



# Development Assessment Panel

## Business Paper

**date of meeting:** Wednesday 27 February 2019

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

**time:** 2:00pm

## **Development Assessment Panel**

### **CHARTER**

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#### **1.0 OBJECTIVES**

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

#### **2.0 KEY FUNCTIONS**

- To review development application reports and conditions;
- To determine development applications outside of staff delegations;
- To refer development applications to Council for determination where necessary;
- To provide a forum for objectors and applicants to make submissions on applications before the Development Assessment Panel (DAP);
- To maintain transparency in the determination of development applications.

#### **Delegated Authority of Panel**

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

- Determine development applications under Part 4 of the Environmental Planning and Assessment Act 1979 having regard to the relevant environmental planning instruments, development control plans and Council policies.
- Vary, modify or release restrictions as to use and/or covenants created by Section 88B instruments under the Conveyancing Act 1919 in relation to development applications for subdivisions being considered by the panel.
- Determine Koala Plans of Management under State Environmental Planning Policy 44 - Koala Habitat Protection associated with development applications being considered by the Panel.

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

#### **3.0 MEMBERSHIP**

##### **3.1 Voting Members**

- Two independent external members. One of the independent external members to

- be the Chairperson.
- Group Manager Development Assessment (alternate - Director Development & Environment or Development Assessment Planner)

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

### **3.2 Non-Voting Members**

- Not applicable

### **3.3 Obligations of members**

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

### **3.4 Member Tenure**

- The independent external members will be appointed for the term of four (4) years maximum in which the end of the tenure of these members would occur in a cascading arrangement.

### **3.5 Appointment of members**

- The independent external members (including the Chair) shall be appointed by the General Manager following an external Expression of Interest process.
- Staff members of the Panel are in accordance with this Charter.

## **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.
- Special Meetings of the Panel may be convened by the Director Development & Environment Services with three (3) days notice.

## **5.0 MEETING PRACTICES**

### **5.1 Meeting Format**

- At all Meetings of the Panel the Chairperson shall occupy the Chair and preside. The Chair will be responsible for keeping of order at meetings.
- Meetings shall be open to the public.
- The Panel will hear from applicants and objectors or their representatives.
- Where considered necessary, the Panel will conduct site inspections which will be open to the public.

### **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**

- All members (2 independent external members and 1 staff member) must be present at a meeting to form a quorum.

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

- Independent Chair (alternate, second independent member)

### **5.5 Secretariat**

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

### **5.6 Recording of decisions**

- Minutes will record decisions and how each member votes for each item before the Panel.



## **6.0 CONVENING OF “OUTCOME SPECIFIC” WORKING GROUPS**

Not applicable.

## **7.0 CONFIDENTIALITY AND CONFLICT OF INTEREST**

- Members of the Panel must comply with the applicable provisions of Council’s Code of Conduct. It is the personal responsibility of members to comply with the standards in the Code of Conduct and regularly review their personal circumstances with this in mind.
- Panel members must declare any conflict of interests at the start of each meeting or before discussion of a relevant item or topic. Details of any conflicts of interest should 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.

## Development Assessment Panel

### ATTENDANCE REGISTER

| Member  | 28/11/18 | 05/12/18 | 19/12/18 | 23/01/19 | 13/02/19 |
|---|----------|----------|----------|----------|----------|
| Paul Drake  | ✓        | ✓        | ✓        | ✓        | ✓        |
| Robert Hussey   | ✓        | ✓        | A        | ✓        | ✓        |
| David Crofts<br>(alternate member)  |          |          | ✓        |          |          |
| Dan Croft<br>(Acting Director Development &<br>Environment)<br>Clinton Tink<br>(Acting GM Development Assessment<br>(alternates)<br>- Director Development &<br>Environment<br>- Development Assessment Planner | ✓        | ✓        | ✓        | ✓        | ✓        |

**Key:** ✓ = Present

A = Absent With Apology

X = Absent Without Apology

# Development Assessment Panel Meeting

Wednesday 27 February 2019

## Items of Business

| Item | Subject  | Page       |
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| 02   | Apologies.....   | <u>8</u>   |
| 03   | Confirmation of Minutes .....  | <u>8</u>   |
| 04   | Disclosures of Interest.....   | <u>13</u>  |
| 05   | DA2019 - 008.1 Exhibition Home - Lot 20 DP1230717, No 8 Seaside Drive, Lake Cathie.....  | <u>17</u>  |
| 06   | DA2018 - 1041.1 Alterations and Additions to Dwelling Including a Clause 4.6 Variation to Clause 4.3 (Height Of Buildings) of the Port Macquarie Hastings Local Environmental Plan 2011 - Lot 18 DP 31187, No.23 Bourne Street, Port Macquarie ..... | <u>35</u>  |
| 07   | DA2018 - 1058.1 - Continued Use of Alterations and Additions to Dwelling (Unit 4) as part of Multi Dwelling Housing Development - Lot 3 DP 1214081, No. 114 Greenmeadows Drive, Port Macquarie .....   | <u>70</u>  |
| 08   | DA2018 - 599.1 - Use of Existing Dwelling for Tourist and Visitor Accommodation - Lot 9 DP 234920, No.118 Camden Head Road, Dunbogan.....  | <u>105</u> |
| 09   | DA2018 - 1104.1 - Two Dwellings - Lots 8 and 9 DP 271152, No 3 Pennant Lane, Port Macquarie .....  | <u>157</u> |
| 10   | General Business   |            |

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

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

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

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**RECOMMENDATION**

That the apologies received be accepted.

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

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**RECOMMENDATION**

That the Minutes of the Development Assessment Panel Meeting held on 13 February 2019 be confirmed.

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## **PRESENT**

### ***Members:***

Paul Drake  
Robert Hussey  
Dan Croft

### ***Other Attendees:***

Ben Roberts  
Caroline Horan  
Jon Power  
Anna Stricker  
Michael Roberts

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The meeting opened at 2:00pm.

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## **01 ACKNOWLEDGEMENT OF COUNTRY**

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The Acknowledgement of Country was delivered.

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## **02 APOLOGIES**

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Nil.

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## **03 CONFIRMATION OF MINUTES**

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### **CONSENSUS:**

That the Minutes of the Development Assessment Panel Meeting held on 23 January 2019 be confirmed.

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## **04 DISCLOSURES OF INTEREST**

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There were no disclosures of interest presented.

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**05 DA 2018 - 1033.1 ALTERATIONS AND ADDITIONS TO DWELLING - LOT 11 DP 22923, NO. 102 SETTLEMENT POINT ROAD, PORT MACQUARIE**

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Speakers:

Nick Lawton (o)

Craig Maltman (applicant)

CONSENSUS:

That DA 2018 - 1033 for Dwelling Alterations and Additions at Lot 11, DP 22923, No. 102 Settlement Point Road, Port Macquarie be determined by granting consent subject to the recommended conditions.

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**06 DA2018 - 353.1 COMMERCIAL PREMISES AND TOURIST AND VISITOR ACCOMMODATION WITH CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) AND CLAUSE 4.4 (FLOOR SPACE RATIO) OF THE PORT MACQUARIE-HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 AT LOT 123 DP 1219042, NO. 17 CLARENCE STREET, PORT MACQUARIE**

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Speakers:

Suzy Berry (o)

Andrew Thompson (o)

Brett Avery (o)

Wayne Ellis (applicant)

David Pensini (applicant)

THE PANEL WAS UNABLE TO REACH CONSENSUS.

Robert Hussey put forward the following motion:

That DA2018 – 353 be refused on the grounds that:

1. insufficient on-site car parking has been provided (deficit of 21 spaces) as required by the Port Macquarie-Hastings Development Control Plan 2013. In the context of this proposed tourist development located within an area with time limited parking the public interest would not be well served by allowing such a significant shortfall in parking spaces on site, or offsetting this number of spaces via the contribution plan.
2. The proposed turning movements at the reception area are unreasonably compromised and should be redesigned to avoid regular interruption to the in-out vehicular movements by the 3-point turn.

*FOR: Robert Hussey*  
*AGAINST: Paul Drake and Dan Croft*

The dissenting recommendation was:

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That DA2018 – 353 be deferred to allow the applicant to readdress non-compliance with development standards and provide further evidence to support parking provision on site so as to avoid significant dependence on contribution offsets.

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**07 DA2018 - 519.1 ANCILLARY BUILDING - PERGOLA LOT 33 DP 1069338, 76 THE ANCHORAGE PORT MACQUARIE**

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The Chair tabled a submission from Traelee Stewart objecting to the proposal

Speakers:

Paula Stone (applicant).

**CONSENSUS:**

That DA 2018 – 519.1 for an ancillary building - pergola at Lot 33, DP 1069338, No. 76 The Anchorage, Port Macquarie, be determined by granting consent subject to the recommended conditions and as amended below:

1. Delete condition B(2)

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**08 DA2018 - 863 PART CHANGE OF USE TO BED AND BREAKFAST ESTABLISHMENT, LOT 3 DP 805503, NO. 14 WARRIGAL RIDGE SANCROX**

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**CONSENSUS:**

That DA 2018/863.1 for a Part Change of Use to Bed and Breakfast Establishment at Lot 3, DP 805503, No. 14 Warrigal Ridge, Sancrox, be determined by granting a deferred commencement consent requiring the following to be satisfied within 12 months:

1. All requirements of the Building Code of Australia, the NSW Rural Fire Service, the report prepared by Tim Mecham submitted with the application and the required building modification works to the ground floor level are to be completed to the satisfaction of Council prior to the premises being used as a bed and breakfast establishment.



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**09 DA2018 - 933.1 ALTERATIONS AND ADDITIONS TO DWELLING - LOT 8 DP 844137, NO. 1A BANKSIA AVENUE, BONNY HILLS**

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Speaker :  
Lisa Munro (applicant)

**CONSENSUS:**

That DA 2018 – 933.1 for alterations and additions to dwelling at Lot 8 DP844137, No.1A Banksia Avenue, Bonny Hills be determined by granting consent subject to the recommended conditions and as amended below:

1. Additional condition in Section B of the consent to read: 'Prior to release of the Construction Certificate, the plans are to be amended to delete the upper floor deck (external staircase still permitted).'

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**10 GENERAL BUSINESS**

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Nil.

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The meeting closed at 3:11pm.

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, ..... declare the following interest:

☐

**Pecuniary:**

Take no part in the consideration and voting and be out of sight of the meeting.

☐

**Non-Pecuniary - Significant Interest:**

Take no part in the consideration and voting and be out of sight of the meeting.

☐

**Non-Pecuniary - Less than Significant Interest:**

May participate in consideration and voting.

For the reason that: .....  
.....

Name: .....

Signed: ..... Date: .....

*(Further explanation is provided on the next page)*

**Further Explanation**

(Local Government Act and Code of Conduct)

A conflict of interest exists where a reasonable and informed person would perceive that a Council official could be influenced by a private interest when carrying out their public duty. Interests can be of two types: pecuniary or non-pecuniary.

All interests, whether pecuniary or non-pecuniary are required to be fully disclosed and in writing.

**Pecuniary Interest**

A pecuniary interest is an interest that a Council official has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the Council official. (section 442)

A Council official will also be taken to have a pecuniary interest in a matter if that Council official's spouse or de facto partner or a relative of the Council official or a partner or employer of the Council official, or a company or other body of which the Council official, or a nominee, partner or employer of the Council official is a member, has a pecuniary interest in the matter. (section 443)

The Council official must not take part in the consideration or voting on the matter and leave and be out of sight of the meeting. The Council official must not be present at, or in sight of, the meeting of the Council at any time during which the matter is being considered or discussed, or at any time during which the council is voting on any question in relation to the matter. (section 451)

**Non-Pecuniary**

A non-pecuniary interest is an interest that is private or personal that the Council official has that does not amount to a pecuniary interest as defined in the Act.

Non-pecuniary interests commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

The political views of a Councillor do not constitute a private interest.

The management of a non-pecuniary interest will depend on whether or not it is significant.

***Non Pecuniary – Significant Interest***

As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest, but it involves:

- (a) A relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the Council official or of the Council official's spouse, current or former spouse or partner, de facto or other person living in the same household.
- (b) Other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
- (c) An affiliation between a Council official an organisation, sporting body, club, corporation or association that is particularly strong.

If a Council official declares a non-pecuniary significant interest it must be managed in one of two ways:

1. Remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official.
2. Have no involvement in the matter, by taking no part in the consideration or voting on the matter and leave and be out of sight of the meeting, as if the provisions in section 451(2) apply.

***Non Pecuniary – Less than Significant Interest***

If a Council official has declared a non-pecuniary less than significant interest and it does not require further action, they must provide an explanation of why they consider that the conflict does not require further action in the circumstances.

## SPECIAL DISCLOSURE OF PECUNIARY INTEREST DECLARATION

|  |   |
|--|---|
| <b>By</b><br><i>[insert full name of councillor]</i>   |   |
| <b>In the matter of</b><br><i>[insert name of environmental planning instrument]</i>   |   |
| <b>Which is to be considered at a meeting of the</b><br><i>[insert name of meeting]</i>  |   |
| <b>Held on</b><br><i>[insert date of meeting]</i>  |   |
| <b>PECUNIARY INTEREST</b>  |   |
| Address of land in which councillor or an associated person, company or body has a proprietary interest ( <i>the identified land</i> )                       |   |
| Relationship of identified land to councillor<br>[Tick or cross one box.]  | <input type="checkbox"/> 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).<br><br><input type="checkbox"/> Associated person of councillor has interest in the land.<br><br><input type="checkbox"/> Associated company or body of councillor has interest in the land. |
| <b>MATTER GIVING RISE TO PECUNIARY INTEREST</b>  |   |
| Nature of land that is subject to a change in zone/planning control by proposed LEP ( <i>the subject land</i> ) <sup>iii</sup><br>[Tick or cross one box]    | <input type="checkbox"/> The identified land.<br><br><input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.  |
| Current zone/planning control<br>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]       |   |
| Proposed change of zone/planning control<br>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land] |   |
| Effect of proposed change of zone/planning control on councillor<br>[Tick or cross one box]  | <input type="checkbox"/> Appreciable financial gain.<br><br><input type="checkbox"/> Appreciable financial loss.  |

Councillor's Name: .....

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

**Important Information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

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

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- i. Section **443** (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative<sup>iv</sup> or because your business partner or employer has a pecuniary interest. You may 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.
  - ii. Section **442** of the *Local Government Act 1993* 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 section **448** of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).
  - iii. 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 section **443** (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest..
  - iv. **Relative** is defined by the *Local Government Act 1993* 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.

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**Item: 05****Subject: DA2019 - 008.1 EXHIBITION HOME - LOT 20 DP1230717, NO 8  
SEASIDE DRIVE, LAKE CATHIE****Report Author: Fiona Tierney**

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**Applicant: Perry Homes (Aust) Pty Ltd**  
**Owner: Rapview Investments**  
**Estimated Cost: \$380,000**  
**Parcel no: 68195**

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA 2019 - 008 for an Exhibition Home at Lot 20, DP 1230717, No. 8 Seaside Drive, Lake Cathie, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

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

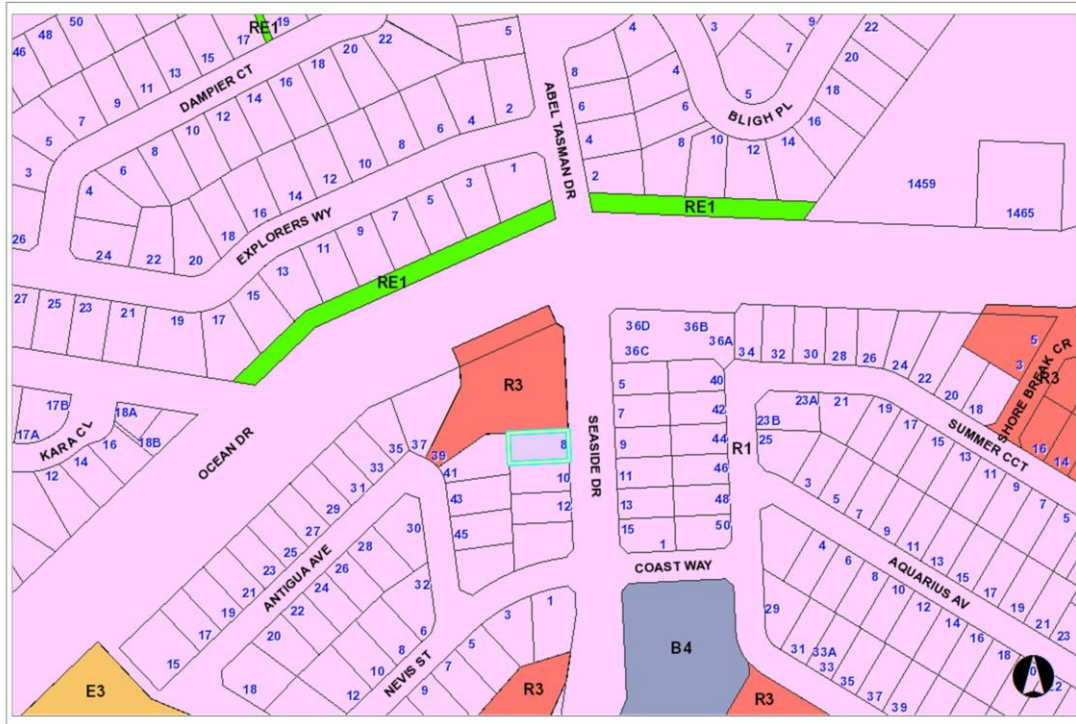
Following exhibition of the application, one (1) submission has been received.

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

The site has an area of 514.8m<sup>2</sup>.

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





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:

- Construction of exhibition home

Refer to attachments at the end of this report.

### Application Chronology

- 8 January 2019 - Application lodged with Council
- 17-31 January 2019 –Exhibition period

## 3. STATUTORY ASSESSMENT

### Section 4.15(1) Matters for Consideration

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

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

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

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

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

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

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

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

Details of a 5m free-standing pole sign is proposed on the plans.

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

| Applicable clauses for consideration   | Comments  | Satisfactory |
|--|---|--------------|
| Clause 8(a) Consistent with objectives of the policy as set out in Clause 3(1)(a). | The signage is limited to 3 sign details with dimensions of 1.7m <sup>2</sup> each in size. The size and limiting signage to its purpose satisfies the objectives of this policy. | Yes          |
| Schedule 1(1) Character of the area.   | No adverse streetscape or character impacts can be identified to this new light industrial estate.  | Yes          |
| Schedule 1(2) Special  | The sign is not in a special area   | N/A          |

|  |  |     |
|--|--|-----|
| areas.   |  |     |
| Schedule 1(3) Views and vistas.  | No adverse impacts to any views or vistas can be identified.   | Yes |
| Schedule 1(4) Streetscape, setting or landscape.   | No adverse streetscape impacts can be identified.  | Yes |
| Schedule 1(5) Site and building.   | The sign is a moderately sized freestanding sign at the front of the site proposed which is appropriate. | Yes |
| Schedule 1(6) Associated devices and logos with advertisements and advertising structures. | The content of the signage is Perry Homes Exhibition home branding for identifying the use.              | Yes |
| Schedule 1(7) Illumination.  | No illumination is proposed.   | N/A |
| Schedule 1(7) Safety.  | No safety issues for travelling public can be identified with the location and size of the signage.      | Yes |

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

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

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

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

- Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the exhibition home (which will in the future be converted to a single dwelling house is a permissible landuse with consent.

The objectives of the R1 zone are as follows:

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

In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality.

- Clause 4.3 - the maximum overall height of the building above ground level (existing) is 5.25 m which complies with the standard height limit of 8.5 m applying to the site.
- Clause 4.4 - the floor space ratio of the proposal is 0.35:1.0 which complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 5.9 - No listed trees in Development Control Plan 2013 are proposed to be removed.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.

- Clause 7.9 - The site is subject to acoustic controls. The noise report for the subdivision provides that category 2 noise construction is required for this lot. A condition has been applied requiring Construction Certificate plans to nominate category 2 noise construction.
- Clause 7.13, satisfactory arrangements are in place for provision of essential services.

**(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**

| <b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b> |   |   |                 |
|--|---|---|-----------------|
|  | <b>Requirements</b>   | <b>Proposed</b>   | <b>Complies</b> |
| 3.2.2.2  | Articulation zone: <ul style="list-style-type: none"> <li>• Min. 3m front setback</li> <li>• An entry feature or portico</li> <li>• A balcony, deck, patio, pergola, terrace or verandah</li> <li>• A window box treatment</li> <li>• A bay window or similar feature</li> <li>• An awning or other feature over a window</li> <li>• A sun shading feature</li> </ul> |   | Yes             |
|  | Front setback (Residential not R5 zone): <ul style="list-style-type: none"> <li>• Min. 6.0m classified road</li> <li>• Min. 4.5m local road or within 20% of adjoining dwelling if on corner lot</li> <li>• Min. 3.0m secondary road</li> <li>• Min. 2.0m laneway</li> </ul>  | 4.8m setback.   | Yes             |
| 3.2.2.3  | Garage 5.5m min. and 1m behind front façade.<br>Garage door recessed behind building line or eaves/overhangs provided   | Garage is setback 6.041m and recessed behind building line. | Yes             |
|  | 6m max. width of garage door/s and 50% max. width of building   | 4.8m garage door width. <50% of street frontage.            | Yes             |
|  | Driveway crossover 1/3 max. of site frontage and max. 5.0m width  | 4m crossover. <1/3 of site frontage.                        | Yes             |
|  | Garage and driveway provided on each frontage for dual occupancy on corner lot  | Not a corner block.   | N/A             |
| 3.2.2.4  | 4m min. rear setback. Variation   | 5.2m rear setback   | No*             |

**DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development**

|          | Requirements  | Proposed  | Complies              |
|----------|---|---|-----------------------|
|          | subject to site analysis and provision of private open space  |   |                       |
| 3.2.2.5  | Side setbacks: <ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>  | Single Storey<br>1m south side setback<br>2.7m north side setback<br><br>Adequate articulation provided.                          | Yes<br>Yes<br><br>Yes |
| 3.2.2.6  | 35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade  | >35m <sup>2</sup> of private open space provided with a directly accessible outdoor living area from the dining and family rooms. | Yes                   |
| 3.2.2.10 | Privacy: <ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</li> <li>• Privacy screen required if floor level &gt; 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m</li> <li>• Privacy screens provided to balconies/verandahs etc which have &lt;3m side/rear setback and floor level height &gt;1m</li> </ul> | No adverse privacy impacts identified. Single storey with 1.8m high dividing fence will provide for privacy between dwellings.    | Yes                   |

**DCP 2013: General Provisions**

|         | Requirements   | Proposed                               | Complies |
|---------|--|--|----------|
| 2.7.2.2 | Design addresses generic principles of Crime Prevention Through Environmental Design guideline | Adequate casual surveillance available | Yes      |
| 2.3.3.1 | Cut and fill 1.0m max. 1m outside the perimeter of the external building walls                 | 1m max cut and fill.                   | Yes      |
| 2.3.3.2 | 1m max. height retaining walls   | No retaining along                     | N/A      |

| <b>DCP 2013: General Provisions</b> |   |                               |                 |
|-------------------------------------|---|-------------------------------|-----------------|
|                                     | <b>Requirements</b>   | <b>Proposed</b>               | <b>Complies</b> |
|                                     | along road frontage   | road frontage proposed.       |                 |
|                                     | Any retaining wall >1.0 in height to be certified by structure engineer   | 1m max height proposed.       | Yes             |
|                                     | Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway | N/A                           | N/A             |
| 2.3.3.8                             | Removal of hollow bearing trees   | No tree removal proposed.     | N/A             |
| 2.6.3.1                             | Tree removal (3m or higher with 100mm diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)   | No tree removal proposed.     | N/A             |
| 2.4.3                               | Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater  | Refer to main body of report. | Yes             |
| 2.5.3.2                             | New accesses not permitted from arterial or distributor roads   | None proposed.                | N/A             |
|                                     | Driveway crossing/s minimal in number and width including maximising street parking   | Single crossover.             | Yes             |
| 2.5.3.3                             | Parking in accordance with Table 2.5.1.<br>1 space per single dwelling (behind building line)   | Double garage provided.       | Yes             |
| 2.5.3.11                            | Section 94 contributions  | Refer to main body of report. | N/A             |
| 2.5.3.12 and 2.5.3.13               | Landscaping of parking areas  | Landscaping acceptable.       | Yes             |
| 2.5.3.14                            | Sealed driveway surfaces unless justified   | To be sealed.                 | Yes             |
| 2.5.3.15 and 2.5.3.16               | Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length  | Capable of compliance.        | Yes             |
| 2.5.3.17                            | Parking areas to be designed to avoid concentrations of water runoff on the surface.  | Acceptable.                   | Yes             |
|                                     | Vehicle washing facilities – grassed area etc available.  | Acceptable.                   | Yes             |

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

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

**iv) Any matters prescribed by the Regulations:****New South Wales Coastal Policy:**

Complies with the objectives.

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

- The proposal is unlikely to have any adverse impacts on existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be consistent with other residential development in the locality and adequately addresses planning controls for the area.
- There is no adverse impact on existing view sharing.
- There is no adverse privacy impacts.
- There is no adverse overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to private open space and primary living areas on 21 June.

**Access, transport and traffic**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

**Water Supply**

Service available – details required with S.68 application.

**Sewer**

Service available – details required with S.68 application.

**Stormwater**

Service available – details required with S.68 application

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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

**Other land resources**

No adverse impacts anticipated. The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

**Water cycle**

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

**Soils**

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



**Air and microclimate**

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

**Flora and fauna**

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

**Waste**

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated.

**Energy**

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

**Noise and vibration**

No adverse impacts anticipated. Condition recommended to restrict construction to standard construction hours. Category building 2 construction required to meet acceptable internal noise levels from road traffic noise.

**Bushfire**

The site is not identified as being bushfire prone. No specific bushfire measures required.

**Safety, security and crime prevention**

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

**Social impacts in the locality**

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

**Economic impact in the locality**

No adverse impacts. Likely positive impacts can be attributed to the construction of the development and associated flow on effects (ie increased expenditure in the area).

**Site design and internal design**

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

**Construction**

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

**Cumulative Impacts**

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

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



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

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

One (1) written submissions have been received following public exhibition of the application.

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

| <b>Submission<br/>Issue/Summary</b>  | <b>Planning Comment/Response</b>  |
|--|---|
| Lack of parking-<br>development likely to<br>generate large numbers<br>of vehicles | Use is a temporary use. Parking is available onsite-<br>double stacked car parking in driveway on street<br>during time as use for exhibition home and double<br>garage when it reverts to use as a single dwelling.<br>Traffic generation and parking demand from the<br>development is unlikely to create undue impact to<br>surrounding residential development. |

**(e) The Public Interest:**

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

N/A

**5. CONCLUSION AND STATEMENT OF REASON**

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

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

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

**Attachments**

1[View](#). DA2019 - 8.1 Recommended Conditions

2[View](#). DA2019 - 8.1 Plans

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2019/8****DATE: 15/02/2019****SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT**

The conditions of consent referred to in the Notice of Determination for DA No 2019/8 are as follows:

**PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

| <b>Plan / Supporting Document</b>      | <b>Reference</b> | <b>Prepared by</b> | <b>Date</b>    |
|--|------------------|--------------------|----------------|
| Architectural Plans and Specifications | 9175E Sheets 1-9 | Perry Homes        | 24/08/18       |
| BASIX Certificate                      | 988441S          | Perry Homes        | 9 January 2019 |

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

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

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

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

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

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

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

- (4) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (5) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this consent) must be submitted to and approved by council prior to the erection or display of any such signs.
- (6) (A195) This consent permits conversion of the exhibition home to a single dwelling upon cessation of the exhibition home use. Upon cessation of the exhibition home use, all associated signage must be removed from the site and sales cupboard removed from the garage.

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

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

Such works include, but not be limited to:

  - i. Footway and gutter crossing
  - ii. Functional vehicular access
- (3) The Construction Certificate plans shall clearly illustrate category 2 building construction measures in accordance with Australian Standard AS3671 - 1989 Acoustics - Road traffic noise intrusion - Building siting and construction.

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

Nil

**D – DURING CONSTRUCTION**

- (1) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (2) (D015) The pool/spa shall not to be filled with water until a safety fence/barrier complying with the current Swimming Pools Act and Regulations has been installed and an inspection has been carried out and approval given by the Principal Certifying Authority.
- (3) (D016) Where depth of water in the pool/spa exceeds 300mm during construction a temporary barrier or fence in accordance with the current Swimming Pools Act and Regulations is to be erected or other precaution taken so as to prevent entry of children into the pool.

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

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any person responsible for the building works on the site, stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (4) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (5) (E020) The provision of a suitable sign containing the details required by the current Swimming Pools Act and Regulations.
- (6) (E021) Pool/spa to be fenced in accordance with the Swimming Pools Act, 1992.

**F – OCCUPATION OF THE SITE**

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F195) The driveway is to be kept clear at all times to allow off street parking for the exhibition home use.
- (3) (F027) The swimming pool filtration motor shall be operated between the following hours only:

Monday to Friday (other than a public holiday)  
7.00 am – 8.00 pm

Saturday to Sunday and Public Holidays  
8.00 am – 8.00 pm

Should noise levels exceed 5dBA above the ambient noise level measured at the boundary, the pool filtration motor shall be enclosed with an effective soundproof unit.

- (4) (FP196) Unless varied in writing by Council staff, the hours of operation of the exhibition home is restricted to the following:
- 10am to 5pm daily

DRAFT







## LANDSCAPE PLAN

**Newnham Karl Weir**  
and Partners Pty Ltd



5 Murdock Street Coffs Harbour 2450



# Perry Homes

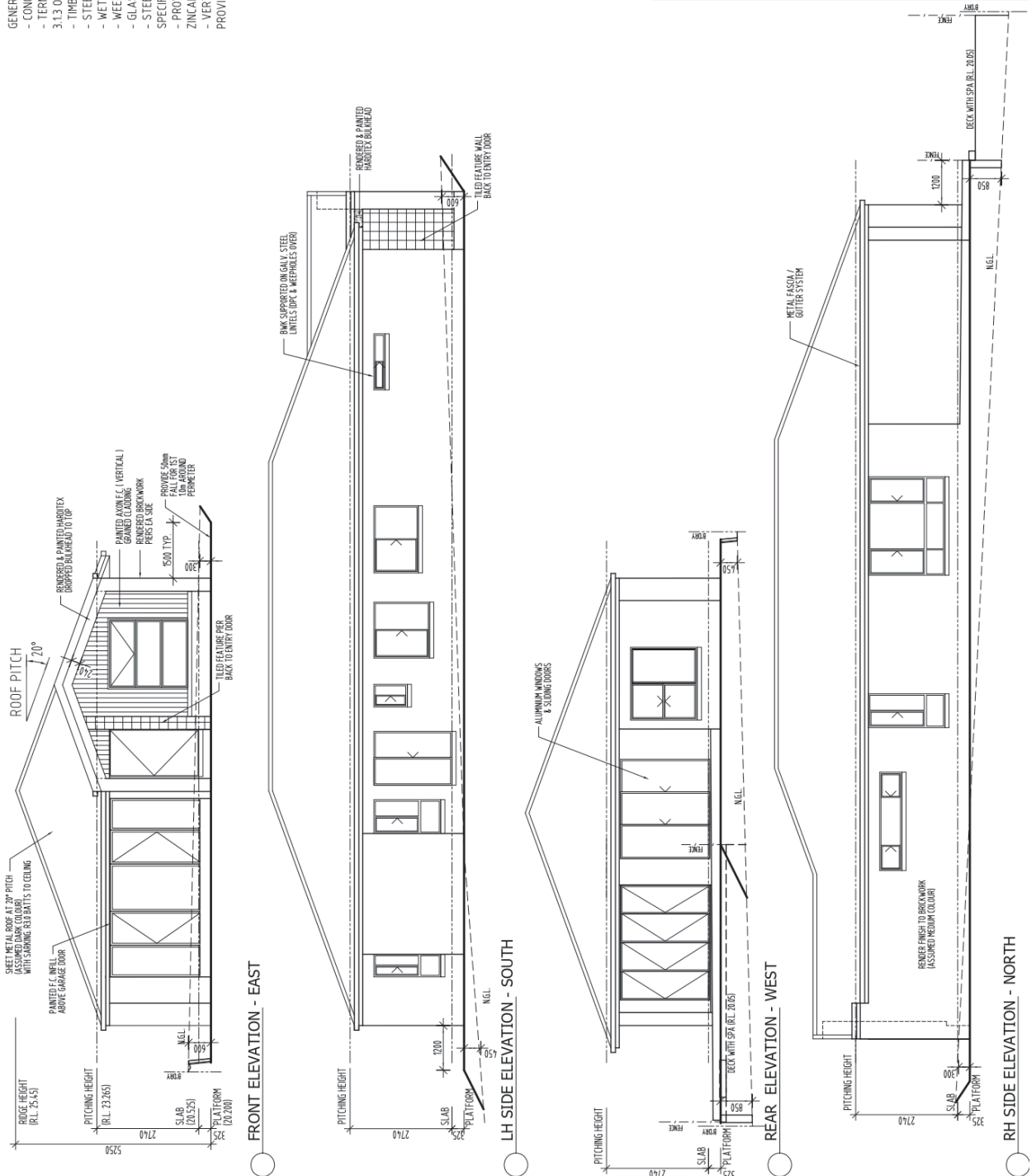
URV REF: 12961

**Item 05**  
**Attachment 2**  
**Page 32**

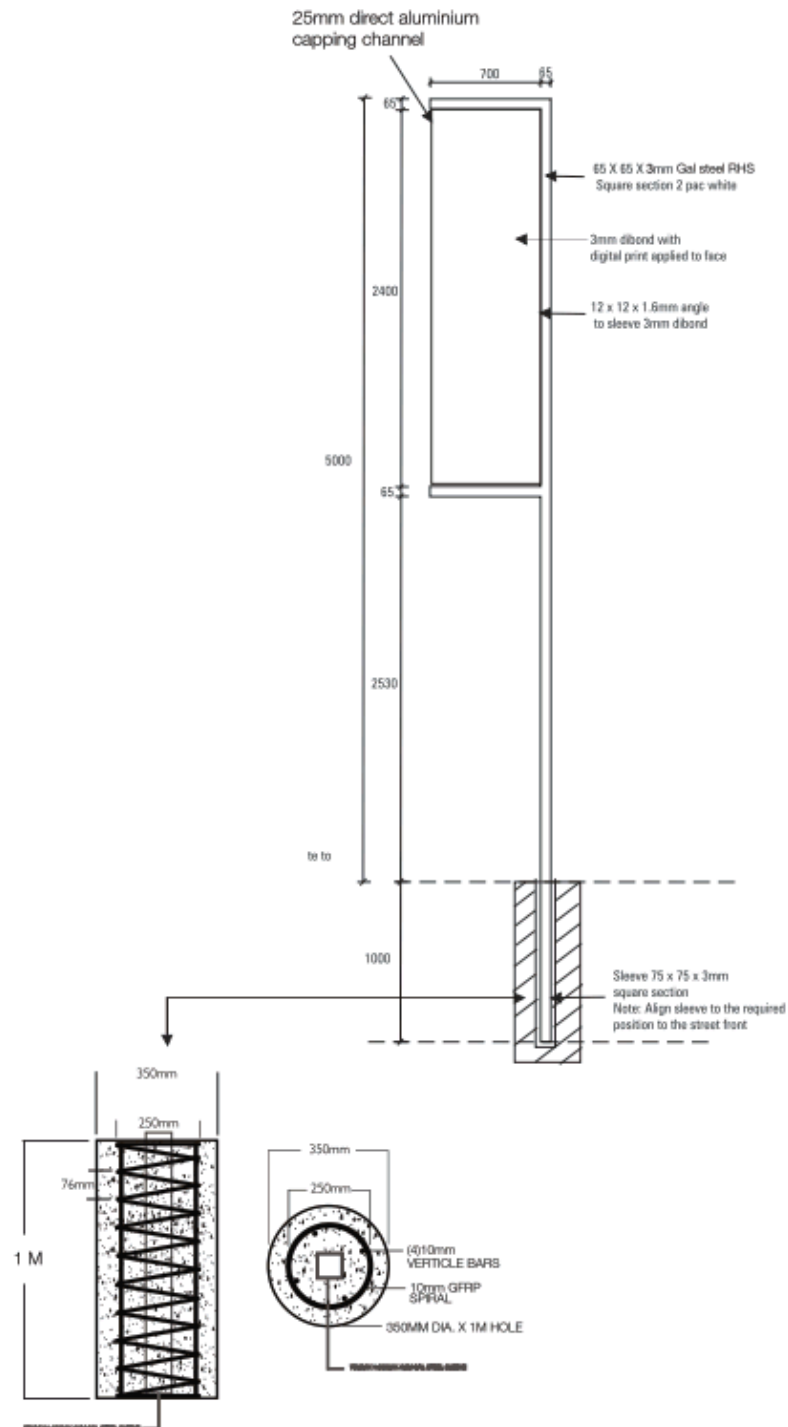


**CONTRACT COPY**

|   |           |  |                  |
|---|-----------|--|------------------|
| NOTE: NOT SCALE OFF DRAWINGS, USE ONLY THE WRITTEN DIMENSIONS.  |           |  |                  |
|  <div style="float: right; text-align: right;">         NSW Lic. No. 109792<br/>         QBCC Act Lic. No. 709148<br/>         AON 53 090 064 630       </div> |           |  |                  |
|    |           | www.perryhomes.com.au                    |                  |
| HELO REF:   |           |  |                  |
| ph: 07-5569 9400 fax: 07-5532 3884 19 MULUNGAL DRIVE TWEED HEADS SOUTH, NSW, 2466   |           |  |                  |
| © THIS PLAN IS THE COPYRIGHT PROPERTY OF PERRY HOMES (AUSTRALIA) PTY LTD  |           |  |                  |
| CLIENT:   |           | PHA - L20 LAKE CATHIE                    |                  |
| SITE ADDRESS:   |           | LOT 20 SEASIDE DRIVE<br>LAKE CATHIE, NSW |                  |
| AMENDED:-   |           |  |                  |
| DATE:   | 15/11/18  | REV $\frac{1}{1}$<br>DATE: $\frac{1}{1}$ | WIND<br>CATY: N2 |
| DESIGN:   | MALIBU 26 | DWNC-<br>DmC                             | SCALE: 1:100     |
| THIS SHT:   | ELEVATION | SHT                                      | 3 OF 9           |
|   |           | JOB 9175E                                |                  |



## erry Homes Flag Pole Sign Form 15 Drawing



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**Item: 06****Subject: DA2018 - 1041.1 ALTERATIONS AND ADDITIONS TO DWELLING INCLUDING A CLAUSE 4.6 VARIATION TO CLAUSE 4.3 (HEIGHT OF BUILDINGS) OF THE PORT MACQUARIE HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - LOT 18 DP 31187, NO.23 BOURNE STREET, PORT MACQUARIE****Report Author: Fiona Tierney**

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|                        |                             |
|------------------------|-----------------------------|
| <b>Applicant:</b>      | <b>C P &amp; A J Hickey</b> |
| <b>Owner:</b>          | <b>C P &amp; A J Hickey</b> |
| <b>Estimated Cost:</b> | <b>\$370,000</b>            |
| <b>Parcel no:</b>      | <b>2522</b>                 |

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA 2018 – 1041.1 for alterations and additions to an existing dwelling including Clause 4.6 variation to Clause 4.3 (height of buildings) of the Port Macquarie Hastings Local Environmental Plan 2011 at Lot 18, DP 31187, No. 23 Bourne Street, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a development application for alterations and additions to an existing dwelling at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

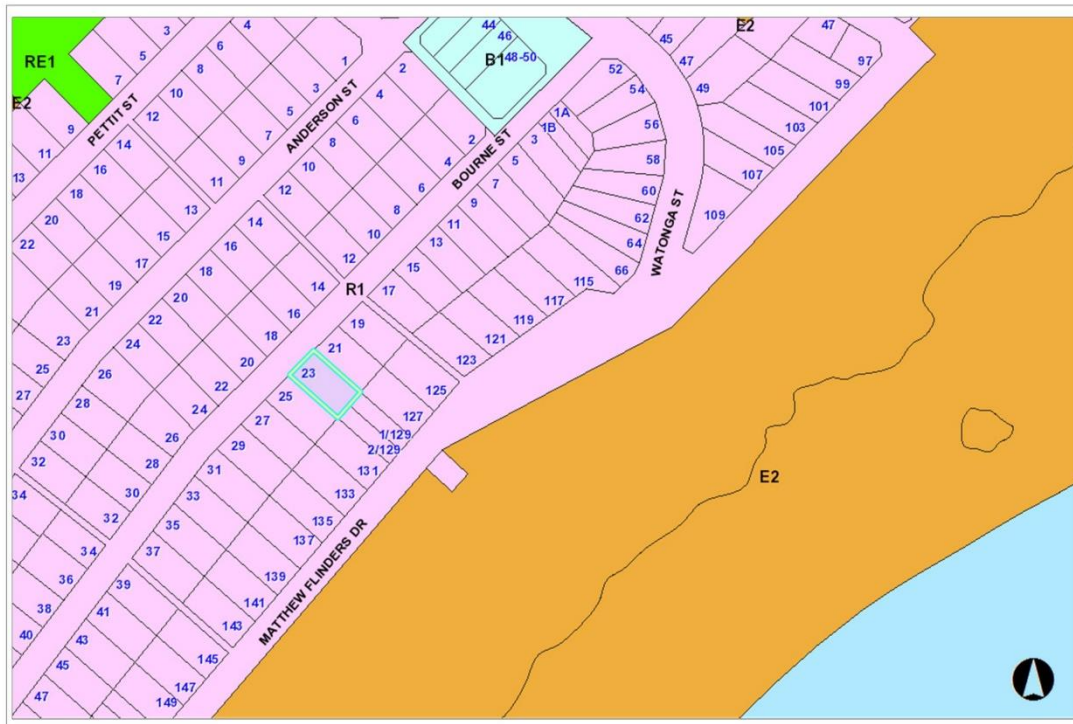
Following exhibition of the application, four (4) submissions have been received.

