a) Development for the subdivision for land or major residential development should provide footpaths on both sides of all collector and arterial roads. A shareway/cycleway may be permitted on one side of collector roads in lieu of footpath on both sides, provided it has a width of 2.5m or greater, has paved footpath connections to bus	N/A	N/A

	stops on both sides, and is located along natural edges (e.g. perimeter roads, vegetative corridors, or drainage reserves).		
	b) Footpaths should be provided on one side of the street for access places and local streets in accordance with Council's adopted AUS-SPEC design specification documents.	N/A	N/A
	c) Off street share-ways and on road cycle ways should be provided.	N/A	N/A
	d) Footpaths and cycleway are to have regard for Crime Prevention Through Environmental Design (CPTED) principles.	N/A	N/A
	e) The choice of direction and possible routes should be maximised, with streets and footpaths substantially capable of surveillance by residents.	N/A	N/A
148	a) Local roads are to be designed for a maximum vehicle speed of 50kph.	N/A	N/A
	b) Traffic management schemes may be appropriate to discourage speeding in long stretches of local roads or to discourage 'rat-running'.	N/A	N/A
	c) On street parking should be discouraged along local roads.	N/A	N/A
	d) Signage should be provided illustrating links from local roads to the regional networks.	N/A	N/A
149	a) Cycling infrastructure should be provided in accordance with the Council's Cycling Plan.	N/A	N/A
	b) Where physical infrastructure or land dedication cannot be provided or is not identified, a contribution in accordance with the Councils' contribution plan/s.	N/A	N/A
Infrastructure - Integrated Water Cycle Management			
150	a) An application for subdivision should include a WSUD prepared by a certified practicing engineer and in accordance with Council's adopted design specification documents.	N/A	N/A
Infrastructure - Stormwater Management			

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151	<p>a) An application for subdivision should be accompanied by a Stormwater Management Strategy prepared by a certified practicing engineer and in accordance with Council's adopted AUS-SPEC design specification documents.</p>	<p>See comments under Stormwater later in this report. Stormwater is capable of being managed.</p>	<p>Yes</p>
<p>b) The Designer should adopt the 'major/minor' approach to urban drainage systems as outlined in the current version of Australian Rainfall and Runoff utilising local parameters and factors where necessary and as defined in AUS-SPEC.</p>			
<p>c) The 'Minor' system generally refers to a pipeline network with sufficient capacity to contain nuisance and low flows from nominated storm events. These pipelines prevent stormwater damage to properties and also limit the frequency and quantity of surface water to a level that is acceptable to the community.</p>			
<p>d) A 'Major' drainage system caters for the runoff from rarer storms of higher intensity than for which the minor drainage system has been designed. refers to overland flow paths that are to be designed to convey the major storm flows when the capacity of the minor system is exceeded. The 'Major' drainage system generally refers to a system of safe is designed to handle flows resulting from rare storm events up to and including a 100-year ARI. These flows should follow a designated overland flow paths that are to be designed to convey the major storm flows when the capacity of the minor system is exceeded. The major drainage system is designed to handle flows resulting from rare storm events up to and including a 1% AEP event.</p>			
<p>e) The design AEP storm events are defined in AUS-SPEC D5</p>			

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	f) Freeboard to buildings, structures, property boundaries above major stormwater flows shall be provided in accordance with the council's current flood policy.		
152	a) All Council owned stormwater infrastructure is designed in accordance with the Council's AUS-SPEC Design Specification Documents.	N/A	N/A
Infrastructure - Water Supply			
153	a) A reticulated water supply should be required for all subdivisions except rural zoned areas greater than 40 hectares or where deemed financial unviable by the Water and Sewer Planning Manager or equivalent.	Reticulated water supply available to the site. The submitted servicing plans identify a new water service for proposed Lot 15 and the existing service to be retained for Lot 16.	Yes
	b) For all applicable subdivisions, provision is to be made to provide a separate metered water connection to Council's main for each lot. All work will need to comply with the requirements of Council's adopted AUS-SPEC Design and Construction Guidelines and Policies. Details to be provided on a hydraulic plan submitted to Council.	The submitted servicing plans identify a new water service for proposed Lot 15 and the existing service to be retained for Lot 16.	Yes
	c) A water supply strategy should be required where there are more than 20 lots and may be required for sub-divisions of less than 20 lots as directed by the Water and Sewer Planning Manager or equivalent. The water supply strategy is to detail any subdivision staging and the corresponding water supply work (including augmentation) necessary to support each stage. The strategy is to incorporate the latest changes in water supply design requirements as well as being modelled on software compatible with that used by Council.	N/A	N/A

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	d) All water supply systems should be designed to meet Council's design specification documents for infrastructure external to the property.	The developer will need to obtain a Notice of Requirements under Section 306 of the Water Management Act 2000, which will specify Council's requirements for design and construction.	Yes
	e) Public areas such as parks created by the subdivision, are to be connected to a potable water reticulation system.	N/A	N/A
	f) Proponents are required to extend and meet full cost of water reticulation.	N/A	N/A
	g) Any water supply assets required prior to the timing in Council's Corporate Plan are to be funded by the developer.	N/A	N/A
Infrastructure - Reclaimed Water			
154	a) A reclaimed water supply should be constructed in accordance with Council's strategy for the provision of reclaimed water supply.	Reclaimed water not available in Comboyne.	N/A
	b) Where a reclaimed water reticulation system is available to the site, connection to that system should be provided and a reclaimed reticulation system within the site should be provided.	N/A	N/A
	c) Where a reclaimed water reticulation system is planned to be available to the site a reclaimed reticulation system should be provided within the site.	N/A	N/A
	d) Public areas such as parks created by the subdivision, are to be connected to a reclaimed water reticulation system.	N/A	N/A
	e) Where a reclaimed water reticulation system is available or planned to be available to the site, reclaimed water should be used for: <ul style="list-style-type: none"> - Garden watering/irrigation - Toilet flushing 	N/A	N/A

	<ul style="list-style-type: none"> - Washing machine cold water tap - Outdoor use - Other non potable uses as permitted. 		
	f) Ensure infrastructure is designed to minimise the risk of cross-connection of potable and non-potable systems, for both public and private infrastructure.	N/A	N/A
	g) Proponents should be required to extend and meet full cost of water reticulation.	N/A	N/A
	h) Any water supply assets required prior to the timing in Council's Corporate Plan are to be funded by the developer.	N/A	N/A
Infrastructure - Sewerage			
155	a) A sewer system is required for all subdivisions with proposed lots smaller than 5000m ² , where Onsite Sewage Management requirements cannot be demonstrated to Council or where deemed financial viable by the Water and Sewer Planning Manager or equivalent.	Sewer connection proposed.	Yes
	b) For all applicable subdivisions, provision is to be made to provide a separate sewer junction and connection to Council's main for each lot. All work will need to comply with the requirements of Council's adopted AUS-SPEC Design and Construction Guidelines and Policies. Details to be provided on an Engineering plan submitted to Council.	The submitted servicing plans propose a new sewer junction for Lot 15. One of the existing junctions in Lot 16 would be retained for that lot, and the other junction will need to be capped.	Yes
	c) A sewerage strategy should be provided for an application for subdivision of 20 or more lots and may be required for subdivisions of less than 20 lots as directed by the Water and Sewer Planning Manager or equivalent. The sewer strategy is to detail any subdivision staging and include the proposed method of servicing necessary to support each stage. The strategy is to incorporate the latest changes in sewer design	N/A	N/A

	requirements as well as being modelled on software compatible with that used by Council.		
	d) All sewer systems to be designed to meet the NSW Code of Practice Plumbing & Drainage and Australian Standard AS3500 and related standards for infrastructure within property boundaries.	Capable of complying.	Yes
	e) All sewer systems to be designed to meet Council's AUS-SPEC specification documents for infrastructure external to the property.	Capable of complying.	Yes
	f) Sewerage systems should be planned to provide for anticipated future requirements over a period of at least twenty (20) years.	Proposal includes new junction only.	N/A
	g) Proponents should be required to extend and meet full cost of sewerage systems.	Servicing will be at the full cost of the developer.	Yes
	h) Any sewerage system required prior to the timing in Council's Corporate Plan is to be funded by the developer.	N/A	N/A
Soil Management			
156	a) An erosion and sediment control plan should be provided for a development application to subdivide land in accordance with Council's adopted AUS-SPEC design specification documents	Standard construction site management conditions recommended for erosion and sediment control measures.	Yes
	b) An erosion and sediment control plan should be provided for a development application to subdivide land in accordance with Council's adopted AUS-SPEC design specification documents.		
	c) Land identified on the acid sulfate soils map are subject to the provisions under clause 7.1 the LEP.		
	d) Saving and re-using top soil and the incorporation of additives to improve existing soils is preferred to the importation of soils for landscaping.		
Public Open Space			