This report recommends approval of the development application and support for the clause 4.6 variation subject to the recommended conditions

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

The site has an area of 613.4m<sup>2</sup>.

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



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:

- Demolition of existing roof over garage.
- Construction of additional level over garage and living area
- Extension of deck to the rear
- The front of the dwelling, when viewed from the street, complies with the 8.5m height limit
- As a result of the above, a Clause 4.6 variation is proposed to Clause 4.3 (Height of Buildings) of Port Macquarie-Hastings Local Environmental Plan 2011.

Refer to attachments at the end of this report.

**Application Chronology**

- 4 December 2018- Application lodged
- 2-21 January 2019 (plus an additional 10 days granted for late submission)– Neighbour notification
- 19 December 2018- Amended plans submitted- additional clarity detail
- 29 February 2019- Height poles installed
- 1 February 2019- onsite meeting draftsman- assess privacy impacts and view height poles
- 6 February 2019- on site meeting to assess view loss for each objector

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

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

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

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

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

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

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

**State Environmental Planning Policy (Coastal Management) 2018 and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011**

The site is located within a coastal use area / coastal environment area.

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

Having regard to clauses 13 and 14 of the SEPP and clause 5.5 of the Port Macquarie-Hastings LEP 2011 the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impacts on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- e) any adverse impact on Aboriginal cultural heritage, practices and places;
- f) any adverse impacts on the cultural and built environment heritage;
- g) any adverse impacts the use of the surf zone;
- h) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- i) overshadowing, wind funnelling and the loss of views from public places to foreshores;

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and built environment. The site is in an established residential area.

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

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

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

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

- Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the dwelling (or ancillary structure to a dwelling) is a permissible landuse with consent.
- The objectives of the R1 zone are as follows:
  - *To provide for the housing needs of the community.*
  - *To provide for a variety of housing types and densities.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse, contributes to housing variety and is sufficiently consistent with the existing residential locality
- Clause 2.7, the demolition requires consent as it does not fit within the provisions of SEPP (Exempt and Complying) 2008.
- Clause 4.3, the maximum overall height of the building above ground level (existing) is 9.35m which does not comply with the standard height limit of 8.5m applying to the site.
- Clause 4.4, the floor space ratio of the proposal is 0.416:1.0 which complies with the maximum 1:1 floor space ratio applying to the site.

- Clause 4.6 – The application seeks to vary the 8.5 metre height limit identified under Clause 4.3 of the LEP. Clause 4.3, this clause establishes the maximum “height of a building” (or building height) that a building may be built to on any parcel of land. The term “building height (or height of building)” is defined in the LEP to mean “*the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like*”. The term “ground level (existing)” is also defined in the LEP to mean “*the existing level of a site at any point*”.

The building height limit for the site is identified on the Height of Buildings Map as being 8.5m. The proposed development (new works) exceed the height by 0.85m, which represents a variation of 10%. Refer to the attached elevation plans, which demonstrate the areas of the building that exceed the height limit.

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

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

Comment:

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

Key aspects of this proposal are:

- The dwelling still presents as a single storey dwelling to the street/public domain given it is set well below street level.
- The variation in height occurs central to the building where the original lower floor level (at the time the dwelling was originally constructed) was excavated well into the site. This will limit the impact on neighbours as the central height will not be visible.

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

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

Comment:

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

- The main variations are located behind the facades of the building and are therefore less distinct.
- The variations are minor in the context of the existing built form and other existing height variations.
- The building height is similar to the existing dwellings in the area and will therefore not be visually dominant.
- The variation is created by the land sloping steeply away from the street.

View impacts and solar access are considered elsewhere in this report under ‘View Sharing’ and ‘Overshadowing’. The proposed development and minor height variation do not create any adverse view loss or significant additional overshadowing.

Potential privacy impacts are considered under the relevant DCP provisions below and have been satisfactorily addressed in the building design.

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

Comment:

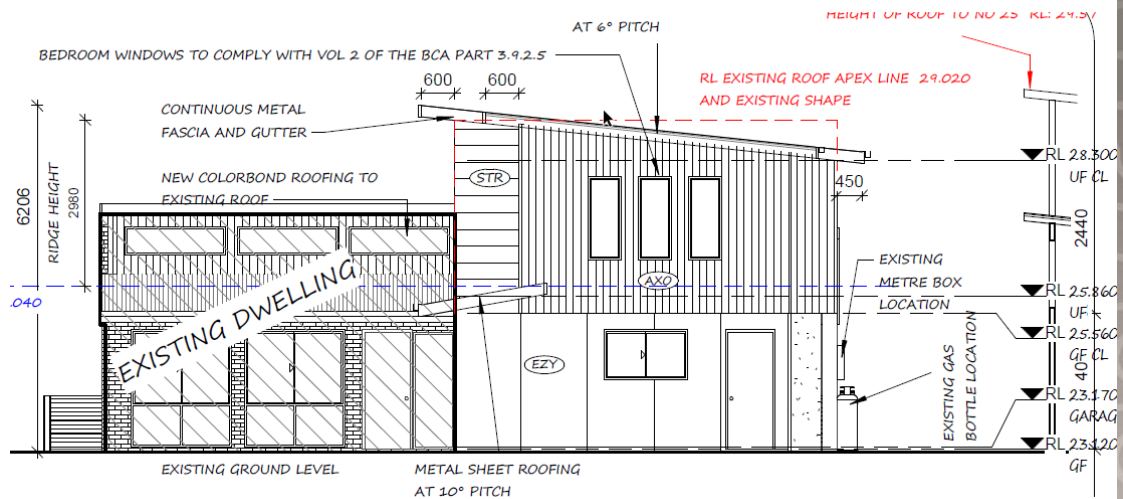
The site does not contain any known heritage items or sites of significance.

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

Comment:

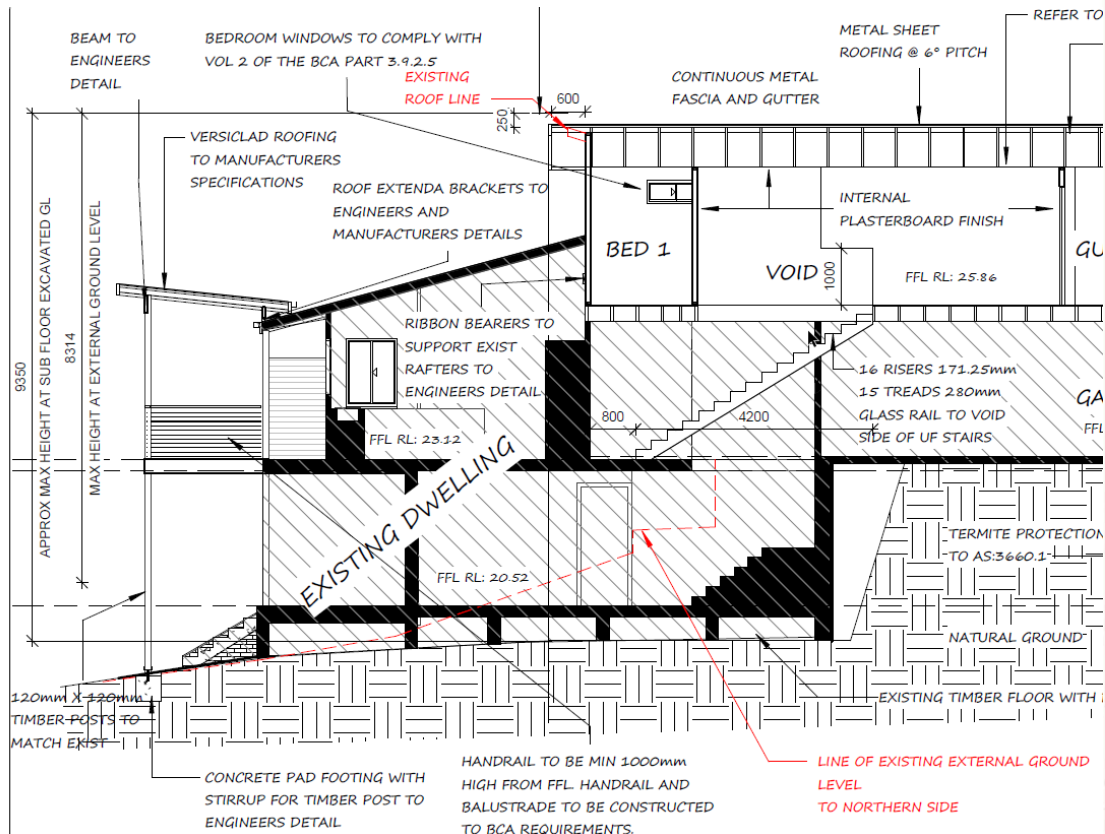
The proposed height is consistent with other dwellings in the area. The variation does not compromise this intent of the standard.

In addition to the above, the applicant has lodged a written request in accordance with Clause 4.6 of the LEP objecting to the 8.5m building height standard applying to the site.



Proposed front elevation with existing roof line marked in red hashed line.





Section through indicating existing and natural ground levels.

In accordance with the provisions of sub-clause 4.6(3), the Applicant has requested that compliance with the building height provisions identified under Clause 4.3 is unreasonable and unnecessary in the circumstances of this case, for the following reasons:

- Having regard to the other dwellings in this locality, it is considered that the proposed building is compatible with the height, bulk and scale of the existing and likely future character of this locality. Whilst the existing design has followed the slope of the land, a small area of the roof now technically exceeds the 8.5m height due to heights being calculated from existing ground level and not natural ground level.

The existing sub floor area was excavated with more than the required under floor minimum requirements, which has consequently made the overall height taken from this point slightly higher than the defined height limit.

At the natural ground level on the exterior of the dwelling, the proposed design would be under the 8.5m at the highest point and therefore compliant. It is only the over excavated area under the subfloor of the existing dwelling that presents the exceeded height limit in a very small area.

- With the steep nature of the site and surrounding properties, the proposed occupies a similar or less bulk and scale than recently renovated neighbouring properties. The shadow diagrams also demonstrate that the proposed dwelling will not adversely impact on overshadowing, including the additional height. For a number of the properties it can be argued that there is a net view gain due to a lowering of the roof on one side.

- *Compliance with the development standard is unnecessary as the areas of the roof which vary the height standard do not impact on overshadowing, view lines, or perceptions of building bulk and scale.*
- 
- In addition to the above, the following is noted:
  - The primary bulk of the building is contained within the 8.5m height limit.
  - The extent of the height is limited to only a maximum 0.85m or 10% above the 8.5m standard.
- 
- For the above reasons, the objection is considered to be well founded and it is recommended that the variation be supported.
- 
- In accordance with the Department of Planning and Environment Circular PS 08-014, the proposal includes variations to the LEP which is not greater than 10% and therefore can be determined under delegated authority (Development Assessment Panel has delegations to determine). A report will be required to be made to an Ordinary meeting of Council to advise of the clause 4.6 variation should consent be granted.
- 

**(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**

| <b><i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</i></b> |   |  |                 |
|---|---|--|-----------------|
|   | <b>Requirements</b>   | <b>Proposed</b>  | <b>Complies</b> |
| 3.2.2.2   | Articulation zone: <ul style="list-style-type: none"> <li>• Min. 3m front setback</li> <li>• An entry feature or portico</li> <li>• A balcony, deck, patio, pergola, terrace or verandah</li> <li>• A window box treatment</li> <li>• A bay window or similar feature</li> <li>• An awning or other feature over a window</li> <li>• A sun shading feature</li> </ul> | No encroachments within the articulation zone  | Yes             |
|   | Front setback (Residential not R5 zone): <ul style="list-style-type: none"> <li>• Min. 4.5m local road</li> </ul>   | The minimum setback is 7.4m.   | Yes             |
| 3.2.2.3   | Garage 5.5m min. and 1m behind front façade.<br>Garage door recessed behind building line or eaves/overhangs provided   | The garage door is accessed from the side angle and is located below street level. Garage does not dominate the street | Yes             |

| <b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b> |   |  |                       |
|--|---|--|-----------------------|
|  | <b>Requirements</b>   | <b>Proposed</b>  | <b>Complies</b>       |
|  |   | frontage. Garage door will technically be 1m behind outermost point.   |                       |
|  | 6m max. width of garage door/s and 50% max. width of building   | Not located within front elevation   | N/A                   |
|  | Driveway crossover 1/3 max. of site frontage and max. 5.0m width  | Existing.  | Yes                   |
| 3.2.2.4  | 4m min. rear setback. Variation subject to site analysis and provision of private open space  | 7.286m rear setback  | Yes                   |
| 3.2.2.5  | Side setbacks:<br><ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>   | Existing side setbacks   | Yes<br>Yes<br><br>Yes |
| 3.2.2.6  | 35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade  | Existing   | Yes                   |
| 3.2.2.7  | Front fences:<br><ul style="list-style-type: none"> <li>• If solid 1.2m max height and front setback 1.0m with landscaping</li> <li>• 3x3m min. splay for corner sites</li> <li>• Fences &gt;1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings</li> <li>• 0.9x0.9m splays adjoining driveway entrances</li> <li>• Front fences and walls to have complimentary materials to context</li> </ul> | No front fences proposed   | Yes                   |
| 3.2.2.10   | Privacy:<br><ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open</li> </ul>  | Existing. Topography of the site results in overlooking of properties below. Small extension of rear deck area proposed. No significant additional impact on current privacy | Yes                   |

**DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development**

|  | Requirements  | Proposed  | Complies |
|--|---|---|----------|
|  | <p>space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</p> <ul style="list-style-type: none"> <li>Privacy screen required if floor level &gt; 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m</li> <li>Privacy screens provided to balconies/verandahs etc which have &lt;3m side/rear setback and floor level height &gt;1m</li> </ul> | <p>impact level. Applicant has planted bamboo and other vegetation to increase privacy screening. Also added frosting to balcony glass panels that limit vision from a seated position and from within the living areas of the house.</p> |          |

**DCP 2013: General Provisions**

|         | Requirements  | Proposed  | Complies |
|---------|---|---|----------|
| 2.7.2.2 | Design addresses generic principles of Crime Prevention Through Environmental Design guideline  | Adequate casual surveillance available          | Yes      |
| 2.3.3.1 | Cut and fill 1.0m max. 1m outside the perimeter of the external building walls  | Existing  | Yes      |
| 2.3.3.2 | 1m max. height retaining walls along road frontage  | Existing  | N/A      |
|         | Any retaining wall >1.0 in height to be certified by structure engineer   | Existing  | N/A      |
|         | Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway | N/A   |          |
| 2.3.3.8 | Removal of hollow bearing trees   | No hollow bearing trees identified for removal. | Yes      |
| 2.6.3.1 | Tree removal (3m or higher with 100mm diameter trunk at 1m above ground level and 3m from external wall of existing dwelling)   |   | N/A      |
| 2.4.3   | Bushfire risk, Acid sulphate soils, Flooding, Contamination,  |   | Yes      |

| <b>DCP 2013: General Provisions</b> |   |   |                 |
|-------------------------------------|---|---|-----------------|
|                                     | <b>Requirements</b>   | <b>Proposed</b>   | <b>Complies</b> |
|                                     | Airspace protection, Noise and Stormwater   |   |                 |
| 2.5.3.2                             | New accesses not permitted from arterial or distributor roads                                 | N/A   |                 |
|                                     | Driveway crossing/s minimal in number and width including maximising street parking           | Existing  | Yes             |
| 2.5.3.3                             | Parking in accordance with Table 2.5.1.<br>1 space per single dwelling (behind building line) | Existing  | Yes             |
| 2.5.3.11                            | Section 94 contributions  | N/A   |                 |
| 2.5.3.12 and 2.5.3.13               | Landscaping of parking areas  | Single dwelling.<br>Landscaping indicatively shown in the front setback area. | Yes             |
| 2.5.3.14                            | Sealed driveway surfaces unless justified   | Sealed driveway proposed  | Yes             |
| 2.5.3.15 and 2.5.3.16               | Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length    | Existing  | Yes             |
| 2.5.3.17                            | Parking areas to be designed to avoid concentrations of water runoff on the surface.          | Existing  | Yes             |
|                                     | Vehicle washing facilities – grassed area etc available.                                      | Existing  | N/A             |

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

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

iv) Any matters prescribed by the Regulations:

**New South Wales Coastal Policy:**

The proposed development is consistent with the objectives and strategic actions of this policy.

**Demolition of buildings AS 2601:**

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



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

**Context and setting**

- The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.
- The proposal is considered to be sufficiently consistent with other residential development in the locality and adequately addresses planning controls for the area including justifiable variations to the Building Height and other Development Provisions under Development Control Plan 2013.
- There are no identifiable adverse privacy impacts having regard to recommended development provisions of Development Control Plan 2013, the design of the new building's primarily living areas and the privacy screening and plantings proposed.
- There no significant additional overshadowing impacts. The proposal does not prevent adjoining properties from receiving 3 hours of sunlight to a reasonable area of private open space and primary living area on 21 June. It is difficult to maintain access to all private open space areas due to self-shadowing, topography and fencing. It is considered the addition is appropriate in the circumstances

**View sharing**

During the neighbour notification period concerns surrounding view loss were raised by a number of neighbours opposite and to the south of the subject development at nos 18,20 and 26 Bourne Street.

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

Using the planning principles of NSW Land and Environment Court in *Tenacity Consulting v Warringah 2004 NSW LEC 140*, the following comments are provided in regard to the view impacts using the 4 step process to establish whether the view sharing is acceptable.

**Step 1**

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

**Comments:**

No. 18 Bourne Street enjoys views along the coast with glimpses of land/water interface and beach. This view is to be valuable and extensive. The significance of this view is considered to be high.

No 20 Bourne Street enjoy views similar views along the coast. The significance of this view is considered to be high.



No 26 Bourne Street also enjoys similar views, however they also have iconic views of the Tacking Point Lighthouse that are significant in a local sense.

### Step 2

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

#### Comments:

Affected views from No.18 Bourne Street are obtained from the upper habitable levels which are the primary living areas. Views are obtained from both a sitting and standing position

A photo of the view from the primary living area on the upper level looking across the development site towards the Pacific Ocean is shown below.



Affected views from No.20 Bourne Street are obtained from the upper habitable levels which are the primary living areas. Views are obtained from both a sitting and standing position.

A photo of the view from the primary living area on the upper level looking across the development site towards the Pacific Ocean is shown below. Also shown is indicative view loss from within living area.



Affected views from No.26 Bourne Street are obtained from the upper habitable levels which are the primary living areas and a third level bedroom. Views are obtained from both a sitting and standing position. Iconic Lighthouse views are obtained from the external balcony.

A photo of the view from the upper level looking up the street across the development site towards the Pacific Ocean is shown below.



### Step 3

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

### Comments:

The extent of the impact upon the views enjoyed from No.18 Bourne Street is considered minor and would potentially increase the available view due to the change in roof shape that will now be angled lower on the southern side. It is appreciated that some concern exists that there will be an accumulative erosion of the view from the North Western side of Bourne Street. The view is quite extensive and some comfort must be taken in that a number of houses have been more recently renovated/extended so some certainty will exist for some time that significant views will be maintained. Due to the topography of the site and the view loss sensitivity views are unlikely to be devastating as the elevations closest to the street are generally single storey.

The extent of impact upon the views enjoyed from No. 20 Bourne Street is slightly more given the view is across the site and the works will extend toward the street. It is however still considered minor in that the percentage of vegetation and ocean lost over the subject site is minimal relative to the entire view available to the property. The extent of impact upon the views from No. 26 Bourne Street are negligible. Looking some distance up the street across the development site a small portion of distant outcrop of vegetation will be obscured.



**Step 4**

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

**Comments:**

The majority of the proposal complies with the maximum building height of 8.5m set for the area. There are non-compliances with the provisions of DCP 2013 and in part the LEP building height, however none of these matters would have any impact on view sharing as they relate to prior cut to the site that is below natural ground level and so is in keeping with the existing character, bulk and scale of the existing area.

It is considered that the applicant has considered the impacts of their proposal on dwellings opposite as they have largely maintained their works within the existing roof profile leaving the northern lower roof largely untouched and maintaining the existing view corridors across the majority of the site.

**Access, transport and traffic**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

**Water Supply**

Service available – details required with S.68 application.

**Sewer**

Service available – details required with S.68 application.

**Stormwater**

Service available to existing– details required with S.68 application

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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

**Other land resources**

No adverse impacts anticipated. The site is within an established urban context and will not sterilise any significant mineral or agricultural resource.

**Water cycle**

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

**Soils**

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

requiring erosion and sediment controls to be in place prior to and during construction.

**Air and microclimate**

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

**Flora and fauna**

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

**Waste**

Satisfactory arrangements are in place for proposed storage and collection of waste and recyclables. No adverse impacts anticipated.

**Energy**

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

**Noise and vibration**

No adverse impacts anticipated. Condition recommended to restrict construction to standard construction hours.

**Bushfire**

The site is identified as being bushfire prone.

The applicant has submitted a bushfire BAL certificate report prepared by a Certified Consultant. The report recommends a BAL level of 12.5.

**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. The primary access to the dwelling is available from both the garage floor level and the adjoining public pathway.

**Social impacts in the locality**

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

**Economic impact in the locality**

No adverse impacts. Likely positive impacts can be attributed to the construction of the development and associated flow on effects (ie increased expenditure in the area).

**Site design and internal design**

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

**Construction**

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

**Cumulative Impacts**

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

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

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

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

Four (4) written submissions have been received following public exhibition of the application.

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

| Submission Issue/Summary  | Planning Comment/Response   |
|---|---|
| Details and measurements are unclear.                           | <p>The applicant has provided additional details and Council officers have met the applicant and objectors on site to assist in interpretation. Height poles have also been installed to enable a visual indication of likely impacts.</p> <p>The applicant has also provided a surveyors plan that provides certified levels and points on the adjoining roof that provides greater certainty that claims made in relation to view loss are reasonably accurate.</p> |
| Solar panel installation  | Owner has advised that panels will be installed flush with roof and that they are willing to relocate them to the eastern roof. Neighbour concerns related to concerns that panels would be placed on props that would increase the impact on view loss.  |
| Colour of roof cladding   | Applicant has advised that the colour will be a midrange colour such as Woodland grey. Neighbour concerns relate to glare from white roof colours.  |
| Over the regulated height- 3 storeys should not be permissible. | 3 Storey dwellings are not prohibited. Controls are centred around bulk and scale. In this instance the height is over the required 8.5m due to the height measurement being measured from the excavated existing ground level. It is not considered that the area of variation will unduly contribute to the impact of the dwelling on adjoining neighbouring properties given that the area visible to neighbours is below the height limit.                        |
| Lack of neighbour consultation                                  | Whilst neighbour consultation is desirable it is not always situation people feel comfortable with. The application has been formally notified and some neighbour consultation has been carried out within this process.  |
| Out of character with surrounding area                          | It is considered that the development is within character and is appropriate in bulk and scale.   |



| Submission Issue/Summary | Planning Comment/Response   |
|--------------------------|---|
| Privacy loss             | <p>The topography of the sites does result in overlooking to properties below.</p> <p>The owner has submitted additional detail on how they propose to address privacy impacts. Bamboo (mature height 6-8m) Banana trees and golden cane palms.</p> <p>Frosted panels in glass balcony panels that restrict view when seated or from within enclosed are of dwelling.</p> <p>Timber panels have been added to existing fence after previous removal of vegetation.</p> <p>The existing view from the rear deck is shown below. The minor extension to the existing deck will not unduly increase privacy impacts to the property below. It is noted however that significant vegetation was removed in the last 12 months that has attributed to loss of privacy. The owner has sought to re-establish screening and it is anticipated screening will return in the short term.</p> |



View from existing deck down to 129 Matthew Flinders Drive.

**(e) The Public Interest:**

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

- No development contributions are applicable as the site is an existing Council approved residential lot.

**5. CONCLUSION AND STATEMENT OF REASON**

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

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

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

**Attachments**

1[View](#). DA 2018 - 1041.1 Recommended Conditions

2[View](#). DA2018 - 1041.1 SOEE

3[View](#). DA2018 - 1041.1 Plans

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2018/1041****DATE: 15/02/2019****SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT**

The conditions of consent referred to in the Notice of Determination for DA No 2018/1041 are as follows:

**PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

| Plan / Supporting Document             | Reference  | Prepared by                 | Date     |
|--|------------|-----------------------------|----------|
| Architectural Plans and Specifications | 1043HIC    | Draftworx                   | 5/2/2019 |
| SOEE                                   |            | Draftworx                   | 11/11/18 |
| BASIX                                  | A333558_04 | Draftworx                   | 29/11/18 |
| BAL                                    |            | S & K Johnson Constructions | 8/11/18  |

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority and
  - the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
  - Appropriate dust control measures;
  - Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work

adjoins the public domain, fencing is to be in place so as to prevent public access to the site;

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

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

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

- (1) (B001) Prior to release of the Construction Certificate, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
  - Position and depth of the sewer (including junction)
  - Stormwater drainage termination point
  - Easements
  - Water main
- (2) (B046) The building shall be designed and constructed so as to comply with the Bush Fire Attack (BAL) 12.5 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of Planning for Bush Fire Protection 2006 to prevail in the extent of any inconsistency with the Building Code of Australia.
- (3) The rear upper balcony panels are to be opaque. Details are to be shown on the plans submitted with the construction certificate.

#### C - PRIOR TO ANY WORK COMMENCING ON SITE

Nil

#### D - DURING CONSTRUCTION

- (1) (D003) The Port Macquarie-Hastings area is known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (2) Prior to the sheeting of the roof frame confirmation of ridge levels are to be submitted to the private certifying authority indicating levels will be within the proposed roof levels in the stamped development approval plans.
- (3) (D029) The demolition of any existing structure shall be carried out in accordance with Australian Standard AS 2601-1991: *The Demolition of Structures*. No demolition materials shall be burnt or buried on site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste

materials onto the road. Should the demolition works obstruct or inconvenience pedestrian or vehicular traffic on an adjoining public road or reserve, separate application shall be made to Council to enclose the public place with a hoarding fence.

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

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

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

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

[Asbestos Awareness](#)

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

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (4) The rear upper deck is to have opaque/frosted balcony panels to reduce overlooking to the property immediately below.

#### **F – OCCUPATION OF THE SITE**

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





### STATEMENT OF ENVIRONMENTAL EFFECTS

This form is to be submitted for minor development applications only, such as new dwellings, alterations and additions and ancillary structures, change of use/first use of commercial and industrial premises. Other applications will require a comprehensive SOEE. Refer to SOEE Fact Sheet or Council's Duty Planner for assistance.

If you answer "yes" to any item in sections 4 to 8 you will need to detail the likely impact(s) and the proposed means of mitigating or reducing such impact(s). If insufficient space has been provided, attach additional sheet(s).

#### 1. PROPERTY DETAILS

Lot No 18 Section No. .... DP/SP No 31187 Street No 23  
 Street Name BOURNE ST  
 Suburb/Town PORT MACQUARIE Postcode 2444

#### 2. PROPOSAL DESCRIPTION

Provide a description of the proposed development. ....

UPPER FLOOR ADDITION

The following questions are to be completed for applications relating to home business/industry, shops, commercial and industrial premises.

Hours of operation? .....

Client and staff numbers? .....

Type, size and quantity of goods to be made, stored or transported? .....

Details of any deliveries (i.e. hours, frequency, type of vehicles)? .....

Details of any retailing? .....



Comments: .....

.....

.....

### 3. PLANNING INFORMATION

What is the zoning of the subject land? R1 .....

What is the current use of the land/building? RESIDENTIAL DWELLING .....

Is your proposal:

- permissible in the zone? Yes ☒ No ☐
- consistent with the zone objectives? Yes ☒ No ☐

Does your proposal comply with the relevant:

- development standards (i.e. FSR, heights) in the Local Environmental Plan? Yes ☒ No ☐
- development control plan (e.g. setbacks, car parking)? Yes ☐ No ☒

If you answered "no" to any of the above questions, a detailed justification is required. Additionally, you should discuss your proposal with the Duty Planner before lodging your development application.

### 4. SITE SUITABILITY

Will the development:

- affect any neighbouring residences by overshadowing or loss of privacy? Yes ☐ No ☒
- result in the loss or reduction of views? Yes ☐ No ☒
- impact on any item of heritage or cultural significance? Yes ☐ No ☒
- result in land use conflict or incompatibility with neighbouring premises? Yes ☐ No ☒
- be out of character with the surrounding area? Yes ☐ No ☒
- be visually prominent within the existing landscape/streetscape? Yes ☐ No ☒
- require excavation or filling in excess of 1 metre? Yes ☐ No ☒
- require the erection or display of any advertising signage? Yes ☐ No ☒

Comments: .....

.....

.....

## 5. ENVIRONMENTAL IMPACTS

Is the site affected by any of the following natural hazards?

Yes ☒ No ☐

If yes, please indicate which hazard.

Flooding ☐ Bushfire ☒ Acid sulfate soils ☐

(Note: Information on natural hazards available from Council.)

Will the proposal:

- result in any form of air pollution (smoke, dust, odour, etc)? Yes ☐ No ☒
- have the potential to cause any form of water pollution? Yes ☐ No ☒
- emit noise levels that could affect neighbouring properties? Yes ☐ No ☒
- be considered potentially hazardous or offensive (refer SEPP 33 for definitions)? Yes ☐ No ☒
- affect native or aquatic habitat? Yes ☐ No ☒
- have an impact on a threatened species or habitat? Yes ☐ No ☒
- involve the removal of any trees? (If yes, detail type and number below.) Yes ☐ No ☒

Comments: .....

.....

.....

## 6. ACCESS, TRAFFIC &amp; UTILITIES

Are electricity and telecommunications services available to the site?

Yes ☒ No ☐

Does the site have access to town water?

Yes ☒ No ☐

Does the site have access to town sewerage?

Yes ☒ No ☐

If you answered no to the above, is a waste water report attached?

Yes ☐ No ☐

Provide details of on-site parking, including number of spaces. ....

.....

Is lawful and practical access available to the site?

Yes ☒ No ☐

Will the development increase local traffic movements and volumes?

Yes ☐ No ☒

Are appropriate manoeuvring, unloading and loading facilities available on site?

Yes ☒ No ☐

(Note: Turning templates may be required for medium density, commercial and industrial.)

Provide details of proposed method of stormwater disposal (e.g. street, rubble drain, rainwater tank)

TO EXISTING LINES

.....

Comments: .....  
.....  
.....

**7. SOCIAL & ECONOMIC IMPACTS** *(Not applicable to new dwellings, additions or like.)*

Will the proposal have any social or economic impacts in the area? Yes ☐ No ☒

Have you conducted any community consultation (e.g. neighbours, Police)? Yes ☐ No ☒

Have you considered Council's Social Impact Assessment Policy? Yes ☒ No ☐

Comments: .....  
.....  
.....

**8. WASTE DISPOSAL**

Provide details of waste management, including reuse and recycling .....

..... SKIP BINS .....

How and where will the wastes be stored? ..... ON SITE IN SKIP BINS .....

Does the proposed use generate any special wastes (e.g. medical, contaminated)? Yes ☐ No ☒

Will the use generate trade wastes (e.g. greasy or medical wastes)? Yes ☐ No ☒

Comments: .....  
.....  
.....