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157	a) Neighbourhood parks area to be provided so that all residential areas are generally within 500m of the nearest park.	N/A	N/A
	b) The location of neighbourhood parks is to be optimised so that a minimal number of parks are required.	N/A	N/A
	c) Neighbourhood parks and playing fields should be connected to the cycleway and pedestrian path networks.	N/A	N/A
	d) Neighbourhood parks should provide a range of facilities.	N/A	N/A
	e) Sports fields should be located close to school facilities.	N/A	N/A
	f) As a minimum 1.5 hectares active open space (sports fields); 5000m ² neighbourhood park; 1 hectare of linkage/amenity space (total 3 hectares open space) to be provided per 1,000 people.	N/A	N/A
158	a) Neighbourhood parks are to be dedicated as development occurs, and are to include the following: <ul style="list-style-type: none"> – Minimum size of 5,000m². – At least 2000m² should be level to gently sloping land. – Street frontage to the same standard as adjoining residential areas (i.e. kerb and gutter, or drainage swales where appropriate). – Any landform grooming to ensure the park is to a standard to suit Council's maintenance regime. – Any drainage works to ensure the functionality of the park. – Access via more than one street. – Integration with other community facilities. – Should be located to cause minimal disruption to traffic. 	N/A	N/A
	b) Neighbourhood park embellishment is to incorporate: <ul style="list-style-type: none"> – Park furniture including seats with shelters, barriers and any appropriate path and cycleway linkages along 	N/A	N/A

	<p>desire lines or linking to the cycleway network.</p> <ul style="list-style-type: none"> - Any boardwalks necessary to achieve the required functionality of the park. - Works should generally be required to be undertaken prior to dedication to Council. 		
159	a) An open space management strategy should accompany any subdivision application where open space that connects to natural linkages, drainage and wildlife corridors.	N/A	N/A
160	a) Lot layout should address areas of open space or public environmental management areas.	N/A	N/A
	b) Perimeter roads should border any area of open space or public environmental management areas.	N/A	N/A
	c) An assessment against the generic elements of crime prevention through environmental design described in the Crime Prevention Through Environmental Design (CPTED) principles is provided with the subdivision application.	N/A	N/A
Service Infrastructure and Information Technology			
161	a) All service infrastructure should be underground unless otherwise approved by Council.	Capable of complying. Standard condition recommended requiring certification of satisfactory servicing arrangements from the relevant authorities.	Yes
	b) All service infrastructure should be installed in a common trench.		
	c) Conduits for the main technology network system should be provided in all streets.		
	d) Conduits are to be installed in accordance with the National Broadband Network Company Limited's 'Guidelines for Fibre to the Premises Underground Deployment'.		
	e) Access pits are to be installed at appropriate intervals along all streets.		

Based on the above assessment, the variations proposed to the provisions of the DCP are considered acceptable and the relevant objectives have been

satisfied. Cumulatively, the variations do not amount to an adverse impact of a significance that would justify refusal of the application.

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

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

(iv) Any matters prescribed by the Regulations

Demolition of buildings AS 2601 - Clause 61

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

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

Context and Setting

The site has a general southerly street frontage orientation to Comboyne Road / Main Street and a south-westerly street frontage to Hill Street.

Adjoining the site are lots with areas ranging generally between 1000m² and 1400m² and containing dwelling houses. To the west of the site is public open space. To the north of the site is rural land containing the Comboyne Sewerage Treatment Plant. Potential impacts of the treatment plant on the residential use are discussed under 'Air and microclimate' later in this report.

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

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

Access, Traffic and Transport

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

Roads

The site has road frontage to Hill Street and Main Street (Comboyne Road). Adjacent to the site, both streets are sealed public roads under the care and control of Council. Hill Street is a local road with an 8.5m road formation within a 20m road reserve. Main Street (Comboyne Road) is a sub arterial road with a 9.5m road formation within a 20m road reserve.

The submitted plans identify that the existing weldmesh fence encroaches substantially into the road reserve, and the fence is proposed to be demolished as part of the development. A condition is recommended requiring the demolition of the fence to be completed prior to the issue of a Subdivision Certificate or Occupation Certificate, whichever occurs first.

Traffic and Transport

The site is currently approved for a single dwelling. The addition in traffic associated with the development is unlikely to have any adverse impacts to the existing road network within the immediate locality.

Site Frontage and Access

Vehicle access to Lot 15 is proposed via a new driveway to Hill Street. Lot 16 will utilize an existing internal driveway to the former garage, but no crossover exists in this location. Noting the change of use to a dwelling, it is recommended that a new crossover to ASD 214 be installed in this location. Both crossovers shall comply with Council AUSPEC and Australian Standards, and conditions have been recommended to reflect these requirements.

Water Supply Connection

Water Supply is available to the site. The application proposes a new water service for Lot 15 and the existing service will be utilised for Lot 16. Internal plumbing will need to be adjusted accordingly to be contained within the new lot boundaries. A Section 306 Notice of Requirements will be required from the water authority prior to the issue of a Construction Certificate, and a Section 307 Certificate will be required at the completion of work and prior to the issue of an Occupation Certificate or Subdivision Certificate.

Appropriate conditions are recommended in this regard.

Sewer Connection

Sewer is available to the site. The application proposes to provide a new sewer junction for Lot 15 and retain the existing junction to Lot 16. The second existing junction at the rear of Lot 16 will need to be capped off. A Section 306 Notice of Requirements will be required from the water authority prior to the issue of a Construction Certificate, and a Section 307 Certificate will be required at the completion of work and prior to the issue of an Occupation Certificate or Subdivision Certificate.

Appropriate conditions are recommended in this regard.

Stormwater

The site naturally grades towards the rear and is currently unserviced. It is assumed that stormwater from the site drains overland to the farmland to the north.

Stormwater from the proposed development is planned to be disposed via rainwater tanks and dispersion trench, which is considered appropriate in the context.

A detailed site stormwater management plan will be required to be submitted for assessment with the Section 68 application and prior to the issue of a Construction Certificate. Appropriate conditions are recommended in this regard.

Other Utilities

Telecommunication and electricity services are available to the site. Evidence of satisfactory arrangements with the relevant utility authorities for provision to each proposed lot will be required prior to Subdivision Certificate approval.

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Heritage

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

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

Other land resources

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

Water cycle

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

Soils

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

Air and microclimate

The site adjoins the Comboyne STP on Lot 102 DP 1090628. The REF for that project indicates that the plant was to be fitted with an odour control unit capable of preventing any offensive odour from the STP being detectable at the treatment plant boundary, and preventing any strongly offensive odour in the immediate vicinity of the STP. The adjoining properties in the village zone are therefore not subject to any odour buffers that would restrict the siting of dwellings.

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

Flora and fauna

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

Waste

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

Energy

The proposal includes measures to address energy efficiency and will be required to comply with the requirements of BASIX. No adverse impacts anticipated.

Noise and vibration

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

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Bushfire

The site is identified as being bushfire prone.

In accordance with Section 100B - *Rural Fires Act 1997* - the application proposes subdivision of bush fire prone land that could lawfully be used for residential purposes. As a result, the applicant has submitted a bushfire report prepared by a Certified Consultant. The report was forwarded to the NSW Rural Fire Service who have since issued a Bushfire Safety Authority, which will be incorporated into the consent.

Safety, security and crime prevention

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

Social impacts in the locality

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

Economic impact in the locality

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

Site design and internal design

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

Construction

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

Cumulative impacts

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

(c) The suitability of the site for the development

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

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

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

Following exhibition of the application in accordance with the Community Participation Plan, no submissions were received.

(e) The Public Interest

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

(f) Ecologically Sustainable Development and Precautionary Principle

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

The four principles of ecologically sustainable development are:

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

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

(g) Climate change

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

4. DEVELOPMENT CONTRIBUTIONS APPLICABLE

Development contributions will not be required under S64/S7.11 for the following reasons:

- The proposed development would not result in any additional lots or opportunities for dwellings.
- Both lots will retain lot sizes greater than 450m², but less than 2000m².