APPLICANT'S SIGNATURE *Craig Maltman C/O DRAFTWORK* DATE 11/11/2018

CRAIG AND AMANDA HICKEY

LOT: 18

DP: 31187

# 23




BOURNE ST, PORT MACQUARIE, NSW



# DRAFTWORX

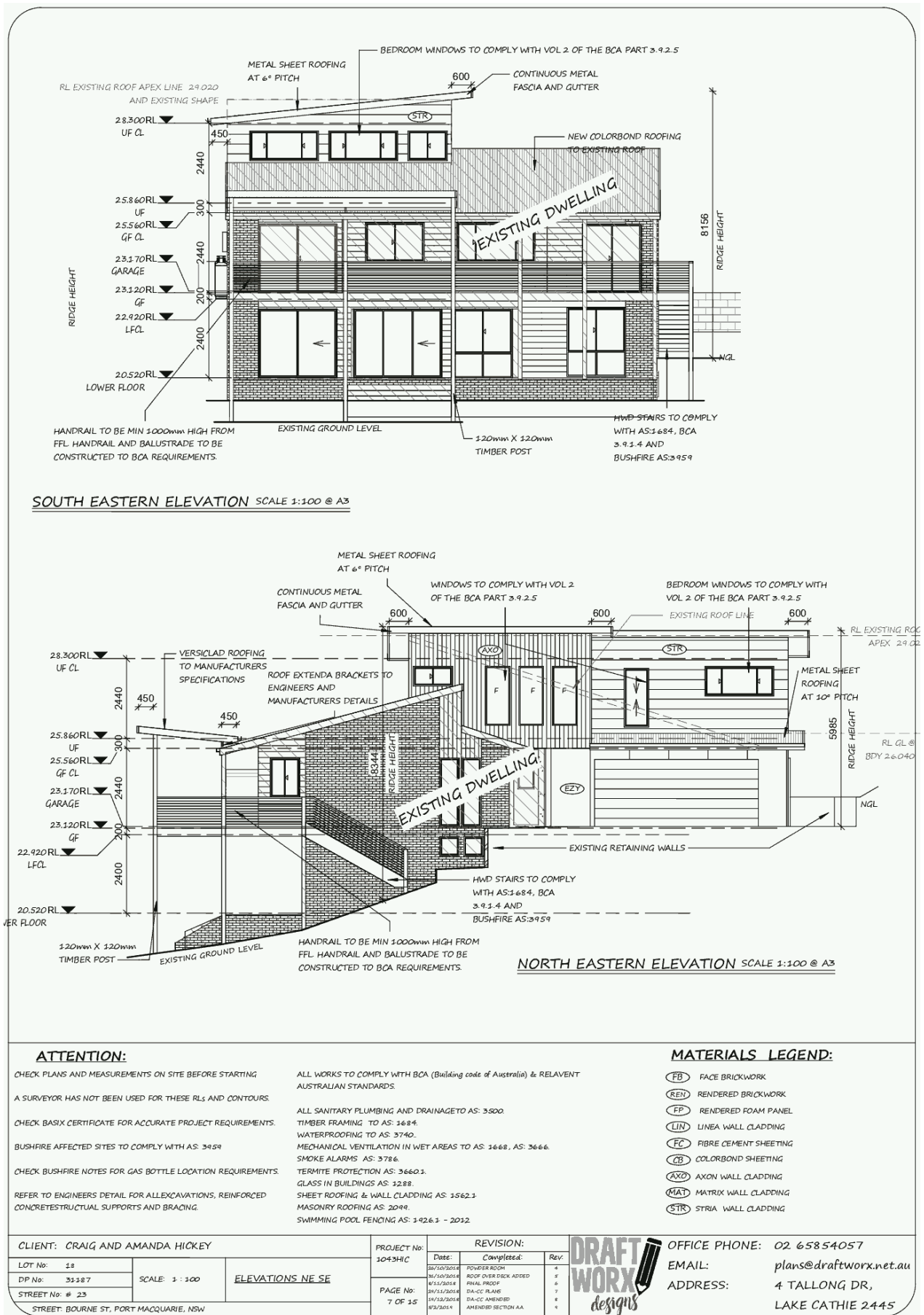
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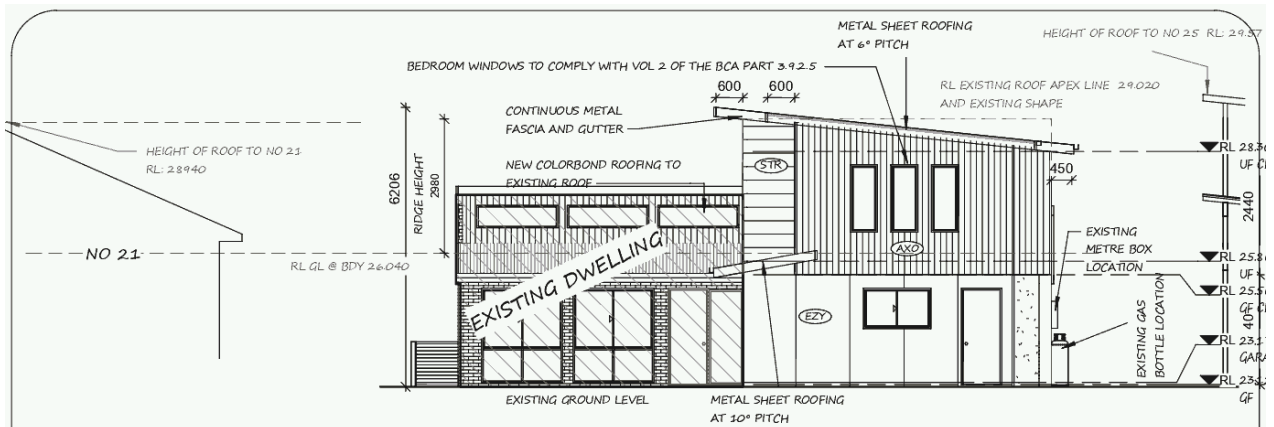
*Creating your dreams, one line at a time.*

|  |                                     |                   |             |                      |                    |  |  |  |
|--|-------------------------------------|-------------------|-------------|----------------------|--------------------|--|--|--|
| CLIENT: CRAIG AND AMANDA HICKEY        |                                     |                   | PROJECT No: | REVISION:            |                    |  |  | OFFICE PHONE: 02 65854057                  |
| LOT No: 18                             | SCALE: NOT TO SCALE<br>NOT TO SCALE | <u>COVER PAGE</u> | 1043HIC     | Date:                | Completed:         | Rev:   |  | EMAIL: plans@draftworx.net.au              |
| DP No: 33387                           |                                     |                   | 28/10/2018  | FOUNDATION           | 4                  |  |  | ADDRESS: 4 TALLONG DR,<br>LAKE CATHIE 2445 |
| STREET No: # 23                        |                                     |                   | 01/10/2018  | ROOF OVER DECK ADDED | 5                  |  |  |  |
|  |                                     |                   | 01/11/2018  | FINAL PROOF          | 6                  |  |  |  |
|  | 24/11/2018                          | DA-CC PLANS       | 7           |                      |                    |  |  |  |
| STREET: BOURNE ST, PORT MACQUARIE, NSW |                                     |                   | PAGE No:    | 14/12/2018           | DA-CC AMENDING     | 8  |  |  |
|  |                                     |                   | 3 OF 15     | 01/01/2019           | AMENDED SECTION AA | 9  |  |  |

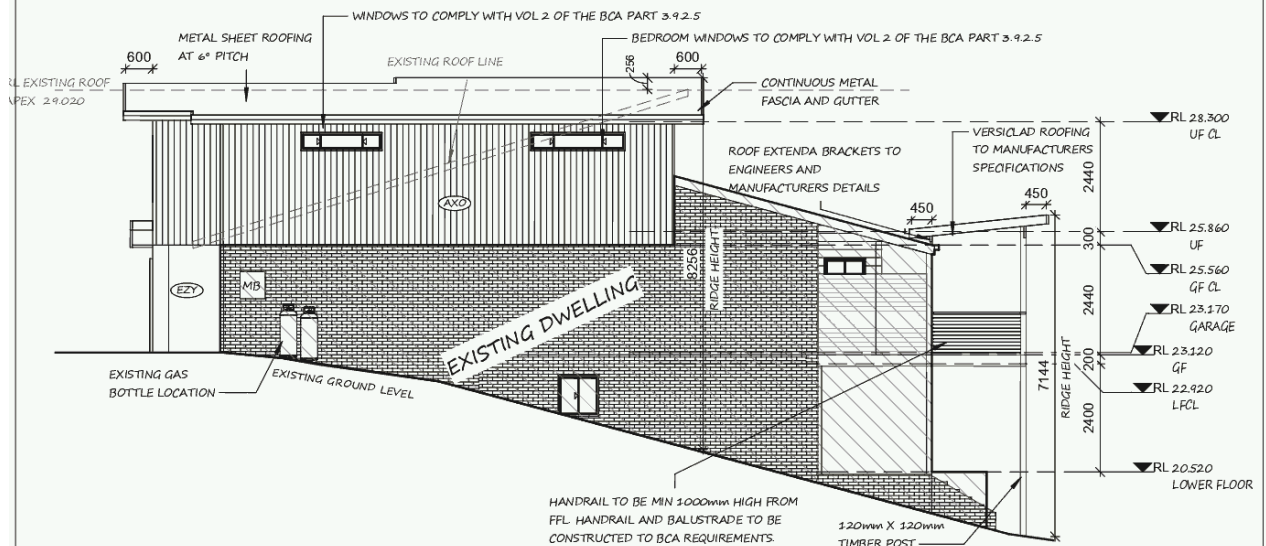








NORTH WESTERN ELEVATION SCALE 1:100 @ A3



SOUTH WESTERN ELEVATION SCALE 1:100 @ A3

**ATTENTION:**

CHECK PLANS AND MEASUREMENTS ON SITE BEFORE STARTING

A SURVEYOR HAS NOT BEEN USED FOR THESE RLs AND CONTOURS.

CHECK BASIX CERTIFICATE FOR ACCURATE PROJECT REQUIREMENTS.

BUSHFIRE AFFECTED SITES TO COMPLY WITH AS: 3459

CHECK BUSHFIRE NOTES FOR GAS BOTTLE LOCATION REQUIREMENTS.

REFER TO ENGINEERS DETAIL FOR ALLENCAVATIONS, REINFORCED CONCRETE STRUCTURAL SUPPORTS AND BRACING.

ALL WORKS TO COMPLY WITH BCA (Building code of Australia) &amp; RELEVANT AUSTRALIAN STANDARDS.

ALL SANITARY PLUMBING AND DRAINAGE TO AS: 3500.

TIMBER FRAMING TO AS: 1689.

WATERPROOFING TO AS: 3740.

MECHANICAL VENTILATION IN WET AREAS TO AS: 1668, AS: 3666.

SMOKE ALARMS AS: 3786.

TERMITE PROTECTION AS: 3660.1.

GLASS IN BUILDINGS AS: 1288.

SHEET ROOFING &amp; WALL CLADDING AS: 1562.1.

MASONRY ROOFING AS: 2049.

SWIMMING POOL FENCING AS: 1426.1 - 2012.

**MATERIALS LEGEND:**

- (FB) FACE BRICKWORK
- (REN) RENDERED BRICKWORK
- (FP) RENDERED FOAM PANEL
- (LIN) LINEA WALL CLADDING
- (FC) FIBRE CEMENT SHEETING
- (CB) COLORBOND SHEETING
- (AXO) AXON WALL CLADDING
- (MAT) MATRIX WALL CLADDING
- (STR) STRIA WALL CLADDING

CLIENT: CRAIG AND AMANDA HICKEY

LOT No: 18

DP No: 33187

STREET No: # 23

STREET: BOURNE ST, PORT MACQUARIE, NSW

SCALE: 1:100

ELEVATIONS NW SW

PROJECT No:

104341C

REVISION:

Date: Completed: Rev:

24/10/2018 POWDER ROOM 4

24/10/2018 ROOF OVER DECK ADDED 5

24/10/2018 FINAL PROOF 6

24/10/2018 DIA-CC PLANS 7

24/10/2018 DIA-CC AMENDMENT 8

24/10/2018 AMENDMENT SECTION AA 9

PAGE No:

8 OF 15

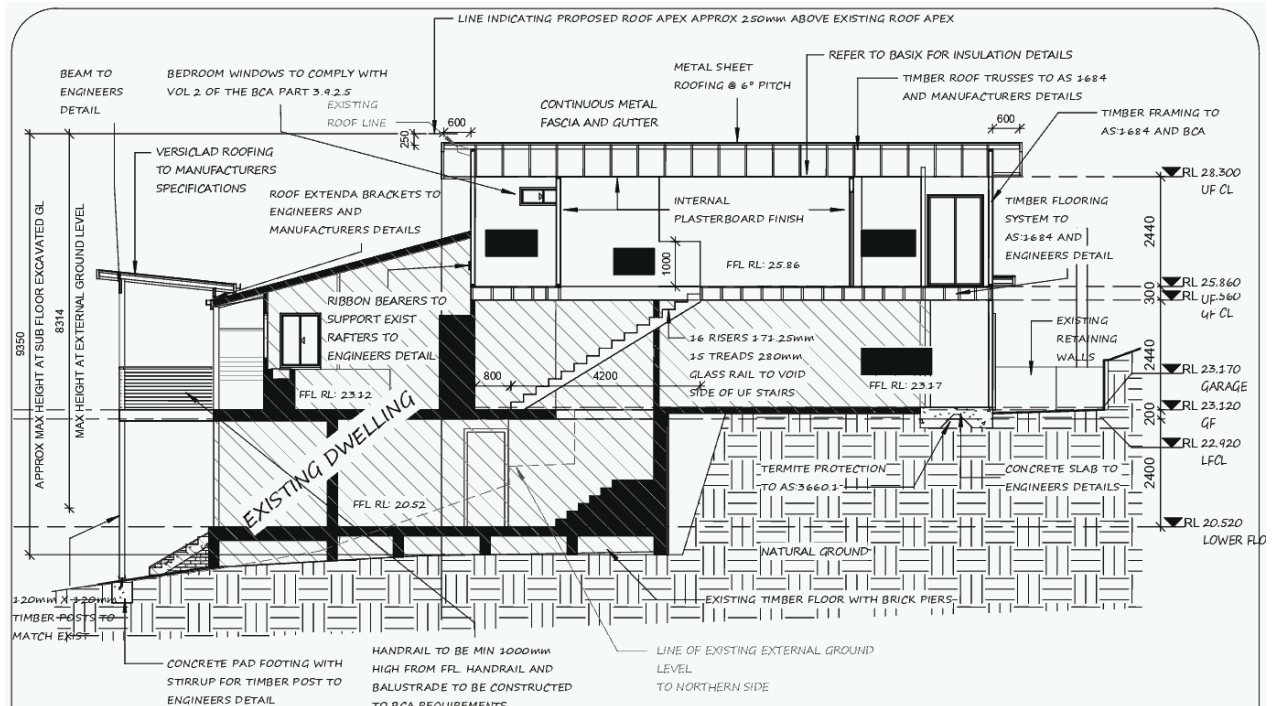
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WORX  
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OFFICE PHONE: 02 65854057

EMAIL: plans@draftworx.net.au

ADDRESS: 4 TALLONG DR,

LAKE CATHIE 2445



SECTION A - A

SCALE 1:100 @ A3

**WINDOW AND DOOR SCHEDULE**  
(REFER TO BASIX FOR THOROUGH DETAILS)

| ROOM    | No. | ORIENTATION | LEVEL | H    | W    | STYLE        | FRAME TYPE | GLAZING  |
|---------|-----|-------------|-------|------|------|--------------|------------|----------|
| ENSUITE | W1  | NORTH EAST  | LF    | 600  | 600  | AWNING       | ALUMINIUM  | STANDARD |
| ENSUITE | W2  | NORTH EAST  | LF    | 600  | 600  | AWNING       | ALUMINIUM  | STANDARD |
| LIVING  | W3  | NORTH EAST  | GF    | 2300 | 600  | AWNING       | ALUMINIUM  | STANDARD |
| LIVING  | W4  | NORTH EAST  | GF    | 2300 | 600  | AWNING       | ALUMINIUM  | STANDARD |
| DINING  | W5  | NORTH EAST  | GF    | 3200 | 900  | SLIDING      | ALUMINIUM  | STANDARD |
| GUEST   | W6  | NORTH EAST  | UF    | 900  | 2300 | SLIDING      | ALUMINIUM  | LOW-E    |
| HALL    | W7  | NORTH EAST  | UF    | 3800 | 750  | AWNING       | ALUMINIUM  | LOW-E    |
| VOID    | W8  | NORTH EAST  | UF    | 3800 | 750  | FIXED        | ALUMINIUM  | LOW-E    |
| VOID    | W9  | NORTH EAST  | UF    | 3800 | 750  | FIXED        | ALUMINIUM  | LOW-E    |
| VOID    | W10 | NORTH EAST  | UF    | 3800 | 750  | FIXED        | ALUMINIUM  | LOW-E    |
| BED 1   | W11 | NORTH EAST  | UF    | 600  | 1200 | SLIDING      | ALUMINIUM  | LOW-E    |
| BED 3   | W12 | SOUTH EAST  | LF    | 2300 | 1800 | SLIDING      | ALUMINIUM  | STANDARD |
| LIVING  | W13 | SOUTH EAST  | LF    | 2300 | 1800 | SLIDING      | ALUMINIUM  | STANDARD |
| LIVING  | SD1 | SOUTH EAST  | LF    | 2300 | 2700 | STACKER DOOR | ALUMINIUM  | STANDARD |
| BED 2   | SD2 | SOUTH EAST  | LF    | 2300 | 2400 | SLIDING DOOR | ALUMINIUM  | STANDARD |
| LIVING  | SD3 | SOUTH EAST  | GF    | 2300 | 1800 | SLIDING DOOR | ALUMINIUM  | STANDARD |
| DINING  | W14 | SOUTH EAST  | GF    | 3200 | 2400 | SLIDING      | ALUMINIUM  | STANDARD |
| KITCHEN | W15 | SOUTH EAST  | GF    | 3200 | 1800 | SLIDING      | ALUMINIUM  | STANDARD |
| SITTING | SD4 | SOUTH EAST  | GF    | 2300 | 2400 | SLIDING DOOR | ALUMINIUM  | STANDARD |
| BED 1   | W16 | SOUTH EAST  | UF    | 900  | 1200 | SLIDING      | ALUMINIUM  | STANDARD |
| BED 1   | W17 | SOUTH EAST  | UF    | 900  | 2100 | SLIDING      | ALUMINIUM  | STANDARD |
| BED 1   | W18 | SOUTH EAST  | UF    | 900  | 2100 | SLIDING      | ALUMINIUM  | STANDARD |
| ENSUITE | W19 | SOUTH WEST  | LF    | 900  | 900  | SLIDING      | ALUMINIUM  | STANDARD |
| KITCHEN | W20 | SOUTH WEST  | GF    | 3200 | 900  | SLIDING      | ALUMINIUM  | STANDARD |
| BED 1   | W21 | SOUTH WEST  | UF    | 400  | 2300 | SLIDING      | ALUMINIUM  | STANDARD |
| ENSUITE | W22 | SOUTH WEST  | UF    | 400  | 1800 | SLIDING      | ALUMINIUM  | STANDARD |
| GARAGE  | W23 | NORTH WEST  | GF    | 900  | 1500 | SLIDING      | ALUMINIUM  | LOW-E    |
| LIVING  | W24 | NORTH WEST  | GF    | 2300 | 1800 | SLIDING      | ALUMINIUM  | STANDARD |
| LIVING  | W25 | NORTH WEST  | GF    | 2300 | 1800 | SLIDING      | ALUMINIUM  | STANDARD |
| GUEST   | W26 | NORTH WEST  | UF    | 1500 | 600  | AWNING       | ALUMINIUM  | LOW-E    |
| GUEST   | W27 | NORTH WEST  | UF    | 1500 | 600  | AWNING       | ALUMINIUM  | LOW-E    |
| GUEST   | W28 | NORTH WEST  | UF    | 1500 | 600  | AWNING       | ALUMINIUM  | LOW-E    |

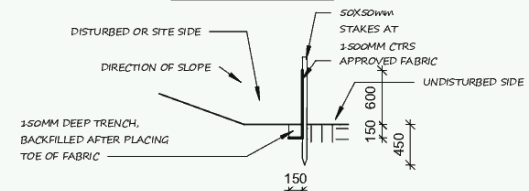
**WINDOWS AND GLAZING MUST COMPLY WITH THE FOLLOWING:**

AS 405-1992: STANDARD WIND LOADS FOR HOUSING  
 AS 1288-2006: GUIDES FOR GLASS IN BUILDING  
 AS 2047-1999: AUSTRALIAN WINDOW CODE  
 AS 1170-Part 2: AUSTRALIAN INSTALLATION STANDARDS  
 AS 2048: AUSTRALIAN INSTALLATION STANDARDS  
 AS 3459-2004: GUIDE TO WINDOWS & DOORS IN BUSHFIRE PRONE AREAS  
 BEDROOM WINDOWS TO COMPLY WITH VOL 2 OF THE BCA PART 3.9.2.5 (WHEN A BEDROOM FLOOR LEVEL IS 2m OR MORE ABOVE THE BELOW SURFACE)  
 BEDROOM WINDOWS TO COMPLY WITH VOL 2 OF THE BCA PART 3.9.2.5 (WHEN A BEDROOM FLOOR LEVEL IS 2m OR MORE ABOVE THE BELOW SURFACE)

**SUMMARY OF BASIX CERTIFICATE COMMITMENTS**  
(REFER TO THE BASIX CERTIFICATE A33558\_04 FOR THOROUGH DETAILS)

|   |   |
|---|---|
| <b>FIXTURES AND SYSTEMS -</b>   |   |
| <b>LIGHTING -</b>   | The applicant must ensure a minimum of 40% of new or altered light fixtures are fitted with fluorescent, compact fluorescent, or light-emitting diode (LED) lamps.  |
| <b>FIXTURES -</b>   | SHOWERS: new or altered to have a flow rate no greater than 4 litres per minute or a 3 star water rating.<br>TOILETS: new or altered to have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating.<br>TAPS: new or altered to have a flow rate no greater than 4 litres per minute or a minimum 3 star water rating. |
| <b>CONSTRUCTION -</b>   |   |
| <b>INSULATION REQUIREMENTS -</b>  |   |
| Suspended floor above garage: framed (R0.7) - Nil   |   |
| Suspended floor above existing dwelling: framed (R0.7) - Nil  |   |
| External walls - R 1.30 (or R5.10 including construction)   |   |
| External wall: brick veneer - Additional insulation R5.5 (or R5.10 including construction)  |   |
| Flat ceiling / pitched roof - Additional insulation ceiling R5.45 (up), Roof Foil Insulated Blanket (55mm) - medium (solar absorptance 0.475-0.70)      |   |
| <b>GLAZING REQUIREMENTS -</b>   |   |
| <b>WINDOWS AND GLAZED DOORS -</b>   |   |
| Applicant must install a window and/or skylight in 3 bedrooms (R0.7) in the development for natural lighting.   |   |
| Windows, glazed doors and shading devices described in the table on the BASIX Certificate to be installed in accordance with the specifications listed. |   |
| <b>HOT WATER SYSTEM -</b>   |   |
| RE-USE EXISTING   |   |

**SILT FENCE DETAIL**



CLIENT: CRAIG AND AMANDA HICKEY

LOT No: 18

DP No: 33187

STREET No: # 23

STREET: BOURNE ST, PORT MACQUARIE, NSW

SCALE: As indicated

SECTION-BASIX - WINDOW  
SCHEDULE

PROJECT No:

104341C

PAGE No:

8 OF 15

REVISION:

Date:

Completed:

Rev:

Rev:

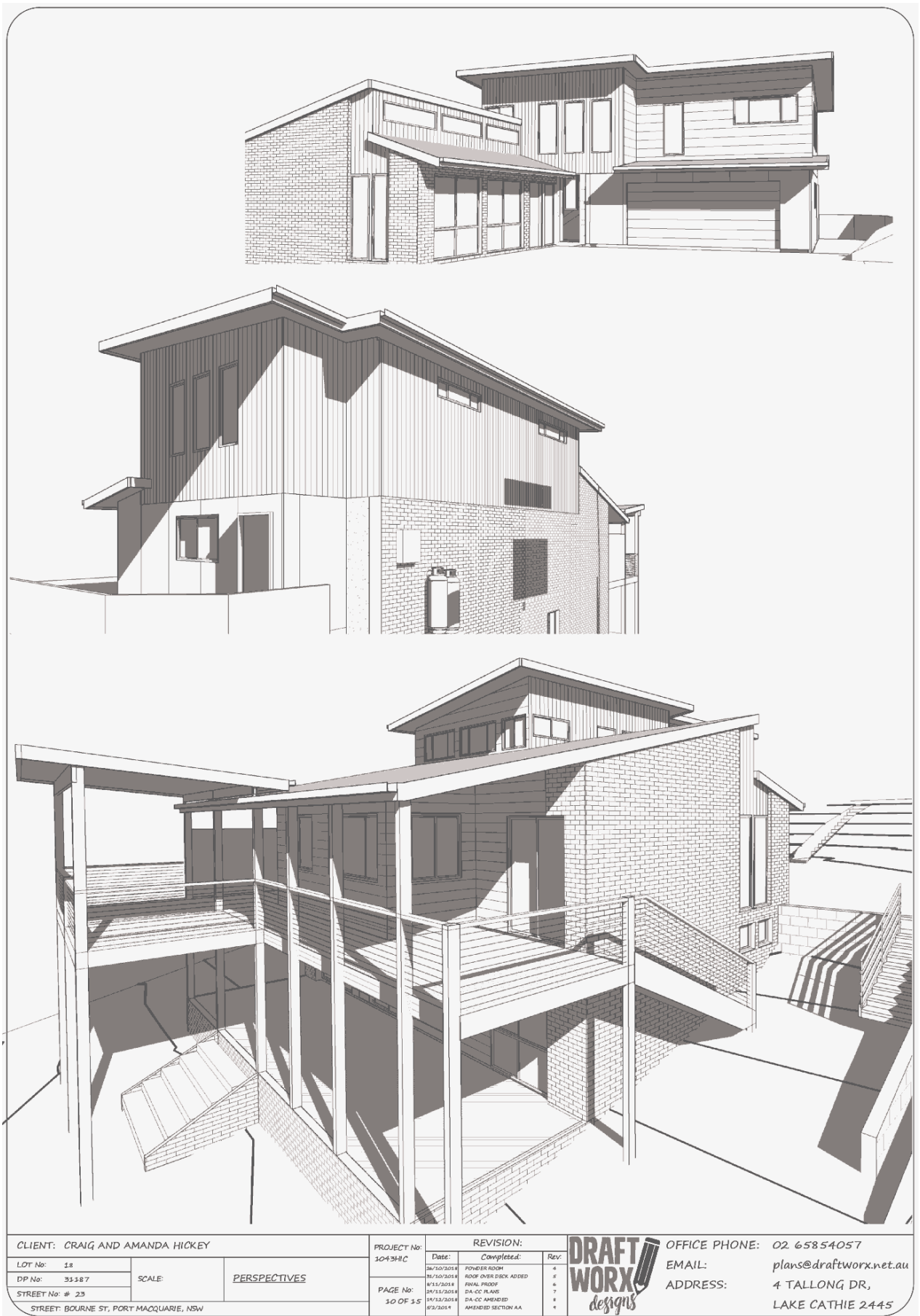
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designs

OFFICE PHONE: 02 65854057

EMAIL: plans@draftworx.net.au

ADDRESS: 4 TALLONG DR,

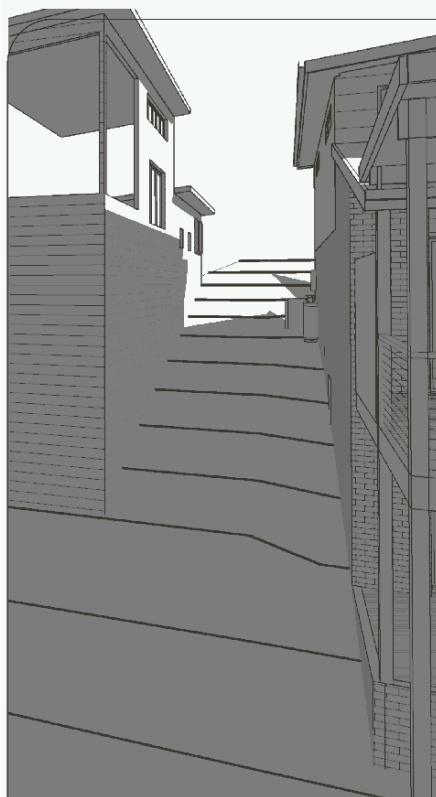
LAKE CATHIE 2445







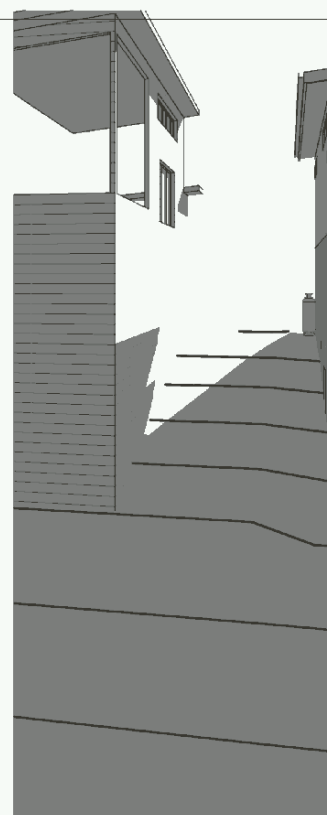





SHADOW DIAGRAMS 11AM  
WINTER SOLSTICE



SHADOW DIAGRAMS 12PM  
WINTER SOLSTICE



SHADOW DIAGRAMS 1:30PM  
WINTER SOLSTICE

|  |        |               |                       |                                      |                      |            |  |  |  |
|--|--------|---------------|-----------------------|--------------------------------------|----------------------|------------|--|--|--|
| CLIENT: CRAIG AND AMANDA HICKEY        |        |               | PROJECT No:<br>1043HC | REVISION:                            |                      |            |  | OFFICE PHONE: 02 65854057                  |  |
| LOT No: 18                             | SCALE: | EXTRA SHADOWS | PAGE No:<br>12 of 15  | Date:                                | Completed:           | Rev:       |  | EMAIL: plans@draftworx.net.au              |  |
| DP No: 33187                           |        |               |                       | 28/10/2018                           | FOUNDER ROOM         | 4          |  | ADDRESS: 4 TALLONG DR,<br>LAKE CATHIE 2445 |  |
| STREET No: # 23                        |        |               |                       | 01/11/2018                           | ROOF OVER DECK ADDED | 5          |  |  |  |
| STREET: BOURNE ST, PORT MACQUARIE, NSW |        |               |                       | 28/11/2018                           | FINAL PROOF          | 6          |  |  |  |
|  |        |               |                       |                                      |                      | 18/12/2018 |  |  |  |
|  |        |               | 01/01/2019            | DA-102 AMENDED<br>AMENDED SECTION AA | 8                    |            |  |  |  |

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**Item: 07****Subject: DA2018 - 1058.1 - CONTINUED USE OF ALTERATIONS AND ADDITIONS TO DWELLING (UNIT 4) AS PART OF MULTI DWELLING HOUSING DEVELOPMENT - LOT 3 DP 1214081, NO. 114 GREENMEADOWS DRIVE, PORT MACQUARIE****Report Author: Patrick Galbraith-Robertson**

---

|                        |   |
|------------------------|---|
| <b>Applicant:</b>      | <b>BDM Constructions Pty Ltd CARE Love Project Management</b> |
| <b>Owner:</b>          | <b>Phillip Jean Holdings Pty Ltd</b>                          |
| <b>Estimated Cost:</b> | <b>\$10,000</b>   |
| <b>Parcel no:</b>      | <b>[parcel no]</b>  |

---

**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA 2018 - 1058 for the continued use of alterations and additions to dwelling (unit 4) as part of multi-dwelling housing development at Lot 3, DP 1214081, No. 114 Greenmeadows Drive, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a Development Application for continued use of alterations additions to dwelling (unit 4) as part of multi-dwelling housing development at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, one (1) submission has been received.

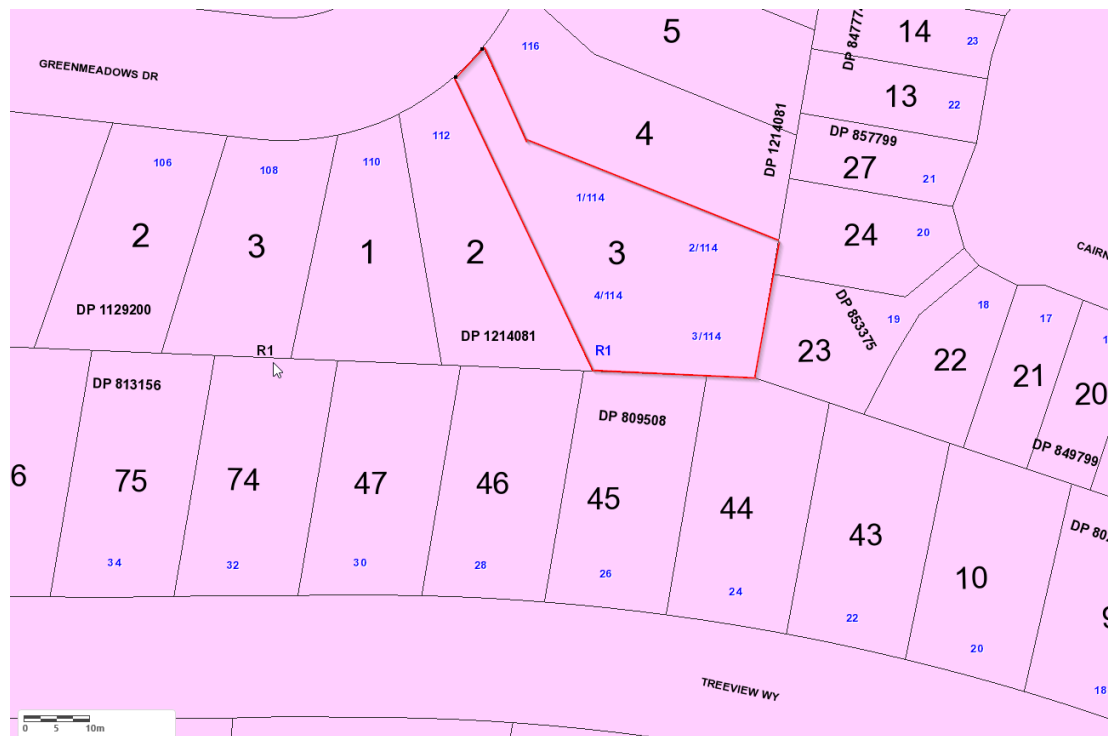
The proposal relates to continued use of partly completed extensions to Unit 4 and completion of the works. The works have been the subject of compliance action by Council's Compliance Division.

This report recommends that the development application be approved subject to the recommended conditions.

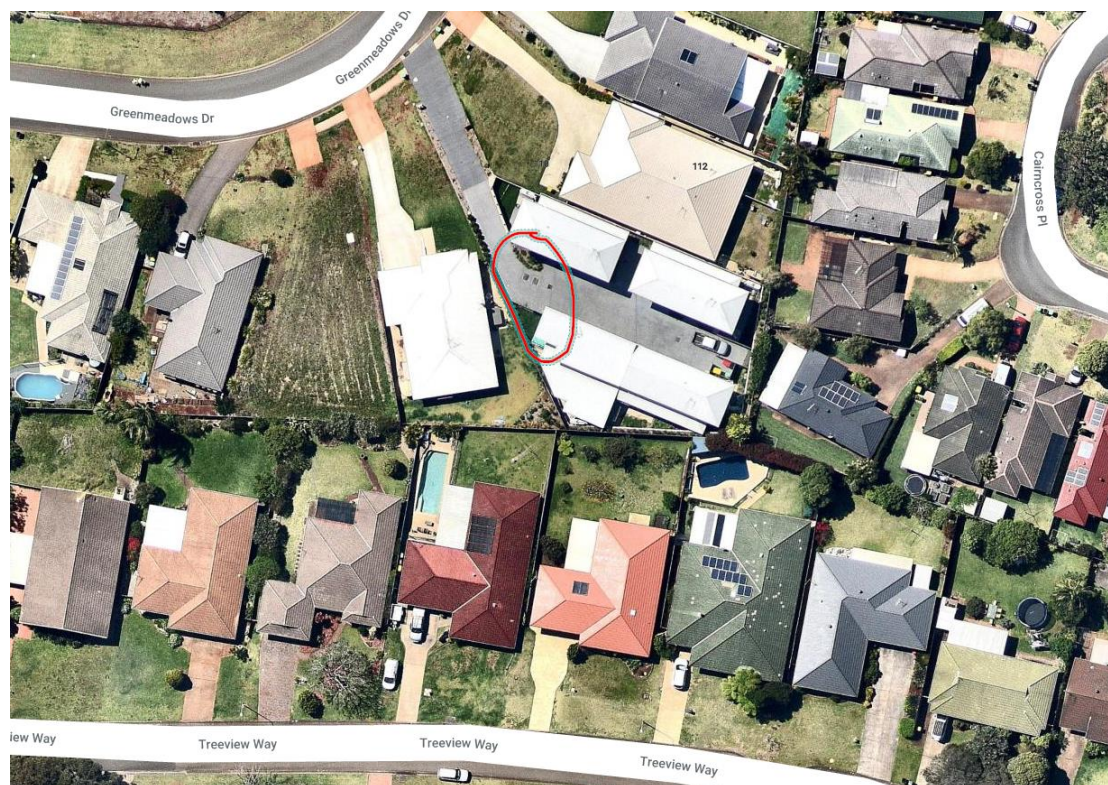
**1. BACKGROUND****Existing sites features and surrounding development**

The site has an area of 1095.76m<sup>2</sup>.

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



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:

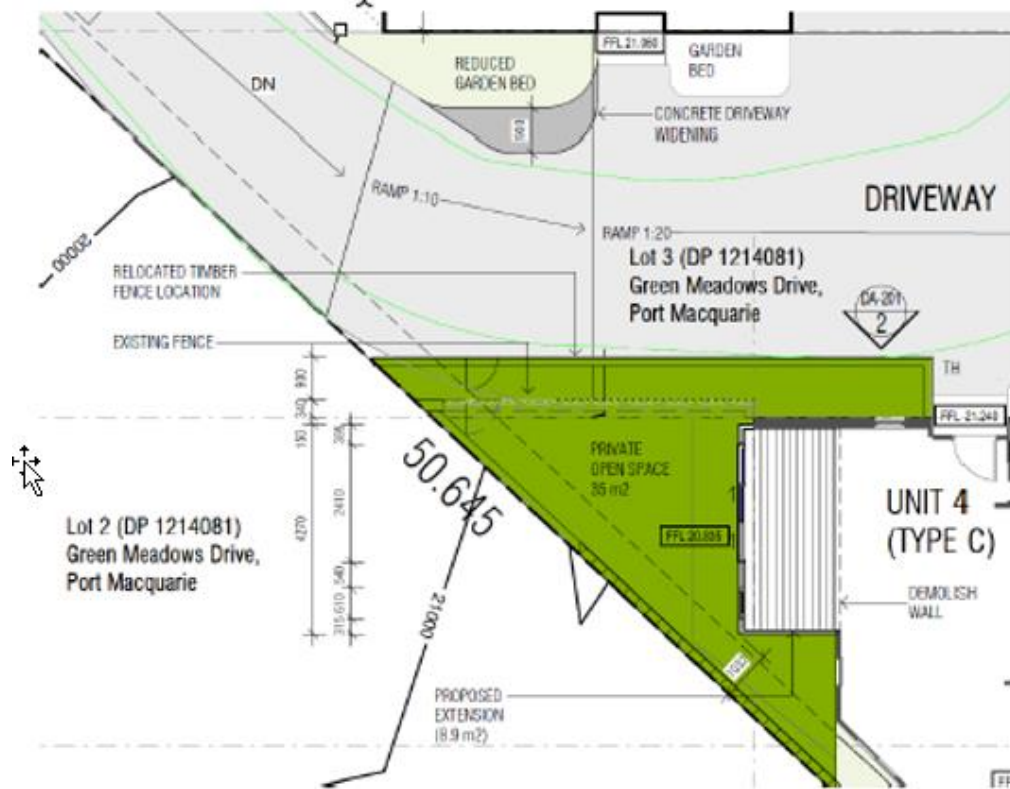
- The addition relates to Unit 4 only and the garden bed and driveway area between Unit 4 and Unit 1. The addition will extend the living room of Unit 4 over a portion of the area which had been approved as outdoor paving. The outdoor living space of Unit 4 is then extended marginally to the north by moving the existing timber fence north. This requires a change to the garden bed adjoining Unit 1 to expand the driveway in this area to ensure vehicles and garbage trucks have adequate turning and manoeuvring area to meet Council standards.

Figure 2: Extract from APPROVED Plan set





Figure 3: Proposed ADDITION to Unit 4 and outdoor living area, fence and driveway/garden bed change



Refer to attachments at the end of this report.

### Application Chronology

- 10 December 2018 – DA lodged with Council
- 17 December 2018 to 14 January 2019 – Neighbour notification of proposal
- 29 January to 11 February 2019 – Renotification of proposal to neighbours due to administrative error with property address.

### 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:

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

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

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



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

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

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

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

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

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

- Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the alterations and additions to a dwelling as part of a multi-dwelling housing development is a permissible landuse with consent.
- The objectives of the R1 zone are as follows:
  - *To provide for the housing needs of the community.*
  - *To provide for a variety of housing types and densities.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality.
- Clause 4.3, the maximum overall height of the building above ground level does not change and complies with the standard height limit of 8.5m applying to the site. The additions are single storey and are below the highest roofline points on the site. See below image for reference (white is additions):



- Clause 4.4, the floor space ratio of the proposal (including the subject extension to Unit 4) is 0.6:1.0 which complies with the maximum 0.65:1 floor space ratio applying to the site.
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.

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

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

No draft instruments apply to the site.

**(iii) Any Development Control Plan in force:**

**Port Macquarie-Hastings Development Control Plan 2013**

| <b><i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</i></b> |  |   |                 |
|---|--|---|-----------------|
|   | <b>Requirements</b>  | <b>Proposed</b>   | <b>Complies</b> |
| 3.2.2.5   | Side setbacks:<br><ul style="list-style-type: none"> <li>• Ground floor = min. 0.9m</li> <li>• First floors &amp; above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.</li> <li>• Building wall set in and out every 12m by 0.5m</li> </ul>  | The minimum side setback requirements are complied with.<br><br>The building wall articulation is compliant and/or satisfactory to address the objective intent of the development provision.   | Yes             |
| 3.2.2.6   | 35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade   | The Unit 4 dwelling contains 35m <sup>2</sup> open space in one area including a useable 4m x 4m space.   | Yes             |
| 3.2.2.10  | Privacy:<br><ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</li> <li>• Privacy screen required if floor level &gt; 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m</li> <li>• Privacy screens provided to balconies/verandahs etc which have &lt;3m side/rear setback and floor level height &gt;1m</li> </ul> | No direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings.<br><br>No privacy screens are recommended. | Yes             |

| <b>DCP 2013: General Provisions</b> |   |  |                 |
|-------------------------------------|---|--|-----------------|
|                                     | <b>Requirements</b>   | <b>Proposed</b>  | <b>Complies</b> |
| 2.7.2.2                             | Design addresses generic principles of Crime Prevention Through Environmental Design guideline  | No concealment or entrapment areas proposed. Adequate casual surveillance available. | Yes             |
| 2.3.3.1                             | Cut and fill 1.0m max. 1m outside the perimeter of the external building walls  | Cut and fill <1.0m change 1m outside the perimeter of the external building walls    | Yes             |
| 2.3.3.2                             | 1m max. height retaining walls along road frontage  | None proposed  | N/A             |
|                                     | Any retaining wall >1.0 in height to be certified by structure engineer   | No retaining wall likely >1m   | Yes             |
|                                     | Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway | No retaining wall front fence combination proposed.                                  | N/A             |

**(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:**

**New South Wales Coastal Policy:**

The proposed development is consistent with the objectives and strategic actions of this policy.

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

**Context and setting**

The proposal will be unlikely to have any adverse impacts to existing adjoining properties or the public domain.

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

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

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts.

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

**Access, Traffic and Transport**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

**Stormwater**

Service available. Additional roof area can connect roof water to existing system. A condition is recommended in this regard.

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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

**Other land resources**

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

**Water cycle**

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

**Soils**

The proposed development will be unlikely to have any adverse impacts on soils in terms of quality, erosion, stability and/or productivity.

**Air and microclimate**

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

**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**

No adverse impacts anticipated. Standard precautionary site management condition recommended.

**Energy**

The proposal includes measures to address energy efficiency.

**Noise and vibration**

No adverse impacts anticipated. Condition recommended to restrict construction to standard construction hours.

**Bushfire**

The site is identified as being bushfire prone.

An assessment of bushfire risk having regard to section 4.3.5 of Planning for Bushfire Protection 2006 including vegetation classification and slope concludes that a Bushfire Attack is a low risk. No specific Bushfire Attack Level construction measures are recommended.

**Safety, security and crime prevention**

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.

**Social impacts in the locality**

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

**Economic impact in the locality**

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

**Site design and internal design**

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

**Construction**

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

**Cumulative impacts**

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

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

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

Site constraints of bushfire have been adequately addressed.

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

One (1) written submission has been received following public exhibition of the application.

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



| Submission Issue/Summary  | Planning Comment/Response   |
|---|---|
| The four dwellings built encroach on all neighbouring properties.   | The existing development has been assessed and determined by granting approval.   |
| The subject extension proposal has works already commenced and half completed without Council approval.                                       | Noted. Council's Compliance staff have determined that either the works be removed or an application submitted for retrospective approval and completion of works. The subject DA applies for the continued use of the extension partly completed and complete the works. |
| The second storey is unstable due to the overhang of the building and the reason for the extension.   | This is incorrect and following a site visit it is apparent that the current first floor level is structurally sound on its own without the extension.  |
| A registered surveyor should confirm there are no encroachments with regards to the boundary line of the neighbouring 112 Greenmeadows Drive. | A site inspection has confirmed that the plan dimensions submitted with the current application are correct with no identifiable encroachments. A Surveyor is considered unnecessary to confirm the setback.  |
| 112 Greenmeadows Drive have concerns that the proposal encroaches with the allowable boundary laws.   | The proposal as submitted including changes to the private open space complies with Council's Development Control Plan 2013.  |

**(e) The Public Interest:**

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

No contributions are applicable to the proposal. There are no additional new bedrooms proposed only extended internal living space for Unit 4.

**5. CONCLUSION AND STATEMENT OF REASON**

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

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

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

**Attachments**

- 1[View](#). DA2018 - 1058.1 Recommended Conditions
- 2[View](#). DA2018 - 1058.1 SOEE
- 3[View](#). DA2018 - 1058.1 Plans



**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS - 2011****NOTE: THESE ARE DRAFT ONLY****DA NO: 2018/1058****DATE: 18/02/2019****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

| Plan / Supporting Document  | Reference               | Prepared by             | Date             |
|---|-------------------------|-------------------------|------------------|
| Development plans Lot 8   | Sheets DA-000 to DA-201 | DDC Architecture        | 22 November 2018 |
| DA report for Addition to Residential Unit 114 Greenmeadows Drive, Port Macquarie | Project number 6610     | Love Project Management | November 2018    |

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

- (2) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
  2. Appropriate dust control measures;
  3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained. Where work adjoins the public domain, fencing is to be in place so as to prevent public access to the site;
  4. Building waste is to be managed via an appropriate receptacle;
  5. Building work being limited to the following hours, unless otherwise permitted by Council;
    - Monday to Saturday from 7.00am to 6.00pm
    - No work to be carried out on Sunday or public holidays

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

- (3) Roof water from the additions is to be connected to discharge to the existing stormwater system.
- (4) The works approved under this consent are to be completed by 27 April 2019 and a Building Certificate lodged with Council by 27 May 2019.

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

Nil

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

Nil

**D - DURING CONSTRUCTION**

Nil

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

Nil

**F - OCCUPATION OF THE SITE**

- (1) (F004) The dwelling is approved for permanent residential use and not for short term tourist and visitor accommodation.



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# DA for addition to Residential Unit 114 Greenmeadows Drive Port Macquarie



Michelle Love, Project No 6610  
Love Project Management

November 2018



## Document Details

Document Version Date: November, 2018

Authorised by: Michelle Love

Signed: 

*This assessment has been undertaken with skill, care and diligence by the staff of Love Project Management. This assessment is based on information provided by the client, third party research and research undertaken by Love Project Management. Independent verification of the documents relied upon has not been undertaken.*

*Love Project Management disclaims any responsibility to the client and others in respect of any matters outside the scope of this report.*

*This report has been prepared on behalf of and for the exclusive use of the client and is subject to and issued in accordance with the agreement between the client and Love Project Management. Love Project Management accepts no liability or responsibility of whatsoever nature in respect of any use of or reliance upon this report by any third party.*

*All parties must acknowledge that conditions of approval at time of consent, post development application and approvals, and other matters, may modify the outcomes described in this report. The information and conclusions presented in this report apply to the subject land at the time of the assessment. All parties must take into account the above information when making decisions on the basis of the findings and conclusion of this report.*



## Executive Summary

The proposal relates to a minor addition to a four bedroom unit. The proposed addition relates to the enclosure of an outdoor living area, an associated change to the internal timber fence and driveway area which arise as a consequence of the change to the building footprint of the unit.

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## 1. Subject Land & Locality

The subject land may be identified as Unit 4, 114 Greenmeadows Drive, Port Macquarie. An approved 3 x 3 bedroom unit and 1 x 4 bedroom unit, residential development has been constructed on the site and is nearing completion. The subject land has an area of 1096m<sup>2</sup>, and is shown shaded yellow in the below aerial photograph.

Figure 1: Aerial Image of Subject Land



The land gently slopes towards Greenmeadows Drive. Vehicular access will remain off Greenmeadows Drive. The western and southern boundaries of the subject land adjoin the backyard and side boundary of existing residential development.

## 2. Proposal

The proposal relates to Unit 4 of the approved development, as well as a small area of the common driveway. The approved development is shown in the following extract from the stamped plan set.

Addition to Residential Unit Development, Greenmeadows Dr, Port Macquarie

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Figure 2: Extract from APPROVED Plan set

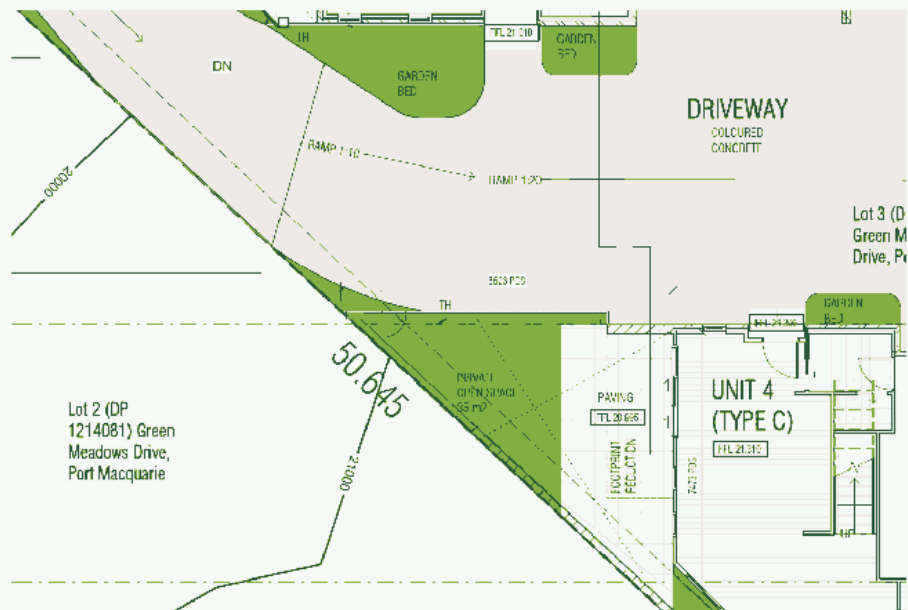
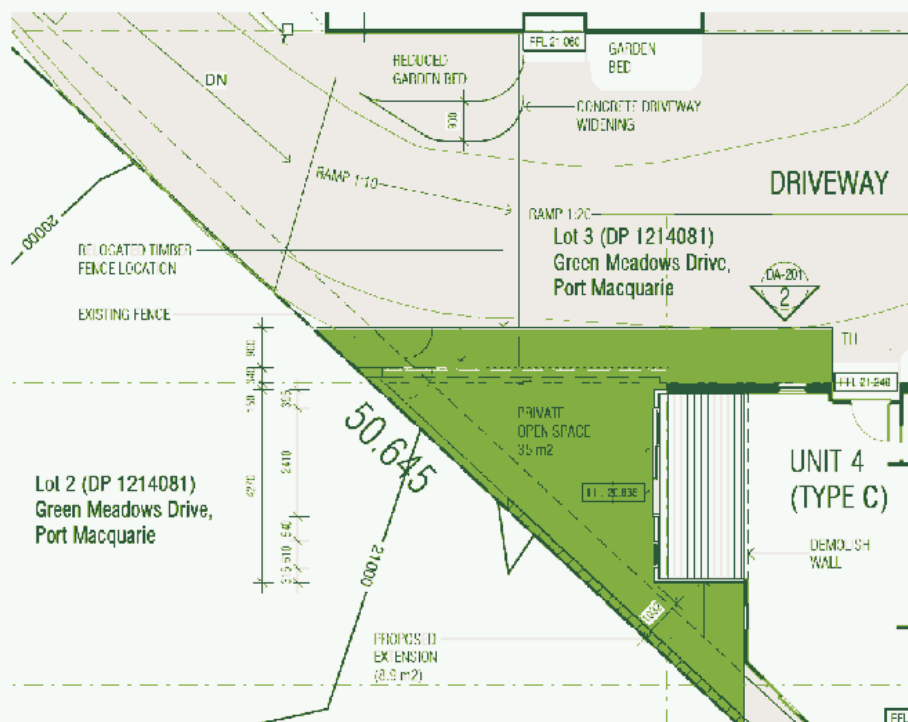


Figure 3: Proposed ADDITION to Unit 4 and outdoor living area, fence and driveway/garden bed change



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The addition relates to Unit 4 only and the garden bed and driveway area between Unit 4 and Unit 1. The addition will extend the living room of Unit 4 over a portion of the area which had been approved as outdoor paving. The outdoor living space of Unit 4 is then extended marginally to the north by moving the existing timber fence north. This requires a change to the garden bed adjoining Unit 1 to expand the driveway in this area to ensure vehicles and garbage trucks have adequate turning and manoeuvring area to meet Council standards.

The proposal remains compliant in regards to floor space ratio and open space area for the site. The building height is unaltered. The side setback is 1.032m for the ground floor addition.

The plan set demonstrates that a garbage truck is still able to enter the property, and leave in a forward direction.

### 3. Statutory Assessment

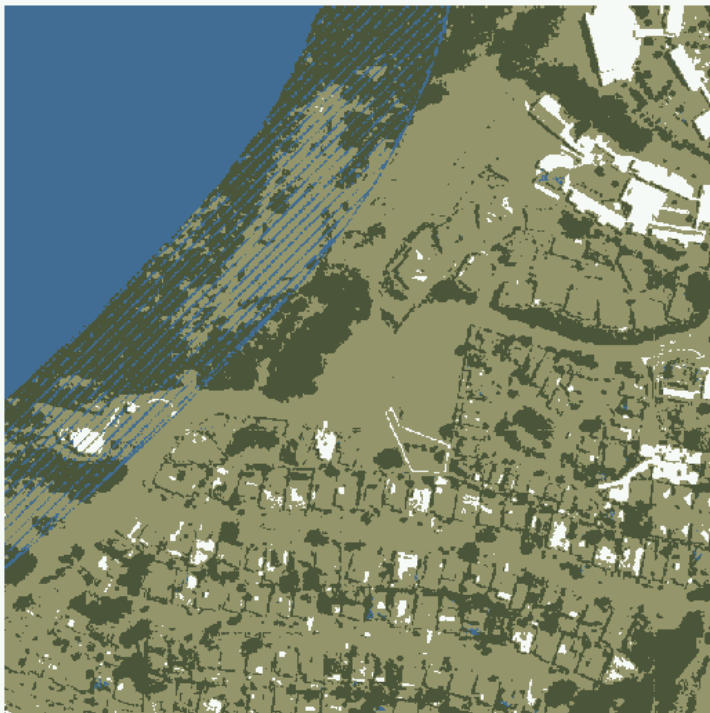
The Environmental Planning and Assessment Regulation 1980 require development applications to be accompanied by a Statement of Environmental Effects. The following sets out the matters which are relevant to the consent authority's assessment of this application.

#### a) Provisions of Planning Controls

##### i. State Environmental Planning Policies

State Environmental Planning Policy (Coastal Management) 2018 does not map the subject land as being within a coastal wetland or within the coastal wetland proximity area, as shown by the solid blue and hatched area in the below mapping extract (the subject land is outlined in yellow).

Figure 4: Coastal SEPP extract – Coastal Wetlands and Proximity to Coastal Wetlands



The subject land is NOT within the area mapped as Coastal Use Area Map nor the area mapped as Coastal Environment Area Map. Therefore, no further consideration of the Coastal SEPP is required.

## ii. Local Environmental Plans

The subject land is zoned R1 – General Residential and a range of residential developments are permissible with consent. The proposed addition to Unit 4 is a ground floor extension only and the proposal will not exceed the height limit as set out in LEP 2013 which is 8.5 metres.

An extract from the zone map is shown below.

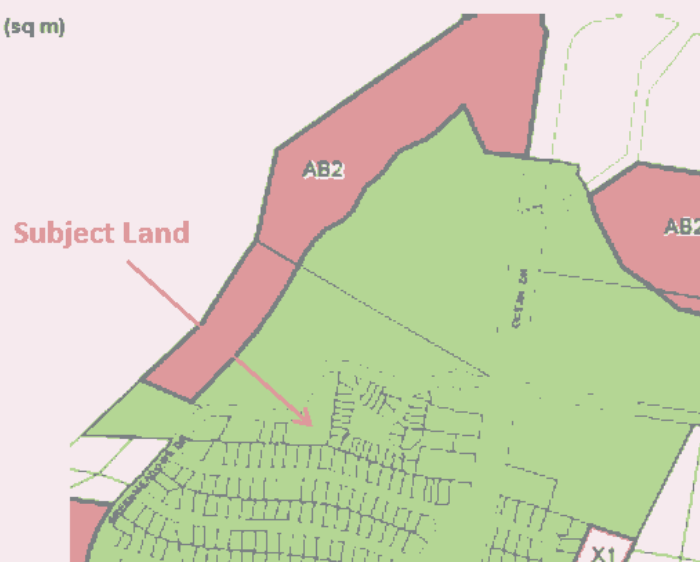
Figure 5: Zone map extract



The minimum lot size map shows the subject land may be subdivided to a minimum lot size of 450m<sup>2</sup> for a standard torrens title subdivision. No subdivision is proposed as part of this application.

### Minimum Lot Size (sq m)

|     |        |
|-----|--------|
| G   | 450    |
| Q   | 700    |
| U1  | 1000   |
| U2  | 1800   |
| V   | 2000   |
| W1  | 3000   |
| W2  | 4000   |
| X1  | 5000   |
| X2  | 8000   |
| Y1  | 1.0 ha |
| Y2  | 1.2 ha |
| Y3  | 1.5 ha |
|     | 2.0 ha |
|     | 3.0 ha |
| AA  | 6.0 ha |
| AB1 | 10 ha  |
| AB2 | 40 ha  |

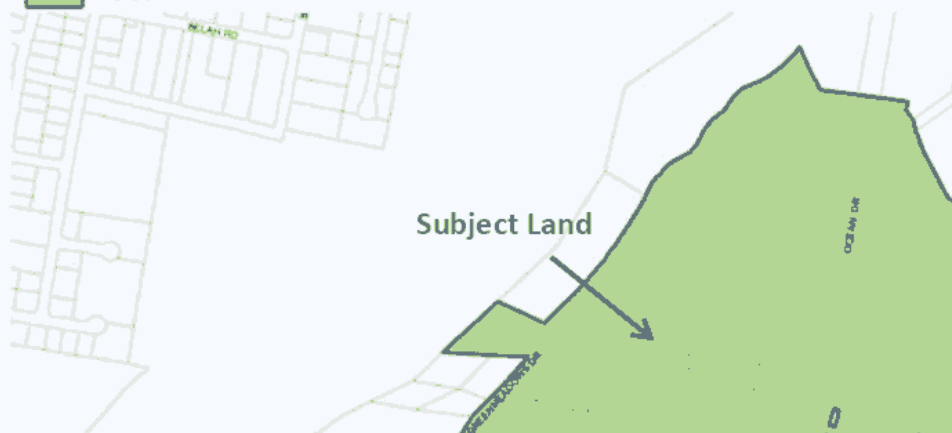


The LEP mapping does not identify the land as being impacted by coastal erosion, visually sensitive land or acoustic restrictions. The land is not identified as containing acid sulphate soils. The LEP mapping does not identify the land as floodprone.

The floor space ratio (FSR) identified in LEP 2011 mapping shows the land with a maximum floor space ratio of 0.65:1. The additions to Unit 4 will marginally increase the overall floor space ratio of the development to 0.60:1. This is within the permitted floor space ratio.

**Maximum Floor Space Ratio (n:1)**

|   |      |
|---|------|
| A | 0.2  |
| G | 0.65 |



No items of European Heritage have been mapped within the LEP provisions, either on the land or within the locality.

The land is not mapped as containing koala habitat and is not mapped as containing any land required for Council acquisition.

### iii. Development Control Plans

An assessment of the proposal under the provisions of DCP 2013 has been carried out and is summarised in the following table.

| LEP 2011               |                        |                         |            |
|------------------------|------------------------|-------------------------|------------|
| LEP Clause             | Development Provisions | Proposed                | Compliance |
| Max Height of Building | 8.5m                   | Single storey extension | Yes        |
| Max Floor Space Ratio  | 0.65:1                 | 0.60:1                  | Yes        |

| DCP 2013               |   |                               |            |
|------------------------|---|-------------------------------|------------|
| DCP Objective          | Development Provisions  | Proposed                      | Compliance |
| DCP GENERAL PROVISIONS |   |                               |            |
| 2.3.3.1                | Cut and fill 1.0m max 1m outside the perimeter of the external building walls | No cut and fill exceeding 1m. | Yes        |



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| DCP 2013      |   |   |                       |
|---------------|---|---|-----------------------|
| DCP Objective | Development Provisions  | Proposed  | Compliance            |
| 2.3.3.2       | <p>Max height retaining wall along road frontage is 1.0m.</p> <p>Where a combination of a fence and a wall is proposed to be greater than 1.2m high:</p> <ul style="list-style-type: none"> <li>• be a maximum combined height of 1.8m above existing property boundary level;</li> <li>• be constructed up to the front boundary for a maximum length of 6.0m or 30% of the street frontage, whichever is less;</li> <li>• the fence component have openings which make it not less than 25% transparent; and</li> <li>• provide a 3m x 3m splay for corner sites, and</li> <li>• provide a 900mm x 900mm splay for vehicle driveway entrances.</li> </ul> | <p>No front retaining wall proposed</p> <p>N/A</p> <p>Proposal relates to internal timber fence alterations. No change to boundary fencing.</p> | <p>N/A</p> <p>N/A</p> |
| 2.3.3.3       | Significant earthworks of more than 10% site area or 1ha where surface level changed by more than 5m or earthworks exceed average of 10000m <sup>3</sup> per ha – see requirements  | No significant earthworks proposed  | Yes                   |
| 2.3.3.4       | EEC buffers   | No EEC on subject land  | Yes                   |
| 2.3.3.5       | Environmental Offsets & VMPs  | Not applicable  | Yes                   |
| 2.3.3.6       | Vegetated Riparian buffers according to 1 <sup>st</sup> – 4 <sup>th</sup> order streams   | Not applicable  | Yes                   |
| 2.3.3.7       | Koala Habitat   | Not applicable  | Yes                   |

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| DCP 2013  |   |   |            |
|---|---|---|------------|
| DCP Objective   | Development Provisions  | Proposed  | Compliance |
| 2.3.3.8   | Hollow Bearing Trees – located by survey and HBT assessment protocol applied  | Not applicable                                  | N/A        |
| 2.3.3.9   | HBT removal protocol & offset via nesting boxes   | Not applicable                                  | N/A        |
| 2.4.3.1   | Development within proximity of flight paths not to attract birds or flying vertebrates                                   | Not applicable                                  | N/A        |
| 2.4.3.2<br>&<br>2.4.3.3   | No airborne particulates or gaseous plumes within operational airspace & no hazardous or obtrusive light                  | Not applicable                                  | N/A        |
| 2.4.3.4<br>bushfire<br><br>2.4.3.5<br>Flooding<br><br>2.4.3.6<br>Stormwater | Bushfire risk, Flooding, Stormwater   | Not applicable                                  | N/A        |
| 2.5.3.2   | New accesses not permitted from arterial or distributor roads. Existing accesses rationalised or removed where practical. | Not applicable                                  | N/A        |
| 2.5.3.2   | Driveway crossing/s minimal in number and width including maximising street parking                                       | N/A<br>No change to approved driveway crossover | Yes        |
| 2.5.3.3   | Off-street parking in accordance with Table 2.5.1   | N/A<br>No change to parking spaces              | N/A        |

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| DCP 2013  |  |   |  |
|---|--|---|--|
| DCP Objective                                     | Development Provisions   | Proposed  | Compliance                                     |
| 2.5.3.7   | Visitor parking to be easily accessible. Stack parking permitted in special circumstances  | N/A<br><br>No change to parking spaces  | N/A  |
| Chapter 3.2 – Low Density Residential Development |  |   |  |
| 3.2.2.1   | Ancillary developments to be not more than 4.8m height, with max area of 60m <sup>2</sup> (or 100m <sup>2</sup> for large lots). Garages and rainwater tanks to be behind main building line   | N/A<br><br>No change to garage locations or ancillary developments                          | N/A  |
| 3.2.2.2   | Front setbacks<br><br>Classified Rd: 6m<br><br>Primary Frontage: 4.5m<br><br>Secondary Frontage: 3m<br><br>Ancillary Lane: 2m<br><br>Large lot res & rural: 10m<br><br><br>Articulation zone:<br><br>entry feature, balcony, deck, awning, sun shade feature may be within front setback but no less than 3m from front bdy, & not above eave gutter line other than pitched entry feature to match pitched dwelling | N/A<br><br>No change to front setback<br><br><br><br><br><br><br><br><br><br>Not applicable | N/A<br><br><br><br><br><br><br><br><br><br>N/A |

Addition to Residential Unit Development, Greenmeadows Dr, Port Macquarie

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| DCP 2013      |  |   |   |
|---------------|--|---|---|
| DCP Objective | Development Provisions   | Proposed  | Compliance                                  |
| 3.2.2.3       | 1.0m behind dwelling line where dwelling is set back 4.5m or more; 6.0m max door width or 50% max of the building width  | N/A<br><br>No change to garage location.  | N/A   |
|               | 5.0m max crossover width or 1/3 max of site frontage   | N/A<br><br>No change to driveway crossover  | N/A   |
| 3.2.2.4       | Rear setback<br><br>4.0m to any part of building   | N/A<br><br>No change to rear setback  | N/A   |
| 3.2.2.5       | Side Setback<br><br>Ground Floors : 900mm  | The side setback of the addition on Unit 4 will be 1.032m. This is greater than the permitted 0.9m setback. | Yes   |
|               | First Floors & Above: 3.0m or reduced down to 900mm where it can be demonstrated that the adjoining property primary living areas and primary private open space areas should not be adversely overshadowed for more than 3hrs between 9am-3pm on 21 June. | N/A<br><br>No change to first floors and above  | N/A   |
|               | 12m max unarticulated wall length (step by min 500mm)  | N/A<br><br>No change to length of unarticulated walls. The proposed addition is articulated                 | Yes<br><br>Proposed addition is articulated |

Addition to Residential Unit Development, Greenmeadows Dr, Port Macquarie

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| DCP 2013                |   |  |            |
|-------------------------|---|--|------------|
| DCP Objective           | Development Provisions  | Proposed   | Compliance |
| 3.2.2.6                 | <p>Private Open Space</p> <p>35m<sup>2</sup> in on area</p> <p>4m x 4m min dimension</p> <p>5% maximum grade for min 4m x 4m area</p> <p>Accessible from internal living areas</p> <p>May include clothes drying &amp; garbage storage</p>  | <p>Private open space for Unit 4 is compliant.</p> <p>Slight amendment to fence location and adjoining driveway area ensures outdoor living area is compliant.</p> | Yes        |
| 3.2.2.7                 | <p>Fences</p> <p>Solid front fence to be:<br/>Max height 1.2m<br/>Setback 1m from front bdy<br/>Landscaped<br/>3mx3m splayed cnr<br/>If more than 1.2m height:<br/>Max 1.8m height AND either</p> <ul style="list-style-type: none"> <li>• 50% landscape reserves or</li> <li>• Only 6m of front bdy or 50% of the street frontage</li> </ul> <p>25% transparency</p> <p>900x900mm driveway splay</p> <p>3m x 3m corner splay</p> <p>900mm x 900mm splay for vehicle driveway entrances</p> | <p>N/A</p> <p>No change to front fence</p>   | N/A        |
| 3.2.2.8<br>&<br>3.2.2.9 | <p>Fences on primary road frontage should complement streetscape &amp; not be chain wire, solid timber / masonry / steel</p> <p>Tennis court fences to be black or dark green plastic coated mesh with no solid fence over 1.8m</p>   | <p>N/A</p> <p>No change to fence on primary road frontage</p>  | N/A        |



| DCP 2013      |   |  |                       |
|---------------|---|--|-----------------------|
| DCP Objective | Development Provisions  | Proposed   | Compliance            |
| 3.2.2.10      | <p>Visual Privacy</p> <p>Ground &amp; First Floor windows 9m radius are screened or obscured</p> <p>Other floor windows 12m radius are screened or obscured</p> <p>Direct views within 12m radius from living rooms and principle areas of open space screened or obscured</p> <p>Privacy screen to deck where setback is less than 3m from side or rear boundary, is greater than 3m<sup>2</sup> and more than 1m above ground level</p> | <p>The windows face the private open space area of Unit 4 and will not impact on privacy of adjoining properties.</p> <p>The proposal does not relate to any elevated deck or balcony areas.</p> | <p>Yes</p> <p>N/A</p> |

The development proposal is compliant with the provisions of DCP 2013. The additions to Unit 4 are minor in area and are single storey in height only. The setbacks are compliant with Council requirements and the outdoor living space has been increased to ensure this area remains compliant with the requirements.

#### iv. Relevant Planning Agreements

There are no relevant planning agreements relating to the subject land nor this development proposal.

#### b) Context & Setting

The proposal provides for a minor addition to Unit 4. The single storey proposal provides additional internal living area for the four bedroom unit and is consistent with the existing context and setting.

#### c) Access, Transport & Traffic

The addition to the living area of Unit 4 will not result in any change to the access or traffic movements associated with this residential development. There are no increases in number of bedrooms nor garage space. The application plans demonstrate that vehicular access remains compliant such that internal manoeuvring areas will allow garbage service vehicles to enter and leave the property in a forward direction.

**d) Natural Hazards**

The land is not identified as being subject to any known natural hazards.

**e) Waste**

The proposal will not alter waste generation or disposal from the residential development.

**f) Water Supply & Sewer Connection**

The proposal will not alter the water and sewer services for the residential development.

**g) Stormwater / Water**

The stormwater network has capacity to cater for the minor addition to Unit 4.

**h) Energy**

The minor addition will not create a significant change to the energy usage for Unit 4.

**i) Noise & Vibration**

The proposal will not alter the noise and vibration generated by the development.

**j) Heritage**

No items of heritage are listed under Council's LEP matters for the subject land. A search revealed no listed items of Aboriginal heritage for the subject land.

**k) Social & Economic Impact in the Locality**

The minor addition will not alter the social and economic impact in this locality.

**4. Public Interest**

The proposal relates to a minor addition which will increase the internal living area of a four bedroom unit. The outdoor living area will not be reduced due to a change to the fence location. This will improve the liveability of the new dwelling. In addition, the side setback of 1.03m at the nearest point, and single storey nature of the addition, results in a proposal which is compliant with regards to possible impacts on adjoining development. Therefore, the proposal is consistent with the design guidelines and it is in the public interest to make efficient use of available and unconstrained residential land.

**5. Conclusion**

The development proposal is compliant with the design criteria set out in DCP 2013 such that the side setback for Unit 4 will be 1.03m at the nearest point of the proposed additions. The DCP 2013 side setback guidelines for the ground floors is 0.9m. Therefore, the proposal is compliant with this design guideline, and the upper storey setbacks are unaltered.

The visual impact of the addition to Unit 4 will be partially obscured by the side fencing. The floor area increase is approximately 8.9m<sup>2</sup>. This is a very minor addition to the building footprint, particularly when the extension is single storey, and setback a metre from the nearest

point on the side boundary. The visual impacts are considered based on the architectural plans including the following extracts from the elevations:

Figure 6: Plan Extract showing Western Elevation

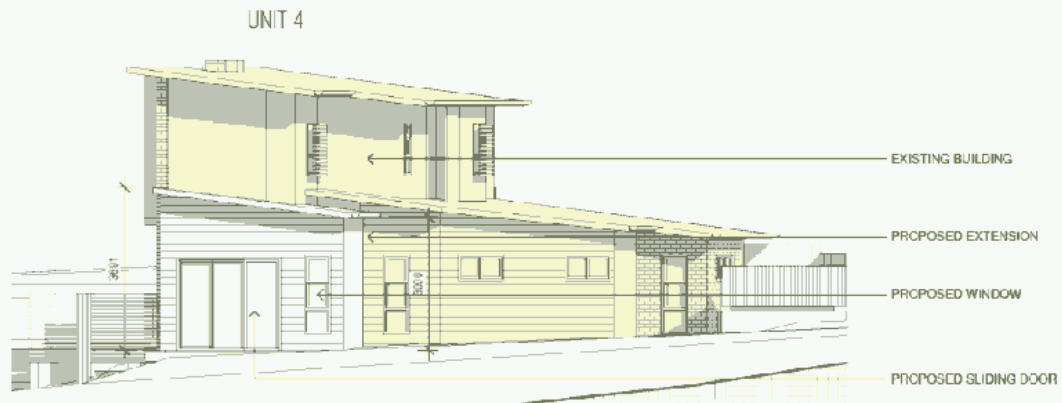
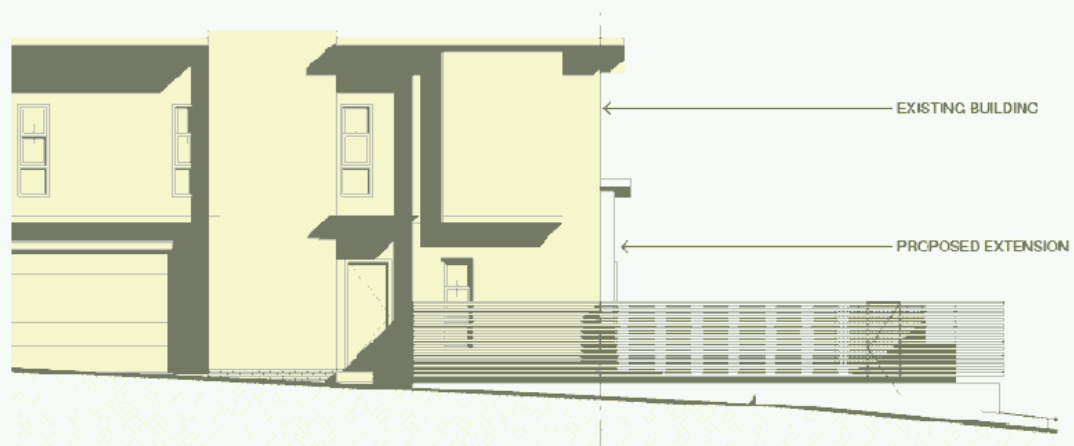


Figure 7: Plan Extract showing Northern Elevation



As may be seen, the extension is minor and the visual impact is minimal.