5. CONCLUSION AND STATEMENT OF REASON

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

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

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

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Attachments

1.   Attachment 1 - Recommended Conditions
2.   Attachment 2 - Plans
3.   Attachment 3 - Clause 4.6 Written Request

PROPOSED CONDITIONS - DA2024 - 670.1

GENERAL CONDITIONS

Condition																																											
1.	<p>Approved plans and supporting documentation</p> <p>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</p> <p>Approved plans</p> <table border="1"> <thead> <tr> <th>Plan number</th> <th>Revision number</th> <th>Plan title</th> <th>Drawn by</th> <th>Date of plan</th> </tr> </thead> <tbody> <tr> <td>CKT CC 240601 1</td> <td>5</td> <td>Site Plan</td> <td>Creator Property Development Design</td> <td>5 February 2025</td> </tr> <tr> <td>CKT CC 240601 2</td> <td>2</td> <td>Floor Plans and Elevation</td> <td>Creator Property Development Design</td> <td>5 February 2025</td> </tr> <tr> <td>CKT CC 240601 3</td> <td>2</td> <td>Elevations</td> <td>Creator Property Development Design</td> <td>5 February 2025</td> </tr> <tr> <td>CKT CC 240601 4</td> <td>0</td> <td>Demolition Plan</td> <td>Creator Property Development Design</td> <td>5 February 2025</td> </tr> <tr> <td>Version 3</td> <td>3</td> <td>Subdivision Plan</td> <td>Unknown</td> <td>14 February 2025</td> </tr> </tbody> </table> <p>Approved documents</p> <table border="1"> <thead> <tr> <th>Document title</th> <th>Version number</th> <th>Prepared by</th> <th>Date of document</th> </tr> </thead> <tbody> <tr> <td>Statement of Environmental Effects</td> <td>2.0</td> <td>Blueprint Planning Consultants</td> <td>8 February 2025</td> </tr> <tr> <td>Bush Fire Assessment</td> <td>-</td> <td>Krisann Johnson</td> <td>5 September 2024</td> </tr> </tbody> </table> <p>In the event of any inconsistency between the approved plans and documents, the approved plans prevail. In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.</p> <p>Condition Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.</p>	Plan number	Revision number	Plan title	Drawn by	Date of plan	CKT CC 240601 1	5	Site Plan	Creator Property Development Design	5 February 2025	CKT CC 240601 2	2	Floor Plans and Elevation	Creator Property Development Design	5 February 2025	CKT CC 240601 3	2	Elevations	Creator Property Development Design	5 February 2025	CKT CC 240601 4	0	Demolition Plan	Creator Property Development Design	5 February 2025	Version 3	3	Subdivision Plan	Unknown	14 February 2025	Document title	Version number	Prepared by	Date of document	Statement of Environmental Effects	2.0	Blueprint Planning Consultants	8 February 2025	Bush Fire Assessment	-	Krisann Johnson	5 September 2024
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2.	<p>Certificates</p> <p>The following certificates relevant to the development in accordance with Part 6 of the Environmental Planning and Assessment Act 1979 shall be obtained at the respective stages:</p> <ul style="list-style-type: none"> • Construction Certificate • Occupation Certificate • Subdivision Certificate. <p>Condition Reason: To ensure that appropriate building and subdivision certification is obtained.</p>																																										

3.	<p>Notification of Home Building Act 1989 requirements</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving residential building work if the principal certifier is not the council. 2. It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following— <ol style="list-style-type: none"> a. for work that requires a principal contractor to be appointed— <ol style="list-style-type: none"> i. the name and licence number of the principal contractor, and ii. the name of the insurer of the work under the <i>Home Building Act 1989</i>, Part 6, b. for work to be carried out by an owner-builder— <ol style="list-style-type: none"> i. the name of the owner-builder, and ii. if the owner-builder is required to hold an owner-builder permit under the <i>Home Building Act 1989</i> <ul style="list-style-type: none"> ---- the number of the owner-builder permit. 3. If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information. 4. This section does not apply in relation to Crown building work certified to comply with the <i>Building Code of Australia</i> under the Act, Part 6. <p>Condition Reason: Prescribed condition under section 71 of the Environmental Planning and Assessment Regulation 2021.</p>
4.	<p>Shoring and adequacy of adjoining property</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor. 2. It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense - <ol style="list-style-type: none"> a. protect and support the building, structure or work on adjoining land from possible damage from the excavation, and b. if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation. 3. This section does not apply if - <ol style="list-style-type: none"> a. the person having the benefit of the development consent owns the adjoining land, or b. the owner of the adjoining land gives written consent to the condition not applying. <p>Condition Reason: Prescribed condition under section 74 of the Environmental Planning and Assessment Regulation 2021.</p>
5.	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out - <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and c. stating that unauthorised entry to the work site is prohibited.

	<p>3. The sign must be -</p> <ol style="list-style-type: none"> a. maintained while the building work, subdivision work or demolition work is being carried out, and b. removed when the work has been completed. <p>4. This section does not apply in relation to -</p> <ol style="list-style-type: none"> a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or b. Crown building work certified to comply with the <i>Building Code of Australia</i> under the Act, Part 6. <p>Condition Reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</p>
6.	<p>Fulfilment of BASIX commitments</p> <p>It is a condition of a development consent for the following that each commitment listed in a relevant BASIX certificate is fulfilled -</p> <ol style="list-style-type: none"> 1. BASIX development, 2. BASIX optional development, if the development application was accompanied by a BASIX certificate. <p>Condition Reason: Prescribed condition under section 75 of the Environmental Planning and Assessment Regulation 2021.</p>
7.	<p>Public works and utility services alterations</p> <p>The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage, public utility services, any easements and Council services at no cost of Council for the purposes of the development.</p> <p>Condition Reason: To confirm that the developer is responsible for all public utility costs and alterations.</p>
8.	<p>Construction site management</p> <p>The development site is to be managed for the entirety of work in the following manner:</p> <ol style="list-style-type: none"> 1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation; 2. Appropriate dust control measures; 3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site; 4. Building waste is to be managed via appropriate receptacles into separate waste streams; 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. 6. Building work being limited to the following hours, unless otherwise permitted by Council; <ul style="list-style-type: none"> - Monday to Saturday from 7.00am to 6.00pm - No work to be carried out on Sunday or public holidays <p>The builder to be responsible to instruct and control his sub-contractors regarding the hours of work.</p> 7. All works within proximity of electrical infrastructure shall be carried out in accordance with the requirements of the relevant electricity authority. <p>Condition Reason: To ensure that construction site is appropriately managed to prevent</p>

	impacts to adjoining properties, the public domain and to ensure waste is disposed of in a practical and sustainable manner.
9.	<p>AUSPEC Specifications</p> <p>The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.</p> <p>Condition Reason: To ensure public infrastructure works meet appropriate industry standards.</p>
10.	<p>General Terms of Approval (State Authority)</p> <p>The General Terms of Approval (GTAs) from the following authorities, as referred to in section 4.50 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.</p> <p>NSW Rural Fire Service - The General Terms of Approval, Reference DA20241101004561-Original-1 and dated 16 December 2024 are attached and form part of this consent.</p> <p>Condition Reason: To ensure that external State agency requirements are satisfied.</p>
11.	<p>A027 - Tree retention</p> <p>Trees on the subject land and adjacent property, as marked on the approved plan, shall be retained.</p> <p>Condition Reason: To protect the biodiversity and landscape values of the site.</p>

DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES

Condition	
1.	<p>Construction hoarding fence</p> <p>Provision of a hoarding, fence or other measures to restrict public access to the site during the course of works. Where the hoarding will encroach upon public land an application for approval under section 138 of the Roads Act, 1993 is to be lodged with Council.</p> <p>Condition reason: To protect public safety and the integrity of public infrastructure.</p>

DURING DEMOLITION WORK

Condition	
1.	<p>E010 - Demolition site and asbestos management</p> <p>The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601: <i>The Demolition of Structures</i>. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.</p> <p>Should asbestos be present, its removal shall be carried out in accordance with the</p>

	National OH&S Committee – <i>Code of Practice for Safe Removal of Asbestos</i> and <i>Code of Practice for the Management and Control of Asbestos in Workplaces</i> .
	Condition Reason: To protect public health and safety.

BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition	
1.	<p>Plumbing permit</p> <p>Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:</p> <ul style="list-style-type: none"> • Position and depth of the sewer (including junction) • Stormwater drainage termination point • Easements • Water main • Proposed water meter location <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development and to protect public health and safety.</p>
2.	<p>Works in road reserve permit</p> <p>An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate. Such works include, but not be limited to:</p> <ul style="list-style-type: none"> • Civil works • Traffic management • Work zone areas • Hoardings • Footway and gutter crossing to Lot 15 and Lot 16 to AUSPEC standards. <p>Where works are proposed on a Transport for NSW classified facility, the Road Authority shall obtain Transport for NSW concurrence prior to any approval.</p> <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development and to protect public health and safety.</p>
3.	<p>Utilities and services including Water and Sewer</p> <p>Before the issue of the relevant Construction Certificate, written evidence of the following service provider requirements must be provided:</p> <ul style="list-style-type: none"> • A response from Council as a Water Authority as to whether plans accompanying the application for Construction Certificate would affect any Water Authority infrastructure and whether any further requirements need to be met. <p>Condition Reason: To ensure relevant utility and service provider's requirements are provided to the certifier and Water Management Act requirements are met.</p>
4.	<p>Stormwater Drainage Design</p> <p>A stormwater drainage design is to be submitted and approved by Council prior to the issue</p>

	<p>of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications, Australian Rainfall and Runoff 2019, the requirements of Relevant Australian Standards and shall make provision for the following:</p> <ol style="list-style-type: none"> The legal point of discharge for the proposed development is defined as farmland to the north of the site, as per existing conditions. All allotments must be provided with a separate piped stormwater system contained within its boundaries. Existing dwellings/buildings are to be connected to the piped drainage system within each allotment, otherwise creation of relevant easements to drain water will be required where appropriate. Kerb outlets are not permitted. The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the drainage system. An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets. The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained. <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development.</p>
5.	<p>B041 - Privacy screens</p> <p>Privacy screens (including those shown on the balconies) are to be compliant with the transparency design requirements for privacy screens as defined in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Details of compliance are to be shown the plans to be submitted with the application for Construction Certificate.</p> <p>Condition Reason: To provide a reasonable level of privacy between dwellings.</p>

BEFORE BUILDING WORK COMMENCES

Condition	
1.	<p>Service provider arrangements</p> <p>Prior to works commencing an application being made to the electricity and telecommunications service providers.</p> <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development.</p>
2.	<p>D001 - Notice of works commencement</p> <p>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.</p> <p>Condition Reason: To ensure that the development commences in an orderly manner and to protect public safety and the integrity of public infrastructure.</p>
3.	<p>D005 - Construction hoarding fence</p> <p>Provision of a hoarding, fence or other measures to restrict public access to the site during the course of works. Where the hoarding will encroach upon public land an application for approval under section 138 of the Roads Act, 1993 is to be lodged with Council.</p> <p>Condition Reason: To protect public safety and the integrity of public infrastructure.</p>

4.	<p>D010 - Tree protection fencing</p> <p>Tree protection fencing, compliant with AS 4970/2009 Protection of trees on development sites must be provided. The fencing shall be in place prior to the commencement of any works or soil disturbance and maintained for the entirety of the works.</p> <p>Condition Reason: To protect significant vegetation.</p>
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DURING BUILDING WORK

Condition	
1.	<p>Copy of construction plans</p> <p>A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifier or an officer of the Council.</p> <p>Condition reason: To ensure that the development proceeds in accordance with the approved plans.</p>
2.	<p>E011 - Stop work if aboriginal objects discovered</p> <p>Should any Aboriginal objects be discovered in any areas of the site then all excavation or disturbance to the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the <i>National Parks and Wildlife Act 1974</i>. Subject to an assessment of the extent, integrity and significance of any exposed objects, applications under either Section 87 or Section 90 of the <i>National Parks and Wildlife Act 1974</i> may be required before work resumes.</p> <p>Condition Reason: To protect culturally significant places and items.</p>

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition	
1.	<p>Bushfire risk measures installed</p> <p>Prior to the issue of any Occupation Certificate, details of compliance with the bushfire risk assessment and conditions of the Bush Fire Safety Authority shall be provided to the Principal Certifier.</p> <p>Condition Reason: To protect public health and safety.</p>
2.	<p>Completion of works within the road reserve</p> <p>Prior to the issue of any Occupation Certificate provision to the Principal Certifier of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.</p> <p>Condition reason: To ensure that appropriate infrastructure is provided to service the development.</p>
3.	<p>Section 68 Certificate of Completion</p> <p>Prior to occupation or the issuing of any Occupation Certificate a Section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council for each S68 Approval related to this development.</p>

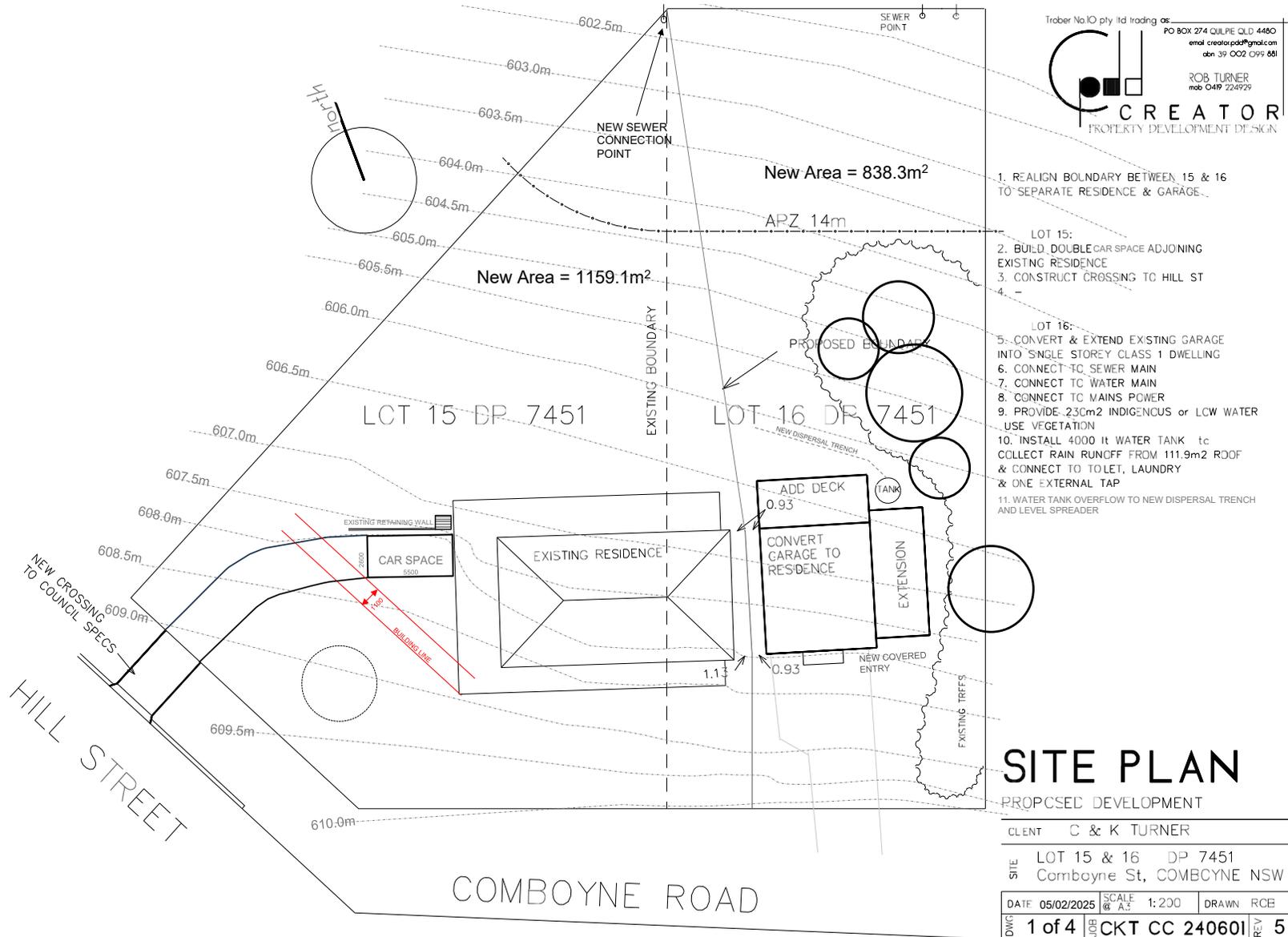
	Condition reason: To ensure that appropriate infrastructure is provided to service the development.
4.	<p>Certification of BASIX commitments</p> <p>Written confirmation being provided to the Principal Certifier from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.</p> <p>Condition Reason: To ensure that BASIX commitments have been provided and the development achieves acceptable operating efficiencies.</p>
5.	<p>F033 - Section 307 certificate for building works</p> <p>A Certificate of Compliance under the provisions of Section 307 of the <i>Water Management Act</i> must be obtained prior to the issue of any Occupation Certificate.</p> <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development.</p>
6.	<p>Demolition of fence</p> <p>Prior to the issue of any Occupation Certificate the existing weldmesh fence shall be demolished to the extent shown on the approved demolition plan.</p> <p>Condition reason: To ensure that structures do not encroach into the public road.</p>