With regards to compliance with the provisions of LEP 2011, the proposal will result in a minor increase to the floor space ratio via the addition of some 8.9m<sup>2</sup> of floor space. The floor space ratio for the subject land is 0.65:1. This minor addition will increase the floor space ratio to 0.60:1, which remains within the permitted total floor space ratio.

Therefore, the identified possible impacts arising from the proposal relating to setbacks, visual impacts, and compliance with DCP 2013 setback provisions and LEP 2011 floor space ratio provisions, have been considered. The assessment has determined that the amendment is minor and the proposal is compliant with the relevant requirements.

| Drawing List - Cover |                            |                  |  |
|----------------------|----------------------------|------------------|--|
| Sheet Number         | Sheet Name                 | Current Revision |  |
| DA-000               | Contents and Location Plan |                  |  |
| DA-001               | Site Plan                  |                  |  |
| DA-002               | Elevation                  |                  |  |



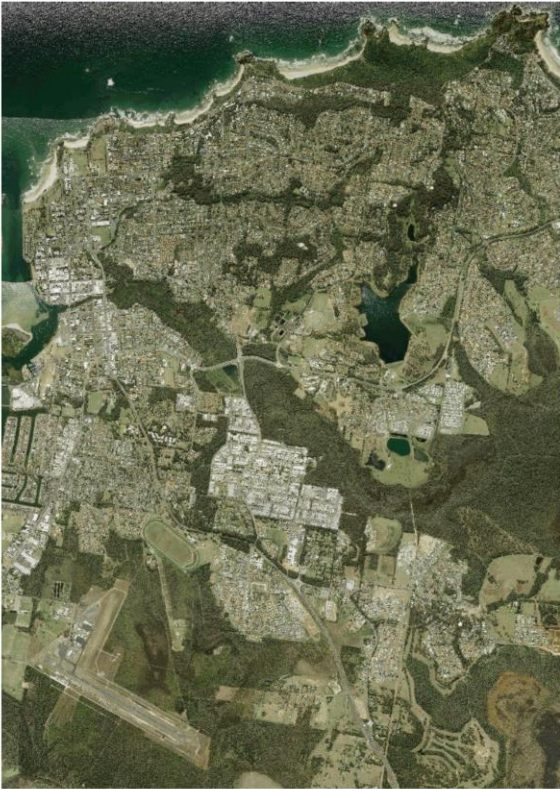
DDC ARCHITECTURE + INTERIOR DESIGN

Unit 3, 112 Russell Street, Etna Plains NSW 2750  
02 4798 6500 | info@ddc-group.com.au | www.ddc-group.com.au

DEVELOPMENT APPLICATION

| PROJECT TITLE  |  | PROJECT      | DATE/TIME             |
|--|--|--------------|-----------------------|
| Town House Development -   |  | 15552        |                       |
| BDM 15137-002  |  | PROJECT      |                       |
| BDM Construction   |  | PROJECT TYPE |                       |
| Unit 4 of Lot 3 (DP 1214081) Green Meadows Drive, Port Macquarie |  |              | 22/11/2018 2:02:48 PM |

CONTRACTOR: APPLICANT TO THE COUNCIL OF TOWN HOUSES, 15552, THE PROPERTY OF TOWN HOUSES, 15552, PTY LTD. THE PRODUCTION OF ANY KIND OF PLAN OR DRAWING WITHOUT THE CONSENT OF THE ARCHITECT IS STRICTLY FORBIDDEN. ANY CONTRACTOR TO VERIFY ALL DIMENSIONS AND BE SURE TO CHECK BEFORE COMMENCING WORK. SHOULD ANY DISCREPANCY BE FOUND, THE CONTRACTOR MUST CONTACT THE ARCHITECT IMMEDIATELY. THE CONTRACTOR MUST BE AWARE THAT THE DIMENSIONS ARE TO BE USED. DO NOT SCALE FROM THIS DRAWING. TO BE USED IN CONJUNCTION WITH ENGINEER'S DOCUMENTS. THE CONTRACTOR MUST BE AWARE THAT THE DIMENSIONS ARE TO BE USED. DO NOT SCALE FROM THIS DRAWING. TO BE USED IN CONJUNCTION WITH ENGINEER'S DOCUMENTS. THE CONTRACTOR MUST BE AWARE THAT THE DIMENSIONS ARE TO BE USED. DO NOT SCALE FROM THIS DRAWING. TO BE USED IN CONJUNCTION WITH ENGINEER'S DOCUMENTS.



LOCALITY PLAN



DRAWING TITLE

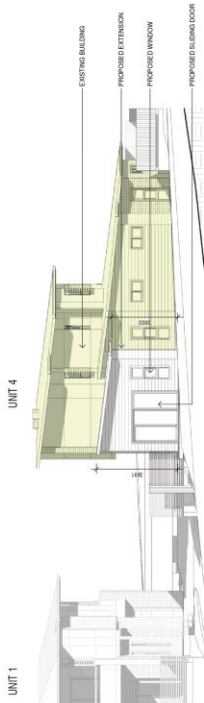
## DEVELOPMENT



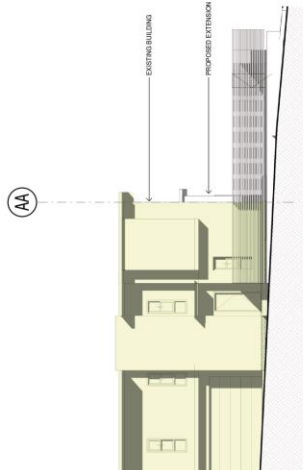


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| REVISION SCHEDULE |      |             |
|-------------------|------|-------------|
| Issue#            | Date | Description |



1 West Elevation  
1:100



2 North Elevation  
1:100



DDCA ARCHITECTURE  
+ INTERIOR DESIGN

Unit 3, 112 Russell Street  
Emu Plains NSW 2750  
02 4728 6500

PROJECT TITLE  
Town House Development - BDM  
155192-0092  
CLIENT  
BDM Contributions

ADDRESS  
Unit 4 of Lot 3 (DP 1214081) Green  
Macdonald Drive, Port Macquarie

DRAWING TITLE  
Elevation

SCALE  
1:100 @ A1

DRAWING NUMBER  
15052 - DA-201

Name  
22/11/2018  
2:02:52 PM

DEVELOPMENT  
ADDITION



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**Item: 08****Subject: DA2018 - 599.1 - USE OF EXISTING DWELLING FOR TOURIST AND VISITOR ACCOMMODATION - LOT 9 DP 234920, NO.118 CAMDEN HEAD ROAD, DUNBOGAN****Report Author: Patrick Galbraith-Robertson**

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|                        |   |
|------------------------|---|
| <b>Applicant:</b>      | <b>P Smith CARE David Pensini – Building and Environmental Services</b> |
| <b>Owner:</b>          | <b>P Smith</b>  |
| <b>Estimated Cost:</b> | <b>\$NIL</b>  |
| <b>Parcel no:</b>      | <b>3465</b>   |

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA2018 - 599 for use of an existing dwelling for tourist and visitor accommodation at Lot 9, DP 234920, No. 118 Camden Head Road, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a Development Application for a use of an existing dwelling for tourist and visitor accommodation at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, one (1) submission has been received.

This report recommends that the development application be approved subject to the recommended conditions.

**1. BACKGROUND****Previous unlawful use of the premises for tourist and visitor accommodation**

The subject dwelling has been utilized for holiday accommodation with noise complaints to council being the catalyst for Council to request the submission of a Development Application for the tourist accommodation use.

**Short-term holiday letting in NSW**

There has been rapid growth in short-term holiday (STHL) letting in NSW with the emergence on online booking services. STHL is estimated to be worth \$31.3 billion nationally, with NSW constituting approximately 50% of the national total.

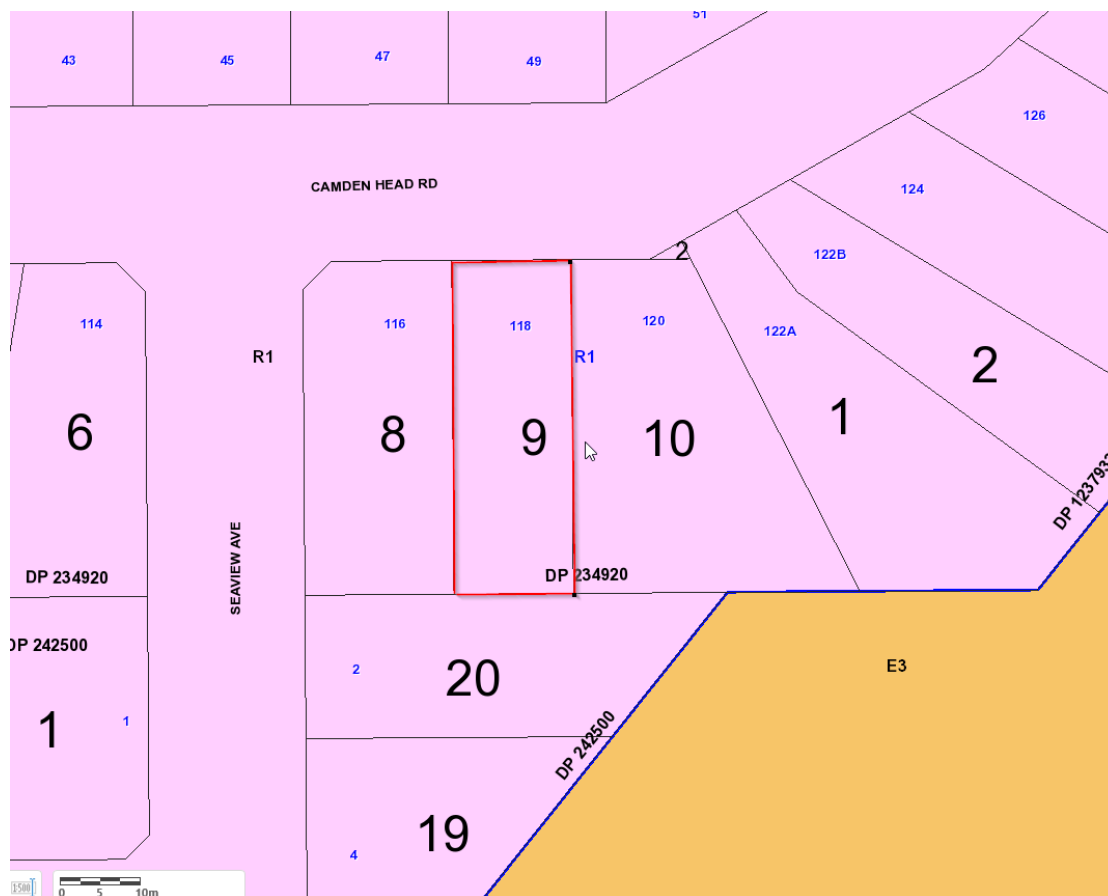
In 2016, the NSW Legislative Assembly Committee on Environment and Planning conducted an enquiry into the adequacy of regulation for STHL in NSW. The NSW Government generally supports the findings and recommendation of the Parliamentary Inquiry and considers that STHL is generally acceptable in a residence. However, there is a point where STHL becomes a more intensive commercial type of use.

The NSW Department of Planning and Environment have released an *Explanation of Intended Effect (effectively a Planning Proposal)* in October 2018 although there is no firm adopted Government position on how STHL is to be managed through the planning system at this stage. However, using the principle of the Land and Environment Court in *Dobrohotoff v Bennic [2013] NSWLEC 61* the proposed development could not be considered to be development for the purpose of a dwelling house. Development consent is therefore required for a change of use from a dwelling to tourist and visitor accommodation.

### Existing sites features and surrounding development

The site has an area of 648.4m<sup>2</sup>.

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



The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photograph (Nearmap 2018):



The site has a general north street frontage orientation to Camden Head Road, Dunbogan.

Adjoining the site to the east, south and west are existing residential dwellings.

## **2. DESCRIPTION OF DEVELOPMENT**

Key aspects of the proposal include the following:

- Change of use of the existing 4 bedroom dwelling to allow for its use for short term tourist accommodation in conjunction with the residential use and occupation of the building.



- The owners of the property occupy the property at times. The property is occupied for approximately 25% of the time with short term accommodation accounting for 15% of occupation with the remaining 10% being owner occupied.
- The use of the building for short term tourist accommodation is subject to a minimum three (3) night stay with a minimum Saturday to Saturday booking requirement during school holiday/peak periods.
- The maximum occupancy of the dwelling for tourist accommodation is 10 persons.
- Pets are not permitted on the subject property in conjunction with its proposed tourist accommodation use unless permission is given in writing from the managing agent.
- The proposed development requires no alterations to the subject building so as to provide for a built form which is suitable for use for tourist accommodation.



Existing  
Dwelling on the  
subject site

Refer to attachments at the end of this report.

### **Application Chronology**

- 6 August 2018 – DA lodged with Council
- 9 August 2018 – Additional fees requested from Applicant
- 14 to 27 August 2018 – Neighbour notification of proposal
- 29 August 2018 – Additional fees paid by Applicant
- 30 August 2018 – Referral of proposal to the NSW Rural Fire Service for Bushfire Safety Authority
- 30 October 2018 – Bushfire Safety Authority issued by the NSW Rural Fire Service
- 6 December 2018 – Floor plans requested from Applicant
- 12 February 2019 – Floors plans 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 No. 44 - Koala Habitat Protection**

With reference to clauses 6 and 7, the subject land is less than 1 hectare (including any adjoining land under same ownership) and therefore the provisions of SEPP do not require consideration.

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

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

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

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

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

No signage is proposed. A standard condition is recommended to require approval for any signage other than signage which is exempt development.

**State Environmental Planning Policy (Coastal Management) 2018 and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011**

The site is located within a coastal use area, coastal environment area and proximity area to coastal wetlands and littoral rainforest.

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

Having regard to clauses 13 and 14 of the SEPP and clause 5.5 of the Port Macquarie-Hastings LEP 2011 the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;
- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impacts on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- e) any adverse impact on Aboriginal cultural heritage, practices and places;
- f) any adverse impacts on the cultural and built environment heritage;
- g) any adverse impacts the use of the surf zone;
- h) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;

- i) overshadowing, wind funnelling and the loss of views from public places to foreshores;

The site is located within an area zoned for residential purposes and permits tourist use subject to obtaining development consent.

### Port Macquarie-Hastings Local Environmental Plan 2011

Relevant clauses of the LEP are as follows:

- Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the proposed development is best characterised as tourist and visitor accommodation, which is permissible in the zone.
- The objectives of the R1 zone are as follows:
  - *To provide for the housing needs of the community.*
  - *To provide for a variety of housing types and densities.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- In accordance with Clause 2.3(2), the proposal is considered to be consistent with the zone objectives having regard to the following:
  - The existing dwelling is proposed to become short-term tourist and visitor accommodation which is a permissible landuse.
  - Whilst the proposal is not a facility or service intended to meet the day to day needs of residents the dwelling will provide accommodation for tourists and visitors and occasional use by owners/residents.

### (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

| <b>DCP 2013: Residential Flat Development, Tourist and Visitor Accommodation and Mixed Use Development</b> |   |  |                 |
|--|---|--|-----------------|
| <b>DCP Objective</b>   | <b>Development Provisions</b>   | <b>Proposed</b>  | <b>Complies</b> |
| 3.3.2.4  | Streetscape and front setback: <ul style="list-style-type: none"> <li>• Within 20% of the average setback of the adjoining buildings.</li> <li>• 3m setback to all frontages if no adjoining development.</li> <li>• 2m setback to secondary frontages.</li> <li>• Max. 9m setback for tourist development to allow for swimming pool.</li> </ul> | Existing building.<br>However, front setback is compatible with adjoining development. | Yes             |



|          |  |   |  |
|----------|--|---|--|
| 3.3.2.6  | Side setbacks comply with Figure 3.3-1:<br><ul style="list-style-type: none"> <li>Min. Side setback 1.5m for 75% of building depth.</li> <li>Windows on side walls min. 3m from side boundary.</li> <li>3m minimum where adjacent to existing strata titled building.</li> </ul>   | Living room, bedroom, bathroom and games room windows within 3m of southern boundary.<br><br>It has been demonstrated that satisfactory acoustic impacts would be maintained in accordance with the objectives of the control with operating mitigation measures. Privacy screen existing at 2 Seaview Avenue first floor deck. | No – however acceptable as existing dwelling |
|          | Min. 6m rear setback (including sub basements)   | Existing building with setback less than 6m rear setback.   | Yes  |
| 3.3.2.11 | Deep soil zones:<br><ul style="list-style-type: none"> <li>Extend the width of the site and have minimum depth of 6m.</li> <li>Are contiguous across sites and within sites (see Fig 3.3-4).</li> </ul>  | Adequate deep soil zone planting areas existing across entire site.   | Yes  |
| 3.3.2.16 | Landscape plan provided including:<br><ul style="list-style-type: none"> <li>35% soft landscaping with minimum width of 3m.</li> <li>Existing vegetation and proposed treatment.</li> <li>Details of hard landscaping.</li> <li>Location of communal recreational facilities.</li> <li>Species not to obscure doors, paths, etc.</li> <li>Street trees in accordance with Council's list.</li> </ul> | Existing development includes adequate soft landscaping.  | Yes  |
| 3.3.2.22 | Fencing or landscaping defines public/communal and private open space.   | Existing fencing and landscaping define private and public space.   | Yes  |
| 3.3.2.26 | Building to be designed so that:<br><ul style="list-style-type: none"> <li>Busy, noisy areas face the street.</li> <li>Quiet areas face the side or rear of the lot.</li> <li>Bedrooms have line of site separation of at least 3m from parking areas, streets and shared driveways.</li> </ul>  | Noisy areas face the front and rear.<br>Bedrooms do not require separation from driveway as dwelling intended to be let as one letting.   | Yes/No – existing dwelling<br><br>N/A        |
|          | Openings of adjacent   | Site analysis confirms that   | No   |

|          |  |   |     |
|----------|--|---|-----|
|          | dwellings separated by at least 6m.  | 6m separation from openings in adjacent dwellings is achieved.  |     |
| 3.3.2.28 | Development complies with AS/NZS2107:2000 <i>Acoustic – Recommended design sound levels and reverberation times for building interiors for residential development.</i>  | Existing dwelling to be used for holiday letting. No new building works proposed.   | N/A |
| 3.3.2.30 | Direct views between living room windows to be screened where: <ul style="list-style-type: none"> <li>• Ground floor windows are within 9m of windows in an adjoining dwelling.</li> <li>• Other floors are within a 12m radius.</li> <li>• Living room windows are within 12m radius of the principal area of private open space of other dwellings.</li> </ul>   | Direct views adequately screened by existing building design and southern neighbour's privacy screening on first floor deck at 2 Seaview Avenue.  | Yes |
|          | Direct views may be screened with either a 1.8m high fence or wall, or screening that has maximum 25% openings.  | Existing screening at 2 Seaview Avenue satisfies these requirements.  | Yes |
|          | Windows in habitable rooms screened if >1m above ground level and wall set back <3m.   | Existing screening at 2 Seaview Avenue satisfies these requirements.  | Yes |
|          | Balconies, decks, etc screened if <3m from boundary and floor area >3m <sup>2</sup> and floor level >1m above ground level.  | Existing balconies at 2 Seaview Avenue adequately screened.   | Yes |
| 3.3.2.46 | For developments of < 6 dwellings individual waste management permitted. Designated area to be provided for storage of bins: <ul style="list-style-type: none"> <li>• not visible from street,</li> <li>• easily accessible,</li> <li>• not adjoining private or communal space, windows or clothes drying areas,</li> <li>• on hard stand area,</li> <li>• close to street and a tap for washing,</li> <li>• maintained free of pests.</li> </ul> | Waste storage area nominated on the submitted plans and expected to be adequate for the scale of the proposal.<br><br>An arrangement is in place for the bins to be placed at the kerb for collection and returned to the storage location. | Yes |

| DCP Objective   | Development Provisions  | Proposed   | Complies |
|-----------------|---|--|----------|
| 2.7.2.2         | Design addresses generic principles of Crime Prevention Through Environmental Design guideline: <ul style="list-style-type: none"> <li>• Casual surveillance and sightlines</li> <li>• Land use mix and activity generators</li> <li>• Definition of use and ownership</li> <li>• Lighting</li> <li>• Way finding</li> <li>• Predictable routes and entrapment locations</li> </ul> | 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.   | Yes      |
| 2.3.3.1         | Cut and fill 1.0m max. 1m outside the perimeter of the external building walls  | Existing building. No cut or fill proposed.  | Yes      |
| 2.3.3.8 onwards | Removal of hollow bearing trees   | None proposed to be removed.   | Yes      |
| 2.6.3.1         | Tree removal (3m or higher with 100mm diameter trunk and 3m outside dwelling footprint)   | None proposed to be removed.   | Yes      |
| 2.4.3           | Bushfire risk, Acid sulphate soils, Flooding, Contamination, Airspace protection, Noise and Stormwater  | Refer to main body of report.  |          |
| 2.5.3.3         | Off-street parking in accordance with Table 2.5.1   | Tourist and visitor accommodation requires 1.1 spaces per unit, plus 1 space per 2 employees (onsite at any one time), plus 1 space for any onsite manager.<br>The proposal includes 4 guest bedrooms, but would be let out as a single dwelling rather than individual rooms. The DCP therefore only strictly requires 1.1 (rounded to 2) parking spaces as there would be no employees on site.<br>The dwelling has a double garage and stacked parking areas available within the driveway which are considered acceptable. | Yes      |

|          |   |   |                    |
|----------|---|---|--------------------|
| 2.5.3.7  | Visitor parking to be easily accessible         | Parking at front of the site.   | Yes                |
|          | Parking in accordance with Australian Standards | Commercial developments are generally not permitted to have stacked car parking. However, given that the building would be let in its entirety and the group of guests will know each other, it is reasonable to consider that a stacked parking arrangement could work for the proposed use. | No, but acceptable |
| 2.5.3.14 | Sealed driveway surfaces unless justified       | Existing driveway satisfactory.   | Yes                |

Based on the above assessment, the DCP is considered to be satisfactorily addressed and the proposal does not amount to adverse impact or 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:**

**NSW Coastal Policy 1997**

The proposed development is consistent with the objectives and strategic actions of this policy. See comments earlier under Coastal Management State Environmental Planning Policy.

**Fire Safety and other considerations – Clause 93**

This clause requires the consent authority to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use. Consent to change the use of the building must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.

The change to tourist accommodation is a change from a Class 1a to a Class 1b. An Occupation Certificate will be required to be obtained within a 3 month recommended timeframe which will also require essential fire safety services. The proposed installation of lighting and smoke alarms in accordance with the Building Code of Australia as recommended by David Pensini is considered acceptable.

**(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**

With the mitigation measures proposed to operation, the proposal will be unlikely to have any adverse impacts to existing adjoining properties or the public domain.

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

The proposal does not have any identifiable significant adverse lighting impacts.

There are no significant adverse privacy impacts. Adequate building separation and dwelling is proposed/existing.

**Traffic and Transport**

The site is currently approved for a dwelling house expected to generate approximately 9 daily trips. The proposed use is expected to generate more variable traffic depending on the number of vehicles used by the guests staying at the premises, and the total number of guests. The traffic associated with the use would not adversely impact the existing road network in the locality.

**Site Frontage & Access**

Vehicle access to the site is proposed via an existing driveway crossover to The Peninsula. No frontage works or changes to the existing access are proposed.

**Parking and Manoeuvring**

A total of 2 parking spaces in the garage plus stacked parking in the driveway are existing on-site. Commercial developments are generally not permitted to have stacked car parking. However, given that the building would be let in its entirety and the group of guests will know each other, it is reasonable to consider that a stacked parking arrangement could work for the proposed use.

It is considered that a larger commercial parking facility to AS 2890 would adversely impact the residential character of the area, and the potential for future conversion of the site back to a dwelling.

**Noise and vibration**

While it is acknowledged that the DCP does not set specific acoustic criteria for this type of development, it is not considered that the noise impacts can be deemed acceptable simply for this fact. The impacts of the development (including noise) still remain a merit consideration in the assessment of the application.

During the evening is when it is expected that noise generated at the premises (outside evening meals with talking/music) is most likely to cause a nuisance or disturbance to neighbours.

The Applicant has submitted the following justifications for the operations being restricted to previous nuisance to neighbours:

1. The booking of accommodation is via a local real estate agent which provides for an opportunity to actively vet potential occupants of the dwelling.
2. The use of the building for short term tourist accommodation is subject to a minimum three (3) night stay with a minimum Saturday to Saturday booking requirement during school holiday/peak periods. This ensures that one off transient 'over-night' stays are avoided with occupation being targeted towards families looking for a standard of accommodation which is typical of a residential setting and expectations.



3. Rental of the property for tourist accommodation purposes is subject to strict terms and conditions which includes prohibitions on activities which maybe the cause of noise generation which would not be consistent with a residential area, refer to Appendix 1 of report.
4. The use of a local real estate agent for the management of a property provides for reactive management, e.g. respond to complaints regarding inappropriate behaviour.
5. Notwithstanding the availability of a managing agent, the owner of the property is available to respond to complaints regarding inappropriate behaviour.
6. As with the permanent occupation of a dwelling inappropriate behaviour can be addressed through other regulatory mechanisms e.g. Police/local council.

The submitted application appropriately assess the noise impacts of the development and any mitigation measures necessary to ensure that impacts on neighbours are acceptable. Appropriate conditions are recommended.

**Safety, security and crime prevention**

There is nothing about the design of the building that would particularly facilitate crime risk in the locality.

**Social impacts in the locality**

No adverse social impacts can be identified to neighbouring properties subject to compliance with the mitigation operating measures proposed by the Applicant.

**Economic impact in the locality**

It is expected that the proposed development would have some positive economic impacts through tourism and other associated expenditure in the area by guests.

**Site design and internal design**

The existing building on the site has been designed as a permanent residential dwelling. The building setbacks are consistent with what would be expected for a dwelling, and the building layout has main living areas at the rear of the site overlooking the water. Other dwellings in the locality are designed in a similar manner with indoor and outdoor living spaces oriented to the rear.

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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

**Waste**

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

**Energy**

No adverse energy usage impacts anticipated.

**Bushfire**

The site is identified as being bushfire prone.



In accordance with Section 100B - *Rural Fires Act 1997* - the application proposes tourist accommodation on bush fire prone land. As a result, the applicant has submitted a bushfire report which has been forwarded to the NSW Rural Fire Service (RFS). The RFS have since issued a Bushfire Safety Authority, which are recommended to be incorporated into the consent.

### **Cumulative impacts**

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

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

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

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

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

One (1) written submission has been received following public exhibition of the application.

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

| <b>Submission Issue/Summary</b>   | <b>Planning Comment/Response</b>   |
|---|--|
| Impact on 2 Seaview Avenue with regards to privacy, continual late night noise after 10pm when the property is rented out for holiday accommodation and on health, sleep and wellbeing. | Previous operating issues prior to lodgement of the DA are proposed to be resolved by new mitigation measures proposed as detailed earlier in this report.   |
| Adjoining windows are directly opposite bedrooms of 2 Seaview Avenue.   | Bedrooms and bathroom windows are difficult to protect from a privacy impact perspective.  |
| The lounge room looks directly into the bedroom and shower cubicle of 2 Seaview Avenue.   |  |
| A house of 10 people is not normal for residential family circumstances.  | Agree – hence for tourist purposes this is the reason for lodgement of the DA as discussed earlier in this report.   |
| Owners of 2 Seaview Avenue have installed privacy and noise measures into their home to mitigate against the proposal particularly the rear balcony and downstairs recreation room.     | Privacy measures installed by neighbour noted and confirmed by inspection by assessing officer on-site. No adverse privacy impacts identified to warrant further mitigation measures.<br><br>With regard to noise impacts - previous operating issues prior to lodgement of the DA are proposed to be resolved by new mitigation operation measures proposed as detailed earlier in this report. |

| Submission Issue/Summary   | Planning Comment/Response   |
|--|---|
| Laurieton Police Station is not manned at night and reliance on Port Macquarie Police for a noise complaints is difficult.   | Police can still be contacted in the event of public disturbance issues.  |
| Recommend Downstairs recreation area (garage) to have no table tennis or parties after 10pm Privacy/Noise proof wall/screen to be erected on the first 1/3 of balcony (where the portable bbq is now situated) to help reduce noise and eliminate peering eyes looking into bedroom of 2 Seaview Avenue. | Functions, parties or extra guests are not permitted as proposed under the proposed Rental Terms and Conditions management plan.  |
| Recommend external privacy screen on the lounge room window to stop tenants looking directly into to shower and bedroom of 2 Seaview Avenue and restrict smoking on rear balcony.  | Privacy measures installed by neighbour noted and confirmed by inspection by assessing officer on-site. No adverse privacy impacts identified to warrant further mitigation measures. |

**(e) The Public Interest:**

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

No contributions are applicable to the proposal.

**5. CONCLUSION AND STATEMENT OF REASON**

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

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

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

**Attachments**

- 1 [View](#). DA 2018 - 599.1 Recommended Conditions
- 2 [View](#). DA2018 - 599.1 Bushfire Safety Authority
- 3 [View](#). DA2018 - 599.1 SOEE
- 4 [View](#). DA2018 - 599.1 Plans

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS****NOTE: THESE ARE DRAFT ONLY****DA NO: 2018/599****DATE: 19/02/2019****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

| <b>Plan / Supporting Document</b>                           | <b>Reference</b> | <b>Prepared by</b>   | <b>Date</b>  |
|---|------------------|--|--------------|
| Floor plans   | 26 sheets        | Wayne Heilman  | undated      |
| Site plans  | 2 sheets         | N/A  | July 2018    |
| Statement of Environmental Effects & Supporting Information |                  | David Pensini<br>Building Certification and Environmental Services | 25 July 2018 |
| Bushfire Hazard Assessment                                  |                  | David Pensini<br>Building Certification and Environmental Services | 28 July 2018 |

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

- (2) (A013) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
- **NSW Rural Fire Service** - The General Terms of Approval, Reference D18/7157 DA18090614972 PC and dated 30 October 2018, are attached and form part of this consent.
- (3) (A014) This approval does not provide any indemnity to the owner or applicant under the Disability Discrimination Act 1992 with respect to the provision of access and facilities for people with disabilities.
- (4) (A017) A separate development application for any proposed advertising signs (other than signs which are exempt development or approved under this consent) must be submitted to and approved by council prior to the erection or display of any such signs.

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

nil

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

nil

**D – DURING WORK**

nil

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

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E015) Prior to occupation or issue of the Occupation Certificate, details of compliance with the bushfire risk assessment is to be provided to the Principal Certifying Authority.
- (3) (E016) Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.

**F – OCCUPATION OF THE SITE**

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons.
- (2) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (3) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.
- (4) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997, shall not be generated as a result of the operation of the development.
- (5) (F195) The occupation and use of the dwelling for tourist accommodation purposes shall strictly comply with the Appendix 1 Rental Terms and Conditions rules and Management Strategies listed in section 6.6.12 of the approved Statement of Environmental Effects.

*All communications to be addressed to:*

Headquarters  
15 Carter Street  
Lidcombe NSW 2141

Headquarters  
Locked Bag 17  
Granville NSW 2142

Telephone: 1300 NSW RFS  
e-mail: records@rfs.nsw.gov.au

Facsimile: 8741 5433



The General Manager  
Port Macquarie-Hastings Council  
PO Box 84  
PORT MACQUARIE NSW 2444

Your Ref: 2018/599  
Our Ref: D18/7157  
DA18090614972 PC

**ATTENTION:** Patrick Galbraith-Robertson

30 October 2018

Dear Mr Galbraith-Robertson

**Integrated Development Application - 9//234920 - 118 Camden Head Road  
Dunbogan**

I refer to your correspondence dated 30 August 2018 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

**Asset Protection Zones**

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

1. At the commencement of the development and in perpetuity, the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

**Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:



2. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

**Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

3. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including the preparation of an emergency / evacuation plan consistent with the NSW RFS document titled 'A guide to developing a bush fire emergency management and evacuation plan'. A copy of the plan shall be provided to the consent authority and the local Bush Fire Management Committee prior to commencement of the development and a copy shall be readily available for visitors to the building.

**Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

4. The existing building is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

**Landscaping**

5. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Should you wish to discuss this matter please contact Paul Creenaune on 1300 NSW RFS.

Yours sincerely



Alan Bawden  
**Team Leader - Development Assessment & Planning**

For general information on bush fire protection please visit [www.rfs.nsw.gov.au](http://www.rfs.nsw.gov.au)



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# **STATEMENT OF ENVIRONMENTAL EFFECTS & SUPPORTING INFORMATION**

## **CHANGE OF USE TOURIST ACCOMMODATION WITHIN EXISTING DWELLING**



**LOT 9 DP 234920  
118 CAMDEN HEAD ROAD,  
PORT MACQUARIE**

Prepared by: David Pensini  
Building and Environmental Services  
PO Box 5581  
Port Macquarie NSW 2444

**JULY 2018**

DEVELOPMENT APPLICATION  
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| Version | Date                       | Information relating to report |   |             |   |
|---------|----------------------------|--------------------------------|---|-------------|---|
|         |                            | Reason for issue               |   |             |   |
| 1.0     | 15 <sup>th</sup> July 2018 | Draft                          |   |             |   |
| 2.0     | 25 <sup>th</sup> July 2018 | Issued                         |   |             |   |
|         |                            |                                | Prepared by   | Verified by | Approved by   |
|         |                            | Name                           | David Pensini   |             | David Pensini   |
|         |                            | Signature                      |  |             |  |

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## 1.0 INTRODUCTION

This report is submitted to Port Macquarie - Hastings Council as part of a development application for the proposed change of use of the existing dwelling which is located on land known as Lot 9 DP 234920, 118 Camden Head Road, Dunbogan. The proposed new use of the subject building being the provision of tourist accommodation in conjunction with the residential occupation of the subject site.

The proposed development requires no alterations and additions to the existing dwelling as the subject building already provides for a built form which is suitable for use as 'Air B & B' accommodation.

It is noted that the subject dwelling has been utilized for holiday accommodation with noise complaints to council being the catalyst for Council to request the submission of a Development Application for the tourist accommodation use notwithstanding the absence of a clear regulatory regime for tourist accommodation establishments.

The proposed change of use complies with the requirements of Council's development control planning objectives and development standards. The proposed development is consistent with the zoning for the area and is compatible with the local context and amenity.

This report addresses the nature and form of the development, the characteristics of the site and surrounding area and the impacts of the proposed development.

## 2.0 LOCATION DESCRIPTION

The subject site is known as Lot 9 DP 234920, 118 Camden Head Road, Dunbogan and is located in the Port Macquarie-Hastings Local Government Area.

The subject site is located on the south-eastern fringe of the urbanized extent of the Dunbogan residential area. Dunbogan being located approximately 1.0km east of the township of Laurieton and approximately 35km south of Port Macquarie, refer to **Figure 1** below;

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**Figure 1 - Site Location**



Being on the urban fringe, the locality of the subject site is characterized by developed residential allotments which are present to the north, south, east and west with the dunal areas of Dunbogan Beach being located to the south east and south of the subject site. The Kattang Nature Reserve is present at distance to the east of the subject site whilst the waterbody known as Googleys Lagoon is located approximately 110m to the north of the subject site. Googleys Lagoon forms part of the Camden Haven River estuary.

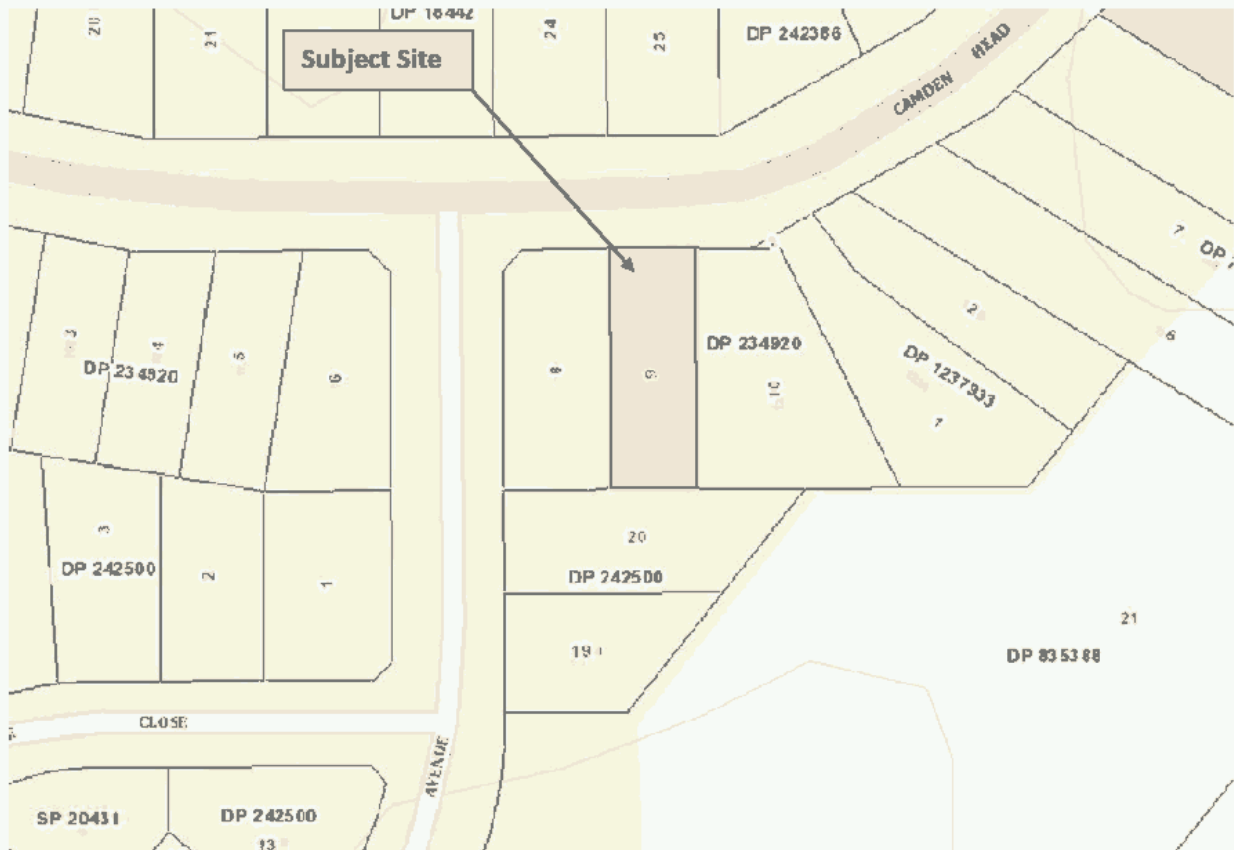
The subject site consists of a rectangular shaped lot occupying an area of some 645m<sup>2</sup>, refer to **Figure 2** below. A single two storey dwelling is located in the southern portion of the subject site. Managed yard and garden areas and vehicle parking and manoeuvring areas occupy the remainder of the subject site. Being some 30 - 40 years old the design and construction of the existing building infrastructure on the subject site is typical of residential development of the time.



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**Figure 2 – Subject Site**



Access to the subject site is via Camden Head Road which adjoins the northern boundary of the subject site.

The vegetation on the subject site is reflective of the land use zonings which are applicable to the subject site. The majority of native vegetation has been removed from the subject site with lawns and garden areas dominating the understorey. Similar vegetation is present on the adjoining and adjacent residential lots with managed yard and landscaped areas with scattered and clusters of trees being the predominant vegetation.

Vegetation with the Dunbogan Beach dunal area to the southeast and south comprise Short Heath and grasses with some remnant areas of Tall Heath. Fore-dune areas consist of species such as *Spinifex*, *Spinifex sericeous*, Banksias, Acacias, She-oak and Coastal Wattles. Vegetation in the fore-dune zone is stunted and wind-sheared by salt laden winds. Hind-dune areas consist of similar species to the fore-dune however due to the shielding provided by the fore-dune vegetation stands are taller albeit highly disturbed particularly to the southeast and south. Exotic species such as 'Bitou Bush' were noted within both fore and hind due vegetation.

Areas of highly disturbed Wet Sclerophyll Forest and Forested Wetland vegetation are present at distance to the north fringing the foreshore of Googleys Lagoon.

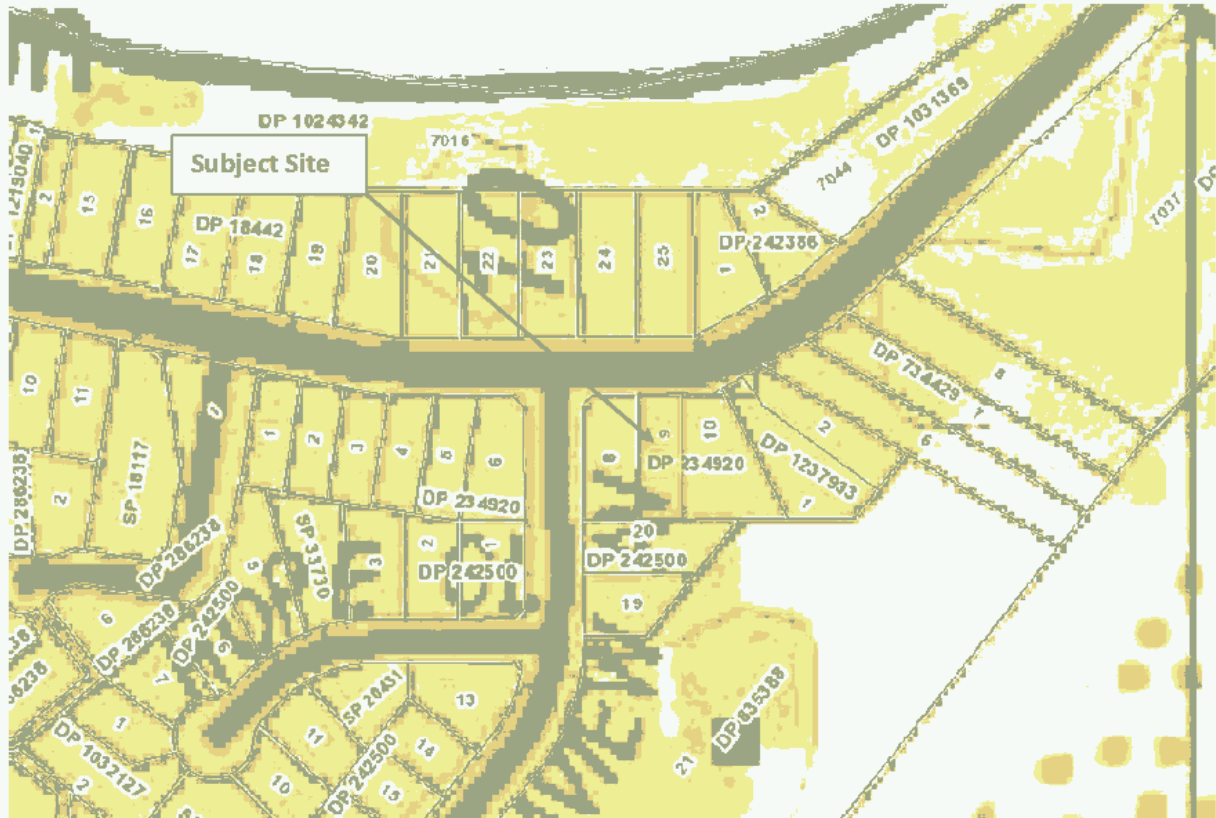
**Figure 3 – Site Context**



The topography in the foredune at distance to the east of the subject site provides for undulating conditions however slopes are in general gentle.

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**Figure 4 – Topographical Characteristics**

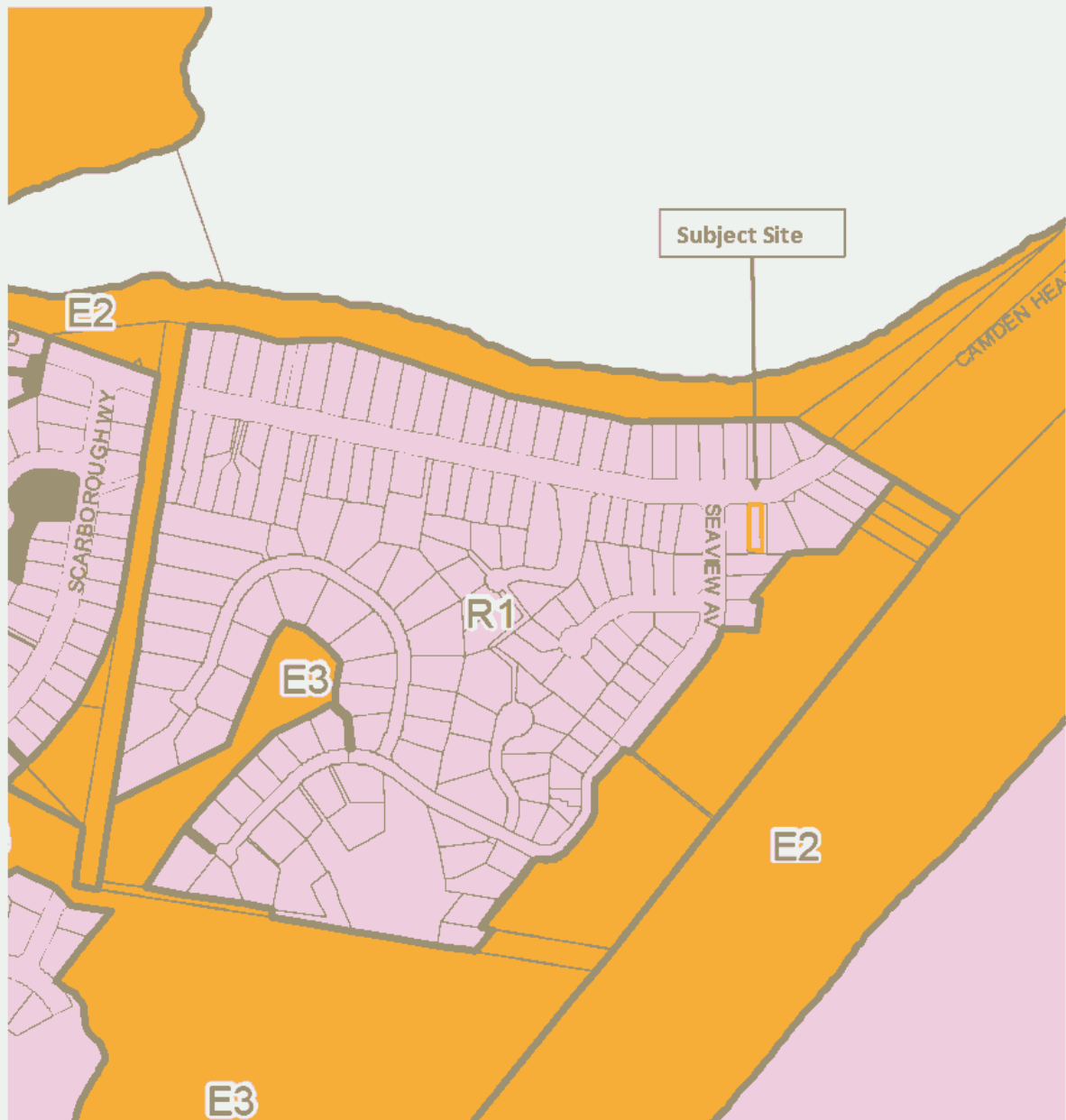


The subject site is zoned Residential (R1) in accordance with Port Macquarie-Hastings Local environmental Plan 2011. R1 zoned land adjoins to the north, south, east and west land with Environmental Conservation and Management land use zonings (E3 and E2) present beyond the residential lands to the north, east and south, refer to **Figure 5** below.

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**Figure 5 – Landuse Zoning**



### 3.0 SITE HISTORY

The subject site has a history of supporting residential occupation and use through the construction of the existing dwelling.

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Existing  
Dwelling on the  
subject site

The subject site forms part of a historic residential area located on the south-eastern fringes of the developed areas of Dunbogan area. The 'Timbarra' Residential Estate is present to the west and south west whilst the Camden Head residential area is present approximately 900m to the northeast of the subject site.

#### 4.0 DESCRIPTION OF EXISTING ENVIRONMENT

##### 4.1 Climate

The local climate is considered to be temperate with summer dominant rainfall.

The average daily maximum temperature is around 21.5°C, while the average daily minimum temperature is around 10°C - 11°C.

Long-term average annual rainfall is around between 1,500 mm.

Annual pan evaporation is estimated to be approximately 1,400 mm.

##### 4.2 Soils and Vegetation

Generally, soil landscapes appear to be undisturbed on the subject site. Given the location of the subject site in relation to Dunbogan Beach soil conditions are likely to be sandy.

The majority of native vegetation has been removed from the subject site in order to facilitate the residential occupation and use of the subject site.

Lawn and garden areas predominate on the subject site.

**4.3 Drainage**

The subject site generally contains gentle slopes which fall to the northwest of the subject site.

The presence of the Camden Head road reserve to the north of the subject site provides for drainage opportunities to the north of the subject site. Accordingly, there are no constraints regarding site drainage.

Drainage on and from the subject site is generally by diffuse means.

**4.4 Land Use**

The subject site forms part of the Dunbogan urban footprint which provides for predominantly residential land use.

The open space areas associated with the Dunbogan Beach are located to the south east and south of the subject site.

The Kattang Nature Reserve is present at distance to the east of the subject site whilst the waterbody known as Googleys Lagoon is located approximately 110m to the north of the subject site.

**4.5 Flora and Fauna**

The subject site contains a number of decorative trees/shrubs which have been retained on the subject site.

Given the modified and highly disturbed nature of the subject site it has limited ecological or habitat value for native flora and fauna.

**4.6 Air**

The air quality at the subject site and surrounds reflects the residential nature of the predominant land use. In this regard the existing air quality of the area reflects the dust, odour and exhaust emissions from the adjacent residential areas. It is also noted that the open space areas of Dunbogan Beach to the southeast and south of the subject site also has an influence on air quality.

Notwithstanding this, the air quality at the subject site is generally very good.

**4.7 Noise and Vibration**

It is noted that the existing noise and vibration characteristics of the subject site and surrounding areas is dominated by the residential nature of the predominant land use. It is also noted that the open space areas of Dunbogan Beach to the southeast and south of the subject site also has an influence on the acoustic environment of the area.



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## 5.0 PROPOSED DEVELOPMENT

It is proposed to seek development consent from Port Macquarie – Hastings Council for the change of use of the existing dwelling to allow for its use for short term tourist accommodation in conjunction with the residential use and occupation of the building.

In this regard it is noted that the owners of the property occupy the property at times. In this regard it is anticipated, based upon current figures, that the property is occupied for approximately 25% of the time with short term accommodation accounting for 15% of occupation with the remaining 10% being owner occupied.

The use of the building for short term tourist accommodation is subject to a minimum three (3) night stay with a minimum Saturday to Saturday booking requirement during school holiday/peak periods.

The maximum occupancy of the dwelling for tourist accommodation is 10 persons.

Pets are not permitted on the subject property in conjunction with its proposed tourist accommodation use unless permission is given in writing from the managing agent.

The proposed development requires no alterations to the subject building so as to provide for a built form which is suitable for use for tourist accommodation.

Storm water management on the subject site and on adjoining land will be largely unchanged by the proposed tourist accommodation use with all other services, (water, sewer, electricity and telecommunications), available for connection to the proposed development.

Access to the proposed development will remain unchanged from that which currently exists and services the existing dwelling on the subject site. In this regard road frontage to Camden Head Road along the northern boundary of the subject site provides for pedestrian and vehicular access to the subject site.

Plans showing the proposed development are attached with the development application.

It is considered that the location of the subject dwelling is ideally suited to tourist accommodation due to its proximity to Dunbogan Beach, Googleys Lagoon and the Kattang Nature Reserve. The proximity of other public infrastructure and facilities makes the location desirable from a tourist accommodation perspective.

## 6.0 PLANNING CONTEXT

### 6.1 State Planning Policies

#### (i) SEPP 44 - Koala Habitat Protection

The site is less than 1 hectare in size and the provisions of this plan do not apply.

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**(ii) SEPP 55 – Remediation of Land**

In accordance with clause 7, following an inspection of the site, the subject land is not identified as being potentially contaminated and is suitable for the intended use.

**(iii) SEPP 71 – Coastal Protection and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011**

The subject site is located within a coastal zone as defined in accordance with Clause 4 of SEPP 71.

One of the overall aims of SEPP No. 71 – Coastal Protection is *“to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast”*.

It seeks to do this by requiring additional assessment matters for developments located within the Coastal Zone.

SEPP No. 71 applies to the subject site, as it is located within this Coastal Zone as defined by the SEPP. The matters required to be considered in the assessment of a development application by Port Macquarie-Hastings Council under Clause 7 of the SEPP are as follows:

**Table 1 – SEPP 71 Compliance**

| Clause 8 matters for consideration, SEPP No. 71 – Coastal Protection   | Compliance     | Proposal as assessed under Clause 8 matters for consideration, SEPP No. 71 – Coastal Protection   |
|--|----------------|---|
| (a) the aims of this Policy set out in clause 2,<br><br>(1) This Policy aims:<br><br>(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and | Complies       | The proposal will have a minimal impact on the natural, cultural, recreational and economic attributes of the NSW coast. This development will have positive economic benefits for the community. |
| (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural   | Not applicable | The proposal has no impact on public access to and along the coastal foreshore.   |

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|  |                |  |
|--|----------------|--|
| attributes of the coastal foreshore, and   |                |  |
| (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realized to the extent that this is compatible with the natural attributes of the coastal foreshore. and | Not applicable | See above comment.   |
| (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and   | Complies       | There are no known archaeological or heritage issues present on site.  |
| (e) to ensure that the visual amenity of the coast is protected, and   | Complies       | The proposal will protect the visual amenity of the coast as it will be in keeping with the characteristics of the area. |
| (f) to protect and preserve beach environments and beach amenity, and  | Complies       | The proposal will have no impact on the environment or amenity of beach areas beyond that which currently exists.        |
| (g) to protect and preserve native coastal vegetation, and   | Not applicable | The proposal will have no impact on native coastal vegetation beyond that which currently exists.                        |
| (h) to protect and preserve the marine environment of NSW, and   | Not applicable | The proposal will have no impacts on the marine environment of NSW.  |
| (i) to protect and preserve rock platforms, and  | Not applicable | The proposal will have no impacts on rock platforms.   |
| (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6  | Not applicable | The proposal has been designed to consider the principles of ecologically sustainable development.                       |

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| (2) of the Protection of the Environment Administration Act 1991), and   |                |  |
| (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and   | Complies       | The proposal is of an appropriate type, bulk, scale and size for its location which complements not only the existing built environment but also the scenic quality of the surrounding area. |
| (l) to encourage a strategic approach to coastal management.   | Complies       | The proposal does not impact on strategic coastal management.  |
| (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved, | Not applicable | The proposal has no impact on public access to and along the coastal foreshore.  |
| (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,  | Not Applicable |  |
| (d) the suitability of development given its type, location and design and its relationship with the surrounding area,   | Complies       | See the comments made earlier in relation to 1(k).   |
| (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,                       | Complies       | The proposal will not result in any detrimental impact, overshadowing or loss of views from a public place to the foreshore beyond that which currently exists.                              |

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| (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,   | Complies       | Given the location of the subject development there are no scenic protections issues beyond that which currently exists.                                     |
| (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,         | Not applicable | Given the developed nature of the subject site it is extremely unlikely that the site includes any threatened species or items of conservation significance. |
| (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats | Not applicable | The proposal will have no impact on fish species or their environment.   |
| (i) existing wildlife corridors and the impact of development on these corridors,  | Not applicable | No corridors exist on or adjacent to the subject site  |
| (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,                  | Not applicable | Given the location of the subject site it is unlikely that coastal processes or hazards will impact on the development beyond that which currently exists.   |
| (k) measures to reduce the potential for conflict between land-based and water based coastal activities,   | Not applicable | Due to its location, the development proposal will not conflict with land based and water-based activities.  |
| (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,  | Complies       | See comments made earlier in this Table regarding cultural and archaeological considerations.  |
| (m) likely impacts of development on the water quality of coastal water bodies,  | Complies       | The proposal will not have a detectable impact on the water quality of coastal waters.   |
| (n) the conservation and preservation of items of  | Complies       | See the comments made earlier in this table regarding  |

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| heritage, archaeological or historic significance,   |                | archaeological issues on the subject site.<br><br>In this regard there are no items of heritage, archaeological or historic significance on the subject site or on adjoining or adjacent land.   |
| (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,   | Not Applicable | Not Applicable   |
| (p) only in cases in which a development application in relation to proposed development is determined:<br>(i) the cumulative impacts of the proposed development on the environment, and<br>(ii) measures to ensure that water and energy usage by the proposed development is efficient. | Complies       | As the proposal provides for a change of use of an existing building, the cumulative impacts of the proposal on the environment are considered to be minimal.<br><br>Compliance with the Building Code of Australia requirements which are applicable to the subject development will provide for energy efficiency in the occupation of the proposed development. |

## 6.2 Port Macquarie Hastings Local Environmental Plan 2011

### 6.2.1 Development Permissibility

It is noted that the subject site is zoned R1 (Residential) under the provisions of Port Macquarie Hastings LEP 2011, refer to **Figure 5**.

The objectives of the R1 zone are:

#### **1. Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.



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- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal development satisfies the objectives of the zone and is therefore an appropriate form of development for the subject site and the general locality.

The land use requirements of Port Macquarie Hastings LEP 2011 for the R1 Zone are as follows;

## ***'2 Permitted without consent***

*Home-based child care; Home occupations*

## ***3 Permitted with consent***

*Attached dwellings; Boarding houses; Business identification signs; Child care centres; Community facilities; Dwelling houses; Group homes; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Any other development not specified in item 2 or 4.*

## ***4 Prohibited***

*Agriculture; Air transport facilities; Amusement centres; Animal boarding or training establishments; Backpackers' accommodation; Boat building and repair facilities; Charter and tourism boating facilities; Commercial premises; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Function centres; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Marinas; Mooring pens; Mortuaries; Open cut mining; Passenger transport facilities; Port facilities; Public administration buildings; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Restricted premises; Rural industries; Rural workers' dwellings; Service stations; Sewerage systems; Sex services premises; Signage; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Veterinary hospitals; Warehouse or distribution centres; Waste or resource management facilities; Water storage facilities; Water treatment facilities; Wharf or boating facilities; Wholesale supplies.'*

The proposed development is not a prohibited use and as such is a permissible land use with the consent of Council. The proposal contributes to the range of housing types and tourist accommodation options within the LGA and takes advantage of the many nature features of the area which makes the area attractive from a holiday accommodation perspective.

In accordance with Clause 7.1 of the LEP 2011, the site is not considered to have acid sulfate soils.

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### **5.2.2 LEP Compliance Requirements**

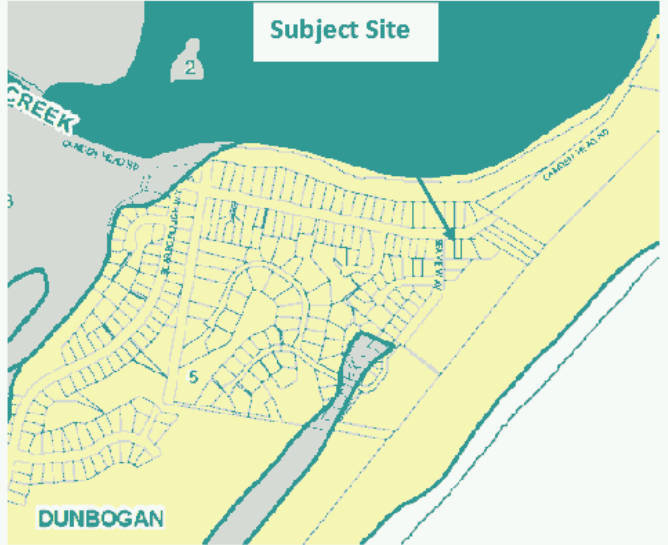
Other relevant clauses of the LEP that are considered to be applicable to the subject development are as follows;

**Table 2 – LEP Compliance Requirements**

| Relevant Development Controls under Port Macquarie - Hastings LEP 2011 | Compliance | Proposal as assessed under Port Macquarie - Hastings LEP 2011  |
|--|------------|--|
| <b>Part 5 – Miscellaneous Provisions</b>                               |            |  |
| 4.3 Height of buildings  | Complies   | The existing dwelling is consistent with the 8.5m height standard which applies to the subject site.   |
| 5.4 Controls relating to miscellaneous permissible uses                | N/A        | N/A  |
| 5.5 Development in the Coastal Zone                                    | Complies   | Refer to <b>Table 1</b> of this report   |
| 5.9 Preservation of trees or vegetation                                | N/A        | The proposed development does not require any vegetation removal/modification which would trigger Council's TPO.   |
| 5.11 Bushfire Hazard Reduction   | Complies   | <p>The subject site is shown as being Bushfire Prone Land – refer to separate bushfire hazard assessment report.</p> <p>Given the existing nature of the residential use and occupation of the subject site it is considered that the proposed change of use does not increase the level of bushfire threat above that which has and will continue to exist for the subject site and the existing dwelling.</p> <p>The bushfire hazard assessment report which accompanies the development application provides that;</p> <p><i>'The change of use of the existing dwelling which is to be located on land known as Lot 9 DP 234920, 118 Camden Head Road, Dunbogan so as to provide for tourist accommodation is at risk of bushfire attack; however, it is in our opinion that with the implementation of the bushfire threat reduction measures and consideration of the recommendations in this report, the bushfire risk is manageable for the proposed development.'</i></p> <p><i>With the implementation of the recommendations it is considered that it will be possible for the proposed</i></p> |

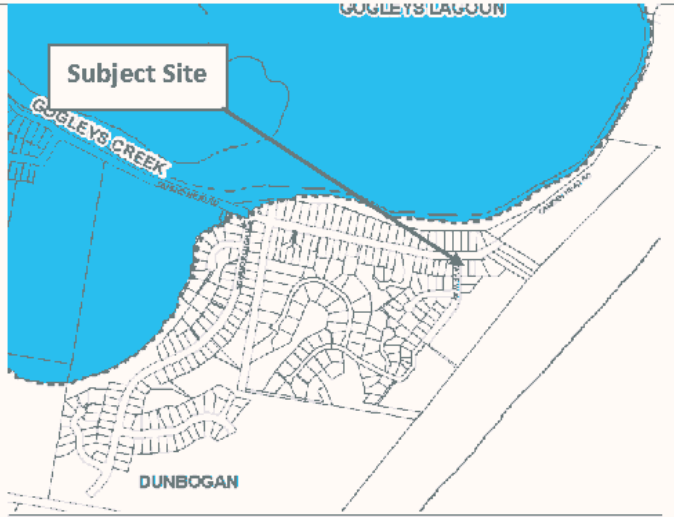
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|   |                | development to meet the applicable acceptable solutions as provided for in NSW Rural Fire Service, <b>Planning for Bushfire Protection</b> , 2006 having regard to the extent of the proposed development'   |
| <b>Part 7 – Additional Local Provisions</b> |                |  |
| 7.1 Acid sulphate Soils                     | Not Applicable | <p>The subject site is shown as being affected by Class 5 acid sulphate soils.</p>  <p>However, given the nature of the proposed development impacts on acid sulphate soils will be negligible.</p> |
| 7.4 Flood Planning                          | Not applicable | The subject site is not identified as being flood prone land which is subject to Port Macquarie-Hastings Councils LEP, 2011.   |

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| 7.5 Koala Habitat                            | Not applicable | The subject site contains no vegetation of koala habitat significance which would be impacted upon by the proposed development. |
| 7.6 Coastal Hazards                          | Not applicable | The subject site is not subject to coastal hazards.   |
| 7.9 Development subject to acoustic controls | Not applicable | The subject site is not subject to specific requirements for acoustic controls.   |
| 7.13 Essential Services                      | Complies       | All essential services are available to the land and subject development.   |

Having regard to the above it is considered that the proposed development is consistent with the relevant provisions and requirements of of Port Macquarie-Hastings LEP 2011.

### 6.3 Draft Environmental Planning Instruments

There are no draft environmental planning instruments relevant to the subject site, (that is or has been placed on exhibition pursuant to Section 47(b) or 66(1)(b)).

### 6.4 Development Control Plans

#### 6.4.1 Port Macquarie Hastings Development Control Plan 2013

The objectives of the DCP are:

- to protect, conserve and sustainable manage the region's ecological biodiversity and natural environment,
- to facilitate a strong and diverse local economy,

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- to manage and coordinate the orderly, equitable and economic use and development of land,
- to facilitate the provision and coordination of community services and facilities,
- to facilitate adaptive planning for natural hazards and risks, including flooding, erosion, inundation, land stability, bushfire risk and acid sulphate soils,
- to reinforce the role of regions settlement hierarchy; centred on Port Macquarie and supported by its surrounding towns and villages,
- to ensure management of public assets, and
- to provide a land use framework for development that is safe, inclusive, and equitable and caters for the housing, employment, entertainment, cultural, welfare and recreational needs of residents and visitors.
- to address the management of hazards to urban development, and
- to identify and protect features of environmental, cultural and visual importance.

The subject site is subject to the general provisions of the DCP and also the specific development controls which are considered to be applicable to residential development. An assessment of the proposed development against the relevant DCP provisions follows;

**Table 3 – DCP Compliance Requirements**

| DCP CRITERIA – RELEVANT DEVELOPMENT CONTROL STANDARDS                   | COMPLIANCE  |
|---|---|
| <b>CHAPTER 2.2 – ADVERTISING AND SIGNAGE</b>                            |   |
| N/A   | N/A   |
| <b>CHAPTER 2.3 – ENVIRONMENTAL MANAGEMENT</b>                           |   |
| Section 2.3.3.1 to 2.3.3.3 – Cut and Fill Regrading                     | N/A   |
| Section 2.3.3.4 to 2.3.3.6 – Environmental Management Areas and Buffers | N/A   |
| Section 2.3.3.7 – Koala Habitat   | N/A   |
| Section 2.3.3.8 to 2.3.3.9 – Hollow Bearing Trees                       | N/A   |
| <b>CHAPTER 2.4 – HAZARD MANAGEMENT</b>                                  |   |
| Section 2.4.3.1 to 2.4.3.3 – Airspace Protection                        | N/A   |
| Section 2.4.3.4 – Bushfire Hazard Management                            | Complies – refer to separate bushfire hazard assessment report.   |
| Section 2.4.3.5 - Flooding  | N/A - The subject site is not identified as being subject to the flood planning level or affected by the Level of Probable Maximum Flood. |
| Section 2.4.3.6 - Stormwater  | N/A - Stormwater collection and disposal is provided for through the existing drainage infrastructure which services the subject site     |

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|  | <p>and existing development. In this regard the collection and conveyance of point sources of stormwater will remain unchanged as a result of the proposed development.</p> <p>It is considered that the proposed development will have a negligible impact on stormwater quality and quantity and will not place any additional significant demand on Councils storm water management infrastructure than has existed for 40 – 50 years.</p> |
| <b>CHAPTER 2.5 – TRANSPORT, TRAFFIC MANAGEMENT, ACCESS AND PARKING</b> |   |
| Section 2.5.3.1 to 2.5.3.2 – Road Hierarchy                            | Existing transport arrangements will remain unchanged as a result of the proposed development. Camden Head Road adjoins the subject site to the north and provides for high levels of vehicle and pedestrian access to the subject site.  |
| Section 2.5.3.3 to 2.5.3.6 – Parking Provision                         | Complies – existing onsite arrangements provide for a minimum of 4 car parking spaces which are behind the relevant building lines.   |
| Section 2.5.3.7 to 2.5.3.11 – Parking Layout                           | Complies – the parking layout provides for functional and accessible onsite car parking arrangements which are in excess of the minimum DCP standards.  |
| Section 2.5.3.13 – Landscaping of Parking Areas                        | Complies – the parking layout makes use of existing property landscaping.   |
| Section 2.5.3.14 – Surface Finishes                                    | Complies – concrete hardstands.   |
| Section 2.5.3.15 to 2.5.3.16 – Driveway Grades                         | Complies – grades are compliant.  |
| Section 2.5.3.17 to 2.5.3.18 – Drainage                                | <p>Complies – stormwater collection and disposal is provided for through the existing drainage infrastructure which services the subject site.</p> <p>In this regard the collection and conveyance of point sources of stormwater will remain unchanged as a result of the proposed development.</p>  |
| Section 2.5.3.19 to 2.5.3.20 – Loading bays                            | N/A   |
| Section 2.5.3.21 – Industrial  | N/A   |
| Section 2.5.3.22 to 2.5.3.23 – Traffic Generating Development          | N/A   |
| <b>CHAPTER 2.6 – TREE MANAGEMENT</b>                                   |   |
| Section 2.6.3.1 – Land to which LEP clause 5.9 applies                 | N/A   |
| Section 2.6.3.2 – Private Land   | N/A   |



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| Section 2.6.3.3 – Council Land                                       | N/A  |
| <b>CHAPTER 2.7 – SOCIAL IMPACT ASSESSMENT &amp; CRIME PREVENTION</b> |  |
| Section 2.7.2.1 – Social Impact Assessment                           | N/A  |
| Section 2.7.2.2 – Crime Prevention                                   | Complies – in the context of the existing residential use of the building and the nature of the proposed development there are no crime prevention issues which are considered to be a constraint with the proposed development. |
| <b>PART 3.2 – LOW DENSITY RESIDENTIAL DEVELOPMENT</b>                |  |
| Ancillary Development  | Not Applicable   |
| Front Setbacks   | Not Applicable – existing setbacks apply   |
| Streetscape and front setback to garage                              | Not Applicable – existing setbacks apply   |
| Natural Light and ventilation - rear setbacks                        | Complies   |
| Bulk and Scale – side boundary setbacks                              | Complies – existing setbacks apply<br><br>Building setbacks are appropriate for the change of use given the existing nature of the subject building.   |
| Open Space   | Complies - existing  |
| Fences and walls   | Not Applicable - fences are existing.  |
| Visual privacy   | Complies   |
| Roof Terraces  | Not Applicable   |
| Water Recreation Structures  | Not Applicable   |

The proposed development is considered to be consistent with the relevant development control objectives provided for in the DCP.

#### 6.5 Any matters prescribed by the Regulations

There are no matters prescribed by the regulations which are applicable to the proposed development.

#### 6.6 Environmental Planning and Assessment Act

Section 79C (1b) of the Environmental Planning and Assessment Act 1979, as amended, specifies the matters which a consent authority must consider when determining a development application.

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Comments on these matters are provided as follows;

#### **6.6.1 Context and Setting**

The proposed development is compatible with the land use zoning of the locality and as such the development of the subject site is consistent with the desired character of the area.

#### **6.6.2 Access and Transport**

The proposal will not have any adverse impacts in terms access, transport and traffic.

The existing road network will satisfactorily cater for traffic generation which will not change as a result of the proposed change of use.

The proposed development allows for satisfactory parking provision in accordance with the Development Control Plan.

Significant off the road parking is available for the subject site.

#### **6.6.3 Utilities**

All infrastructure and services required to support the subject site are available.

Access is available to reticulated water and sewerage services and infrastructure.

Stormwater collection and disposal is provided for through the existing infrastructure which services the subject site.

Electrical and telecommunications infrastructure is available.

The demands of the development on utility services will remain largely unchanged from that which currently exists.

#### **6.6.4 Heritage**

The subject site is neither a heritage item or located within a conservation area and it is unlikely to include any archaeological remains.

#### **6.6.5 Other Land Resources**

Not Applicable

#### **6.6.6 Water**

The water requirements of the proposal are considered appropriate given the location and current access to services. The proposed development will continue to be serviced by the reticulated water system without the need for any augmentation of the systems.

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Storm water management on the subject site and on adjoining land will be largely unchanged by the proposed development. It is considered that the proposed development will have a negligible impact on stormwater quality and quantity and will not place any additional significant demand on Councils storm water management infrastructure.

The existing wastewater generation fixtures within the building are connected to the existing reticulated sewerage system and there are no indications that the system is unable to accommodate the generation of wastewaters particular given the existing nature and approval of the amenities within the dwelling.

#### **6.6.7 Soils**

Given the existing nature of the subject dwelling and the nature of the proposed development no soil disturbance will result as a consequence of the proposed development.

#### **6.6.8 Air and Microclimate**

The proposal will not give rise to any air or microclimate impacts beyond that which already exist by way of the existing occupation and use of the dwelling which is present on the subject site.

#### **6.6.9 Flora and Fauna**

No impacts on fauna or flora are expected to occur as a result of the proposed development.

#### **6.6.10 Waste**

There are no waste management issues associated with the proposed development beyond that which already exist by way of the existing occupation and use of the dwelling which is present on the subject site.