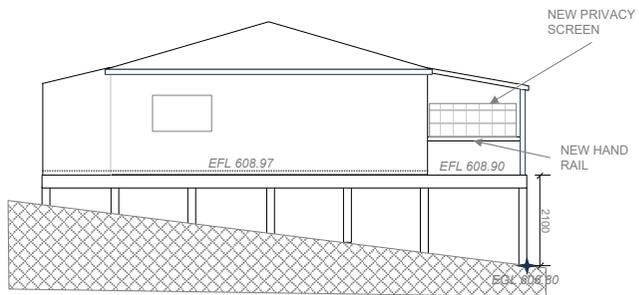
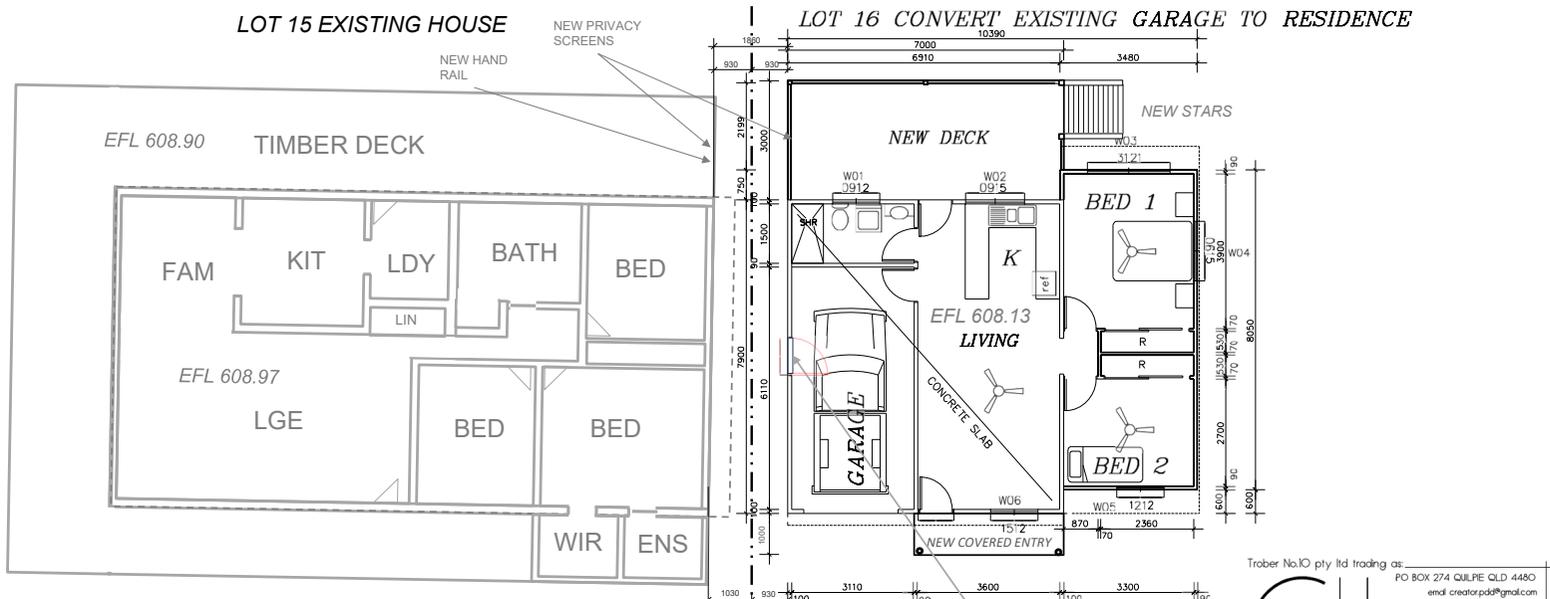
LAND SUBDIVISION BEFORE ISSUE OF A SUBDIVISION CERTIFICATE

Condition	
1.	<p>Section 307 certificate for subdivision works</p> <p>A Certificate of Compliance under the provisions of Section 307 of the <i>Water Management Act</i> must be obtained prior to the issue of any Subdivision Certificate.</p> <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development.</p>
2.	<p>Satisfactory services certification</p> <p>Prior to the issue of an Occupation Certificate, evidence to the satisfaction of the Principal Certifier from the electricity and telecommunications providers that satisfactory services arrangements have been made to the lots (including street lighting and fibre optic cabling where required).</p> <p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development.</p>
3.	<p>F024 - Drainage certification</p> <p>An appropriately qualified and practising consultant is required to certify the following:</p> <ol style="list-style-type: none"> 1. All drainage lines have been located within the respective easements, and 2. Any other drainage structures are located in accordance with the Construction Certificate. 3. All stormwater has been directed to a Council approved drainage system 4. All conditions of consent have been complied with.

	<p>Condition Reason: To ensure that appropriate infrastructure is provided to service the development.</p>
4.	<p>Completion of works within the road reserve</p> <p>Prior to the issue of the Subdivision Certificate provision to the Principal Certifier of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.</p> <p>Condition reason: To ensure that appropriate infrastructure is provided to service the development.</p>
5.	<p>Completion of Dwellings</p> <p>Prior to the issue of the Subdivision Certificate both dwellings shall be completed and the relevant Occupation Certificates issued.</p> <p>Condition reason: To ensure the permissibility of the development.</p>
6.	<p>Demolition of fence</p> <p>Prior to the issue of the Subdivision Certificate the existing weldmesh fence shall be demolished to the extent shown on the approved demolition plan.</p> <p>Condition reason: To ensure that structures do not encroach into the public road.</p>

DRAFT





EXISTING HOUSE EAST ELEVATION

NEW BOUNDARY

Remove door and frame up.
Affix external wall cladding to match
Existing (or closest available)

Trober No.10 pty ltd trading as:
PO BOX 274 QUILPE QLD 4480
email creatorpdr@gmail.com
abn 39 002 099 881

ROB TURNER
mob 0419 224929

CREATOR
PROPERTY DEVELOPMENT DESIGN

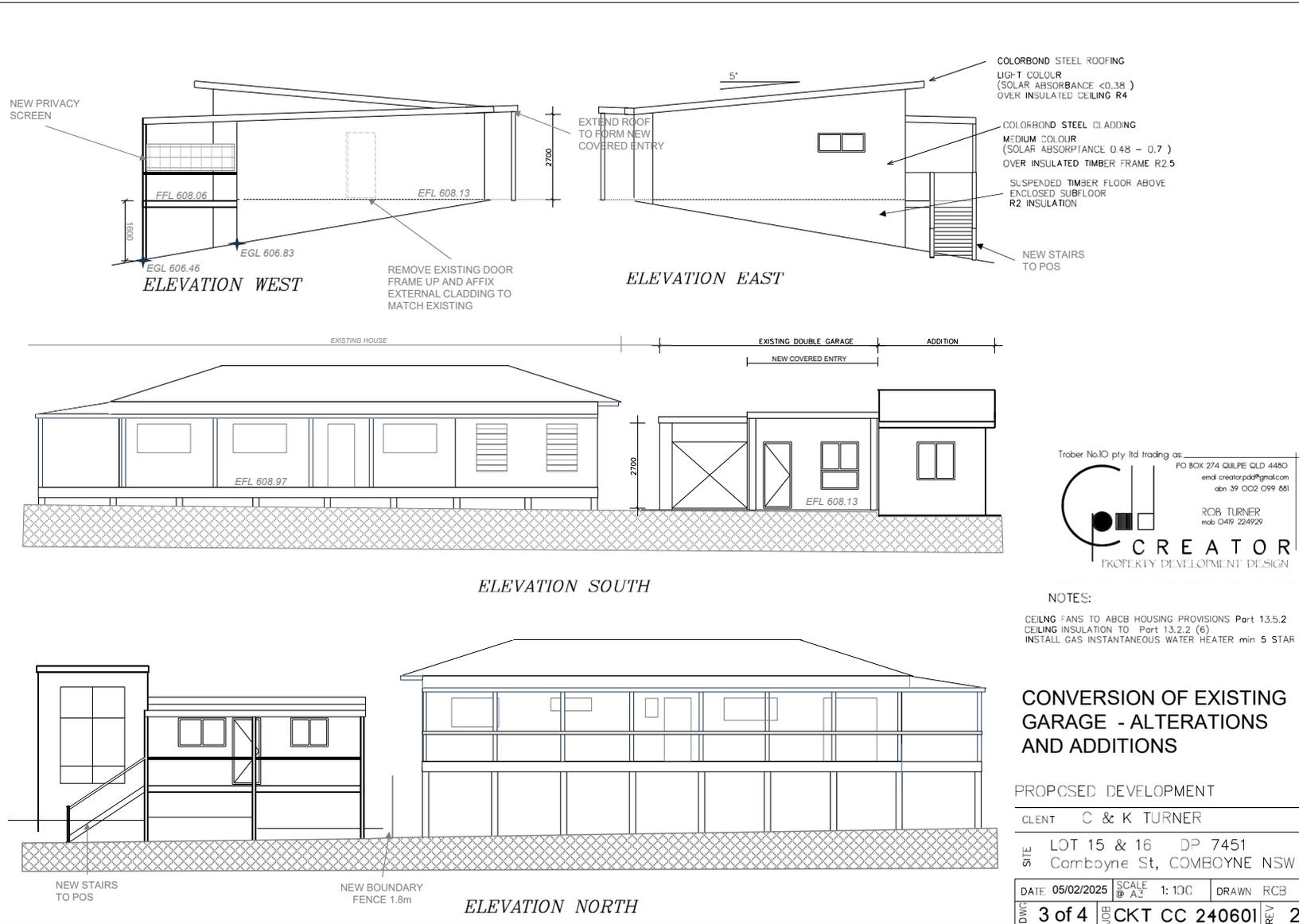
NOTES:
CEILING FANS TO ABCB HOUSING PROVISIONS Part 13.5.2
CEILING INSULATION TO Part 13.2.2 (6)
INSTALL GAS INSTANTANEOUS WATER HEATER min 5 STAR