The existing solid waste management collection and disposal service in the locality will continue to service the subject site.

#### **6.6.11 Energy**

There is no energy management or supply issues associated with the proposed development.

#### **6.6.12 Noise and Vibration**

The proposal will not give rise to any noise and vibration impacts beyond that which already exist by way of the existing residential occupation and use of the dwelling which is present on the subject site.

It is however noted that concerns may exist regarding the control of behavior of visitors utilizing the proposed accommodation. In this regard the following management strategies are in place

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to manage activities onsite to ensure that noise impacts continue to be consistent with that which would be expected within a residential setting;

- The booking of accommodation is via a local real estate agent which provides for an opportunity to actively vet potential occupants of the dwelling.
- The use of the building for short term tourist accommodation is subject to a minimum three (3) night stay with a minimum Saturday to Saturday booking requirement during school holiday/peak periods. This ensures that one off transient 'over-night' stays are avoided with occupation being targeted towards families looking for a standard of accommodation which is typical of a residential setting and expectations.
- Rental of the property for tourist accommodation purposes is subject to strict terms and conditions which includes prohibitions on activities which maybe the cause of noise generation which would not be consistent with a residential area, refer to **Appendix 1**.
- The use of a local real estate agent for the management of a property provides for reactive management, e.g. respond to complaints regarding inappropriate behavior.
- Notwithstanding the availability of a managing agent, the owner of the property is available to respond to complaints regarding inappropriate behavior.
- As with the permanent occupation of a dwelling inappropriate behavior can be addressed through other regulatory mechanisms e.g. Police/local council.

#### **6.6.13 Natural Hazards**

Whilst the subject site is identified as being bushfire prone land it is considered that with the implementation of the recommended threat management strategy it is considered that it will be possible for the proposed development to meet the applicable acceptable solutions as provided for in NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 having regard to the extent of the proposed development.

#### **6.6.14 Safety, Security and Crime Prevention**

There are no issues related to safety, security and crime prevention that arise as a result of the proposed development. The occupation and use of the subject building for tourist accommodation purposes provides for an outcome which continues to be consistent with that expected of a residential area.

#### **6.6.15 Privacy Impacts in the Locality**

It is noted that the occupation of the building for short term holiday accommodation would not provide for a standard of privacy which is less than that which currently exists. The use of external decks and outdoor open space areas would be expected to be consistent with that which would result through the use of such areas by permanent residential occupants of the

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subject dwelling. For example, the use of the first-floor balcony area for BBQ's and outdoor recreation would be expected regardless of the duration of occupation of the dwelling.

It is therefore considered that impacts on privacy of adjoining and adjacent properties as a result of the proposed change of use remains unchanged from that which currently exists and has been approved by the Council via the approval of the various dwellings which are present in the locality.

#### **6.6.16 Social Impact in the Locality**

The proposed development is compatible with the land use zoning applicable to the area and the amenity of the area.

Adequate controls are in place to ensure that the use of the subject property to provide tourist accommodation does not contribute to negative social impacts in the locality.

#### **6.6.17 Economic Impact in the Locality**

The proposal will have no negative economic impacts.

#### **6.6.18 Cumulative Impacts**

The subject site is adequately sized, shaped and orientated to accommodate the proposed development.

Accordingly, the cumulative impact of the development on the amenity of the locality is expected to be negligible.

#### **6.6.19 The Public Interest**

It is considered that the proposal development is consistent with the public interest.

### **7.0 BCA COMPLIANCE ISSUES**

It is noted that the existing construction of the subject dwelling is such that it's proposed use for tourist accommodation would be consistent with the relevant provisions of the Building Code of Australia. In this regard the construction of the subject building is generally consistent with the performance objectives of the BCA and provides for a standard of residential accommodation which would be consistent with the expectations of users as being relevant to residential dwellings.

However, it is noted that in accordance with the BCA the following upgrading of fire safety measures is required;

- Provision of smoke alarms in accordance with Clause 3.7.2.2 of the BCA; and
- Lighting to assist with evacuation in accordance with Clause 3.7.2.5 of the BCA.

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Compliance with the recommendations of the bushfire hazard assessment report is also required in order to ensure that the subject building is suitable for use.

## **8.0 CONCLUSION**

The proposed change of use of the existing dwelling on the subject site so as to support its use to provide tourist accommodation is compatible with the land use zoning of the locality and as such the development of the site is consistent with the desired character of the area.

The proposed development will have minimal environmental impact.



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## **APPENDIX 1 – RENTAL TERMS AND CONDITIONS**

### **GUEST RESPONSIBILITIES**

- a)** The property must not be used for unlawful purposes.
- b)** It is the guest's responsibility to maintain the cleanliness of the property during the lease period.
- c)** The properties are furnished and equipped for the number shown, EXTRA GUESTS WILL NOT BE TOLERATED. We want you to be comfortable, so please tell us how many are in your party (including ALL children), or any special needs that we may be able to help you with. NO EXTRA MATTRESSES ARE TO BE BROUGHT ONTO THE PROPERTY. If the property is reported to be overloaded, the booking will be terminated and guests will be asked to vacate with no refund made.
- d)** The premises are let for residential holiday accommodation purposes only. Functions, parties and extra guests are strictly not allowed and PENALTIES APPLY. Any type of function, party or get-together will incur a MINIMUM non-negotiable function fee of \$500 and immediate eviction will occur without refund of any unused stay. In addition the security deposit may be claimed in full where any cleaning is required or damage results to the premises.
- e)** All guests must conduct themselves in a proper manner so as not to cause a nuisance, including excess noise, or interfere with the use or enjoyment of the property for other occupiers or neighbouring properties. Unruly, loud or offensive behaviour will not be tolerated. In most cases one (1) warning will be given before cancellation of your booking, however if the police are called then NO warning will be given and the booking will be cancelled immediately.
- f)** Upon cancellation of a booking you will be required to vacate the premises and return the keys to our office within one (1) hour of such notice. There will be no refund of any unused portion of your booking.

All accommodation is for residential holiday purposes only. Functions, parties and extra guests

are strictly not allowed. Occupation of premises which in the absolute discretion of the agent

causes nuisance or annoyance to neighbouring occupiers will be terminated immediately with the full

rental forfeited plus any cost incurred payable. NO SCHOOLIES BOOKINGS ALLOWED.

**g)** Premises are furnished to the individual property owner/s taste and style and the Agent takes no responsibility for any unmet expectations of guests, or any changes made by the owner to the décor, furnishings and equipment to the premises.

**h)** Furniture is not to be moved around. Items are not to be moved from room to room or property to property. A fee will be charged should this occur.

DEVELOPMENT APPLICATION  
PROPOSED TOURIST ACCOMMODATION  
118 CAMDEN HEAD ROAD, DUNBOGAN

JULY 2018

- i)** Guests are responsible for the safekeeping and replacement of accommodation keys and remote controls. Duplicate keys are not always available. The agent reserves the right to charge a service fee of \$100 for having to provide occupants with keys out of normal business hours – please note this service is a courtesy at the agent's discretion, not a requirement of the agent or staff.
- j)** Tenants/Guests will be responsible for damage (beyond fair wear and tear) to the property or premises or loss of or damage to any items at the property, including but not limited to floors and floor coverings, furniture and fittings, kitchen utensils, crockery, glassware, cutlery, and the tenant/guest will pay to the agent the full cost of replacement or repair of any such items damaged or lost. All breakages, damage, lost keys, remote controls or property are to be reported to the Agent and PAID FOR IMMEDIATELY. All furniture and equipment must be left in the premises as originally found.
- k)** Tenants/guests will be responsible for costs incurred for retuning TV/VCR's which have been detuned by guests or by the attachment of electronic devices, playstations, etc.
- l)** All guests are responsible for keeping the property secure during their stay and will be responsible for any theft or damage due to neglect in this area.
- m)** No responsibility is taken for tenants' personal property brought upon, damaged, destroyed, left at or near the premises or lost during the occupants stay. No liability is accepted for any injury, debt, damage, loss, delay, expense or inconvenience caused directly or indirectly by events beyond the agent or owners controls. It is recommended that the guests take out personal property insurance or adequate travel insurance should any unexpected situations arise before or during your travel period.
- n)** The guest is not permitted to remove or interfere with the operation of a smoke alarm. The guests are required to notify the agent as soon as practicable after becoming aware of the need for the battery or smoke alarm unit appears faulty.
- o)** In case of apartments, units and villas, car parking or carports are numbered. Extra vehicles, boats etc are to be parked outside the grounds unless other satisfactory arrangements are made with the Agent. Strata By-Laws must be adhered to by all occupants and visitors of the occupant at all times.
- p)** Strictly no tents or caravans, or extra mattresses are permitted on the property.
- q)** Any areas designated as private by the owners are strictly out of bounds.



**PROPOSED CHANGE OF USE OF EXISTING DWELLING TO PROVIDE  
FOR TOURIST ACCOMMODATION**

**LOT 9 DP 234920, 118 CAMDEN HEAD ROAD,  
DUNBOGAN**

SITE PLAN

SCALE: NTS

DATE: JULY 2018



**PROPOSED CHANGE OF USE OF EXISTING DWELLING TO PROVIDE  
FOR TOURIST ACCOMMODATION**

**LOT 9 DP 234920, 118 CAMDEN HEAD ROAD,  
DUNBOGAN**

|                     |            |                 |
|---------------------|------------|-----------------|
| DEVELOPMENT<br>PLAN | SCALE: NTS | DATE: JULY 2018 |
|---------------------|------------|-----------------|



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**Item: 09****Subject: DA2018 - 1104.1 - TWO DWELLINGS - LOTS 8 AND 9 DP 271152, NO  
3 PENNANT LANE, PORT MACQUARIE****Report Author: Patrick Galbraith-Robertson**

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**IApplicant: Love Project Management**  
**Owner: Richmond Horizons Pty Ltd & AR & PA Richmond**  
**Estimated Cost: \$630,000**  
**Parcel no: 67678 & 67679**

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**Alignment with Delivery Program**

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

**RECOMMENDATION**

**That DA2018 - 1104 for two dwellings at Lots 8 & 9, DP 271152, No. 3 Pennant Lane, Port Macquarie, be determined by granting consent subject to the recommended conditions.**

**Executive Summary**

This report considers a Development Application for two dwellings at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Following exhibition of the application, one (1) submissions have been received.

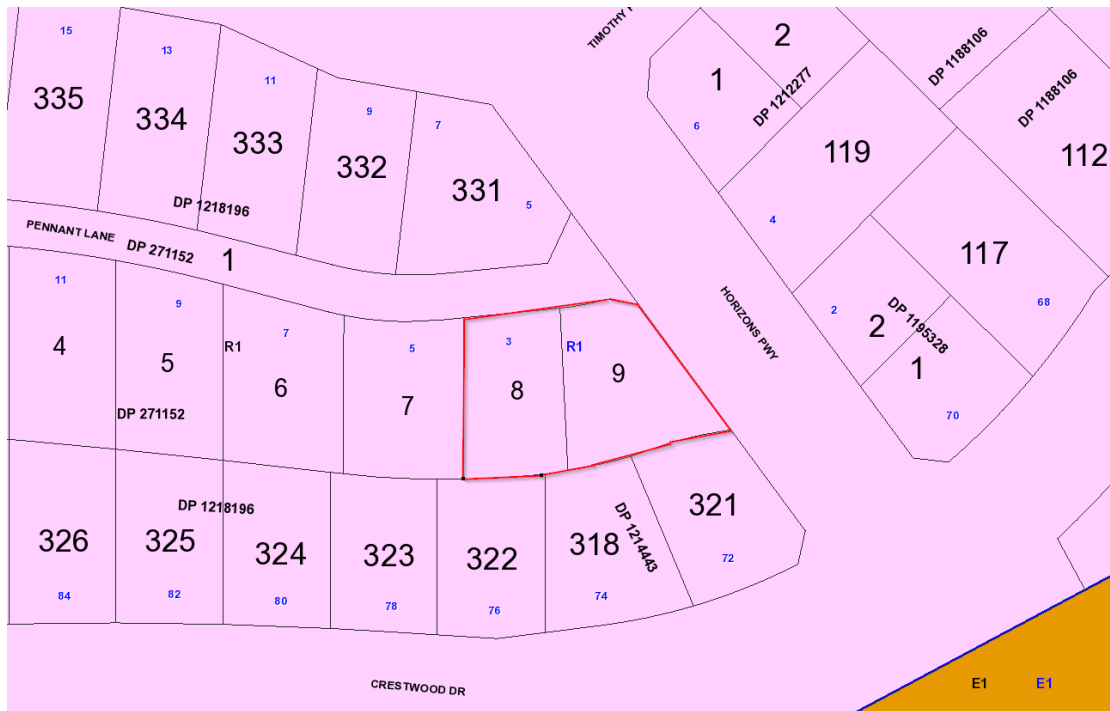
Post exhibition - Lot 9 dwelling has been amended during the assessment of the DA to increase the south side setback from a minimum 2.48m to a minimum 3m for the 2 storey section of the building. A 3m setback is compliant with the DCP.

This report recommends that the development application be approved subject to the recommended conditions.

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

The sites have individual areas of 443.3m<sup>2</sup> and 389.86m<sup>2</sup>.

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



The existing subdivision pattern and location of existing development within the locality is shown in the following aerial photograph (nearmap October 2018 without property boundaries):



## 2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- Two dwellings – 1 dwelling on Lot 8 and 1 dwelling on Lot 9



Refer to attachments at the end of this report.

**Application Chronology**

- 20 December 2018 – DA lodged with Council.
- 7 to 21 January 2019 – Neighbour notification of proposal
- 30 January 2019 – Additional information requested from Applicant – submission and assessment issues
- 15 February 2019 – Additional information received from Applicant including amended plans for Lot 9 dwelling

**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) **Ay Environmental Planning Instrument:**

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

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

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

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

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

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

**State Environmental Planning Policy (Coastal Management) 2018 and Clause 5.5 of Port Macquarie-Hastings Local Environmental Plan 2011**

The site is located within a proximity area to a mapped coastal wetland to the south of the site.

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

Having regard to clauses 13 and 14 of the SEPP and clause 5.5 of the Port Macquarie-Hastings LEP 2011 the proposed development is not considered likely to result in any of the following:

- a) any adverse impact on integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment;

- b) any adverse impacts coastal environmental values and natural coastal processes;
- c) any adverse impacts on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- d) any adverse impact on marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms;
- e) any adverse impact on Aboriginal cultural heritage, practices and places;
- f) any adverse impacts on the cultural and built environment heritage;
- g) any adverse impacts the use of the surf zone;
- h) any adverse impact on the visual amenity and scenic qualities of the coast, including coastal headlands;
- i) overshadowing, wind funneling and the loss of views from public places to foreshores;

The bulk, scale and size of the proposed development is compatible with the surrounding coastal and existing built environment. The site is cleared and located within an area zoned for residential purposes.

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

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

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

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

- Clause 2.2, the subject site is zoned R1 General Residential. In accordance with clause 2.3(1) and the R1 zone landuse table, the dwellings (or ancillary structures to the dwellings) are a permissible landuse with consent.
- The objectives of the R1 zone are as follows:
  - *To provide for the housing needs of the community.*
  - *To provide for a variety of housing types and densities.*
  - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- In accordance with Clause 2.3(2), the proposal is consistent with the zone objectives as it is a permissible landuse and consistent with the established residential locality.
- Clause 4.3, the maximum overall height of the buildings above ground level (existing) are approximately 6.83m (Lot 9) and 5.64m (Lot 8) which complies with the standard height limit of 8.5m applying to the sites.
- Clause 4.4, the floor space ratios of the proposals are 0.49:1 (Lot 9) and 0.4:1.0 (Lot 8) which complies with the maximum 0.65:1 floor space ratio applying to the sites.
- Clause 5.5 - Development within the coastal zone - relevant objectives of this clause are addressed by SEPP (Coastal Management) 2018 section (see above).
- Clause 5.10 – Heritage. The site does not contain or adjoin any known heritage items or sites of significance.

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

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

No draft instruments apply to the site.

(iii) **Any Development Control Plan in force:**

**Port Macquarie-Hastings Development Control Plan 2013**

| <b><i>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</i></b> |   |   |                       |
|---|---|---|-----------------------|
|   | <b>Requirements</b>   | <b>Proposed</b>   | <b>Complies</b>       |
| 3.2.2.1   | Ancillary development: <ul style="list-style-type: none"> <li>• 4.8m max. height</li> <li>• Single storey</li> <li>• 60m<sup>2</sup> max. area</li> <li>• 100m<sup>2</sup> for lots &gt;900m<sup>2</sup></li> <li>• 24 degree max. roof pitch</li> <li>• Not located in front setback</li> </ul>  | Water tanks are appropriately located.  | Yes                   |
| 3.2.2.2   | Articulation zone: <ul style="list-style-type: none"> <li>• Min. 3m front setback</li> <li>• An entry feature or portico</li> <li>• A balcony, deck, patio, pergola, terrace or verandah</li> <li>• A window box treatment</li> <li>• A bay window or similar feature</li> <li>• An awning or other feature over a window</li> <li>• A sun shading feature</li> </ul> | The Lot 9 dwelling contains an alfresco post and porch within the articulation zone. These structures do not exceed 25% of the articulation zone and are setback 3m.  | Yes                   |
|   | Front setback (Residential not R5 zone): <ul style="list-style-type: none"> <li>• Min. 6.0m classified road</li> <li>• Min. 4.5m local road</li> <li>• Min. 3.0m secondary road</li> <li>• Min. 2.0m Laneway</li> </ul>   | <p>Lot 8 fronts a private road – Pennant Lane as part of a community title development. Lot 9 is a corner lot which fronts a private road Pennant Lane as part of a community title development (secondary frontage) and a primary road frontage to Horizons Parkway.</p> <p>Front building line setback is unable to comply with the minimum 4.5m primary front setback requirement with a</p> | <p>Yes</p> <p>No*</p> |

| <b>DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses &amp; Ancillary development</b> |   |  |                 |
|--|---|--|-----------------|
|  | <b>Requirements</b>   | <b>Proposed</b>  | <b>Complies</b> |
|  |   | section of the building at a minimum 3.96m (note articulation zone permits the porch and alfresco post forward of the primary building line to a minimum 3m).  |                 |
| 3.2.2.3  | Garage 5.5m min. and 1m behind front façade.<br>Garage door recessed behind building line or eaves/overhangs provided   | Garage door setbacks are compliant with the minimum front setback requirements.<br>Garage door recessed.   | Yes             |
|  | 6m max. width of garage door/s and 50% max. width of building   | Width of garage door/s are compliant with the maximum width requirements   | Yes             |
|  | Driveway crossover 1/3 max. of site frontage and max. 5.0m width  | Driveway crossing/s width are compliant with the maximum width requirements  | Yes             |
| 3.2.2.4  | 4m min. rear setback.<br>Variation subject to site analysis and provision of private open space   | The rear setback requirements are complied with – Lot 8 only as Lot 9 is a corner lot.   | Yes             |
| 3.2.2.5  | Side setbacks:<br>• Ground floor = min. 0.9m<br>• First floors & above = min. 3m setback or where it can be demonstrated that overshadowing not adverse = 0.9m min.<br>• Building wall set in and out every 12m by 0.5m | The minimum side setback requirements are complied with.<br>The building wall articulation is compliant and/or satisfactory to address the objective intent of the development provision.<br>Lot 9 dwelling has been amended during the assessment of the DA to increase the south side setback from a minimum 2.48m to a minimum 3m for the 2 storey section of the building. A 3m setback is compliant with the DCP. | Yes             |
| 3.2.2.6  | 35m <sup>2</sup> min. private open space area including a useable 4x4m min. area which has 5% max. grade  | The dwelling contains 35m <sup>2</sup> open space in one area including a useable 4m x 4m space.   | Yes             |
| 3.2.2.7  | Front fences:<br>• If solid 1.2m max height and front setback 1.0m with landscaping   | The proposed front fence design for Lot 9 is considered to meet the fencing provisions and objectives of DCP 2013.   | Yes             |

**DCP 2013: Dwellings, Dual occupancies, Dwelling houses, Multi dwelling houses & Ancillary development**

|          | Requirements   | Proposed  | Complies |
|----------|--|---|----------|
|          | <ul style="list-style-type: none"> <li>• 3x3m min. splay for corner sites</li> <li>• Fences &gt;1.2m to be 1.8m max. height for 50% or 6.0m max. length of street frontage with 25% openings</li> <li>• 0.9x0.9m splays adjoining driveway entrances</li> </ul>  | No adverse impacts will occur.  |          |
| 3.2.2.8  | <p>Front fences and walls to have complimentary materials to context</p> <p>No chain wire, solid timber, masonry or solid steel front fences</p>   | Front fences and walls to have complimentary materials to context   | Yes      |
| 3.2.2.10 | <p>Privacy:</p> <ul style="list-style-type: none"> <li>• Direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings. ie. 1.8m fence or privacy screening which has 25% max. openings and is permanently fixed</li> <li>• Privacy screen required if floor level &gt; 1m height, window side/rear setback (other than bedroom) is less than 3m and sill height less than 1.5m</li> <li>• Privacy screens provided to balconies/verandahs etc which have &lt;3m side/rear setback and floor level height &gt;1m</li> </ul> | <p>No direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings.</p> <p>Lot 9 dwelling first floor only has bedroom windows on the southern elevation.</p> <p>Lot 8 dwelling first floor only has bathroom and bedroom windows in the southern elevation.</p> <p>No privacy screens are recommended.</p> | Yes      |

**DCP 2013: General Provisions**

|         | Requirements  | Proposed  | Complies |
|---------|---|---|----------|
| 2.7.2.2 | Design addresses generic principles of Crime Prevention Through | No concealment or entrapment areas proposed. Adequate casual surveillance | Yes      |



| <b>DCP 2013: General Provisions</b> |   |   |                             |
|-------------------------------------|---|---|-----------------------------|
|                                     | <b>Requirements</b>   | <b>Proposed</b>   | <b>Complies</b>             |
|                                     | Environmental Design guideline  | available.  |                             |
| 2.3.3.1                             | Cut and fill 1.0m max. 1m outside the perimeter of the external building walls  | Cut and fill <1.0m change 1m outside the perimeter of the external building walls   | Yes                         |
| 2.3.3.2                             | 1m max. height retaining walls along road frontage  | None proposed   | N/A                         |
|                                     | Any retaining wall >1.0 in height to be certified by structure engineer   | No retaining wall likely >1m<br><br>Condition recommended to require engineering certification given proximity of retaining walls to boundaries | Yes + condition recommended |
|                                     | Combination of retaining wall and front fence height max 1.8m, max length 6.0m or 30% of frontage, fence component 25% transparent, and splay at corners and adjacent to driveway | No retaining wall front fence combination proposed.   | N/A                         |
| 2.5.3.2                             | New accesses not permitted from arterial or distributor roads   | No new access proposed to arterial or distribution road.  | N/A                         |
|                                     | Driveway crossing/s minimal in number and width including maximising street parking   | Driveway crossing minimal in width including maximising street parking  | Yes                         |
| 2.5.3.3                             | Parking in accordance with Table 2.5.1.<br>1 space per single dwelling (behind building line)   | 1 or capacity for more than 1 parking space behind the building line has been provided for each dwelling.                                       | Yes                         |
| 2.5.3.11                            | Section 94 contributions  | Refer to main body of report.   |                             |
| 2.5.3.12 and 2.5.3.13               | Landscaping of parking areas  | Single dwellings only with 1 domestic driveway/dwelling. No specific landscaping requirements recommended.                                      | N/A                         |
| 2.5.3.14                            | Sealed driveway surfaces unless justified   | Sealed driveway proposed  | Yes                         |
| 2.5.3.15 and 2.5.3.16               | Driveway grades first 6m or 'parking area' shall be 5% grade with transitions of 2m length  | Driveway grades capable of satisfying Council standard driveway crossover requirements. Condition recommended for section 138 Roads Act permit  | Yes                         |
| 2.5.3.17                            | Parking areas to be designed to avoid concentrations of water runoff on the surface.  | Single dwelling only with 1 domestic driveway. Stormwater drainage is capable of being managed as   | Yes                         |



| <b>DCP 2013: General Provisions</b> |                     |                                |                 |
|-------------------------------------|---------------------|--------------------------------|-----------------|
|                                     | <b>Requirements</b> | <b>Proposed</b>                | <b>Complies</b> |
|                                     |                     | part of plumbing construction. |                 |

The proposal seeks to vary Development Provision relating to the primary building line setback for the Lot 9 dwelling with a small corner of the building setback 3.961m from Horizons Parkway.

The relevant objectives are:

- *Front setbacks should support an attractive streetscape.*

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

- The encroachment is minor at 0.5m within the standard 4.5m setback and limited to 1 corner of the building only.
- The section of building relates to a single storey part of the new building which is behind a proposed front fence, the northern part of the building is cut into the site lower than the streets and the variation will not be readily apparent from either Horizon's Parkway or Pennant Lane.
- The subject corner of the building is behind the articulation zone features.
- The secondary setback is greater than the minimum 3m minimum standard.
- No adverse impacts to the existing streetscape can be identified.
- The subject section of street along Horizons Parkway between Crestwood Drive and Pennant Lane is limited to 2 properties with no discernible setback line.
- The building is well articulated as presented to the street frontage.

Based on the above assessment, the variation proposed to the provisions of the DCP is considered acceptable and the relevant objectives have been satisfied. Cumulatively, the variation does not amount to an adverse impact or 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:**

**NSW Coastal Policy 1997**

The proposed development is consistent with the objectives and strategic actions of this policy.

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

**Context and Setting**

The proposal will be unlikely to have any adverse impacts to existing adjoining properties and satisfactorily addresses the public domain.

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

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

The proposal does not have significant adverse lighting impacts.

There are no significant adverse privacy impacts.

There are no identifiable adverse overshadowing impacts given compliance of the amended proposal with the minimum 3m side setback provision of Development Control Plan 2013. Satisfactory amended plans including shadow diagrams have been submitted demonstrating that the neighbouring dwellings to the south experience a certain degree of overshadowing in mid-winter to private open space and assumed living areas due to the existing level difference and boundary fencing proposed/existing.

**Access, Traffic and Transport**

The proposal will be unlikely to have any adverse impacts in terms access, transport and traffic. The existing road network will satisfactorily cater for any increase in traffic generation as a result of the development.

**Water Supply Connection**

Service available – details required with S.68 application.

**Sewer Connection**

Service available – details required with S.68 application.

**Stormwater**

Service available – details required with S.68 application.

**Other Utilities**

Telecommunication and electricity services are available to the site.

**Heritage**

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

**Other land resources**

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

**Water cycle**

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

**Soils**

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

**Air and microclimate**

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

**Flora and fauna**

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

**Waste**

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

**Energy**

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

**Noise and vibration**

No adverse impacts anticipated. Condition recommended to restrict construction to standard construction hours.

**Bushfire**

The site is identified as being bushfire prone.

An assessment of bushfire risk having regard to section 4.3.5 of Planning for Bushfire Protection 2006 including vegetation classification and slope concludes that a Bushfire Attack Level 12.5 shall be required.

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

**Safety, security and crime prevention**

The proposed development will be unlikely to create any concealment/entrapment areas or crime spots that would result in any identifiable loss of safety or reduction of security in the immediate area. The increase in housing density will improve natural surveillance within the locality and openings from each dwelling overlook common and private areas.

**Social impacts in the locality**

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

**Economic impact in the locality**

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

**Site design and internal design**

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

**Construction**

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

**Cumulative impacts**

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

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

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

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

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

One (1) written submission has been received following public exhibition of the application.

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

| Submission Issue/Summary   | Planning Comment/Response  |
|--|--|
| The plans show that the 3 Pennant Lane/Lot 9 dwelling will be approximately 2m from the boundary of 74 Crestwood Drive.                                      | Post exhibition - Lot 9 dwelling has been amended during the assessment of the DA to increase the south side setback from a minimum 2.48m to a minimum 3m for the 2 storey section of the building. A 3m south side setback is compliant with the side setback provisions of DCP.  |
| The dwelling at 1 Pennant Lane/Lot 9 is too close to the rear/side boundary of 74 Crestwood Drive which will create issues of light, sun, privacy and noise. | <p>The Lot 9 site is a corner lot with no rear boundary technically. A 3m south side setback is compliant with the side setback provisions of DCP.</p> <p>No direct views between living areas of adjacent dwellings screened when within 9m radius of any part of window of adjacent dwelling and within 12m of private open space areas of adjacent dwellings.</p> <p>Lot 9 dwelling first floor only has bedroom windows on the southern elevation.</p> <p>There are no identifiable adverse overshadowing impacts given compliance of the amended proposal with the minimum 3m side setback provision of Development Control Plan 2013. Satisfactory amended plans including shadow diagrams have been submitted demonstrating that the neighbouring dwellings to the south experience a certain degree of overshadowing in mid-winter to private open space and assumed living areas due to the existing level difference and boundary fencing proposed/existing.</p> |

| Submission Issue/Summary  | Planning Comment/Response   |
|---|---|
| The setback of Lot 8 dwelling is greater than the Lot 9 dwelling at approximately 4m which is a satisfactory outcome. | Setback of this Lot 8 is noted which has a rear setback development control applying to it in difference to the Lot 9 dwelling on a corner lot. |

**(e) The Public Interest:**

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

**4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

No development contributions applicable. The two dwellings are proposed on two existing residential lots with no dwellings proposed or approved on them.

**5. CONCLUSION AND STATEMENT OF REASON**

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

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

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

**Attachments**

1 [View](#). DA2018 - 1104.1 Recommended Conditions

2 [View](#). DA 2018 - 1104.1 Plans

**FOR USE BY PLANNERS/SURVEYORS TO PREPARE LIST OF  
PROPOSED CONDITIONS****NOTE: THESE ARE DRAFT ONLY****DA NO: 2018/1104****DATE: 18/02/2019****PRESCRIBED CONDITIONS**

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

**A – GENERAL MATTERS**

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

| Plan / Supporting Document | Reference     | Prepared by       | Date             |
|----------------------------|---------------|-------------------|------------------|
| Development plans Lot 8    | Sheets 1 to 9 | Collins W Collins | 29 November 2018 |
| Development plans Lot 220  | Sheets 1 to 9 | Collins W Collins | 12 February 2019 |
| BASIX certificate          | 883376S_02    | Collins W Collins | 29 November 2018 |
| BASIX certificate          | 883387S_02    | Collins W Collins | 29 November 2018 |

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

- (2) (A002) No work shall commence until a Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority and
  - the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
- (3) (A009) The development site is to be managed for the entirety of work in the following manner:
- Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
  - Appropriate dust control measures;
  - 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;
  - Building waste is to be managed via an appropriate receptacle;



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

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

- (4) The rear boundary fence of Lot 8 shall be a minimum 1.5m height in colourbond construction and erected within 6 months of the Occupation Certificate for the Lot 8 dwelling.

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

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

- Position and depth of the sewer (including junction)
- Stormwater drainage termination point
- Easements
- Water main
- Proposed water meter location

- (2) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road (Lot 220/Lot 9 only) is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate.

Such works include, but not be limited to:

- i. Footway and gutter crossing
- ii. Functional vehicular access

- (3) (B046) The buildings shall be designed and constructed so as to comply with the Bush Fire Attack (BAL) 12.5 requirements of Australian Standard 3959 and the specifications and requirements of Planning for Bush Fire Protection. Details shall be submitted to the Principal Certifying Authority with the application for Construction Certificate demonstrating compliance with this requirement.

Please note: Compliance with the requirements of Planning for Bush Fire Protection 2006 to prevail in the extent of any inconsistency with the Building Code of Australia.

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

Nil

#### **D - DURING CONSTRUCTION**

Nil

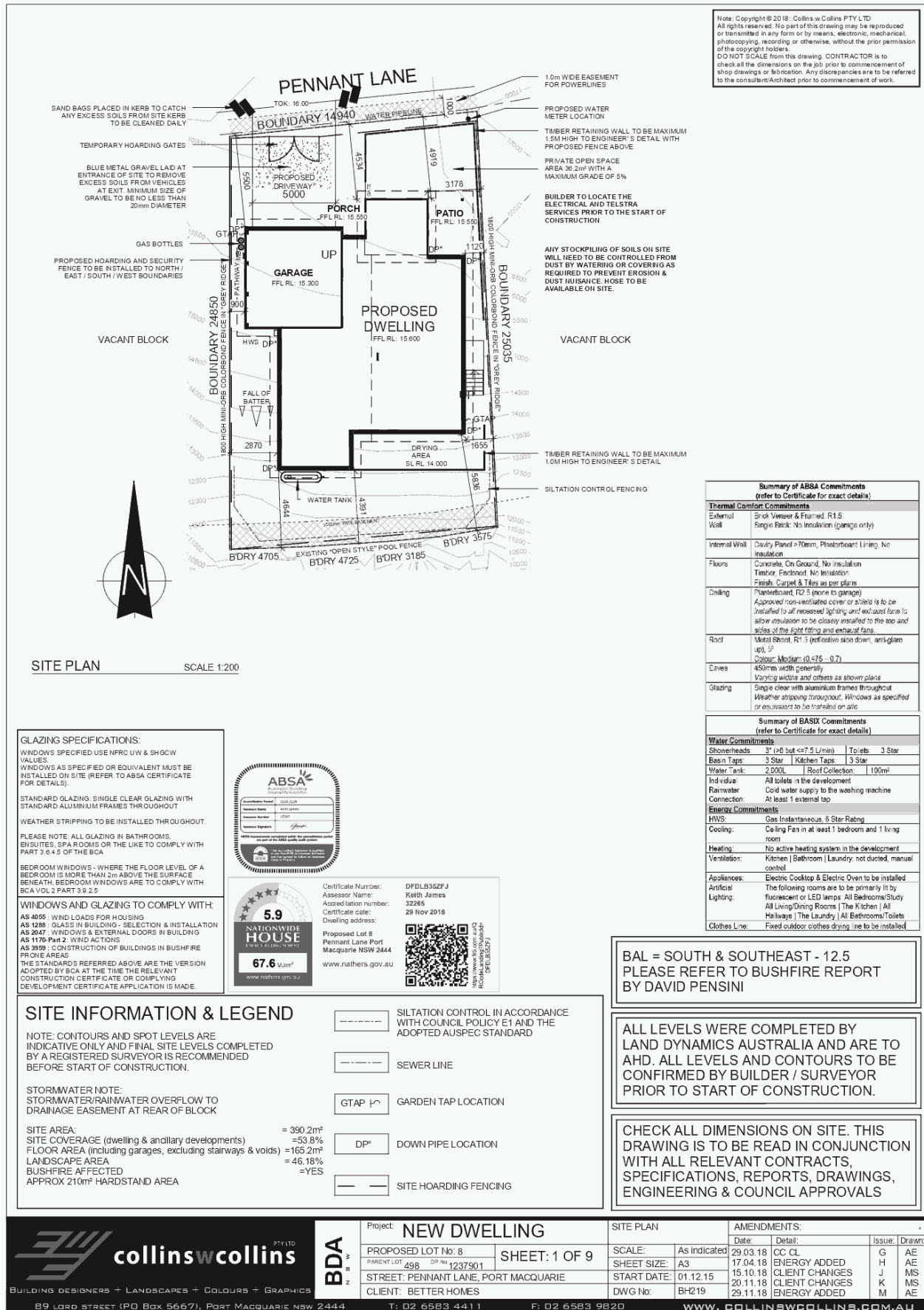
#### **E - PRIOR TO OCCUPATION OR THE ISSUE OF OCCUPATION CERTIFICATE**

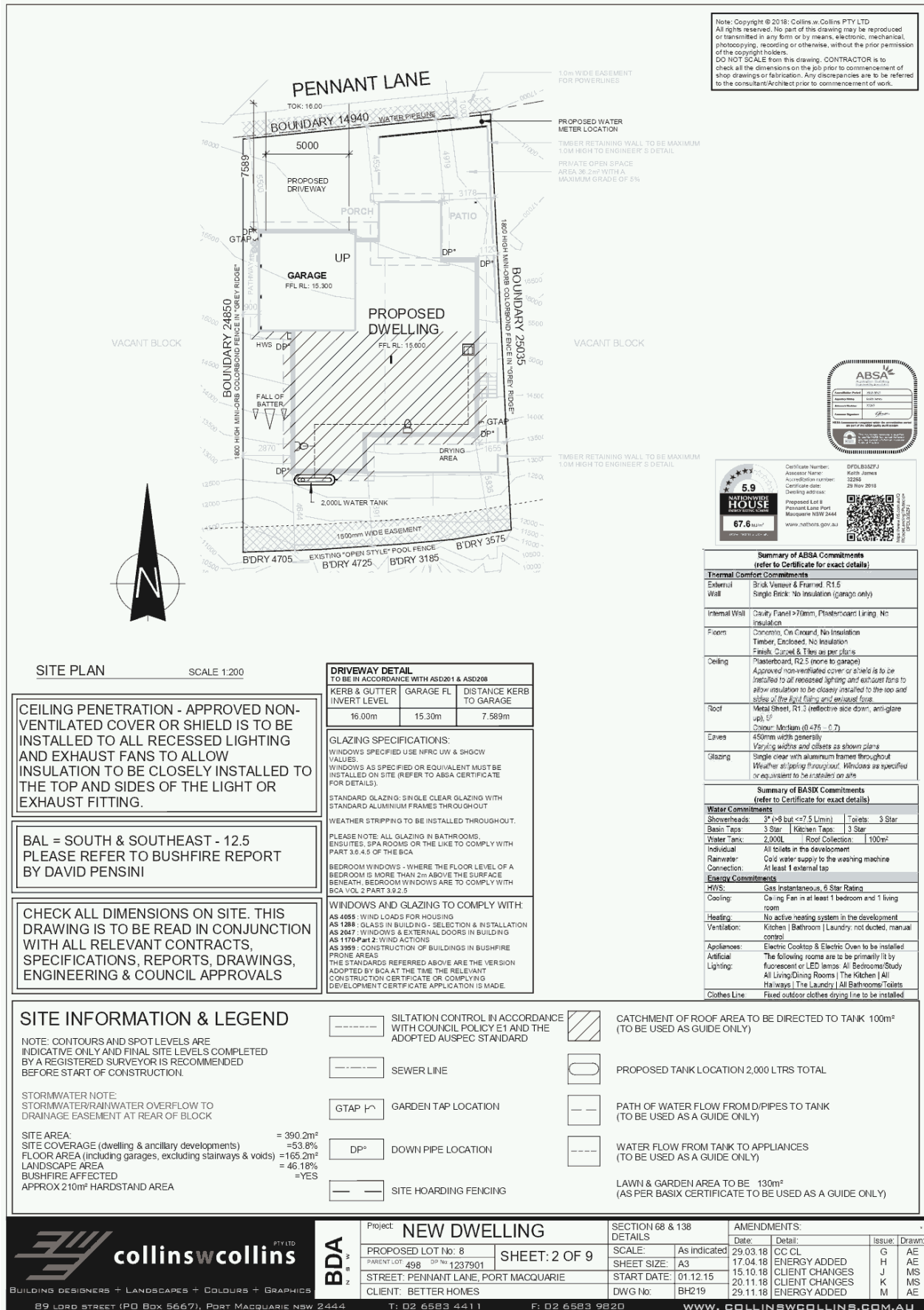
- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.