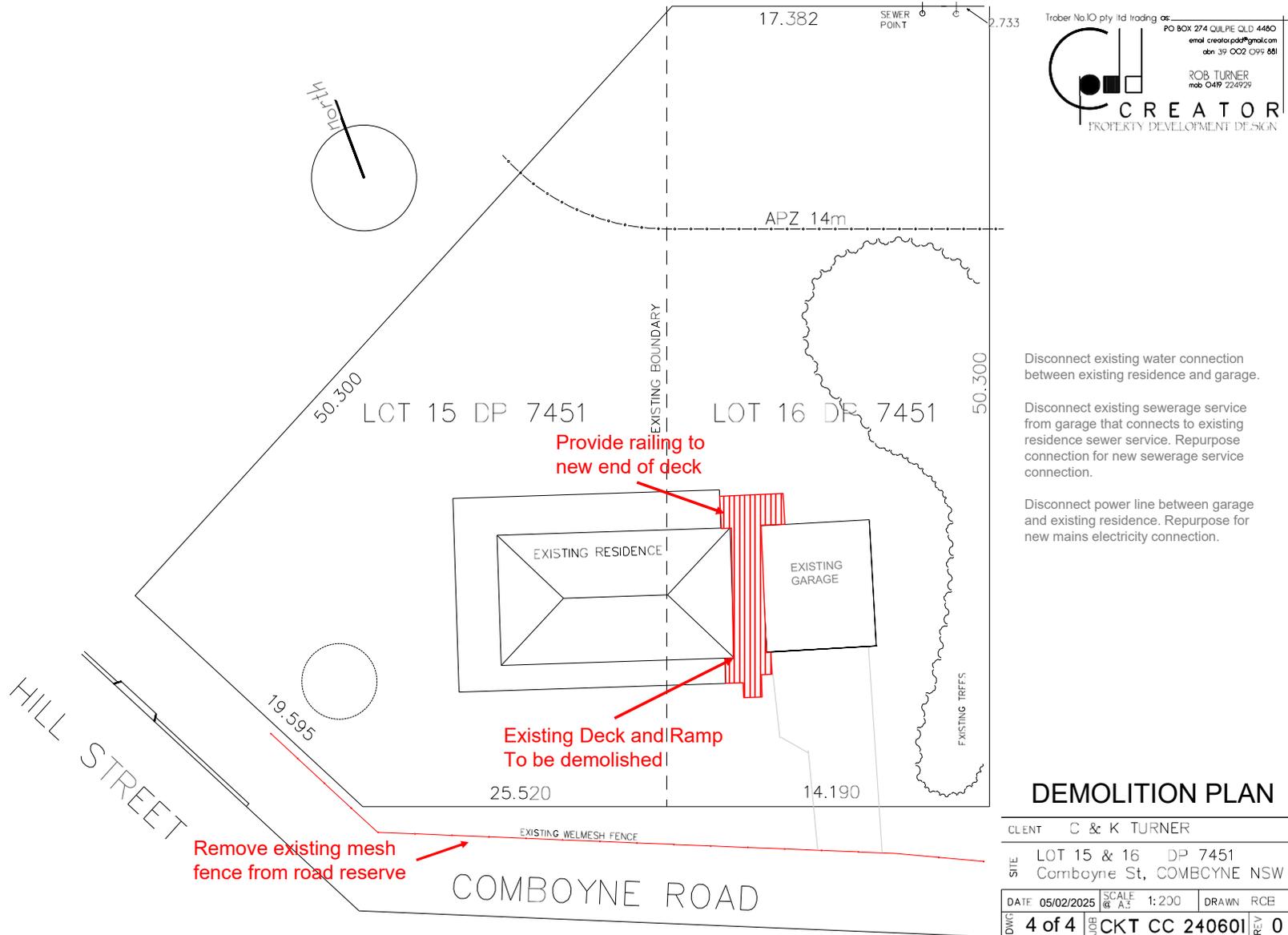
FLOOR PLANS
EXISTING HOUSE -
EAST ELEVATION
ALTERATIONS

PROPOSED DEVELOPMENT

CLIENT C & K TURNER
SITE LOT 15 & 16 DP 7451
COMBOYNE ST, COMBOYNE NSW

DATE	05/02/2025	SCALE	A3	1:100	DRAWN	RCB
DWG	2 of 4	JOB	CKT CC 240601	REV	2	





Trober No IO pty ltd trading as
 PO BOX 274 QUILPE QLD 4460
 email creatorpdx@gmail.com
 abn 39 002 099 881

ROB TURNER
 mob 0419 224929

CREATOR
 PROPERTY DEVELOPMENT DESIGN

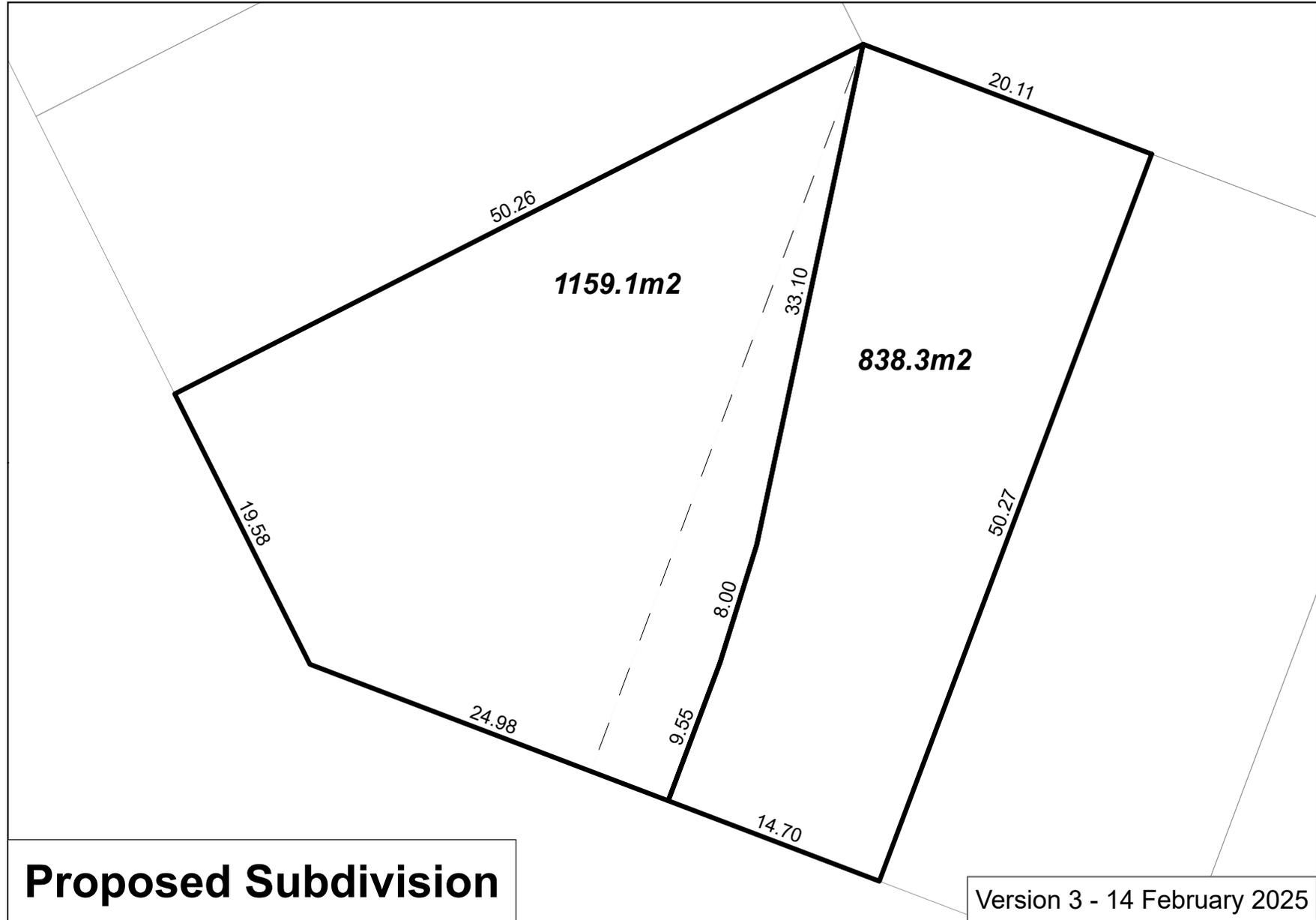
Disconnect existing water connection between existing residence and garage.

Disconnect existing sewerage service from garage that connects to existing residence sewer service. Repurpose connection for new sewerage service connection.

Disconnect power line between garage and existing residence. Repurpose for new mains electricity connection.

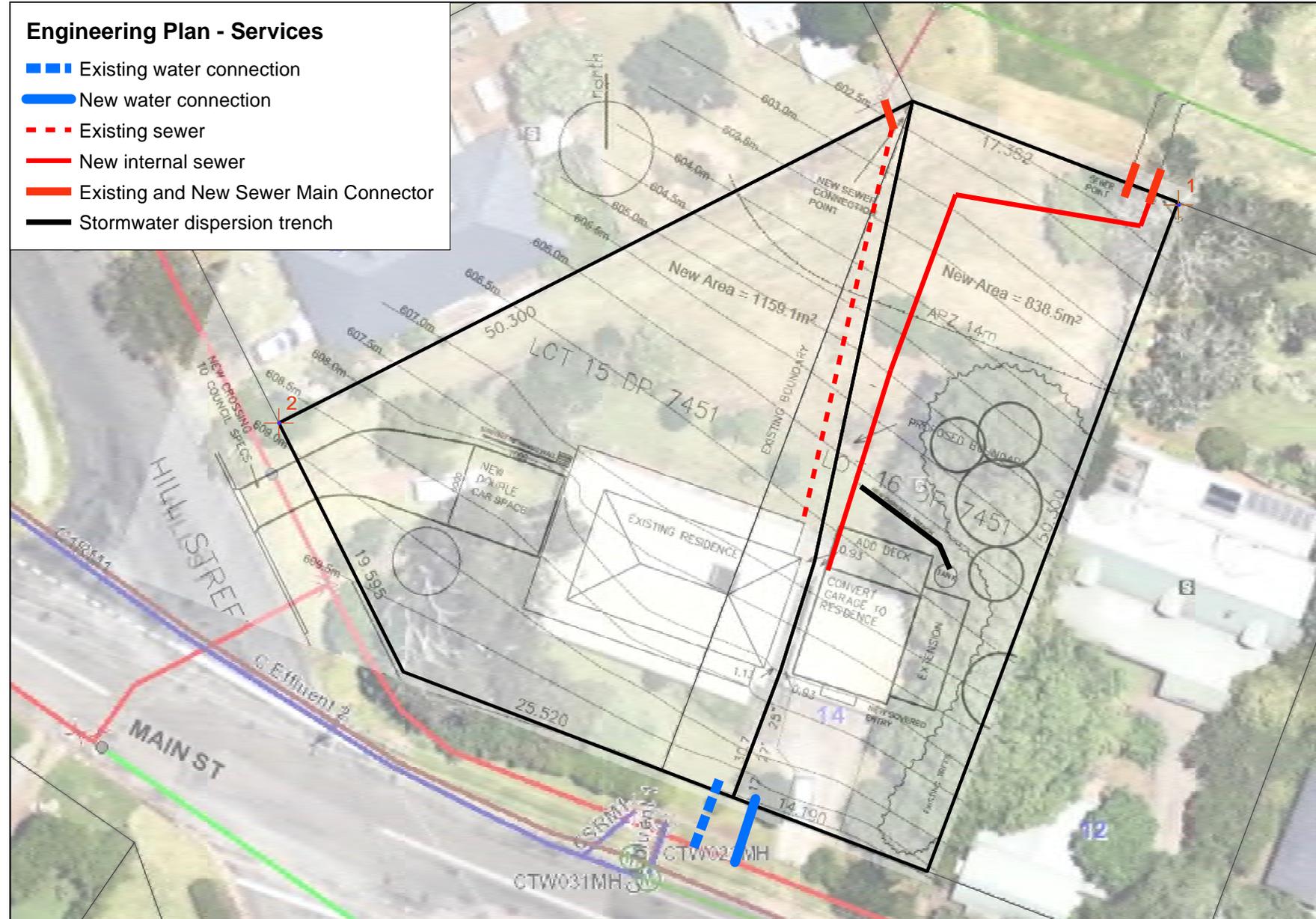
DEMOLITION PLAN

CLIENT	C & K TURNER		
SITE	LOT 15 & 16 DP 7451 Comboyne St, COMBOYNE NSW		
DATE	05/02/2025	SCALE	1:200
DWG	4 of 4	JOB	CKT CC 240601
		DRAWN	RCE
		REV	0



Proposed Subdivision

Version 3 - 14 February 2025





Appendix A - Additional requirements for development applications involving contravention of development standards: Clause 4.6 Variation

Version 2 – 6 February 2025

1. Name of the environmental planning instrument that applies to the land

Port Macquarie- Hastings Local Environmental Plan 2011.

2. Zoning of the land and objectives of the zone

Zone RU5 Village

Objectives of zone

- To provide for a range of land uses, services and facilities that are associated with a rural village.
- To permit development that is appropriate in scale and type with the characteristics of a rural village.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.

3. Development Standard to which this Clause 4.6 Variation applies

Clause 4.1 Minimum subdivision lot size

4. Objectives of the development standard

(1) The objectives of this clause are as follows—

- (a) to ensure that lot sizes are compatible with local environmental values and constraints,
- (b) to facilitate efficient use of land resources for residential and other human purposes,
- (c) to minimise the fragmentation of rural land suitable for sustainable primary production,
- (d) to protect high ecological, scientific, cultural or aesthetic values of land in conservation zones.

5. Numeric value of the development standard in the environmental planning instrument

The Lot Size Map imposes a minimum lot size of 8,000m².

LAND USE PLANNING

PROJECT CO-ORDINATION

LOCAL GOVERNMENT
SPECIALIST

6 Braeroy Drive Port Macquarie NSW 2444
02 6581 5686 | 0410 057 352

tony@blueprintplanning.net.au
www.blueprintplanning.net.au

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Boundary Adjustment Lots 15 and 16 DP7451 - 14 Comboyne Road Comboyne

6. Percentage variation between proposal and the environmental planning instrument*Table 1 Comparison of Existing and Proposed Lot Sizes*

Lot	Existing area	Existing variation	Proposed area	Proposed variation
Lot 15	985.5m ²	87.7%	1,159.1m ²	85.5%
Lot 16	1,012m ²	87.4%	838.5m ²	89.5%

7. How is compliance with the development standard unreasonable or unnecessary in the circumstances of this particular case

Wehbe v Pittwater Council [2007] NSWLEC 827 provides five tests of the ways in which compliance may be demonstrated as unreasonable or unnecessary. It is noted these are not an exhaustive list of tests for demonstrating compliance is unreasonable or unnecessary.

This written request relies on the following tests:

Test 1 from Wehbe

The objectives of the standard are achieved notwithstanding non-compliance with the standard, as set out in the table below:

Table 2 Assessment of Objectives of the Standard

Objective	Assessment of proposal
(a) to ensure that lot sizes are compatible with local environmental values and constraints,	The existing lot sizes in Comboyne, as described below, range from 365m ² to 1,709m ² the majority of lots between 1,000 and 1,100m ² . The proposed lot sizes of 736m ² and 1,261m ² are within the range of existing lot sizes. The proposed lot sizes are compatible with local environmental values and constraints.
(b) to facilitate efficient use of land resources for residential and other human purposes,	The proposed boundary adjustment will facilitate the use of the two existing lots for their permissible use of a dwelling house on each lot.
(c) to minimise the fragmentation of rural land suitable for sustainable primary production,	The land is not rural land for primary production.
(d) to protect high ecological, scientific, cultural or aesthetic values of land in conservation zones.	The land does not contain, nor is it in proximity to, land in conservation zones.