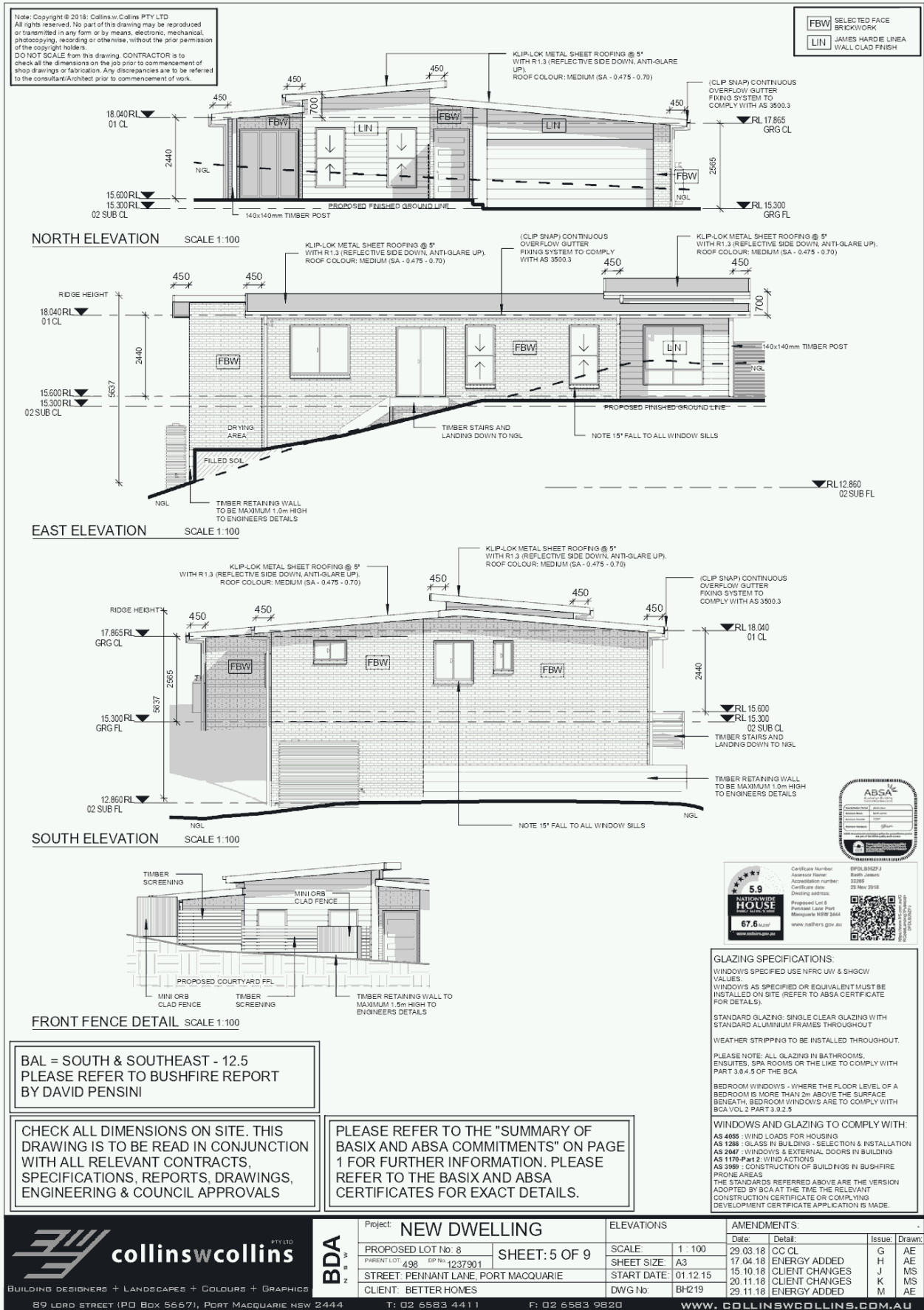
- (2) (E058) Written confirmation being provided to the Principal Certifying Authority (PCA) from any properly qualified person (eg the builder), stating that all commitments made as part of the BASIX Certificate have been completed in accordance with the certificate.
- (3) (E034) Prior to occupation or the issuing of the Occupation Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (4) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.

**F – OCCUPATION OF THE SITE**

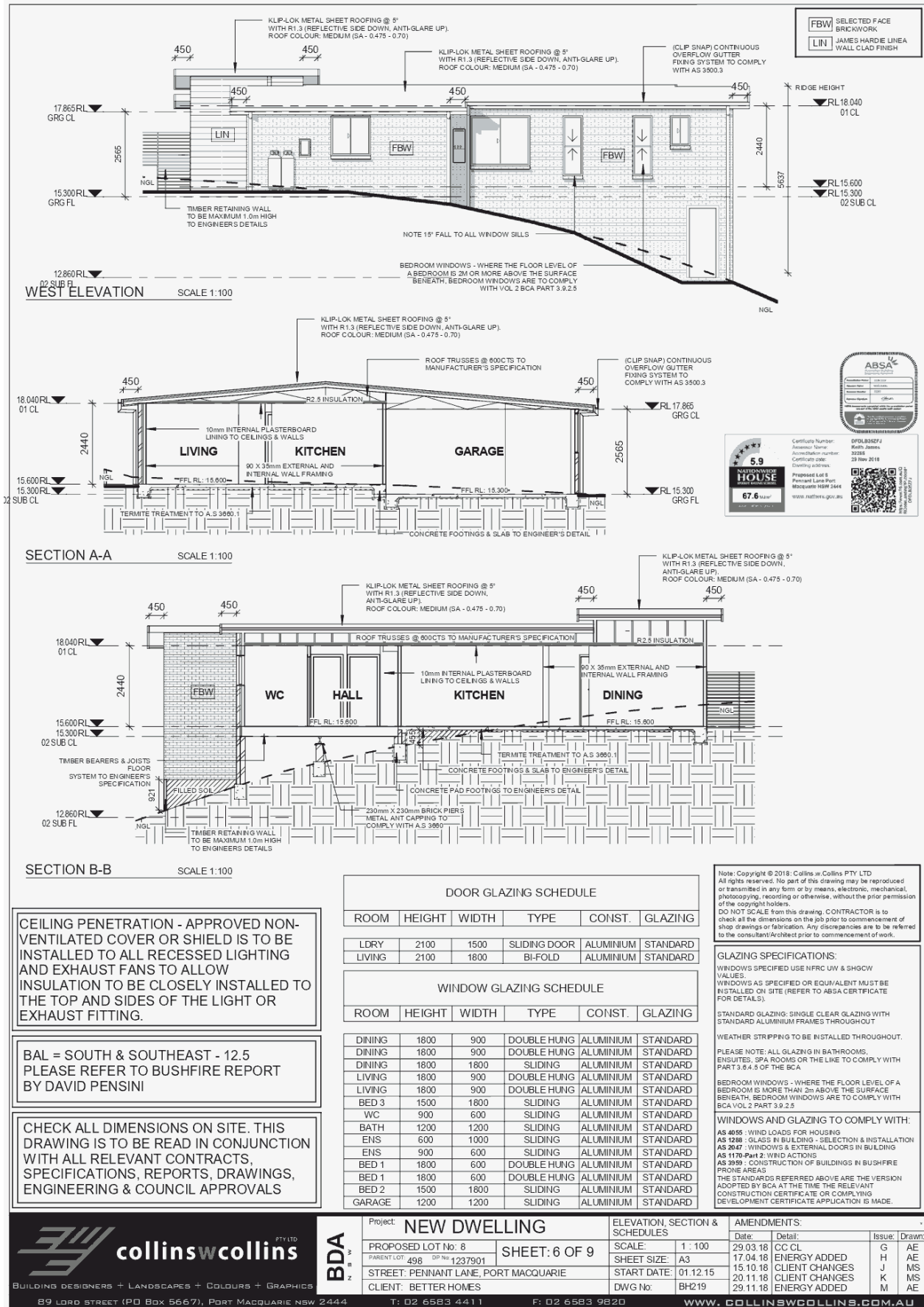
- (1) (F004) The dwellings are approved for permanent residential use and not for short term tourist and visitor accommodation.
- (2) (F035) The consent only permits the use of the buildings as single dwellings and does not permit the adaption or use of the building so as to create a second occupancy.



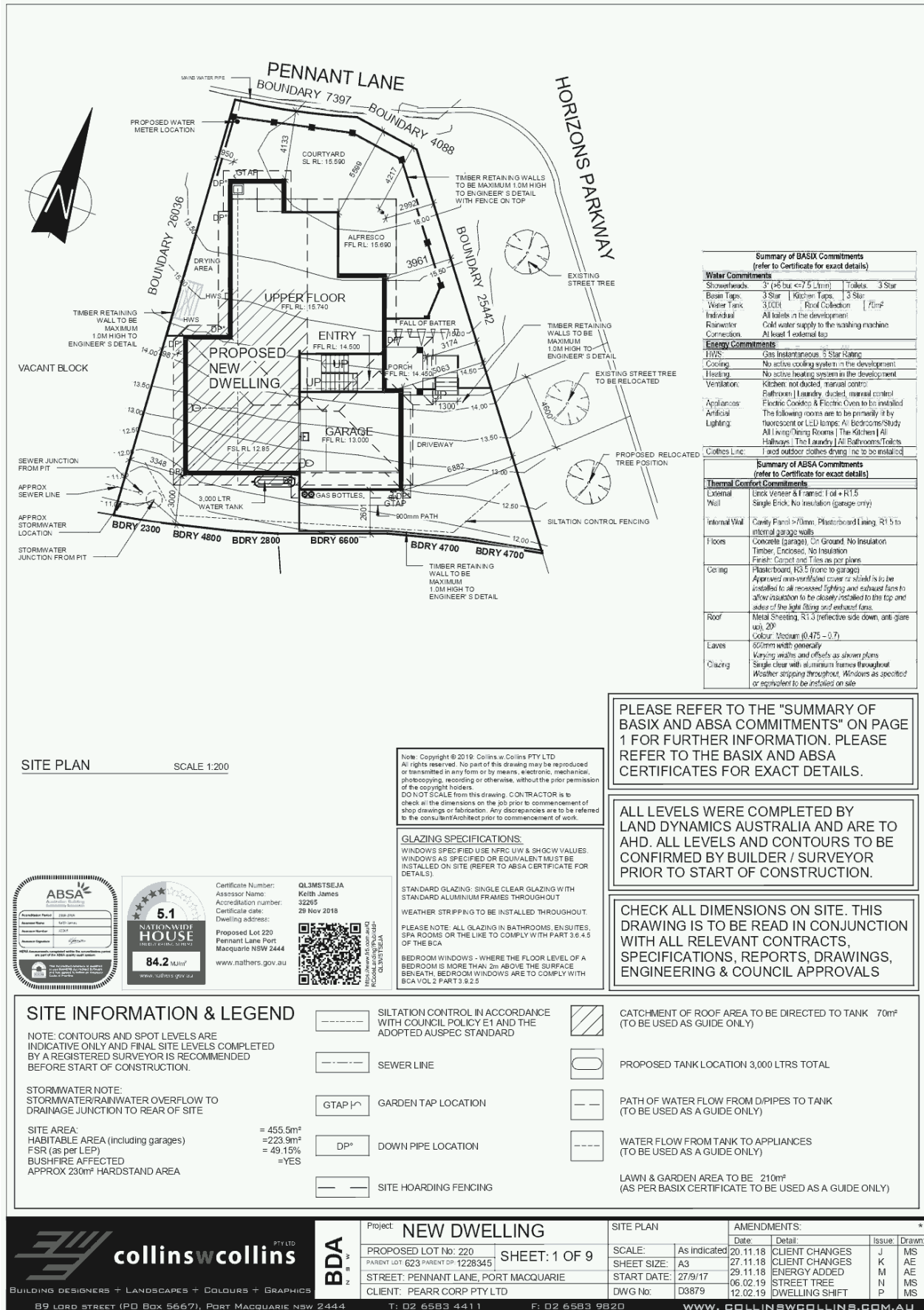


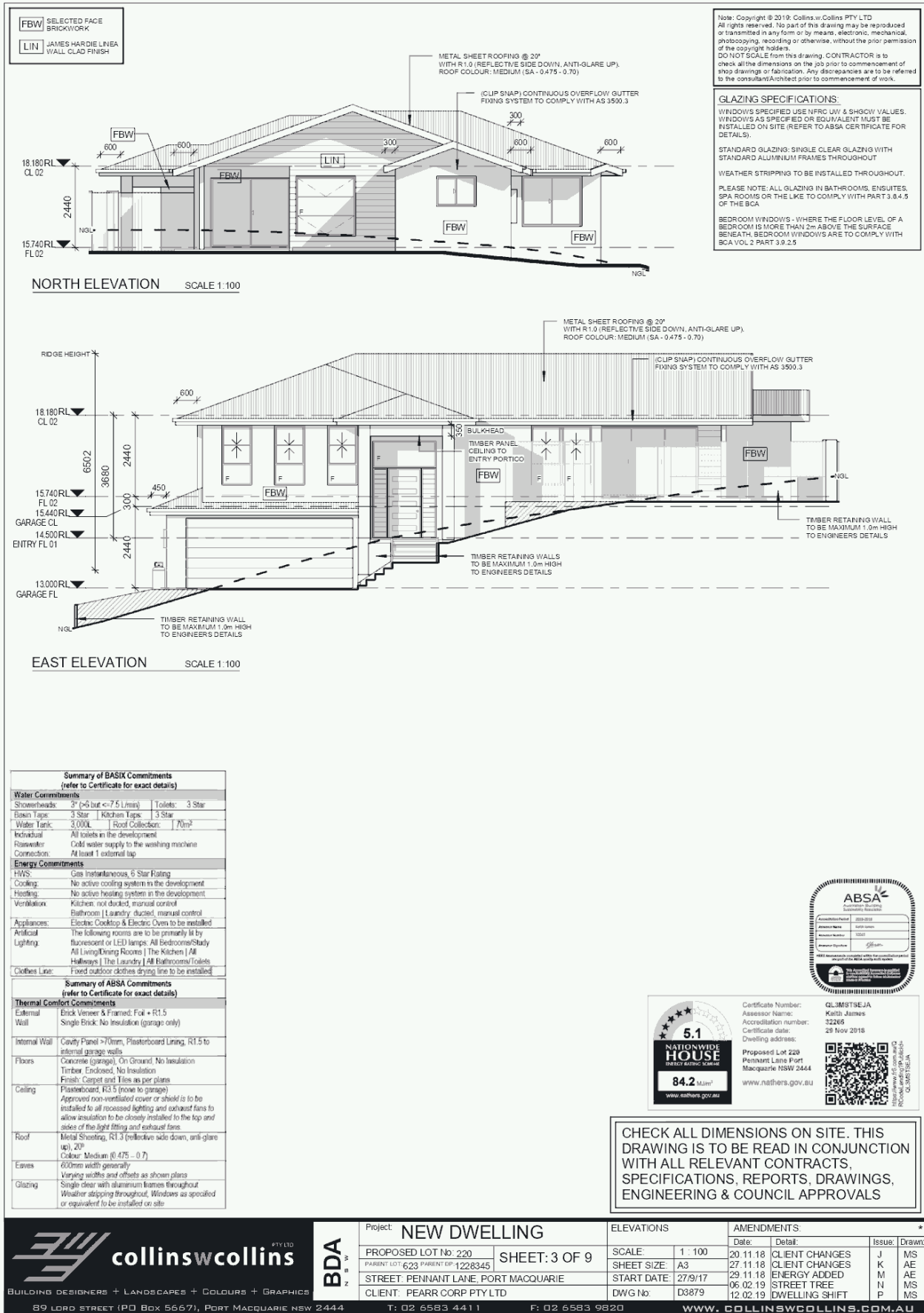


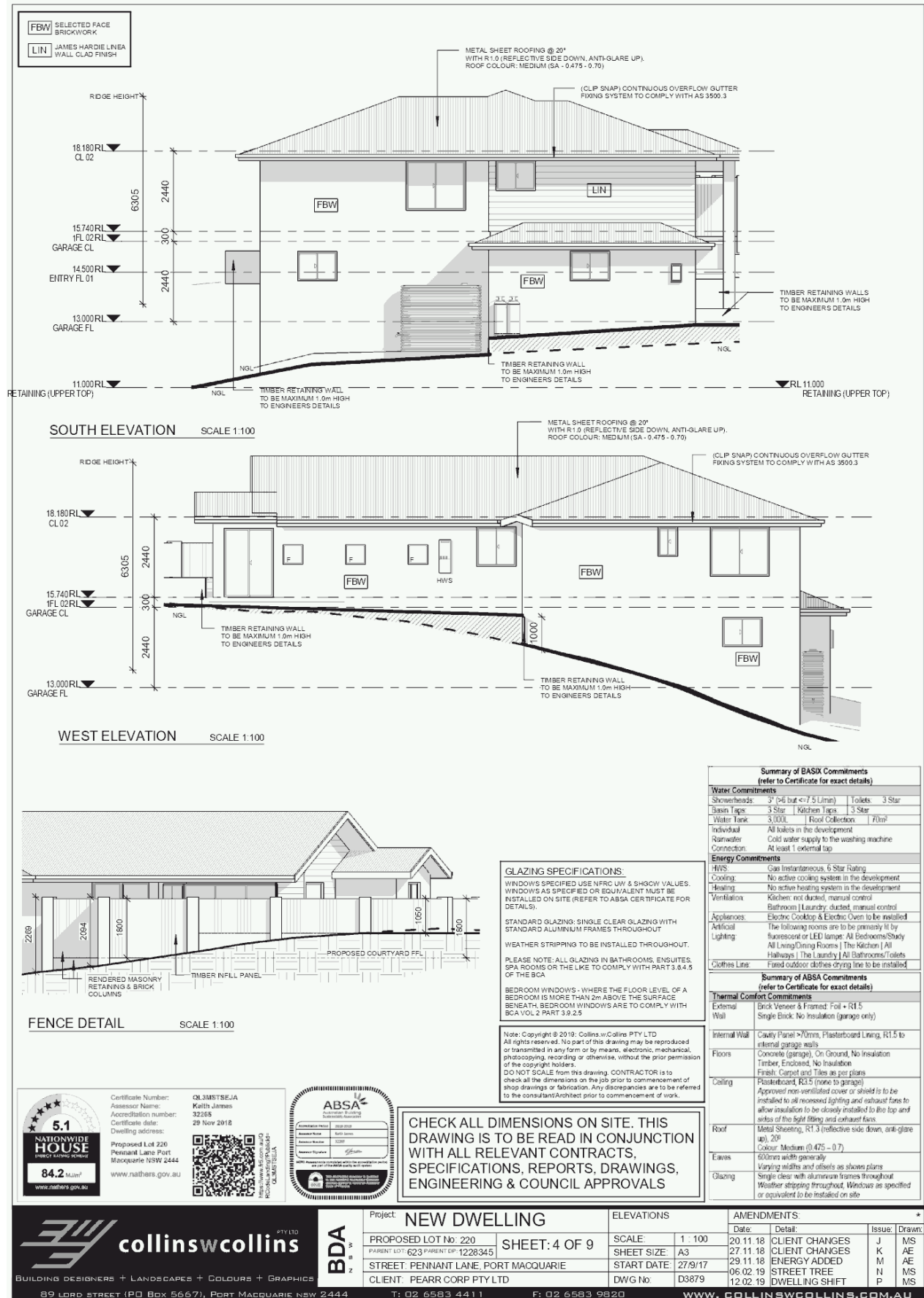




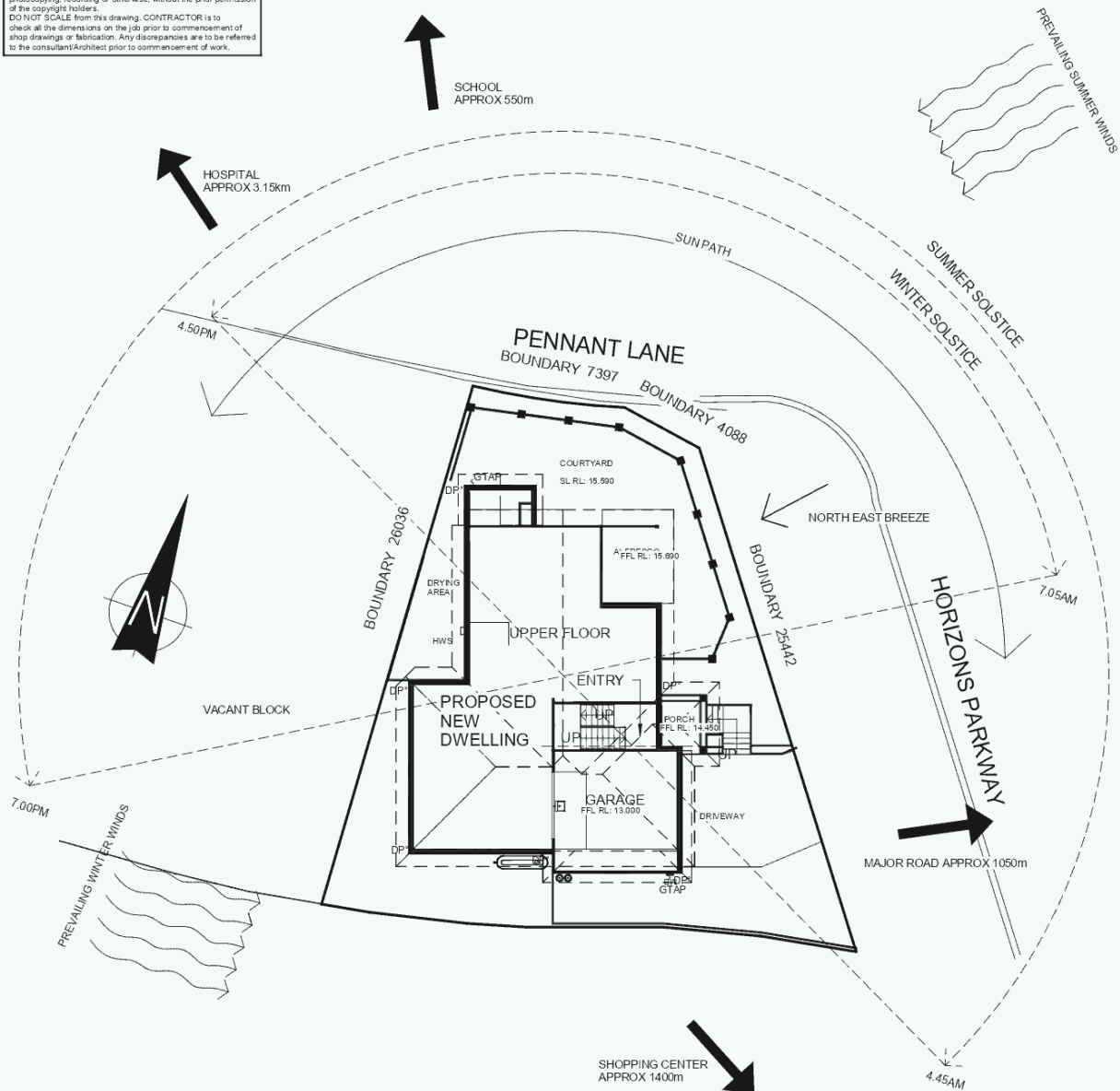








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SITE ANALYSIS SCALE 1:200

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BUILDING DESIGNERS + LANDSCAPES + COLOURS + GRAPHICS

89 LORD STREET (PO BOX 5667), PORT MACQUARIE NSW 2444

**BDA**

Project: **NEW DWELLING**  
PROPOSED LOT No: 220  
PARENT LOT: 623 PARENT DP: 1228345  
STREET: PENNANT LANE, PORT MACQUARIE  
CLIENT: PEARR CORP PTY LTD

SHEET: 5 OF 9

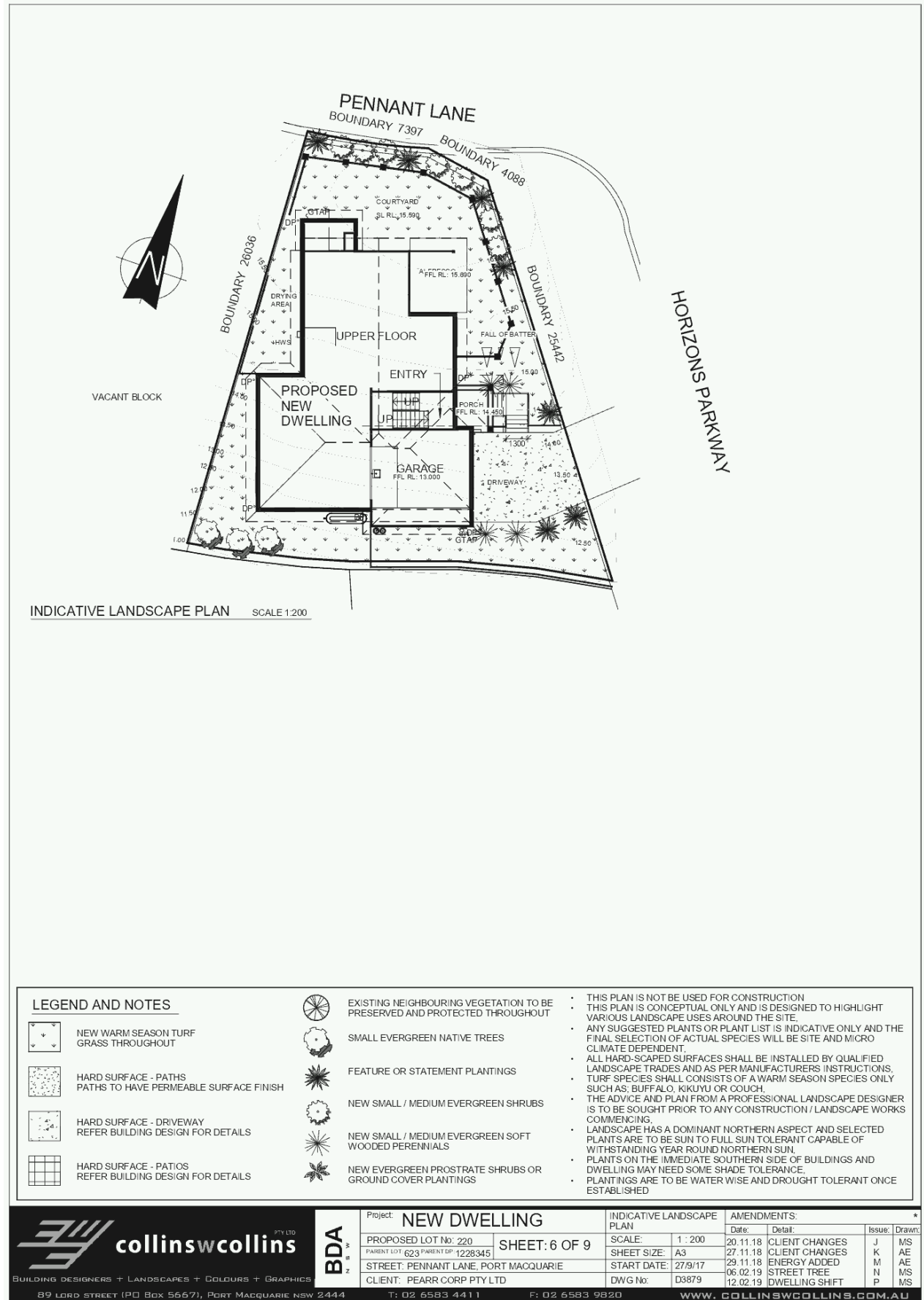
SITE ANALYSIS  
SCALE: As indicated  
SHEET SIZE: A3  
START DATE: 27/9/17  
DWG No: D3879

AMENDMENTS:

| Date:    | Detail:        | Issue: | Drawn: |
|----------|----------------|--------|--------|
| 20.11.18 | CLIENT CHANGES | J      | MS     |
| 27.11.18 | CLIENT CHANGES | K      | AE     |
| 29.11.18 | ENERGY ADDED   | M      | AE     |
| 06.02.19 | STREET TREE    | N      | MS     |
| 12.02.19 | DWELLING SHIFT | P      | MS     |

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9AM SHADOWS SCALE 1:100  
(PROPOSED DWELLING LOT 220)

SHADOW CREATED BY EXISTING RETAINING WALLS & PROPOSED DWELLING (EXCLUDING 1.8M HIGH FENCE)

SHADOW CREATED BY APPROVED 1.8M HIGH FENCE

PRIVATE OPEN SPACE

[POS]



9AM SHADOWS SCALE 1:100  
(VACANT LOT 220)



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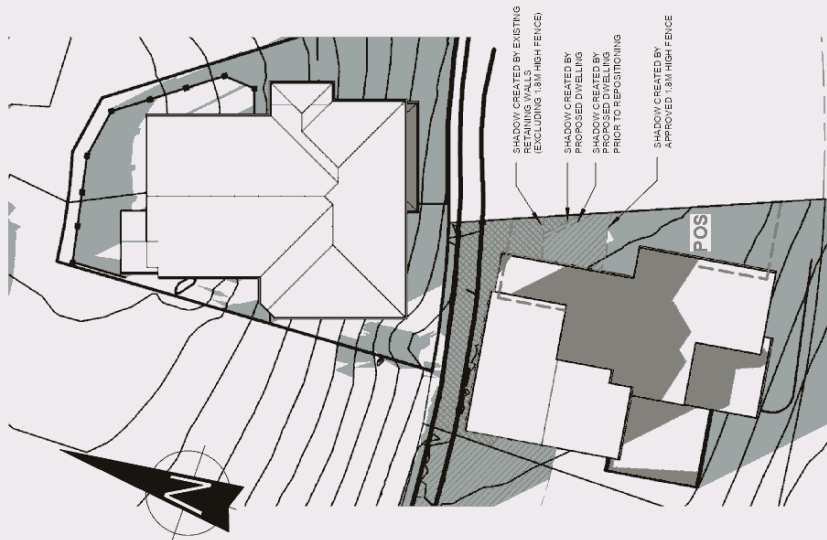
12PM SHADOWS SCALE 1:100  
(PROPOSED DWELLING LOT 220)



12PM SHADOWS SCALE 1:100  
(VACANT LOT 220)

|   |  |   |  |                              |  |                            |  |                    |  |                       |  |
|---|--|---|--|------------------------------|--|----------------------------|--|--------------------|--|-----------------------|--|
| <b>BDA</b>  |  | <b>collinswcollins</b> <small>PTY LTD</small> |  | <b>Project: NEW DWELLING</b> |  | <b>12PM SHADOWS</b>        |  | <b>AMENDMENTS:</b> |  | <b>Issue / Drawn:</b> |  |
| PREVIOUS LOT No: 220                                  |  | LOT No.: 9                                    |  | SHEET: S2 OF S3              |  | SCALE: As indicated        |  | Date: 01.02.19     |  | M                     |  |
| STREET: PENNANT LANE, PORT MACQUARIE                  |  | DF No.: 271152                                |  | SHEET SIZE: A3               |  | START DATE: 27/9/17        |  | 06.02.19           |  | N                     |  |
| CLIENT: PEARL CORP PTY LTD                            |  | DWG No: D3879                                 |  | DWG No: D3879                |  | DWG No: D3879              |  | 12.02.19           |  | P                     |  |
| 89 LORD STREET (PO Box 5667), PORT MACQUARIE NSW 2444 |  | T: 02 6563 4411                               |  | F: 02 6563 9820              |  | WWW.COLLINSWCOLLINS.COM.AU |  |                    |  |                       |  |

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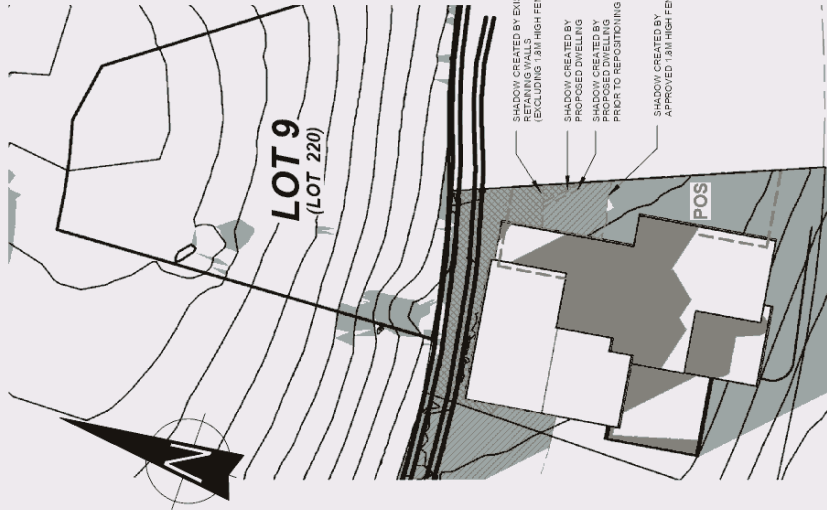


3PM SHADOWS SCALE 1:100  
(PROPOSED DWELLING LOT 220)

SHADOW CREATED BY EXISTING RETAINING WALLS & PROPOSED DWELLING (EXCLUDING 1.8M HIGH FENCE)

SHADOW CREATED BY APPROVED 1.8M HIGH FENCE

PRIVATE OPEN SPACE



3PM SHADOWS SCALE 1:100  
(VACANT LOT 220)

|  |                                      |   |                                      |                              |                     |                     |                     |                    |                |                            |    |
|--|--------------------------------------|---|--------------------------------------|------------------------------|---------------------|---------------------|---------------------|--------------------|----------------|----------------------------|----|
| <b>BDA</b>   |                                      | <b>collinswcollins</b> <small>PTY LTD</small> |                                      | <b>Project: NEW DWELLING</b> |                     | <b>3PM SHADOWS</b>  |                     | <b>AMENDMENTS:</b> |                | <b>Issue: Drawn:</b>       |    |
| PREVIOUS LOT No: 220                                   | LOT No.: 9                           | DP No.: 271152                                | SHEET: S3 OF S3                      | SCALE: As indicated          | As indicated        | SCALE: S3 OF S3     | SCALE: A3           | 01.02.19           | SHADOWS        | M                          | MS |
| STREET: PENNANT LANE, PORT MACQUARIE                   | STREET: PENNANT LANE, PORT MACQUARIE | STREET: PENNANT LANE, PORT MACQUARIE          | STREET: PENNANT LANE, PORT MACQUARIE | START DATE: 27/9/17          | START DATE: 27/9/17 | START DATE: 27/9/17 | START DATE: 27/9/17 | 05.02.19           | APPROVED FENCE | N                          | NS |
| CLIENT: PEARL CORP PTY LTD                             | CLIENT: PEARL CORP PTY LTD           | CLIENT: PEARL CORP PTY LTD                    | CLIENT: PEARL CORP PTY LTD           | DWG No: D3879                | DWG No: D3879       | DWG No: D3879       | DWG No: D3879       | 12.02.19           | DWELLING SHIFT | P                          | NS |
| 89 LORD STREET (PO Box 56671), PORT MACQUARIE NSW 2444 |                                      |   |                                      |                              |                     |                     |                     |                    |                | WWW.COLLINSWCOLLINS.COM.AU |    |
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