Existing Lot Sizes in Comboyne

Table 3 provides a summary of the number of lots within each range. Figure 1 provides a representation of the existing lot size ranges in Comboyne.

Table 3 Range of Lot Sizes

Lot Sizes	Count
365 to 700sqm	6
700 to 900sqm	7
900 to 1,000sqm	7
1,000 to 1,100sqm	56
> 1,100sqm	28
Total	104

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Boundary Adjustment Lots 15 and 16 DP7451 - 14 Comboyne Road Comboyne

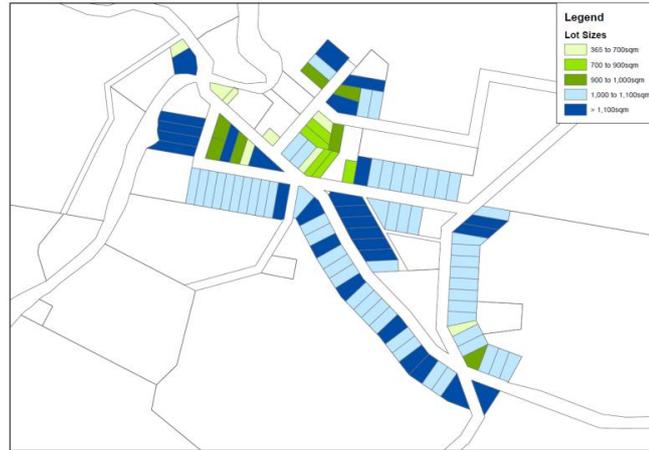
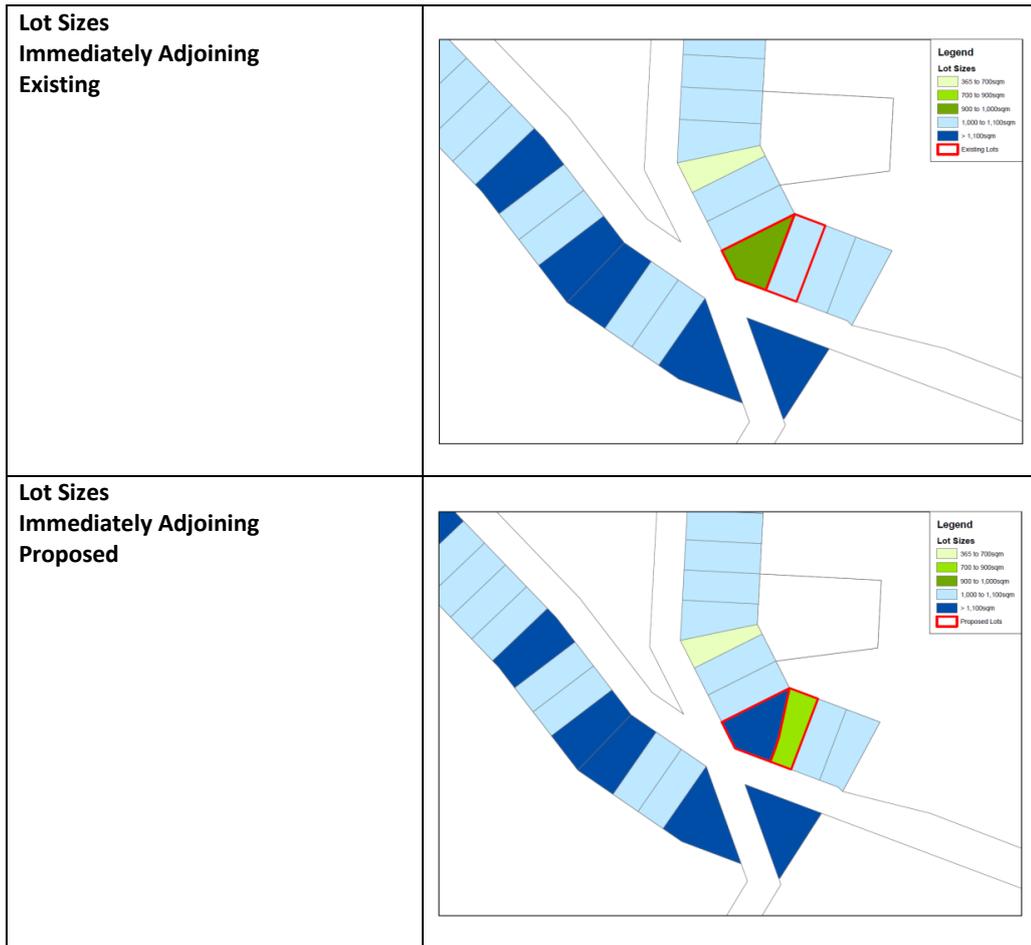


Figure 1 Distribution of Lot Sizes

Figure 2 provides a comparison of the lot sizes in the immediate vicinity of the site, as existing and as proposed. One lot increases in area to be similar in size to adjoining lots opposite (11 and 13 Main Street) and nearby lots (19, 21 and 27 Main Street). The other lot reduces in size but is still larger than a nearby lot (8 Hill Street). The proposed boundary adjustment does not change the character of the locality.



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Boundary Adjustment Lots 15 and 16 DP7451 - 14 Comboyne Road Comboyne

*Figure 2 Comparison of Distribution of Lot Sizes: Existing v Proposed*Test 2 from WehbeThe underlying object or purpose of the standard is not relevant to the development and compliance is unnecessary:

The minimum lot size was imposed on the village of Comboyne at a time when there was no reticulated sewerage system available and was intended to ensure adequate site area for onsite disposal of effluent.

Reticulated sewerage has since been provided to the village, and on this basis, it is concluded that the underlying purpose of the standard is no longer relevant.

8. Are there sufficient environmental planning grounds to justify contravening the development standard

The term “environmental planning grounds” is not defined in the legislation.

Clause 4.2C of PM-HELP 2011 provides for boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size map. While clause 4.2C does not apply to Zone RU5 Village, the principles expressed in clause 4.2C are reasonably considered to be environmental planning grounds. Namely that:

- (a) the subdivision will not create additional lots or the opportunity for additional dwellings, and
- (b) the number of dwellings or opportunities for dwellings on each lot after the subdivision will be the same as before the subdivision, and
- (c) the potential for land use conflict will not be increased as a result of the subdivision, and
- (d) the subdivision will not result in any increased bush fire risk to existing buildings.

Both the existing lots have a dwelling entitlement, and the boundary adjustment will not create additional lots or the opportunity for additional dwellings. It will restore an existing entitlement for a dwelling on each of the lots that could be achieved by demolition of the existing house. The land is within the village of Comboyne, with house sites adjoining. There will be no increase in land use conflict. Bush fire risk to existing buildings will be reduced by the upgrade of the existing buildings contained within the bushfire report.

There is a practice to reference the objects of the Act to assist with appreciating what are “environmental planning grounds”.

In the subject case, the following objects of the Act are considered relevant:

- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,

Both lots have the potential for a dwelling house.

The proposed boundary adjustment enables the achievement of a dwelling house on each lot without the need to demolish the existing dwelling house. The retention of the existing dwelling house is considered a more sustainable outcome and a reasonable integration of economic and environmental considerations and will promote orderly and economic use and

Blueprint Planning Consultants

Boundary Adjustment Lots 15 and 16 DP7451 - 14 Comboyne Road Comboyne

development of the land. This is only able to be achieved by the proposed variation to the minimum lot size and so the environmental planning grounds are tethered to the variation.

The definition of the word “sufficient” implies a subjective and discretionary consideration of the environmental planning grounds.

In this case, the boundary adjustment has no impact on the number of lots or on the character or nature of the locality. The new lot sizes are within the range of existing lot sizes within Comboyne. The minimum lot size control is no longer relevant since the provision of a reticulated sewerage service to Comboyne.

For these reasons it is concluded that the foregoing environmental planning grounds are sufficient.

9. The proposed development, despite the contravention to the development standard, is in the public interest

The proposed boundary adjustment will enable the achievement of the existing development potential of the two lots, and the proposed new boundary alignment will avoid the cost of the provision of a new sewer connection point. The new boundary arrangement will result in one dwelling house on each lot, and will be consistent with the character and streetscape of the locality. The avoidance of demolition of the existing dwelling house and the ability to provide an additional dwelling house that makes use of the existing sewer service and connection point supports the efficient use of existing investment in the infrastructure in Comboyne.

For these reasons the proposed development is in the public interest despite the contravention to the development standard.